




Presidential Leadership
AND
Legal Professionalism

The ties that bind—part two.

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Is there a relationship between best practices in presidential leadership and legal professionalism? Though many may believe these subjects are unrelated, in fact, as this article will demonstrate, they align in synchronicity. As the author of a presidential history book and as a full-time practicing lawyer for over 40 years, I encourage the reader to go with the flow and recognize the clear parallels in these two seemingly disparate areas.

History. Most lawyers enjoy history because so much of our business depends on precedent. History is so appealing because it shows how much things change *and* how much things stay the same. One way that history shows how much things stay the same is that the traits that make for a great presidential leader are the same in 2020 as they were in 1789 when George Washington got sworn in.

For my book *Cross-Examining History: A Lawyer Gets Answers From the Experts About Our Presidents*, released in 2016 shortly before the election, I identified the most important leadership traits based on interviews with top presidential historians and Oval Office insiders and decided to call them “the Ten Commandments of Presidential Leadership.” Knowing that lawyers have historically been leaders—whether in their communities, at their law firms, or in bar activities—these commandments should be worthy of all lawyers’ attention, since they come from the people who faced their eras’ greatest challenges and met them in ways that set the standard for all in leadership positions.

When the stories of the presidents who epitomized these leadership commandments are matched with the Texas Disciplinary Rules of Professional Conduct and the Texas Lawyer's Creed, it helps explain why so many of our commanders in chief started their careers as lawyers and went about their business with the same traits that later served them well when they led the country.

Turning now to the Ten Commandments, the presidents who epitomized them, and how they apply to lawyers, let's finish with six through 10 (to read one through five, see pages 378-382 of the June 2020 issue).



Sixth Commandment of Presidential Leadership: A great leader shall remain calm in a crisis.

The president who exemplified this commandment was John F. Kennedy. In October 1962, at the height of the Cold War, the Soviet Union delivered nuclear missiles into Cuba. During the 13 days it took to resolve the missile crisis, all of Kennedy's top advisers met with him for a total of 43 hours at meetings he and his attorney general brother Robert Kennedy secretly taped. The tapes were finally made available to the public in the 1990s and revealed that all his advisers kept telling JFK during the 13 days that strong retaliation by the United States would be necessary to get Russia to remove its missiles. Obviously, such extreme proposed action could have triggered the start of World War III. The tapes show that as his advisers got more riled up each day with increasing bellicosity, Kennedy was the only guy in the room who stayed calm, which allowed him to reach an agreement with the Russians whereby they removed their missiles from Cuba without there being any military incident.

How does the Sixth Commandment's leadership trait about the need to stay calm in a crisis apply to lawyers? Section III of the Texas Lawyer's Creed answers this question: "Ill feeling between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct." When tempers flare between clients or lawyers, it often creates a crisis for the case. Will an anger outburst cause those involved to go into a downward spiral *or* will a cool head stay above the crisis and bring the players into a mode of professional equilibrium? The lawyer's job is to be that cool head.



Seventh Commandment of Presidential Leadership: A great leader shall recognize the importance of good timing in pursuing initiatives, and not force things when the time isn't right, but seize the moment when it is.

The philosopher Carlos Castaneda said, "Warriors/great leaders recognize the cubic centimeter of chance that can make or break them. When it pops up, they move on it with the necessary speed and prowess to capitalize on the opportunity." The president who epitomized this commandment was Lyndon B. Johnson in the way he went about getting American history's most important civil rights legislation enacted.

In June 1963, after being in office two and a half years, Kennedy finally offered Congress a strong civil rights bill though it promptly got stuck in committee and JFK had no idea how to get it unstuck before his assassination five months later. After Kennedy's death, Johnson seized the moment and proceeded to strong-arm Congress about the frozen bill by telling them the best way to make a powerful statement to the grieving American public and honor JFK's memory in a meaningful way would be to make him the martyr for legislation advancing civil rights. Using that angle as his motivator, Johnson leaned on senators, got the bill out of committee and onto the floor, fought through a filibuster, and got it passed into law in July 1964.

The same thing happened a year later with the Voting Rights Act. Frustrated over Congress' unwillingness to pursue a voting rights law, LBJ waited until the nation became horrified after watching Bloody Sunday in Selma, Alabama, on television, as police troops bludgeoned the non-violent African Americans attempting to march from Selma to Montgomery in protest over Alabama's refusal to give them voting rights. Using the nation's moral outrage in response to the televised beatings as the wind in his sail, a week after Bloody Sunday, LBJ made his "We shall overcome" speech to both houses of Congress and a national television audience. Then, days after that electrifying speech, he submitted his voting rights bill to Congress, which soon became the Voting Rights Act of 1965.

The same thing happened three years later on the issue of fair housing legislation. Housing bills were hopelessly stuck between the two houses of Congress until Martin Luther King Jr. was assassinated on April 4, 1968. Again, Johnson seized on a tragic event and leaned on the House to approve the Senate's version of the bill, as a means of showing the country how important it was to pay tribute to King in an impactful way.

How does the Seventh Commandment's leadership trait about

the need to be mindful of when to wait and be patient and when to seize the day apply to lawyers? Section II, paragraph two of the Texas Lawyer's Creed addresses this where it says, "[A] lawyer will endeavor to achieve [his or her] client's lawful objectives in legal transactions and in litigation as quickly and economically as possible."

All seasoned lawyers know the importance of timing. In the litigation arena, sometimes disputes are ripe for mediation early in a case, while some lawsuits should be mediated only after discovery and summary judgment skirmishing. There are centimeters of chance for achieving resolution at junctures throughout the timeline of a case, and the skilled lawyer knows when the time is right to wait and when it's right to strike quickly to expedite the litigation's resolution.



Eighth Commandment of Presidential Leadership: A great leader shalt be a great communicator and shalt not only speak well but shall also follow through on what he or she says.

The president who hit the Eighth Commandment out of the park in the modern era was Ronald Reagan. The conventional wisdom regarding why Reagan's word power skills were so extraordinary was the fact that he had spent half his adult life as an actor, which trained him to look the camera in the eye and deliver his message with full dramatic force. For anyone who ever watched Reagan's movies and television shows, however, the truth is he was not a particularly good actor.

Contrary to conventional wisdom, what made Reagan such a great communicator was his sunny disposition and cheerful countenance that caused him to speak to the American people with a spirit of optimism and inspired hope, allowing him to channel the people's inner voice.

His chief of staff and secretary of the treasury, James Baker, believes it was Reagan's consistent confident message over time in communicating his steadfast opposition to Soviet communism that built the momentum that led to the Cold War's end. In the modern era, presidents' speeches are written by speechwriters; for foreign policy speeches, the U.S. Department of State and the National Security Council also provide input. Obviously, though, the boss decides what's in the final draft. The most memorable line of Reagan's presidency came as he attempted to bring an end to the Cold War and said, "Mr. Gorbachev, tear down this wall!" The speech containing that line went through many drafts. The State Department and National Security Council kept taking the line out. They believed it was too inflammatory and would alienate the Soviet Union. Reagan kept putting the line back in.

On June 12, 1987, the time was right, the place at West Berlin's Brandenburg Gate was right, and Reagan's entire foreign policy message, which he had been saying since his first political speech in 1964, finally arrived. To heck with the State Department and the National Security Council, he said the words that will forever give him a special place in history: "Tear down this wall." Four words—each one syllable—simple, clear, passionate, and right on the mark. As important as his words, Reagan then followed through on what he said by leading the charge to tear down the wall and end the Cold War.

How does the Eighth Commandment's leadership trait of being a great communicator and following through on what is said apply to lawyers? The answer: A person cannot be a great leader without being a great communicator *and* a person cannot be a great lawyer without being a great communicator. Once a lawyer communicates clearly to a court, or another lawyer, or a client, per section I, paragraph one of the Texas Lawyer's Creed, his or her "word" had better be his or her "bond"—meaning the lawyer had better follow through on what he or she said, unless, of course, circumstances materially change that make recalibration necessary.



Ninth Commandment of Presidential Leadership: A great leader shalt put the country's interest above his or her own personal political interest.

The president in the modern era who tied his presidency to this commandment was George H.W. Bush. At the 1988 Republican National Convention, when Bush accepted his party's nomination for president, he said six important words to the national television audience: "Read my lips: No new taxes." The people at the convention cheered, and that promise was a key to his winning the election. The tax issue was politically huge at the time, but it was a two-edged sword. The Reagan tax cuts had been popular throughout his presidency but had caused substantial increases in the federal deficit.

After becoming president, Bush soon realized that although his "No New Taxes" pledge had been based on the nation's economic circumstances as they existed in August 1988, these circumstances had materially changed by 1990. Because the deficit had continued to grow to unprecedented heights through the first part of Bush's presidency, the rest of the world had started reducing the amount of American treasury bills they purchased in large part over their concerns about the health of the American economy. When the time came in 1990 to get a budget deal done, there was only one way to get an agreement with the Democratic-controlled Congress on how to provide funding that would be used to cut the deficit, given their refusal to agree to any spending cuts. Federal funding to reduce the

deficit could only come from increased tax revenue—i.e., higher taxes.

In response to the budget and unexpected deficit crises, Bush made the decision to break his convention pledge and agree to the tax increase because of the changed circumstances that necessitated such action. His doing so caused a Newt Gingrich-led revolt in the Republican Party, which became a key factor in Bush's losing the 1992 election. Could Bush have kept his 1988 convention promise and refused to approve new taxes in the 1990 budget talks? Of course, but it would have caused a budget impasse with Congress, thereby triggering a government shutdown, which would have caused the deficit to keep growing, further reducing the world's confidence in the American economy.

How does the Ninth Commandment's leadership trait about the need to always put the public interest above one's own personal political interest apply to lawyers? Section II of the Texas Lawyer's Creed answers that question: "A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest." This part of the creed means that the person who the lawyer must put first is the client. Sometimes lawyers have clients who are not esteemed in their communities or in certain courts. To make a zealous stand on behalf of such a client is typically not in a lawyer's self-interest, though by making such a stand, the lawyer thereby has the opportunity to follow in Atticus Finch's footsteps, in the way Atticus zealously represented Tom Robinson.



**Tenth and Final Commandment of Presidential Leadership:
A great leader shall stay abreast of public sentiment and
find ways to shape it, so that it aligns with his or her vision.**

The president who demonstrated this commandment better than anyone was Abraham Lincoln, who once said, "Public sentiment is everything. Whoever molds public sentiment goes deeper than he who enacts statutes, or pronounces judicial decisions."

Lincoln understood that in his era, the people who best knew the public sentiment in their communities were those who ran the local newspapers. Wherever he traveled on business, he always made it a point to meet with the local newspaper publishers, and from them, he caught up on the talk of their town. Once he knew the public sentiment, Lincoln then devised strategies to change it to align with his thoughts. As president, he shaped public opinion by writing newspaper editorials, giving eloquent speeches, strategically leaking information to newspapers, and writing letters to newspaper editors that he circulated to other newspapers around the country.

Here's an example of how Lincoln got out in front of an issue by knowing the public's feelings about it, and then succeeding in shaping public opinion to align with his own viewpoint. On

the divisive issue of slavery during the Civil War, he managed to find a politically acceptable way to issue the Emancipation Proclamation by declaring that its passage was not because he wanted to abolish the evil institution of slavery, but because emancipation was needed as a matter of "military necessity." Why did he say that? Because he knew how conflicted public sentiment was on slavery in 1862—especially in the border states—when he sat down to write the Emancipation Proclamation. Because of his knowledge of the people's mindset, Lincoln knew that if he said he was emancipating Southern slaves because of an altruistic desire to achieve equal rights for all people, regardless of race, and thereby wipe out evil slavery, there would have been major pushback from the border states, where many people still owned slaves. Because of Lincoln's awareness of the public sentiment, the proclamation did not free the slaves in the border states.

Above all, when he wrote the proclamation in 1862, Lincoln knew that the public sentiment in the North and the border states was to the effect that the people desired more than anything else for the Civil War to end with a Union victory *as soon as possible*. Thus, they wanted everything done by their commander in chief to end the war. The proclamation freed Southern slaves so they could run away from their masters, join the Union army, and increase its manpower, producing ultimate victory to the North sooner than if there were no additional military troops available to support the Union war effort. His strategy worked. After the proclamation was issued on January 1, 1863, it received little pushback and was a key factor in turning the tide toward a Union victory.

How does the Tenth Commandment's trait to know and then mold public sentiment apply to lawyers? Section II, paragraph three of the Texas Lawyer's Creed answers this when it says, a lawyer "will be loyal and committed to [his or her] client's lawful objectives, but [he or she] will not permit that loyalty and commitment to interfere with [the lawyer's] duty to provide objective and independent advice." Yes, a lawyer had better know the sentiments of his or her clients, but he or she also had better be in the business of coming up with sound strategies to mold and guide clients' sentiments toward his or her own professional vision in order to achieve the best possible result for the matter he or she has been hired to handle.

After now seeing how closely all of the Ten Commandments of Presidential Leadership align with the Texas Disciplinary Rules of Professional Conduct and the Texas Lawyer's Creed, is it any wonder why of the 44 men who have served as president of the United States (Grover Cleveland served two non-consecutive terms), almost 60% have been lawyers? Yes, the traits that make a presidential leader great are also what make a lawyer become a consummate professional. Thus, it might be useful for the lawyer who aspires to elevate his or her ethics to start boning up on best practices in presidential history. **TBJ**



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