Commentary

Session 2: Understanding
the Dean’s Job

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I am in my fifteenth year as the dean at the University of South Dakota School of Law. Nationally, I am the third-longest-serving dean at one law school. Over that time, I have had a lot of opportunities to talk with women and people of color who are interested in deanships. I have tried to encourage schools to consider women and people of color, and I have tried to put in their names for the dean searches I knew about. I have done that in part because I believe we desperately need more diversity in deanships, particularly in light of developments within the legal system and within our government that have made it more difficult to enhance diversity. However, my primary reason for doing so was because I have met very talented people who might not think they could be deans because of their gender or race or who schools might not consider. Because of these issues, this is a very important conference, and I am really pleased that Seattle University has chosen to sponsor it.

I did want to make one comment related to the last panel about how you get a deanship. I want to share with you the two best lines that I used when I was interviewing. I told the faculty that I thought my primary job was to be sure there was a sufficient quantity of blue books, chalk, and toilet paper. I found that fit the image of the dean for a lot of faculty, and so I think that helped. Also, because I had been in North Dakota for eleven years before interviewing in South Dakota, I told the South Dakotans I was coming there for the weather, and that worked. No one else could really say that.

I have stayed in one place for fifteen years in part because I think dean searches are like the bar exam. If you get lucky once, why try it

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again? But primarily, I have stayed in one place because, at least in the public sector, I do not think you can bring about change very quickly.

I know I have not brought about change very quickly. Despite a lot of effort, I have brought about change very slowly. Now, that may represent my deficiencies as a dean, but I have found it very difficult to effect change in a public institution. Yet, if you stay long enough in one institution, you can actually make some real changes. At the least, you can change your university, and if you are the only law school in the state, you can actually change the legal profession as well as the entire state. In South Dakota, there is a billboard that sits on the interstate, depicting the justices of the South Dakota Supreme Court. It has the tag line, “Unanimous decision,” with a red “U,” our university’s logo. This makes me feel good about the impact that I can have in South Dakota.

I am going to talk today about “The Dean as Pastor.” I will talk about some very personal aspects of being a dean, including some experiences that have left some emotional scars and are things that I cannot easily talk about.

As I talk about the dean as pastor, I do not mean the word “pastor” in its religious connotation. I am using the broader definition of “pastor” as “one who is charged with the spiritual care of others.” I am also not using the word “pastor” in its original meaning of “shepherd” because most of you are faculty, and I would not want to suggest that a dean can lead faculty around like sheep. If I were going to use a metaphor from the animal kingdom to describe the job of leading faculty, I think the preferred one is “herding cats.”

I called Dean Clark earlier this week to tell her I might have to cancel at the last minute because of the imminent death of a very close friend who was formerly my assistant dean. She is still alive, but she will probably only live for a few more days. She is in her 50s and has battled cancer of an undiagnosed origin for about two years. She started out as my administrative assistant, and she was the single most competent person I have ever known. The president, who is a graduate of the Law School, hired her away from me to be his executive assistant. When he went off to run for governor, I hired her back to be my assistant dean. When I took a brief sabbatical, he hired her away again to be the University’s registrar. I like to brag about the faculty and staff of the Law School; it is one of the things I enjoy doing a lot. I learned, however, that you should not brag too much about your staff, particularly

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1. Carmen Howard (1955–2007) was the Assistant Dean at the University of South Dakota School of Law and the Registrar at the University of South Dakota.
to the president, because he has ways of inducing people to come to work for him that I do not have.

In dealing with situations of illness and death, the dean has a very important pastoral role. Almost exactly a year ago, the Law School lost a long-time faculty member, who was also in his 50s, to a brain tumor. He had also fought a two-year battle with cancer, teaching until three months before his death. Last year, another faculty member lost his wife to complications from diabetes. In the past two years, other faculty and staff have dealt with a variety of serious maladies affecting them or their family members. My associate dean, for example, had to have triple-bypass surgery after shoveling snow off his roof.

My law school is one of the smallest in the country, with only 225 students. We are located in a very small town with a population of 10,000 and in a very small state with a population of 750,000. At times it seems that everyone knows everyone else, not just in the Law School but in the entire state. The Law School faculty and staff cannot avoid each other, even on those occasions when they would like to do so.

We pride ourselves in developing a sense of community, even family, among the faculty and staff. We try to extend this to students, and I think we succeed in most cases. This is especially true for the students who stay close to us geographically after graduation. Some students are even part of our community before they come to law school. I will have three graduates this year whom I first met when they were in high school: one is the editor in chief of the Law Review, another is a Law Review editor, and the third is the Student Bar Association president.

If you have worked in a law school for any length of time, you know the feeling of losing a colleague or a student to an accident or catastrophic illness. But I want to suggest to you that your role and responsibility in those situations will change fundamentally if you become a dean. If you are in a larger law school or a larger community where there is more opportunity for people to be more impersonal, perhaps you will not have the same experiences I have had. Perhaps you can avoid the emotional burden of the pastoral role. But I hope you will not try to do so, even if you can, because I believe it is one of the most important services a dean can provide.

Some of the pastoral duties of a dean are time-consuming but not particularly difficult. I substituted in a few classes for both the faculty member who was dying and the faculty member whose wife was dying. I suspect every one of you in this room can substitute in a few class ses-

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2. Professor Frank Slagle (1947–2006) was a member of the faculty and a leader in the Law School, the University, and the community from 1984 to 2006.
sions in almost any law school class. You are quick enough to pick up the material at least as fast as the students. If you cannot, you can always just call on the students to answer questions. That is what we do anyway, so I suspect you can do that.

I also took on a first-year Property course in addition to the upper-level course that I regularly teach. I did that because I wanted to minimize the disruption to teaching assignments for other faculty. I wanted to maintain the quality of the students’ education, as immodest as that may sound. And another reason was our inadequate budget; I was not going to find anybody as cheap as me to teach that class. I did not see that as a burden because I love teaching, and, except for grading first-year exams, it really was not much of a burden.

Other pastoral duties are infuriating as well as time-consuming. Foremost in this category for me has been dealing with a central human relations office that is more concerned about how sick-leave forms are completed than about the welfare of the sick faculty member. These tasks require your utmost ingenuity in determining how to comply with the rules, or at least appear to comply, while meeting the real human needs of your ill faculty or staff member. These tasks also involve you with family members and friends who want to be reassured that you can work out bureaucratic issues. Fortunately, as lawyers, we know how to work around rules, we know how to take care of the needs of others, and we know how to provide hope to others—our clients, our faculty, and our staff—that things will work out alright.

Some of the pastoral duties require a measure of wisdom. One of the toughest duties is determining how long your friend and colleague can stay in the classroom or on the job while fighting a debilitating disease. As a dean, you have responsibilities to the students and to the institution to maintain the quality of the education and other services you provide. You also have an awesome responsibility to help this person, whose judgment may not be the best at this particular time, to maintain his or her dignity. When a staff or faculty member is fighting a debilitating disease, you will have to make decisions about whether he or she can stay in the classroom or on the job on a daily basis. I have not found any bright lines in making these decisions. The greatest asset you will have in making these tough decisions is the trust you have developed with that person long before the crisis occurs.

Some of these decisions are more difficult because you realize that other faculty and staff are watching how you handle the crisis in order to gauge how you will respond when they face a crisis. When one member of a community faces mortality, everyone else, or at least all of us of a certain age, naturally thinks about his or her own mortality. At these
times, I have found almost all faculty and staff are looking for reassurance that you as dean will be able to care for them when they face a similar crisis. Your compassion, your courage, and your competence will be noted, as will your lack of any of these characteristics.

In your pastoral role, you will spend a lot of time just listening to faculty and staff who are grieving the loss of a friend and colleague. These times are not all bad. There is laughter as well as tears in these conversations. But in all these conversations over the past few years, I had a sense that I was wearing two hats. To some extent, I was just another colleague who was sharing in the mutual grieving. But in virtually every one of these conversations, I had a sense that I was expected to say or do something more. Sometimes I was supposed to know how a brain tumor progresses. I found myself doing a lot of Google searches to find articles to read about brain tumors because faculty thought that I would know how the brain tumor was going to progress and affect our friend. At other times it seemed that I was just supposed to say something reassuring in a vague sense, and I suspect that is all I did. Perhaps I was just imagining that my role was greater than it was, perhaps I was just flattering myself, but I do not think so.

The toughest tasks are the hospital visits, especially near the end. Even if your faculty or staff member is not suffering when you make the hospital visit, he or she will not be the same person you knew before the illness. It will hurt to see this friend so weak and so vulnerable, and perhaps so frightened. You will have to struggle with your own feelings, but at the same time, you are expected to provide some measure of reassurance to friends and especially family members, some of whom you may not know very well, some of whom may have come from across the country to be there with this dying friend and family member.

I am not particularly good at the hospital visits; my wife is much better. Perhaps that is because she dealt with a stillbirth herself. Or perhaps it is because she was older and more involved when her mother was dying of cancer, while I was still a young adult when my parents died and was not that involved at the time of their deaths. Even though I am not very good at hospital visits, I am there. I am there as a symbol of the Law School to which this dying person gave so much of his or her life. I am showing the Law School’s appreciation, if nothing else, and friends and family members appreciate that.

The funerals are actually less difficult, at least for me, but they are not easy. As the youngest cousin on both sides of large families, I went to a lot of funerals before I was an adult. I thought I knew the routine, but then I realized that the routine changes if you are the dean. You may be asked to do one of the eulogies or speak on other occasions about the
person who has died. This is an honor and a privilege, but it is not easy. I have had to learn that I cannot control my emotions completely in these situations and that I may not be expected to control my emotions. The faculty member who died of the brain tumor had been very active in the community and in the church. The bishop who spoke in his funeral was in tears. You know if the clergy, who do this all the time, are in tears, it is unlikely you will be able to keep it together. If you include some humor, as much for yourself as for everyone else, that helps you get through it.

As I look around the room, I realize that the program did not say this was a workshop on death and dying. I apologize if this was a downer, but if you become a dean, you will deal with situations similar to the ones I have described. Just look at the age demographics of almost any law school in this country and that will be obvious.

If you are by nature a caring person, I believe you will find that the pastoral duties of a dean are some of the most important and some of the most rewarding. If you are not a caring person, I wonder if you should be a dean at all. The best teacher on our University campus, a criminal justice professor and a graduate of our Law School, is known for saying, “Students don’t care what you know until they know that you care.” You will find that faculty and staff will feel the same way about you as their dean.