

## TEACHING AND LEARNING PROFESSIONALISM IN THE FIRST YEAR WITH SOME THOUGHTS ON THE ROLE OF THE DEAN

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ON June 1, 2008, I stepped down as Dean of Drake Law School for the second time. I served as Dean from 1987 to 1996 and was given the opportunity to serve again in 2003. As anyone would imagine, I was pleased to be asked to return as Dean and excited to have the opportunity anew to work with my colleagues and others to help prepare lawyers for the profession and move the school forward toward collectively determined goals. One of those goals—the heart of our mission and our culture—is to instill in our students “the ideals of ethics and professionalism.”<sup>1</sup>

Ten days after I stepped down, we were notified that the American Bar Association’s Center for Professional Responsibility had chosen Drake Law School to receive an E. Smythe Gambrell Professionalism Award.<sup>2</sup> The news was deeply gratifying to all of us. In strategic planning during 2003-04, we undertook to “inventory and assess the ways issues of ethics and professionalism are taught, and develop a program that ensures they are regularly addressed both in and out of the classroom throughout a student’s law school experience.”<sup>3</sup> In 2006, in a new strategic plan, we committed ourselves to “create an innovative model of legal education that pervasively and comprehensively integrates and emphasizes ethics, professional skills, and experiential education with knowledge of legal institutions and the substance, theory and values of the law.”<sup>4</sup> The Gambrell Award recognized our development and implementation of “an innovative and integrated approach to teaching legal ethics and

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1. Drake Law School, Mission Statement, <http://www.law.drake.edu/academics/?pageID=mission> (last visited Mar. 2, 2009).

2. The E. Smythe Gambrell Professionalism award, named after E. Smythe Gambrell, the former president of the American Bar Association (“ABA”) and the American Bar Foundation, is awarded annually by the ABA Standing Committee on Professionalism to “recognize projects contributing to the understanding of professionalism among lawyers.” ABA Center for Professional Responsibility, E. Smythe Gambrell Professionalism Awards, <http://www.abanet.org/cpr/awards/gambrell.html> (last visited Mar. 2, 2009).

3. DRAKE UNIV. LAW SCH., DRAKE LAW SCHOOL STRATEGIC PLAN 1 (2004).

4. DRAKE UNIV. LAW SCH., 2006 STRATEGIC PLAN 2 (2006).

professionalism,”<sup>5</sup> which pervades the law school experience, with distinguishing features particularly in the first year of law school.

As I look back on two tenures as Dean, I am grateful for many things, certainly for the opportunities to become acquainted with other deans in a variety of settings and to benefit from suggestions and ideas they have presented about legal education and the myriad issues a dean faces. I have especially valued the Leadership in Legal Education Series that the University of Toledo Law Review conceived and annually sponsors and the articles that deans have published in which they have shared their experiences, programs, and reflections.<sup>6</sup> In that same vein, believing that it will be of interest to others and confident that it does enhance legal education and strengthen professionalism, I am glad for this opportunity to describe distinctive features of our program for ethics and professionalism at Drake, especially in the first year. Related to this purpose, I also take the liberty to offer some reflections on serving as Dean the second time around.

## I. BACKGROUND AND GOALS OF AN ETHICS AND PROFESSIONALISM PROGRAM

### A. *Developing a Focus on Professionalism in Legal Education*

While the subject of legal ethics draws specific content and structure from the Model Rules of Professional Conduct (“Model Rules”), teaching and learning about these rules and their mandates, prohibitions, and implications should not be limited to the required courses in Ethics and Professional Responsibility. The notion of “professionalism,” while probably no less familiar, is less defined.<sup>7</sup>

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5. ABA Center for Professional Responsibility, E. Smythe Gambrell Professionalism Awards, *supra* note 2.

Drake University Law School has implemented an innovative and integrated approach to teaching legal ethics and professionalism. In addition to the required upper level professional responsibility course, the school has developed an extensive professionalism curriculum that spans the entire first year and includes: (1) a multi-faceted orientation program that introduces students to legal ethics and professionalism; (2) a concentration on ethical and professional considerations in the required legal writing course; (3) a week-long immersion in an actual jury trial; and (4) Supreme Court Week, a year-end celebration of the law school’s relationship with the bench and bar that reinforces the importance of professionalism and ethics and recognizes academic excellence, leadership, and service. The goal of Drake’s program of instruction is to provide students with a focused, integrated, comprehensive curriculum of ethics and professionalism which pervades the law school experience. This effort is established in the first year and enhanced by the variety of offerings in the upper-class curriculum. Moreover, the law school seeks to distinguish itself as an institution that provides a unique emphasis on skills and theory saturated with a focus on how ethics and professionalism concerns inform and direct lawyering behavior.

*Id.*

6. See University of Toledo Law Review, Dean’s Series, <http://www.utlaw.edu/students/lawreview/deansseries.htm> (last visited Mar. 2, 2009).

7. See John Montgomery, *Incorporating Emotional Intelligence Concepts into Legal Education: Strengthening the Professionalism of Law Students*, 39 U. TOL. L. REV. 323, 330 & n.46 (2008) (“A standard definition of professionalism has not been agreed upon.”).

Tracing at least to concerns in the early 1970s about frivolous litigation, abusive discovery practices, and the competence of lawyers, including new lawyers,<sup>8</sup> there has long been concern about the decline of lawyer professionalism and what must be done by law schools, the bar, and the judiciary to reverse that decline and “rekindle” professionalism.<sup>9</sup> In the 1980s and 1990s, the American Bar Association issued no less than three significant reports on the subject.<sup>10</sup> During the same period, state and local bar associations also extensively engaged in discussion about professionalism, why and how it was declining, and what should be done about it.<sup>11</sup> Two recent, major reports—*Educating Lawyers: Preparation for the Profession of Law*<sup>12</sup> (“Carnegie Foundation Report”) and *Best Practices for Legal Education*<sup>13</sup>—give extensive commentary and direction on the subject.

The literature is vast, and the last word has hardly been written. It is beyond my purpose to canvass it. I do, however, pause to review briefly what influenced our thinking and informed our efforts at Drake in developing a comprehensive and integrated program for teaching and learning professionalism. Dean Roscoe Pound’s famous definition of a profession remains a good place to begin:

The term refers to a group ... pursuing a learned art as a common calling in the spirit of public service—no less a public service because it may incidentally be a means of livelihood. Pursuit of a learned art in the spirit of a public service is the primary purpose.<sup>14</sup>

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8. See generally *Report and Recommendations of the Task Force on Lawyer Competency: The Role of the Law Schools*, 1979 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO BAR 1 (discussing concerns about lawyer competency and recommending how law schools can improve lawyer training to produce responsible lawyers). This report was the product of a task force appointed by the ABA Section of Legal Education and Admissions to the Bar in response to criticism of lawyer competency and American law schools by the Chief Justice of the United States Warren Burger at the ABA Annual Meeting in 1978. *Id.* at 1-2.

9. See generally A.B.A. COMM’N ON PROFESSIONALISM, “...IN THE SPIRIT OF PUBLIC SERVICE:” A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM (1986) [hereinafter STANLEY COMMISSION REPORT] (giving recommendations on how law schools, judges, and the bar can improve professional responsibility).

10. See *id.* at v-vii; A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter MacCrate Commission Report]; *Teaching and Learning Professionalism*, 1996 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO BAR 1, 1-2.

11. See, e.g., *Teaching and Learning Professionalism*, *supra* note 10, app. C (examining the implementation of professionalism and civility codes and professionalism programs by state and local bar associations).

12. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW* (2007).

13. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007).

14. STANLEY COMMISSION REPORT, *supra* note 9, at 10 (quoting ROSCOE POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953)).

Expanding on this definition, the 1986 Report of the ABA's Commission on Professionalism emphasized the importance of competence among members of a profession, trustworthiness and accountability to the client, and devotion to the public good.<sup>15</sup> Among other recommendations, it called on law schools to "give continuing attention to the form and content of their courses in ethics and professionalism," including "weav[ing] ethical and professionalism issues into courses in both substantive and procedural fields."<sup>16</sup> It urged them to "expose students to promising new methods of dealing with legal problems," and it reminded deans and law faculties "that the law school experience provides a student's first exposure to the profession, and that professors inevitably serve as important role models for students."<sup>17</sup> Professionalism was seen to encompass ethical practice, competent and effective representation and problem-solving, and service to the public good; more was needed, obviously, than a required course in ethics.<sup>18</sup>

These themes were developed in much greater detail less than a decade later when the ABA Section of Legal Education and Admissions to the Bar issued an extensive study and set of recommendations entitled *Legal Education and Professional Development—An Educational Continuum* and better known as the "MacCrate Commission Report."<sup>19</sup> The impact of this report on legal education has been enormous. It articulated ten overriding professional skills and four "fundamental values" that should characterize members of the legal profession and their legal education and preparation for the profession.<sup>20</sup> Values identified as fundamental to the legal profession were the provision of competent representation, professional self-development, "striving to promote justice, fairness, and morality," and "striving to improve the profession."<sup>21</sup>

Building on the Stanley Commission Report and also the MacCrate Commission Report, the ABA's Professionalism Committee issued another report in 1996, entitled *Teaching and Learning Professionalism*.<sup>22</sup> Its focus was "on the professional values segment" of the MacCrate Commission Report,<sup>23</sup> and its approach was "to look at the purposes of the profession, the character of the practitioner, and supportive characteristics of professionalism."<sup>24</sup> Three of the six listed "essential characteristics" address obvious aspects of competence: (1) learned knowledge, (2) skill in applying the applicable law to the factual context, and (3) thoroughness of preparation.<sup>25</sup> The remaining three transcend knowledge and skill, reflecting larger notions of the expectations of lawyers

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15. *Id.* at 10-11.

16. *Id.* at 12.

17. *Id.*

18. *Id.* at 10-12.

19. MacCrate Commission Report, *supra* note 10, at 135-221.

20. *Id.*

21. *Id.* at 140-41, 207-21.

22. *Teaching and Learning Professionalism*, *supra* note 10, at 1.

23. *Id.*

24. *Id.* at 5.

25. *Id.* at 6.

harbored by the profession and the public: (4) practical and prudential wisdom, (5) ethical conduct and integrity, and (6) dedication to justice and the public good.<sup>26</sup> Numerous “supportive elements” were articulated in defining the “professional lawyer.”<sup>27</sup> These included competent, “[z]ealous and diligent representation of client’s interests within the bounds of law” and “[a]ppropriate deportment and civility.”<sup>28</sup> Further discussion and reference clarified that “appropriate deportment and civility” include “accommodation, trust, compassion and similar qualities” and “the aspiration to balance service to client and self with regard for the interests of others.”<sup>29</sup>

*B. The Professionalism Backdrop at Drake Law School*

At Drake, notions of teaching professional skills and focusing on fundamental values and “the character of the practitioner and supportive characteristics of professionalism”<sup>30</sup> have always held a central place in our mission and planning. A key reason for this is that our graduates have long tended to go into the practice of law with smaller law firms,<sup>31</sup> and we know that early on they will have to shoulder and competently discharge responsibilities to clients, the courts, and their firms. This includes dealing independently with other lawyers and handling litigation matters and jury trials in civil and criminal cases. Moreover, with an entering class of 150 or less, we are a relatively small school.

As a result of our history, culture, and the legal community of which we are a part, people come to know one another, generally like one another, and in any event, must deal with one another with some predictability.<sup>32</sup> Reputation matters; there is a strong sense that “what goes around comes around,” and at stake, literally, is one’s ability to represent a client effectively and help resolve that client’s problem. Character, civility, and the ability to work together, even while

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26. *Id.* at 7.

27. *Id.*

28. *Id.*

29. *Id.* at 7-8 (quoting Roger C. Crampton, *Professionalism, Legal Services and Lawyer Competence*, in JUSTICE FOR A GENERATION 144, 150-51 (1985)).

30. *Id.* at 5.

31. By “smaller law firms,” I refer to ones with fifty or fewer lawyers. The MacCrate Commission Report observed that “[n]o sharp line demarks ‘small’ from ‘large’ among law firms” and for purposes of analysis separated lawyers engaged in private practice into sole practitioners; members of “small firms” or firms between two and ten lawyers; members of “medium firms,” or firms between eleven and fifty lawyers; and “large firms,” or firms with more than fifty lawyers. MacCrate Commission Report, *supra* note 10, at 32-33. What constitutes “large,” the Report also said, “has changed with place and time.” *Id.* at 32. My use of the term “smaller” includes both small and medium firms, and *a fortiori*, sole practitioners.

32. See Paul A. LeBel, *Size Matters*, 38 U. TOL. L. REV. 557, 557-59 (2007) (suggesting that the small class size and “Midwestern regional ethic” at the University of North Dakota School of Law contribute to a sense of community and personal connections). See also MALCOLM GLADWELL, *THE TIPPING POINT* 175-92 (2000) (discussing what he calls the “Rule of 150,” which holds that, with groups of 150 or fewer, unruly or disorderly behavior is substantially controlled by personal loyalties, one-to-one contact, and peer pressure).

representing adverse or differing interests, are therefore understood to be critical to the effective practice of law, representation of others, and a satisfying career.

Accordingly, our goals are threefold: first, to teach students the substance, theory, and values of the law; second, for our graduates to be competent and well-prepared for the effective practice of law and participation in the profession, both at the outset and as their careers evolve; and third, for students to feel good about becoming, and graduates to feel good about being, lawyers and the possibilities and opportunities before them to serve others, make a difference, and promote the rule of law. In our experience, that is what our students are looking for and what our alumni expect. These goals and expectations are reflected in our mission statement, and we have made an institutional commitment to instruction and experiential education in ethics, professionalism, and service.<sup>33</sup>

What we want, simply, is for our students to feel like they are entering and becoming members of a profession. Inasmuch as “professionalism” connotes knowledge, skills, and values, what we seek to do is perhaps best expressed in *Educating Lawyers*<sup>34</sup> and *Best Practices in Legal Education*<sup>35</sup> as attending to and emphasizing legal education’s “apprenticeship of professional identity.”<sup>36</sup> The apprenticeship of professional identity includes three separable apprenticeships: (1) a “cognitive, academic apprenticeship,” which focuses on “the knowledge base,” or the substantive content and theory of law, and the “way of thinking of the profession;”<sup>37</sup> (2) a “practical apprenticeship,” which focuses on the development of professional skills and competencies;<sup>38</sup> and (3) an “ethical-social apprenticeship,” in which the moral dimension of the law, ethical issues, and matters of professionalism are explored throughout a student’s experience.<sup>39</sup> According to the authors of *Educating Lawyers*, too often the “ethical-social apprenticeship” is subordinated to “the cognitive apprenticeship.”<sup>40</sup>

Drake’s professionalism program elevates the third apprenticeship, integrates it with the other two, and commits to it throughout the law school

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33. These are expressed in our 2006 Drake University Law School Strategic Plan. Our Mission Statement provides:

Drake Law School prepares outstanding lawyers who will promote justice, serve as leaders in their communities and the legal profession, and respond to the call of public service. We are a welcoming and inclusive community distinguished by an accessible faculty and staff and a collegial student body. We provide an exceptional learning environment that integrates legal theory and the development of professional skills; promotes critical thinking and effective problem solving; examines international perspectives; and instills the ideals of ethics and professionalism.

Drake Law School, Mission Statement, *supra* note 1.

34. SULLIVAN ET AL., *supra* note 12, at 126-61.

35. STUCKEY ET AL., *supra* note 13, at 27-29.

36. SULLIVAN ET AL., *supra* note 12, at 129.

37. *Id.* at 28, 48-84, 132.

38. *Id.* at 28, 95-100.

39. *Id.* at 139-47.

40. *Id.* at 132-33.

experience, particularly in the first year when need for it has widely been recognized.<sup>41</sup>

Of course, our focus on professionalism does not stop in the first year. In the second and third years, Drake offers numerous experiences in which students learn professionalism and develop a professional identity. These include extensive clinical offerings;<sup>42</sup> a strong Public Service Program with a substantial scholarship commitment and paid public service internships during the summer for thirty or more students, or ten percent of the returning classes; a plethora of internships; two American Inns of Court in which students are involved; and a thriving Student Bar Association,<sup>43</sup> which administers a budget of more than \$80,000 and funds twenty-five different student organizations.

We are proud of the professionalism focus in all three years of our curriculum. This article, however, centers on a particularly important part of that focus, the first-year program.

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41. See *id.* at 151-54. See also STANLEY COMMISSION REPORT, *supra* note 9, at 16-20 (suggesting that law schools “weave ethical and professional issues into courses”); Bridget McCormack, *Teaching Professionalism*, 75 TENN. L. REV. 251, 263 (2008) (suggesting that first-year classes should utilize some pieces of clinical methodology to expand on students’ “skills and values of professionalism”); Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Courses*, 13 CLINICAL L. REV. 807, 819 (2007) (discussing ethical considerations in “simulation-based courses”); *Teaching and Learning Professionalism*, *supra* note 11, at 18-23 (discussing the “pervasive method” of teaching ethics).

42. Numerous scholars believe clinical courses offer the best opportunities to teach professionalism. See, e.g., SULLIVAN ET AL., *supra* note 12, at 126-61; McCormack, *supra* note 41, at 254 (arguing that clinical education should be required of law students because, among other purposes it serves, it is the best means of teaching professionalism); Stuckey, *supra* note 41, at 828-30.

43. The Drake SBA includes and reaches out to first-year students, not just upper-level students. We have endeavored to support the SBA in the conviction that it not only elicits essential student leadership and provides means for communicating and resolving issues, but also because it is an outstanding means for students to engage in the self-regulation that characterizes a profession and to develop leadership skills. At Drake, the SBA receives all profits from the Student Bookstore, and it also receives fees each student pays. The SBA uses these profits and fees to fund student organizations according to criteria the SBA discusses, decides, and publicizes. It is an exercise in responsibility and public accountability. The SBA President met weekly with me as Dean, and through the President and other student representatives, student priorities were communicated and student issues addressed in a deliberative and mutually respectful way. The SBA President and a Faculty Representative attend and are on the agenda for every faculty meeting. We at Drake took great pride when in 2006 the Drake SBA was named runner-up Best Student Bar Association and in 2007 Best Student Bar Association by the ABA Law School Division. See *Drake’s Student Bar Association Receives National Award*, DRAKE L. SCH. NEWS, Aug. 23, 2006, <http://www.law.drake.edu/newsEvents/details.aspx?eventID=sbaAward>; *Drake Student Bar Association Named Best in the Nation*, DRAKE L. SCH. NEWS, Aug. 13, 2007, <http://www.law.drake.edu/newsEvents/details.aspx?eventID=sbaOfYear>. In 2008, the ABA-Law School Division selected the outgoing SBA President at Drake as the SBA President of the Year. *Drake Law Grad Wins President of the Year Award for Drake Student Bar Association*, DRAKE L. SCH. NEWS, Aug. 14, 2008, <http://www.law.drake.edu/newsEvents/details.aspx?eventID=seanBagniewski>. All student organizations contribute to some extent, but the SBA in particular affords opportunities for students to learn professionalism.

## II. THE FIRST-YEAR PROGRAM FOR TEACHING AND LEARNING PROFESSIONALISM<sup>44</sup>

Drake's program for teaching and learning professionalism has several distinctive features and involves faculty and staff, students, alumni and friends, the bench and bar, and notably, the Iowa Supreme Court. These features include the following: (1) a comprehensive orientation program that extends throughout the first year and emphasizes ethics, professionalism, and elements of character through lectures, discussion groups, field trips, and the beginnings of key relationships for students; (2) an emphasis on ethical and professional considerations in the required research and writing course; (3) suspension of first-year classes to enable students to observe an actual jury trial, held on campus, in the second semester of the first year, and to discuss its various stages and the role and responsibilities of lawyers in small groups led by practicing or retired lawyers, judges, and faculty; and (4) a special week in the second semester that celebrates the Law School's relationship with the Iowa Supreme Court and the legal community; recognizes academic excellence, leadership, and service; and reinforces the meaning and importance of professionalism for lawyers.

### A. *A Comprehensive, Multi-Faceted, Extended Orientation*

#### 1. *Lecture Series*

Our orientation includes several sessions designed to welcome students, provide essential information, and introduce them to the Law School. In addition, as recommended by the ABA Professionalism Committee in its Report on *Teaching and Learning Professionalism*, we offer a series of lectures "introducing first-year law students to important ethical and professionalism issues"<sup>45</sup> and engaging them in discussion of these issues. In truth, the word "lecture" is a misnomer, as these sessions are intentionally engaging and interactive. Over time, our experience proved to us that we wanted to

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44. Part II of this article substantially draws on the excellent work and application that the Law School prepared and submitted to the American Bar Association Center for Professional Responsibility in seeking a Gambrell Award for Professionalism. The application was prepared by an outstanding committee that I appointed, chaired by Melissa Weresh, Professor of Law and Director of the Legal Writing Program. The application built on an article Professor Weresh wrote and published. See Melissa H. Weresh, *An Integrated Approach to Teaching Ethics and Professionalism*, 18 PROF. L. 25 (2007). In addition to Professor Weresh, serving on this committee were John Edwards, Associate Dean for Information Resources and Technology, Professor of Law, and Director of the Legal Research Program; Associate Professor of Librarianship Susan Lerdal; Associate Dean and Professor of Law Russell E. Lovell, II; Associate Professor Robert Rigg, Director of the Criminal Defense Program; Professor of Librarianship Karen Wallace; Assistant Professor Ellen Yee; 2L student and Honor Board Member Meggan Gunns; and me.

45. See *Teaching and Learning Professionalism*, *supra* note 11, at 20.



accomplish too much to do so successfully in the limited amount of time before the start of school in the fall. In addition, logistics, when people were available, and a sense of when subjects could most properly and effectively be addressed counseled planning for an orientation that extended beyond the start of school and into the second semester. The extended orientation includes a series of lectures covering a variety of ethical topics: Ethics, Moral Character, and Bar Admission; Introduction to Ethical and Professional Decision-Making; Professionalism in Electronic Communication; and Professionalism and the Courts.

*i. Ethics, moral character, and bar admission*

The first lecture is presented at the outset of the school year by a faculty member and a member of the Board of Bar Examiners and focuses on ethics, moral character, and admission to the bar. We provide case synopses to students that detail incidents of cheating or plagiarism. Discussion explores the requirement of moral character and fitness for the practice of law and how conduct such as that illustrated by the cases can affect determinations of character and fitness and permission to sit for the bar. Cases also include matters less obviously related to character, such as a declaration of bankruptcy, which raise issues of competent and trustworthy management of client funds and affairs. The member of the Board speaks to the Board's role and processes and responds to questions; the Dean or Associate Dean discusses the Certificate of the Dean required by each state in order for an applicant to be permitted to sit for the state's bar examination. The principles of honesty and full disclosure by students in applying for permission to take the bar and by the Dean in certifying graduates are explored. Students reflect on and discuss self-regulation of the profession, personal accountability, and expectations of character and integrity.

*ii. Introduction to ethical and professional decision-making*

Orientation also features an important session in which thirty-five to thirty-eight students meet over lunch or dinner with a member of the faculty to discuss hypothetical situations raising questions of ethics and professionalism. Students identify values and other influences on their decision-making that transcend, but are relevant to, the profession and the practice of law. Dining together in a small group facilitates formation of collegial relationships and a sense of community and provides a context conducive to discussion.

*iii. Professionalism in electronic communication*

After the start of the semester, as students are getting to know one another and also contending with assignments and classroom expectations, two members of the Legal Writing faculty present a session on professionalism and electronic communication, including e-mail correspondence and postings and discussion on social networking sites, such as Facebook and MySpace. The faculty present material in part through lecture, but they also intentionally and extensively

engage the students in discussion of realistic but fictional e-mail exchanges and social networking sites. Faculty members lead students to review and explore lapses of professionalism in these electronic communications, and students learn that while they may not rise to the level of ethical violations, lapses of professionalism—intemperate, embarrassing, or otherwise—can do real damage to the credibility and effectiveness of an advocate. In some ways, students may best learn about what professionalism is by seeing what it is not. Students ascertain that professionalism involves but is much more than etiquette, that lapses can impact their ability to realize expectations for a satisfying career in law, and that professionalism is central to lawyers' core obligation to promote the rule of law.<sup>46</sup>

*iv. Character and ethical decision-making*

The fourth lecture also occurs after students have begun classes. It focuses on elements of character and their relevance to decision-making and behavior. We draw on the Six Pillars of Character<sup>47</sup> articulated by Michael Josephson, founder of the Josephson Institute of Ethics,<sup>48</sup> which is best known for its youth initiative Character Counts!<sup>49</sup> Michael Josephson has visited Drake three times to lecture to our students. After lecturing, he meets with students in small groups, each time with a faculty member, to examine specific situations, consider the content of the character of members of a profession, explore the meanings of the six elements of character, and apply the elements to the situations. As this aspect of our program has evolved, the faculty has assumed a larger role in the initial presentation; they lead the small group discussions, with the help of student volunteers, which enhances the discussions. These discussions have highlighted professionalism, civility, and ethics.

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46. See SULLIVAN ET AL., *supra* note 12, at 79-86 (discussing the unique position of lawyers to “act as social regulators” and the need for law students to learn to integrate the professional knowledge and skills into a practical setting while maintaining a reflective professional responsibility); MELISSA WERESH, LEGAL WRITING: ETHICAL AND PROFESSIONAL CONSIDERATIONS 4-6 (2006) (recognizing the need for professionalism in the practice of law and noting that students “come to the practice of law with an innate sense of responsibility to the public associated with personal and professional behavior”); Timothy P. Terrell & James H. Wildman, *Rethinking “Professionalism,”* 41 EMORY L.J. 403, 420, 423 (1992) (noting professionalism is essential to lawyers’ fulfilling their obligation to “recognize, honor, and enhance the rule of law in our society,” which is the basis for our “social cohesion,” and for which lawyers are “gatekeepers”).

47. Josephson Institute of Ethics: The Six Pillars of Character, <http://josephsoninstitute.org/sixpillars.html> (last visited Mar. 2, 2009).

48. Josephson Institute of Ethics: About, <http://josephsoninstitute.org/about.html> (last visited Mar. 2, 2009).

49. See About Character Counts!, <http://charactercounts.org/overview/about.html> (last visited Mar. 2, 2009) (“The nonprofit Josephson Institute administers the national office of CHARACTER COUNTS! (the Center for Youth Ethics). CHARACTER COUNTS! is the most widely implemented approach to character education, reaching millions of youth. CHARACTER COUNTS! is: A framework based on basic values called the Six Pillars of Character: trustworthiness, respect, responsibility, fairness, caring and citizenship.”).

We chose to incorporate the Pillars after consideration and recommendation by our Diversity Committee, whose members were looking for a broad and even-handed way to orient students to our mission to be “a welcoming community” in which others are not only respected but appreciated for the differences they bring to Drake. The Pillars have served that purpose.

The Pillars express six values—trustworthiness, respect, responsibility, fairness, caring, and citizenship—that offer attention to the Model Rules but address ethics and professionalism in a larger sense than the Model Rules.<sup>50</sup> Trustworthiness, respect, and responsibility, as values that help define the character of a professional, of course find explicit support in the Model Rules,<sup>51</sup> and they go to the heart of professional identity. They also spawn questions. Respect for whom—clients, opposing parties and their counsel, witnesses, the court, others? And what does “respect” entail? Responsibility as an element of character that influences decision-making and behavior similarly raises numerous issues. What does responsibility to a client demand of a professional? What are the limits? What is a legal professional’s responsibility to the court? What behavior is dictated?

Citizenship, as an element of character, likewise enables us to explore and reveal professionalism. It locates students in both a community and a profession, with an obligation and expectation to support and improve them. There are myriad ways to become involved and contribute, and thinking about citizenship as a dimension of character focuses attention on service, leadership, and the beneficial difference we expect lawyers to make.

In addition, the Pillars include fairness and caring as characteristics or values.<sup>52</sup> These, too, provide useful insight into the concept of professionalism. Josephson explains caring in simple and familiar terms—kindness, compassion, expressing gratitude, forgiving others, helping people in need<sup>53</sup>—but they are no less powerful for that.

Caring may not be an attribute that one readily associates with being a lawyer, but the reason for that may be that the image of a “lawyer” is so closely associated with advocacy and courtroom drama. Yet helping people in need—*caring*—lies at the heart of the profession’s commitment to ensure access to legal services. Kindness and compassion find, or should find, constant expression in the life of a lawyer seeking to help resolve disputes and serve the community and the profession, and the power of an apology and the act of forgiveness are well understood to anyone who has been a party to a dispute or mediation. Indeed, opportunities in practice for a lawyer to mediate and occupy the role of a “peacemaker,” working with others to help “heal” division and discord, are widely evident and growing; success in this role demands the quality of caring

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50. See Josephson Institute of Ethics: The Six Pillars of Character, *supra* note 47 (“Whether at work, home, or at play, there are basic values that define ethical behavior.”).

51. See, e.g., MODEL RULES OF PROF’L CONDUCT RR. 1.1, 1.3, 1.6, 1.9, 4.1, 5.1-3, 8.2 (2004).

52. See Josephson Institute of Ethics: The Six Pillars of Character, *supra* note 47.

53. See *id.*

for others.<sup>54</sup> Within the profession, caring as an element of the character of a professional is also clearly evident in projects and programs across the country for lawyers assisting lawyers who are grappling with and recovering from substance abuse, alcoholism, or depression.<sup>55</sup>

In the same vein, as a part of our extended orientation, we include a separate session with a panel discussion and student participation on stress in law school and the incidence of alcoholism and depression in the legal profession; the need for stress management and work-life balance during school and in one's career; means of managing stress and the availability of counseling; and the importance of being supportive of and caring for one another. A separate lecture by Justice Daryl Hecht of the Iowa Supreme Court on the subject of dealing with stress in school and in practice further emphasizes these points and provides valuable perspective and advice for students.

Notions of fairness may or may not provide a satisfying rationale for judicial decisions, and cannot, in any event, dispense with the need for statutory and case analysis and consideration of clearly articulated and defended policy, but the relevance of fairness to preparation for the profession and the practice of law cannot be doubted. Striving to promote fairness and justice is one of the "fundamental values" that the MacCrate Commission Report enunciated,<sup>56</sup> and it focuses on the moral dimension of the law and the "ethical-social apprenticeship" that the Carnegie Foundation Report championed as a critical component in the formation of professional identity.<sup>57</sup> Moreover, professional life is replete with relationships, adversarial and otherwise, and the widely known advice to "think win-win" recognizes that consideration of the fairness of a result to others is essential to being effective in whatever one is doing, whether dealing with a partner, negotiating with opposing counsel, or dealing with third parties.<sup>58</sup>

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54. See, e.g., JULIE MACFARLANE, *THE NEW LAWYER: HOW SETTLEMENT IS TRANSFORMING THE PRACTICE OF LAW* 89 (2007); Richard M. Calkins, *Caucus Mediation—Putting Conciliation Back into the Process: The Peacemaking Approach to Resolution, Peace, and Healing*, 54 *DRAKE L. REV.* 259, 271-74 (2006). See also Montgomery, *supra* note 7, at 342-52 (defining emotional intelligence to include "empathy or understanding another's perspective and a service orientation, which motivates action to meet the needs of other individuals and organizations;" linking emotional intelligence to professionalism; and urging incorporation of emotional intelligence competencies into legal education as a means of strengthening professionalism). Cf. ABRAHAM LINCOLN, *Notes on the Practice of Law*, in *SPEECHES AND WRITINGS 1832-1858*, at 245-46 (1989) ("Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, and expenses, and waste of time. As a peace-maker the lawyer has a superior opportunity [sic] of being a good man. There will still be business enough.").

55. See, e.g., ABA Commission on Lawyer Assistance Programs (CoLAP), <http://www.abanet.org/legalservices/colap/> (last visited Mar. 2, 2009).

56. MacCrate Commission Report, *supra* note 10, at 213-15 ("[A] lawyer should be committed to the values of: 2.1 *Promoting Justice, Fairness, and Morality in One's Own Daily Practice...*"). See also MODEL RULES OF PROF'L CONDUCT R. 3.4 (imposing duty of fairness to opposing party and counsel).

57. SULLIVAN ET AL., *supra* note 12, at 129-32.

58. See STEPHEN R. COVEY, *THE SEVEN HABITS OF HIGHLY EFFECTIVE PEOPLE* 204-34 (1989).

There has been some skepticism of the attention we give to the Six Pillars of Character in our extended orientation, usually because they are associated with the widely adopted youth initiative Character Counts!, and perhaps because it is thought to be too late by the time of law school to alter character. But the program's evolution has substantially dissipated that skepticism, the deep and effective commitment of faculty who are involved in it, and the students' involvement in the leadership of small group discussions. It has also helped overcome that skepticism for students to learn that others, including state legislatures, corporate boards, judges, a division of the U.S. Department of Defense, the U.S. Olympic Committee, and the U.S. Naval Academy, have invited presentations on or adopted the Pillars.<sup>59</sup> That character is highly relevant to ethics and professionalism, effective practice, leadership<sup>60</sup> and public service, and satisfying careers seems undeniable. This focus on aspects or the content of character, therefore, has been a valuable addition to our extended orientation for Drake students.

v. *Professionalism and the courts*

For several years, several weeks after school begins, Justice Mark Cady of the Iowa Supreme Court has spoken to the first-year class on professionalism and the courts. Justice Cady has researched and published articles on professionalism<sup>61</sup> and co-authored a treatise on ethics,<sup>62</sup> and he draws on stories from cases and his own experience to explore professionalism with the students. He also communicates the expectations of the Supreme Court, which exercises constitutional authority over those licensed to practice law. The message of an Iowa Supreme Court Justice and his interest in the students' professional welfare and growth not only teaches but also models professionalism. That the speaker is outside but partnered with the school as a colleague and member of the profession speaks volumes to the students.

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59. See JOSEPHSON INST. JOSEPHSON INSTITUTE CLIENTS 1-2 (2007), available at <http://josephsoninstitute.org/pdf/ClientList.pdf>.

60. See Donald J. Polden, *Educating Law Students for Leadership Roles and Responsibilities*, 39 U. TOL. L. REV. 353, 358-59 (2008). See also EDGAR F. PURYEAR, NINETEEN STARS: A STUDY IN MILITARY CHARACTER AND LEADERSHIP 289-349 (2d ed. 1981) (reporting on and assessing interviews with over 500 officers of the rank of brigadier general through five-star general on the subject of quality of character and its importance to leadership, and summarizing in the words of General, later President, Dwight D. Eisenhower, "character in many ways is everything in leadership").

61. See, e.g., Mark S. Cady, *Curbing Litigation Abuse and Misuse*, 36 DRAKE L. REV. 483, 485 (1987).

62. 16 IOWA PRACTICE SERIES *Lawyer and Judicial Ethics* §§ 1:1-24:5 (2008). "I address the first-year students about the meaning of professionalism and the importance of maintaining and integrating their personal values with their newly discovered professional and legal obligations," Justice Cady explained in a letter written to support the Law School's application for a Gambrell Award. Letter from Mark S. Cady to David S. Walker (Mar. 17, 2008). "I teach by using several factual scenarios to draw the students into the real-world understanding of the interplay between professional conduct permitted under the Code of Ethics and their own discretion to exercise higher standards in a way that is compatible with their existing personal values." *Id.*

2. *Field Trips and Introduction to the Legal Community*

i. *The judiciary: Iowa Judicial Branch Building tours*

Each year, as a part of the orientation preceding the start of classes, first-year students are taken to the Iowa Judicial Branch Building, which houses the Supreme Court and the Court of Appeals, the Clerks' Offices for the those Courts, and all Supreme Court Commissions. They are welcomed by one of several Justices of the Iowa Supreme Court, who gives them a tour of the facility, explaining the various functions of the Judicial Branch. The tour ends in the Courtroom of the Supreme Court where students have the opportunity to ask the Justices questions about law, the courts, the process for hearing and resolving cases, lawyers and the profession, law school, and legal education. Matters touched on invariably include the role of lawyers, the public's perception of lawyers, and the Court's expectations for lawyers licensed to practice. Unfailingly, the Justices express confidence and interest in the students.

While matters that involve ethics or professionalism are often raised, probably the most valuable and formative part of the experience is simply meeting, listening to, talking and relating to, and engaging in discussion with a member of the state's highest court right at the outset of a student's legal education. Each member of the Iowa Supreme Court has been generous with his or her time, and gracious and attentive to the students, thereby reinforcing the students' choice to study law and become a member of the profession, and expressing respect and support for them. It never fails to make an impression on them, all the more so because of the prominence of the speaker and because it is one of students' first impressions of the legal profession. All of this helps students to see themselves as future members of the legal profession and to observe a model for their own future behavior.

ii. *The legislature: Iowa state capitol tour*

A central aspect of a lawyer's membership in the profession is a responsibility to promote the rule of law. Lawyers, by virtue of the knowledge and skills acquired or developed in their legal education and practiced in the profession, have opportunity for leadership and service. Thus, we say in our mission statement that we will produce "outstanding lawyers who will promote justice" and "serve as leaders in their communities and the legal profession."<sup>63</sup> Familiar and important roles include the lawyer as legislator and the lawyer as legislative-advocate or lobbyist. By introducing our students to lawyers' varying roles and opportunities, and by taking advantage of our location in the state capital and a longtime working relationship with the branches of state

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63. Drake Law School, Mission Statement, *supra* note 1.

government, the Law School gives each student some experience with the judicial, legislative, and executive branches of government.<sup>64</sup>

At the beginning of the spring semester when the State Legislature is convening, we take the whole first-year class to the State Capitol. There they take the legislators' seats in the Chamber of the Iowa House of Representatives, and they listen to members of the Iowa House of Representatives and Iowa Senate. Legislative leaders discuss their work and the legislative process, selected issues, and proposed bills on the agenda for the coming session; the role of lobbyists and those working in government relations; and internship and other opportunities for students. The Governor's representative also participates in the program, speaking about relations and communications between the legislative and executive branches. Students are then given tours of the State Capitol in small groups by alumni and friends who have a legislative practice or work for the Legislature or one of the major parties, during which there is discussion about such work. Afterwards, students reconvene in the House Chambers for further discussion.

For the purpose of teaching professionalism to first-year students, a common, intended theme throughout the afternoon is the crucial importance of character, integrity, and civility to being effective either as a legislator or as a lawyer in legislative practice. Students also learn the need to observe ethics and professionalism if people are to work successfully across the aisle in the law-

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64. At Drake we also have a Legislative Practice Certificate Program that, among other requirements and opportunities, requires students to draft legislation, seek sponsorship and introduction, and work with the Director to advocate for the legislation's adoption and enactment. For more information about the certificate programs offered at Drake Law School, see Drake Law School, Certificate Programs, <http://www.law.drake.edu/academics/?pageID=certificatePrograms> (last visited Mar. 2, 2009). In the Law School's Middleton Center for Children's Rights, Professor Jerry Foxhoven, the Center's Director, and students in the Legislative Practice Program have drafted bills, several of which the Iowa legislators have passed. See *Law Students Shepherd Children's Rights Bills through Legislature*, ELAW (Drake Law Sch., Des Moines, Iowa), June 12, 2008, <http://www.drake.edu/news/dbletter/ebluelaw/archive.php?mode=nav&year=2008&offset=&newsletter=15&article=3234>. See also Andrew Stiny, *Lawmaking 101*, ST. LEGISLATURES, Oct.-Nov. 2008, at 26, 26-28 (discussing the Legislative Practice Program and its collaboration with the Middleton Center for Children's Rights at Drake Law School). For more information about the Law School's Middleton Center for Children's Rights, see Drake Law School, Middleton Center, <http://www.law.drake.edu/centers/middleton/> (last visited Mar. 2, 2009). One moving example of the students' work is legislation drafted on behalf of Elevate, a nonprofit association whose members are young people "ages 13 and up who have been involved in the foster care, adoption, or other out-of-home placements," and who seek to inspire understanding, change, compassion and connection for foster and adoptive children in Iowa. See About Elevate, <http://www.elevate2inspire.com/> (follow "About Us" hyperlink) (last visited Mar. 2, 2008). Law students drafted and successfully lobbied for legislation that provides foster children the right to see siblings in foster care at other homes. See Press Release, State of Iowa, Governor Culver Signs Sibling Visitation Bill into Law (Apr. 16, 2007) (on file with the University of Toledo Law Review), available at [http://www.governor.iowa.gov/news/2007/04/16\\_1.php](http://www.governor.iowa.gov/news/2007/04/16_1.php). At a signing ceremony with Iowa Governor Chet Culver, foster children told of not seeing brothers and sisters for two and six years. *Id.* Clearly, lawyers practice law before legislatures in seeking or opposing legislation (or rule-making by an administrative agency), and the program offers students opportunities for service, leadership, and promotion of justice and the rule of law as part of their legal education. The orientation at the State Capitol also mentions this program.

making process. Accordingly, one of the speakers is State Representative Scott Raecker, a former Chair of the House Appropriations Committee when Republicans were in the majority, who is the Executive Director of the Institute for Character Development at Drake. Indication of the need for character, integrity, and civility in the legislative process is particularly well illustrated by the recent example of the Iowa Senate being evenly divided, 25-25, between the two major parties and a 51-49 split in the Iowa House.

*iii. The legal community: the Partners program*

For more than two decades, the Law School has paired students with “partners” in the legal community—lawyers and judges, including our alumni—who volunteer to meet and get to know the students and help in their transition to law school and the profession. As the program has evolved, first-year students are paired in groups of two or three with two or three lawyers or judges, who serve as mentors and friends, broadening the circle of professional acquaintances and even helping to introduce students to one another as well the legal community. For more than a decade, the local bar association has been a significant aid in this program’s organization. Meetings begin with an initial formal kick-off breakfast, but subsequent meetings and calls are informal. The Partners Program provides perspective and advice on law school, preparation for the profession and particular practices or careers, and matters of ethics and professionalism students read about or confront.<sup>65</sup> It represents the beginning of a professional network, which has proven valuable to students and lawyers alike.

*iv. The legal community: National Public Interest Day*

For many years, the Law School has celebrated the first Monday in October as National Public Interest Day. Past programs have featured Barry Scheck

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65. For more information about the Drake Law School’s Partners Program, see Drake Law School, Partners Program, <http://www.law.drake.edu/admissions/?pageID=partnersProgram> (last visited Mar. 2, 2009).

The Partners program has evolved into one of the most successful at the school.... My partner, a young lawyer, and I for the last several years have met regularly with our group of first-year students. It is an excellent opportunity for first-year students to interact with a judge and a lawyer and see where their law school education may lead. We develop relationships in which the students have been willing to contact us after their first year for advice. These contacts and discussions usually center on issues of professionalism, such as: ethical interaction with other lawyers, responsibility to clients, and proper interaction between lawyers and the court.

Letter from Hon. Larry J. Eisenhauer, Iowa Court of Appeals, to E. Smythe Gambrell Award Committee (Mar. 11, 2008). In a very worthwhile project that could usefully be replicated in other states, Judge Douglas S. Lang of the Texas Court of Appeals for the Fifth District collected stories from numerous distinguished judges and lawyers in Texas in which they shared their experience, passing their learning along, in an effort to support and sustain a tradition of civility and professionalism in the Bench and Bar in Texas. *See generally* DOUGLAS S. LANG, DEEDS, NOT WORDS: MENTORS AS GUIDING LIGHTS OF INTEGRITY IN THE LEGAL PROFESSION (2007).



speaking about the Innocence Project and Derrick Bell speaking about his book *Ethical Ambition: Living a Life of Meaning and Worth*.<sup>66</sup> Preparing students to “respond to the call of public service” is part of our mission statement, striving to promote justice is a “fundamental value” we embrace, and fostering involvement in public service is part of our method to increase students’ understanding of a lawyer’s duties.<sup>67</sup>

Last year, for the first time, we conducted a field trip to the nearby Fort Des Moines Museum and Educational Center.<sup>68</sup> Built in 1901, the center was the site selected in World War I as the United States Army’s only officer candidate school for African-American men,<sup>69</sup> and successful candidates included Charles Howard, one of the National Bar Association’s founders, and Charles Hamilton Houston.<sup>70</sup> Later, during World War II, it was where the first Women’s Army Auxiliary Corps was formed.<sup>71</sup>

Fort Des Moines has been beautifully restored and contains a substantial collection of photographs, art, and artifacts through which it tells a story of overcoming racial and gender discrimination, the huge resistance each effort engendered, and the courage and effectiveness of those who worked hard to overcome inequality, change the law, and promote justice.<sup>72</sup> We incorporated our National Public Interest Day observance into our extended orientation and now present each year a program entitled “Civil Rights, Public Service, and You: Equality Firsts in Iowa.” The program speaks to the history the museum celebrates and it highlights the fact that the Iowa Supreme Court declared racial segregation in public education unconstitutional eighty-six years before the U.S. Supreme Court did so in *Brown v. Board of Education*,<sup>73</sup> and that Iowa was the first state in the nation to admit women to the practice of law.<sup>74</sup> The first year we presented it, the program featured a member of the Iowa Supreme Court, a faculty member, the President of the Student Bar Association, and one of the Tuskegee Airmen during World War II, a Drake alumnus and recipient of the Congressional Gold Medal, Dr. James Bowman. The program is designed to

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66. DERRICK BELL, *ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH* (2007).

67. Drake Law School, Mission Statement, *supra* note 1.

68. To learn more about the Fort Des Moines Museum and Educational Center, see Fort Des Moines Museum, <http://www.fortdesmoines.org/> (last visited Mar. 2, 2009).

69. Fort Des Moines Chronology, <http://www.fortdesmoines.org/chronology.shtml> (last visited Mar. 2, 2009).

70. Fort Des Moines Graduates H-M, [http://www.fortdesmoines.org/graduates\\_h\\_m.shtml](http://www.fortdesmoines.org/graduates_h_m.shtml) (last visited Mar. 2, 2009).

71. Fort Des Moines Chronology, *supra* note 69.

72. See Fort Des Moines Museum Mission, <http://www.fortdesmoines.org/mission.shtml> (last visited Mar. 2, 2009); Fort Des Moines Museum Project, <http://www.fortdesmoines.org/project.shtml> (last visited Mar. 2, 2009).

73. 347 U.S. 483, 495 (1954). The Iowa Supreme Court held segregation in education to be unconstitutional in *Clark v. Board of School Directors*, 24 Iowa 266, 277 (1868).

74. In 1869, the Iowa Supreme Court admitted Arabella Babb Mansfield to the practice of law. Arabella Mansfield—A Community Presence, <http://law.jrank.org/pages/12257/Mansfield-Arabella.html> (last visited Mar. 2, 2009). She was the first woman in the United States to be licensed to practice law. *Id.*

emphasize the importance of a commitment to promote justice and respond to the call of public service, teach that law is sometimes wrong or bad and must be changed, and give a human face to the courage that a commitment to justice and public service often require.

### 3. *Learning about the Code of Student Conduct*

Like other schools, Drake Law School has a comprehensive Code of Student Conduct governing student behavior.<sup>75</sup> It prohibits certain forms of misconduct, such as plagiarism and unpermitted collaboration on an assignment; an Honor Board that includes three students and two faculty members enforces the Code.<sup>76</sup> After the students have received the welcome, introductions, and initiatives previously described, in the middle of the fall semester, as part of our extended orientation, we hold a mandatory session to educate students about the Code of Student Conduct in which student leaders figure prominently.

Working with the Associate Dean, student members of the Honor Board and other student leaders are deeply involved in developing the educational program and write a quiz on the Code, which the first-year students must complete after reading the Code. Along with the Faculty Chair of the Honor Board and the Associate Dean, who investigates and prosecutes alleged offenses, they talk about the enforcement process and the impact of misconduct and violations on academic and professional careers and application for admission to the bar. The Code and the Board provide students with important lessons about why self-regulation is essential to a profession. As students take a leadership role in designing the program, creating the quiz, and talking with the first-year students, the educational session reinforces notions of not only accountability but also the responsibility of each of us to help create the collegial and professional community we intend to be.

### 4. *Career Development Workshops*

With the support of the faculty and administration, the Career Development Office requires every first-year student to attend three workshops and every student to participate in at least one counseling session each year of law school. The required workshops focus on Career Planning, Effective Resumes and Cover Letters, and Effective Interviewing Skills. Ethics and professionalism in presenting oneself, dealing with potential employers and fellow students, and treating respectfully those involved in the interviewing process are among the important subjects covered in the workshops.

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75. DRAKE UNIVERSITY LAW SCHOOL CODE OF STUDENT CONDUCT 1 (2004).

76. *Id.* at 1, 7.

*B. The Legal Writing Program*

Numerous reports have urged pervasive incorporation of ethics and professionalism into all courses, including the first year of law school, and not just formal courses in Ethics and Professional Responsibility.<sup>77</sup> We accomplish this particularly effectively through our Legal Writing Program.

All first-year students at Drake are required to take Legal Writing in both the fall and spring, two credits per semester. The course focuses on both legal reasoning and effective written communication in the context of a number of familiar writings, including letters to clients, memoranda, appellate briefs, and pleadings. The faculty supplement the course with a textbook written by the Director of the Writing Program, Professor Melissa Weresh, entitled *Legal Writing: Ethical and Professional Considerations*.<sup>78</sup> The book's title describes its special approach to ethics and professionalism in legal writing. "The term *considerations*," she explains at the outset of the text, "was chosen to reflect the fact that there are a variety of sources for these considerations, some of which are codified in the form of laws or rules, and others that are more informal."<sup>79</sup>

The text helps first-year students to learn that there are distinct, though related, sources of ethical and professional considerations that they should take into account in drafting particular kinds of documents.<sup>80</sup> These sources include codes of professional ethics and rules of procedure; standards or codes of professionalism articulated by state and local bar associations or courts that, among other things, invariably direct lawyers to be civil and courteous to others and to understand the importance of the manner of their practice to upholding the rule of law and supporting the legal system; and their own personal integrity.<sup>81</sup> Students explore the similarities and differences between these sources in class and practice incorporating their principles in writing various documents.<sup>82</sup> The text provides considerations for a variety of different documents and students discuss them in the context of cases and examples.<sup>83</sup>

The text's purpose is neither to teach students how to draft the particular documents nor to substitute for a course in Ethics and Professional Responsibility. Instead, the purposes are to enable students to learn the ethical and professional considerations associated with particular types of documents and related to legal writing, and "to encourage lawyers to engage in an ethical, professional, and courteous discourse practice."<sup>84</sup> For example, students explore civility in letter writing and consider a case excerpted in Professor Weresh's text

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77. See *supra* notes 8-29, 46 and accompanying text.

78. WERESH, *supra* note 46.

79. *Id.* at 1.

80. See *id.* at 1-6.

81. *Id.*

82. See *id.* at 6.

83. See *generally id.* (providing guidance to legal writers to recognize the ethical and professional responsibilities associated with drafting such documents as predictive memoranda, client letters, demand letters, complaints, and appellate briefs).

84. *Id.* at 6.

in which the Kansas Supreme Court characterized a letter written by an attorney as “vicious, offensive, and extremely unprofessional ... [and] without a doubt, lacking in courtesy and civility.”<sup>85</sup> Whether or not such a letter in and of itself provides a basis for imposing discipline under the Model Rules of Professional Conduct or a code of ethics, students quickly learn how destructive writing such a letter is to one’s career.<sup>86</sup> “It is also clear,” students read and grasp, “that incivility undermines the lawyer’s ability to establish productive relationships with other lawyers and thereby undermines not only the lawyer’s effectiveness, but also her ability to maintain a meaningful and rewarding practice.”<sup>87</sup>

Time and again the book connects notions of professionalism to being competent and effective in practice and finding satisfaction and meaning in the practice of law. Incorporating this text in the required course in Legal Writing is thus a major part of our program for teaching professionalism in the first year of law school.

### C. *The First-Year Trial Practicum*

For more than ten years, the Law School has suspended first-year classes for a week in February while students observe an actual jury trial held on campus in the courtroom of the Neal and Bea Smith Law Center. We call it the “First-Year Trial Practicum.” It is the brainchild of Associate Dean and Professor of Law Russ Lovell and the product of remarkable collaboration between the courts, the Law School, and members of the legal community, in addition to Russ Lovell’s extraordinary efforts.<sup>88</sup>

The First-Year Trial Practicum is a highly structured educational experience that immerses students in a jury trial and enables them to see and relate to a judge, lawyers, parties, witnesses, jurors, and court personnel. Students observe the trial from jury selection and pretrial motions to jury verdict, and they meet in groups of eight to ten with faculty members, lawyers, and retired judges who volunteer to serve as faculty for the trial practicum experience. In relatively small groups, they have lunch during the week with the presiding judge and talk about trial practice, the jury system, and the work of lawyers and judges in addition to events at trial. After the case has gone to the jury, the opposing lawyers who tried the case provide a debriefing for the students. The lawyers comment on strengths and weaknesses of their case as they saw it and events

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85. *Id.* at 84 (citing *In re Gershater*, 17 P.3d 929, 931, 936 (Kan. 2001)).

86. *See id.* at 83-85.

87. *Id.* at 85.

88. For an excellent description and a statement of the case for including “observation of an actual jury trial in a structured educational setting” into the first year, see Russell E. Lovell, II, *Trial Practicum Integral to First-Year Law School Curriculum*, 90 JUDICATURE 114, 114-19 (2006). A fuller description of the program appears on the Drake Law School’s website. *See* Drake Law School Trial Practicum, <http://www.law.drake.edu/academics/?pageID=trialPracticum> (last visited Mar. 2, 2009). The First Year Trial Practicum is recognized as a curriculum innovation by the Association of American Law Schools. Association of American Law Schools, Committee on Curriculum, [http://www.aals.org/services\\_curriculum\\_committee\\_innovations.php](http://www.aals.org/services_curriculum_committee_innovations.php) (last visited Mar. 2, 2009).

occurring during trial. They display respect for the other and jointly respond to questions and observations from the students. After the verdict, willing jurors provide the students with a debriefing of their own, talking to the students and responding to questions. Being there, relating to these actors, and engaging faculty, lawyers, judges, and one another in active conversation about the case, students come to feel at home in the law, and the shared experience nurtures in them a sense of belonging in the profession.

The lessons derived from the First-Year Trial Practicum experience are actively developed in accompanying assigned materials, explanatory sessions in advance of trial, and the discussions in small groups. In fact, each of what the Carnegie Foundation Report called the “three apprenticeships” is extremely well served.<sup>89</sup> The “cognitive apprenticeship” in the classroom is reinforced through observation, small group discussions, and personal engagement in students’ own “side-bars.”<sup>90</sup> Ready examples include (1) knowledge of the elements of a crime or a civil claim (for example, the distinctions between first- and second-degree murder or manslaughter), the ambivalence of language, and the correlation of proof introduced or offered to these elements; (2) the meaning and application of terms common in the first year of law school, like “demeanor evidence,” “credibility of the witness,” “burden of proof,” and “beyond a reasonable doubt;” (3) motion practice, such as motions for directed verdict, new trial, and judgment notwithstanding the verdict; and (4) the meaning and application of “comparative fault” principles.

Through observation—a critical step in learning for many, if not for all—we offer an introduction to the “practical apprenticeship.”<sup>91</sup> Students hear and assess

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89. SULLIVAN ET AL., *supra* note 12, at 27-29.

90. See *supra* text accompanying note 37 for a discussion of the “cognitive apprenticeship.”

91. See *supra* text accompanying note 38 for a discussion of the “practical apprenticeship.” See also Stuckey, *supra* note 41, at 828-30. Professor Stuckey explains “the unique strengths of practice observation courses.” *Id.* He is talking about “externships in which students observe or assist lawyers or judges” and particularly the classroom component, but his comments seem to me highly descriptive of purposes and outcomes of the First Year Trial Practicum:

What is surprising is the apparent absence of our collective appreciation of practice observation courses as a forum for studying the values, behaviors, attitudes, and ethical requirements of lawyers, that is, professionalism....

....

Some externships also provide excellent opportunities to study and learn about the functioning of the legal system and its capacities and limitations. It is especially important for students to study issues of justice in our society and learn to appreciate the importance of the rule of law for ensuring justice to all members of society. Only in a real world context can students examine the interaction of legal analysis and human behavior, including interpersonal dynamics and communication. They should learn during law school how the law can affect people’s lives by bringing fear or hope, sadness or joy, pain or relief, frustration or satisfaction.

*Id.* at 828-29. Earlier in his article, Professor Stuckey asserted, “As early as possible in law school, preferably in the first semester, law students should be exposed to the actual practice of law.” *Id.* at 819. Again, he is talking about externships, but in a very real sense the First-Year Trial Practicum, accompanied as it is with assigned readings and small group discussions in a structured educational setting, accomplishes the purposes for an externship that Professor Stuckey describes.

actual opening statements, direct and cross-examinations, objections and rulings, instructions and closing arguments. Simultaneously, they observe the jury at work—the jurors' attention, their reactions to evidence and events, and of course their decision—and how the lawyers relate to them. Often, the subject of negotiations that failed to reach settlement or a plea agreement will come up in the debriefings. Through this, students gain insight into the several stages and manners of dispute-resolution, lawyers' roles in them, and why a case was not resolved short of trial.

In some ways, what the Carnegie Foundation Report called the "ethical-social apprenticeship" is best served by the First-Year Trial Practicum.<sup>92</sup> The first year is replete with lessons about the adversary system and the lawyer's role as an advocate of the client's interests. Though faculty and class discussion may mitigate this view, cases are often about one side "winning" and the other side "losing," and popular culture does little to show, let alone celebrate, the lawyer's other possibilities and roles. During the Trial Practicum, students observe lawyers' behavior toward all participants in the process and draw invaluable lessons about "professionalism," including civility, competence, and effectiveness.

To be sure, the lawyers are staunch advocates dedicated to the client they represent and students see that as well as the different styles lawyers have in the courtroom. They also see how the lawyers relate to one another—in the jury's presence and the midst of trial, and outside the jury, for example, on breaks or during the debriefing—and they observe the mutual respect, civility, and courtesy that characterize professionalism in the practice of law. Or they may see its absence. Students look intently at how the lawyers relate to the judge and the jury, and they can *feel* the respect accorded to both. Students begin to understand what it means to say that lawyers are officers of the Court as well as representatives of their clients. Students are instructed of their own role and responsibility in assuring an orderly and professional environment for trial and in showing respect for the jury and the administration of justice. Elements of character previously discussed—certainly "trustworthiness," "respect," and "responsibility"—are plainly on display.

Considerations of "fairness" and the law's moral dimension are implicated, especially in the criminal cases. In the 2007 Trial Practicum, for example, the jury returned a verdict of second-degree murder in a case, leading to a fifty-year prison sentence with a mandatory minimum sentence of seventy percent or thirty-five years, where the accused, a young man, while inebriated, shot and killed a man with whom he and others had been drinking. With his family's support, he rejected a plea offer by which he would have pled to manslaughter and been sentenced to prison for at most two years. He spoke with the police and detectives on his own on several occasions, inconsistently, without counsel, and not to his advantage. Incarcerated while awaiting trial, he also spoke with fellow inmates, who to their apparent advantage afterwards cooperated with the state

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92. See *supra* text accompanying note 39 for a discussion of the "ethical-social apprenticeship."

and agreed to testify against him at trial. After that, the prosecution changed the charge from manslaughter to second-degree murder, and the jury returned the verdict the prosecution sought. Evidence provided support for the verdict and included the nature of the weapon used, an unusual firearm whose complex preparation to fire cast doubt on the degree of the accused's intoxication and defense. In fact, asked afterwards in the debriefing whether she would have done anything differently, the prosecutor said she would have gone for first-degree murder. At the same time, there was evidence to justify only a verdict of manslaughter.

The change of the charge, the credibility of inmates' testimony against the accused, the meaning of "reasonable doubt," and the consequence of not pleading to manslaughter (the difference between two and fifty years) spawned extensive and animated discussion. Students keenly debated and discussed whether the verdict or the sentence "did justice." The trial provided a perfect vehicle for exploring the moral dimension of criminal law, the purposes served by sentencing, and the role of lawyers, the judge, and the jury in the administration of justice.

Student assessments of the First-Year Trial Practicum are extraordinarily positive and attest to how much students learn and its imprint on them.<sup>93</sup> The judges who have presided, the lawyers who have tried and defended cases, and those who have served as small group leaders regularly evaluate the First-Year Trial Practicum in glowing terms.<sup>94</sup> The Trial Practicum reflects a commitment on our part to experiential education, beginning in the first year. It provides us with an unparalleled opportunity for students to learn about ethics and professionalism early in their professional education, and it provides strong support of our purpose to have them *identify* with being a lawyer and know that, in one way or another, they have a vital and important role to play in our society.

#### *D. Supreme Court Week*

Since the late 1930s, the Iowa Supreme Court has supported Drake law students' education through the Supreme Court Moot Court Competition and Supreme Court Banquet. The competition was developed to give students actual experience in reviewing a record, preparing and arguing motions and briefs, and arguing a case to real Judges. The Court helps to shape the problem and the Justices read the briefs and hear arguments of the four finalists in the Courtroom of the Supreme Court. The Chief Justice announces the most outstanding advocate at a banquet held in the Court's honor. The Chief Justice begins the evening by introducing the Justices, and speaking of how much the Court values and counts on effective advocacy before announcing the top oral advocate. The banquet also serves as a time for recognizing students' outstanding academic

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93. See, e.g., Erika Eckley, *Drake's First Year Trial Practicum in Its Eleventh Year*, *ADVOC.* (Polk County Bar Ass'n, Des Moines, Iowa), Mar. 2008, at 9 (reporting law students' opinions about the educational rewards of attending the Trial Practicum).

94. See, e.g., *id.* (reporting positive comments of judge and lawyer participants in the Trial Practicum).

performance, leadership, and service, including an award for civility and professionalism and two awards for outstanding public service. The banquet is widely attended by students, faculty and staff, and members of the legal community. It celebrates the Court, our relationship with it, and the many ways in which we have been most fortunate to have the Court's support and involvement in our students' education.

These ways include the meetings with small groups of first-year students at the beginning of the year, the tours of the Iowa Judicial Branch Building, and the Iowa Supreme Court Moot Court Competition just mentioned. They also include lectures to our students by members of the Court on professionalism and the courts and on managing stress in law school and practice. There are at least four additional important interactions with our students that have strong educational value and embed in students a personal ethos of professionalism:

- *Holding oral arguments on campus.* Each year the Supreme Court holds oral arguments before the first-year class in the courtroom of the Neal and Bea Smith Law Center. These are held at least during, and if possible in advance of, the students' first-year oral arguments in Legal Writing. After the arguments, the Justices talk about what makes an oral argument effective, what each Justice is looking for or appreciates—or does not appreciate—in oral advocacy, and the Court's processes for decision-making and opinion-writing. As with the Trial Practicum, students directly observe the administration of justice and judges and lawyers at work. They see how the Justices and the lawyers relate to one another, and they see that lawyers have responsibilities both to clients and to the Court and legal system.
- *Breakfasts with the Justices.* Before the oral arguments, each Justice meets with a small group of students for breakfast in various rooms of the Smith Center. This provides an opportunity for students to meet and get to know a member of the State's highest court and talk about anything, from the students' legal education to the Justice's personal experiences to the weather.
- *Iowa Supreme Court Writing Competition.* Each year, the Law School holds a school-wide writing competition. The Legal Writing and other faculty review anonymous submissions and select the top five finalists. The members of the Iowa Supreme Court choose the first and second place winners from among the five finalists (the others receiving Honorable Mention). The five finalists are recognized at the Supreme Court Banquet, and the first and second place winners are announced.
- *Supreme Court Scholar Internship and Luncheon.* Two years ago, at the suggestion of one of the Court's members and with the approval of all of the Justices, the Law School worked out a special "Supreme Court Scholar Internship" for one student each year, selected from many applicants by a committee of law faculty and



the Associate Dean.<sup>95</sup> The student selected and a member of the Court research and write an article for publication. In addition, they present the paper to the other Justices and the faculty at a luncheon following the oral arguments mentioned above. At the luncheon, faculty members and Justices ask the presenters questions, offer suggestions and areas of agreement or disagreement, and converse about the topic. This experience is immensely satisfying for both the student and the faculty. It tends to dissolve the line between law school and the profession, and it engages us all in the “pur[suit of] a learned art as a common calling.”<sup>96</sup>

Supreme Court Week celebrates the relationship between our law school and the Court. This relationship pervades students’ first year, beginning before classes, continuing throughout the year, and perhaps peaking with Supreme Court Week. This pervasive relationship’s impact and presence is significant. The Justices’ time and attention and their involvement in students’ education and professional growth not only helps students see themselves as members of a profession, but also contributes profoundly to students’ understanding of the relationship between ethics and professionalism, effective practice, and a satisfying career.

#### *E. Results*

The results of the several initiatives discussed here have been very positive. Each year for the past five years, we have participated in the Law School Survey of Student Engagement (“LSSSE”).<sup>97</sup> The results of the 2007 and 2008 surveys, particularly in response to a question asking students to evaluate the extent to which the law school encouraged “the ethical practice of law,” have especially provided solid evidence that our initiatives were having the effect we intended and showed results exceeding those for all other comparator school groups.<sup>98</sup> No

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95. For 2008-09, two Justices agreed to co-author an article for publication; accordingly, two students were selected for the Supreme Court Scholar Internship. *Supreme Court Justice & Drake Law Alum Have Article Published by Cornell Law School*, DRAKE L. SCH. NEWS, June 19, 2007, <http://www.law.drake.edu/newsEvents/details.aspx?eventID=cadyPhelps>.

96. STANLEY COMMISSION REPORT, *supra* note 9, at 10 (quoting ROSCOE POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953)).

97. The LSSSE is an annual survey asking students at participating law schools to assess their law school experiences. About LSSSE, [http://lssse.iub.edu/html/about\\_lssse.cfm](http://lssse.iub.edu/html/about_lssse.cfm) (last visited Mar. 2, 2009).

98. LSSSE, 2008 MEANS COMPARISON REPORT FOR DRAKE UNIVERSITY LAW SCHOOL (2008) [hereinafter 2008 MEANS COMPARISON REPORT]; LSSSE, 2007 MEANS COMPARISON REPORT FOR DRAKE UNIVERSITY LAW SCHOOL (2007) [hereinafter 2007 MEANS COMPARISON REPORT]. Participating law schools in the LSSSE receive a detailed report of their respective law school findings. See About LSSSE, *supra* note 97. The LSSSE also publishes an annual report with select findings. See, e.g., LSSSE, *STUDENT ENGAGEMENT IN LAW SCHOOLS: KNOWING OUR STUDENTS* (2007), available at [http://lssse.iub.edu/2007\\_Annual\\_Report/pdf/EMBARGOED\\_LSSSE\\_2007\\_Annual\\_Report.pdf](http://lssse.iub.edu/2007_Annual_Report/pdf/EMBARGOED_LSSSE_2007_Annual_Report.pdf). In 2008, more than 27,000 students attending eighty-five law schools participated; in 2007, seventy-nine law schools participated. LSSSE Quick Facts,

doubt other schools already undertake, with some variation, some of the initiatives that we pursue in the first year; if not, a particular school can tailor the program to its liking. Our first-year program has been successful for *our* purposes.

### III. TEACHING PROFESSIONALISM AND THE ROLE OF THE DEAN

In reflecting on what we have done and on those involved in our program, three thoughts occur to me regarding reasons for our success and the role of the Dean.

First, we had a strong, shared sense of our identity and our purposes in creating and bringing together elements of a program for teaching professionalism in the first year. A school's mission statement should reflect a shared sense of identity and purpose. While our mission is not unique, and for some is perhaps confining, we at Drake aspire and endeavor to "produc[e] outstanding lawyers who will promote justice, serve as leaders in their communities and the profession, and respond to the call of public service," and we intend to provide "a welcoming environment" and to "instill our students with the ideals of ethics and professionalism."<sup>99</sup>

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[http://lssse.iub.edu/html/quick\\_facts.cfm](http://lssse.iub.edu/html/quick_facts.cfm) (last visited Mar. 2, 2009). The project is administered by the Indiana University Center for Postsecondary Research, and it is co-sponsored by the Association of American Law Schools and the Carnegie Foundation for the Advancement of Teaching. *Id.* Question 8b asks students, "To what extent does your law school emphasize each of the following? ... Encouraging the ethical practice of law." *E.g.*, IND. UNIV. CTR. FOR POSTSECONDARY RESEARCH, STUDY NO. 03-7920, 2007 LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT 13 (2007). The responses to this question utilize the following scale: 1 = very little; 2 = some; 3 = quite a bit; 4 = very much. *Id.* The responses to this question by the entering class in 2007-08 yielded a mean of 3.69, in contrast to a mean for all participating schools of 3.16, a mean of 3.19 for all private not religious schools participating in the survey, and a mean of 3.24 for all law schools with enrollments less than 500. 2008 MEANS COMPARISON REPORT, *supra*, at 10. The response to this question by the 2006-07 first-year class yielded a mean of 3.64, in contrast to a mean of 3.08 for all seventy-nine law schools participating that year, a mean of 3.10 for all private not religious schools participating that year, and a mean of 3.17 for all law schools with enrollments less than 500. 2007 MEANS COMPARISON REPORT, *supra*, at 10. In terms of statistical significance, for both years, according to survey results provided by the Center for Postsecondary Research, the likelihood of these reported differences being "due to chance" was the smallest or least ( $p < .001$ ). *See* LSSSE, LSSSE USERS WORKSHOP 35 (2008). In addition, the Center advises those utilizing LSSSE results to examine the "practical significance" of the difference in means, or the effect size. *Id.* at 37-38. The Center states: "In practice, an effect size of .2 is often considered small, .5 moderate, and .8 large. A positive sign indicates that your law school's mean was greater, thus showing an affirmative result for the law school." LSSSE INTERPRETING THE MEANS COMPARISON REPORT 1 (2008). For each comparator group, the effect size in 2007-08 exceeded 0.5, and for all participating schools it was 0.64 in 2006-07 and 0.63 in 2007-08, indicating a moderate to large effect in terms of practical significance. We view these results from the students as recognition of the emphasis we place on teaching ethics and professionalism in the first year and as a very positive sign. It is worth noting that the 2008 LSSSE Survey also reported statistically significant ( $p < 0.001$ ) results of moderate effect for the second-year class, or the one entering in 2006-07, when asked by question 8b to what extent the Law School encouraged the ethical practice of law. 2008 MEANS COMPARISON REPORT, *supra*, at 10.

99. *See* Drake Law School, Mission Statement, *supra* note 1.

A sense of identity necessarily precedes a mission statement or vision statement looking to the future. Identity is more like what Dean Bill Treanor of Fordham University School of Law, drawing on Professor Howard Gardner's book *Leading Minds*,<sup>100</sup> described as a school's "story."<sup>101</sup> The "story" has a "temporal dimension" and represents a "narrative" or "an account of what the law school is about and where it is going."<sup>102</sup> It draws on the school's history and its leading figures, past and present, to show a path over time by which obstacles were overcome and important goals accomplished, and it suggests how leaders of the community and its members can do so in the future.<sup>103</sup> The "story" is not inconsistent with change, provided change is connected to the community's members and why they chose the school, and in telling the story the dean must include them in the conversation shaping the school's future and contemplating any change.<sup>104</sup>

Our "story" at Drake has always included a strong orientation to the bench and bar and the skills and values of the profession. Drake Law School traces its roots and purposes to 1865 and the vision and continuing work of two Justices of the Iowa Supreme Court.<sup>105</sup> Together, they founded a law school in Des Moines, which they eventually transferred to the University of Iowa, where it became the University's law department.<sup>106</sup> Years later, one of them founded what became Drake University Law School.<sup>107</sup>

Both men were active and prominent members of the bar, and both were deeply involved in public life and service.<sup>108</sup> One was George Wright, who went on to become President of the newly created American Bar Association and later a United States Senator.<sup>109</sup> The other, Chester Cole, was a successful trial lawyer who became a Lincoln Republican and was called on to travel and speak all over the State in support of the President and the cause of the Union.<sup>110</sup> Cole was appointed and later elected and re-elected to the Iowa Supreme Court and was a

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100. HOWARD GARDNER, *LEADING MINDS: AN ANATOMY OF LEADERSHIP* (1995).

101. See William M. Treanor, *Deans and Stories*, 36 U. TOL. L. REV. 207, 209 (2004).

102. *Id.* at 208-09 (citing GARDNER, *supra* note 100, at 14).

103. See *id.* at 210.

104. *Id.*

105. 1 CHARLES BLANCHARD, *HISTORY OF DRAKE UNIVERSITY: BUILDING FOR THE CENTURIES 93-95* (1931) (recognizing Judge Cole and Judge George G. Wright as the organizers of the "Iowa College of Law").

106. *Id.* at 93.

107. See *id.* at 93-94 (suggesting that Judge Cole's dedication and spirit created the law school at Drake University). See also RICHARD LORD ACTON & PATRICIA NASSIF ACTON, *TO GO FREE: A TREASURY OF IOWA'S LEGAL HERITAGE* 154 (1995) (declaring Judge C.C. Cole started the law school in Des Moines, which later became known as Drake University Law School); EDWARD H. STILES, *RECOLLECTIONS AND SKETCHES OF NOTABLE LAWYERS AND PUBLIC MEN OF EARLY IOWA 474-80* (1916) (providing a recount of Judge C.C. Cole's life and his involvement with the school of law in Des Moines, Iowa).

108. See 1 BLANCHARD, *supra* note 105, at 94-95.

109. Biographical Directory of the United States Congress, George Grover Wright, <http://bioguide.congress.gov/scripts/biodisplay.pl?index=W000759> (last visited Mar. 2, 2009).

110. STILES, *supra* note 107, at 474-80.

courageous voice ahead of the nation.<sup>111</sup> In 1868, he wrote the majority opinion in a case before the Iowa Supreme Court that held racially segregated public education unconstitutional.<sup>112</sup> In addition to his background in the practice of law and as a Supreme Court Justice, he was a working scholar, editing the Court's Reports and a scholarly journal.<sup>113</sup> From the beginning, Cole believed strongly that law should be learned in an academic setting, but one located in the state capital, where the courts and the legislature were located, so that students' educations might be enhanced by the presence of both.<sup>114</sup> He retired from the Law School at the age of eighty-two to accept a pension for distinguished scholars from the Carnegie Foundation for the Advancement of Teaching, but he continued to practice law and tried a six-day jury trial at the age of eighty-eight.

Under his influence and leadership, faculty included prominent members of the bench and bar. That legacy was sustained by future faculty and deans by hiring faculty with practice experience and a strong level of comfort with the bar in addition to academic credentials and promise of scholarship. Succeeding deans,<sup>115</sup> faculty, and alumni have supported this sense of who we are. The relationships that we enjoy with the Iowa Supreme Court and the legal community clearly have roots in time dating to the very beginning of the school.

It is not an accident that Drake has a strong orientation to the bench and bar and to the practice of law, or that we draw so extensively upon the judiciary, government, and legal community in creating opportunities for our students. It is

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111. *Id.*

112. *Clark v. Bd. of Sch. Dirs.*, 24 Iowa 266, 277 (1868).

113. 1 BLANCHARD, *supra* note 105, at 95. Judge Cole edited *The Western Jurist* through 1880. See 14 W. JURIST at ii (1880). See also STILES, *supra* note 107, at 474-80 (quoting Judge Cole as writing, "I edited the Western Jurist, a legal monthly periodical, for about twelve years.").

114. The Law College that Wright and Cole founded in 1865 was moved from Des Moines to the University of Iowa in Iowa City in 1868, where Cole continued to teach until he resigned in 1875. 1 BLANCHARD, *supra* note 105, at 93; ACTON & ACTON, *supra* note 107, at 154. In that year, he started or resumed the "Iowa College of Law," which he affiliated with Drake University when it was founded in 1881. ACTON & ACTON, *supra* note 107, at 154. Writing in 1875 in *The Western Jurist*, he explained, in part:

Without any purpose to disparage the University of Iowa City, let us look fairly at the causes [for establishing a second law school]. Des Moines is the capital of the state; there, the Legislature convenes and the laws of the state are enacted; there [state and federal courts are located, and] during the entire school year, one of the courts, and much of the time two of them, are in actual, open session and engaged in the trial of important causes. The opportunity for observation and the gaining of valuable information, not otherwise attainable, is as complete and entire as possible.

Chester C. Cole, *The Iowa College of Law*, 9 W. JURIST 451, 452 (1875).

115. One of those deans was Martin Tollefson, who came to Drake in 1928 after earning both a Ph.D. and an LL.B. and, except for prominent service in World War II, stayed until he died in 1963. Interestingly, and probably with some significance and impact on Drake Law School, Tollefson accepted a Brandeis Research Fellowship to study at Harvard Law School in 1935-36. There he studied with two faculty members whom his wife, writing after his death, called his "legal heroes." One was Dean Roscoe Pound, and the other was Professor, later Justice, Felix Frankfurter. Letter from Helen Tollefson, to Her Grandchildren, Grandnieces and Nephew (1970) (on file with the University of Toledo Law Review).

equally intentional that we emphasize experiential education and embrace teaching professional skills and values, and the “ideals of ethics and professionalism.”<sup>116</sup> These relationships reflect a longstanding, shared sense “of what the law school is about and where it is going,” in Bill Treanor’s words, that faculty, alumni and friends relate to and support in bringing forth proposals and in reinforcing, contributing to, or strengthening initiatives under way. In turn, that shared sense has made development of a comprehensive, integrated program for teaching professionalism in the first year possible.

My second thought focuses on the people who have been involved in our integrated and extended program for teaching professionalism in the first year. The “story” is not just the dean’s to express. Many are absolutely crucial to telling and expressing our “story” and more specifically to developing and implementing our program for teaching professionalism in the first year. Members of almost every constituency with whom I have dealt as Dean—faculty, staff, students, leaders in the bench and bar or government in Iowa, and alumni and friends—have played a role.<sup>117</sup> Key players in each group have helped, in Gardner’s and Treanor’s words, to “institutionalize”<sup>118</sup> our story; members work together to face challenges, create opportunities, and pursue goals; and members sustain our story through the integrated, multi-faceted program we put together and in myriad other ways.

Probably many have read or at least heard about Jim Collins’s book *Good to Great*.<sup>119</sup> Collins researched and explored how good companies become great companies, and his book reports his findings.<sup>120</sup> One of his key findings is that the leaders of companies that moved from being good to being great did not begin by establishing a new vision and charting strategy accordingly.<sup>121</sup> “We found instead,” he wrote, “that they first got the right people on the bus, the wrong people off the bus, and the right people in the right seats—and then they figured out where to drive it.”<sup>122</sup> I couldn’t agree more. We had the “right people on the bus” and in the right places, and more came on board to enable us to build, sustain, and enrich our program. In the operations of the school, some

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116. Drake Law School, Mission Statement, *supra* note 1.

117. Obvious examples in terms of our teaching professionalism include faculty and members of the Iowa Supreme Court involved in our extended orientation; Professor Weresh, whose text *Legal Writing: Ethical and Professional Considerations* we use to supplement Legal Writing; Associate Dean and Professor of Law Russ Lovell for his conception and sustained work with the bench and bar to institutionalize the First Year Trial Practicum; lawyers and judges, especially the Chief Judge of the District Court here, the Honorable Arthur Gamble, and the County Prosecutor John Sarcone in assuring a jury trial for the Practicum and serving as faculty for it in addition to members of our own faculty; student leaders who came forward at numerous places to participate in the extended orientation and help sustain a collegial and welcoming atmosphere; and senior administrators and professional staff.

118. Treanor, *supra* note 101, at 208 (referring to the need to engage others and provide them with direction or support so that the story will continue to be told).

119. JIM COLLINS, *GOOD TO GREAT: WHY SOME COMPANIES MAKE THE LEAP ... AND OTHERS DON'T* (2001).

120. *Id.* at 1-5.

121. *Id.* at 13.

122. *Id.*

also “got off the bus,” and that was critical to the development of an atmosphere in which we could most effectively focus on priorities, articulate our mission, get an improved sense of self, and move forward. Our mission was much easier to embrace, express, and sustain because of the engagement and active involvement of faculty, staff, students, alumni, and friends in the bench and bar.

Therefore, the third and perhaps most critical role of the Dean lies in getting “the right people on the bus” and enlisting and empowering them, and, one way or another, getting “the wrong people off the bus.” Getting the “right people” obviously involves attracting and securing outstanding faculty and senior administrative staff; looking back on my two tenures as Dean, that may be the source of my greatest satisfaction, including those involved in our first-year program for teaching professionalism. Getting “the wrong people off the bus” includes and may more easily be accomplished with staff positions, certainly administrators, but it also includes faculty. Again, looking back on my two tenures as Dean, one of the most important decisions I made, occurring in my first term, was to remove a long-standing tenured faculty member from teaching first-year classes and required courses.

Enlisting and empowering others involves bringing the community together to take advantage of challenges through planning and fostering direction, action, and momentum in which each can see ways to contribute. It entails fostering an atmosphere of trust, humor, support, confidence, and expectation, in which individuals can focus on their work and opportunities. It means playing to strengths, listening, and providing support for individual ideas and initiatives that are in early stages or in progress, before more general support for them has developed. There are different styles of leadership, but in a basic sense no one will succeed, at least for long, who does not subscribe to the concept described by Bob Jerry as the “servant dean.”<sup>123</sup> Essential responsibilities of the dean include the following: eliciting others’ strengths, knowing what they are doing, connecting people to one another, creating opportunities for them, and providing encouragement and support for others’ ideas that are not only fulfilling to them but also further the school’s mission and help it to realize its goals.

The community of others whom a dean must enlist and empower is hardly limited to faculty and staff; it must include students, alumni, and friends. Students contribute to our extended orientation in very real ways: they welcome students; provide support for the focus on character; plan and figure prominently in the educational program on the Code of Student Conduct; provide leadership within the school through the Student Bar Association, other student organizations, and co-curricular activities; and through supporting one another help to create the collegiality and sense of community without which “professionalism” is only a concept. While the Dean cannot choose the student leaders, he or she can help students to exercise their leadership potential by listening and communicating, working with them, addressing their concerns, fulfilling legitimate expectations, and showing unfailing respect. Doing so

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123. See Robert H. Jerry, II, *Reflections on Leadership*, 38 U. TOL. L. REV. 539, 544-45 (2007) (explaining that “servant leader” is essential to every great leader’s success and is accomplished through the leader’s humility and willingness to be a servant to others).

empowers these students, helps them to be more effective in their roles, and helps to foster an atmosphere of respect and trust within which students, faculty, and staff alike can flourish.

Alumni and friends are similarly essential to a school's story. In a real sense, the school's alumni embody the story. Graduates are a school's manifestation and legacy to the profession, which is a major reason for focusing on professional identity and teaching professionalism in the first place. Unlike the situation with students, a dean *is* in a position to enlist alumni leadership. Indeed, that is a primary expectation and responsibility of a dean. Alumni and friends provide critical financial support, but the larger return on their support may come from the implicit endorsement of the school's "story" and mission that substantial and growing alumni giving reflects, the momentum and confidence in the school that increased giving engenders in all of the law school's constituencies, and their engagement in helping to create the school's future. In our first-year professionalism program, alumni and friends provide critical support through ideas, opportunities, and time. They are involved in many ways, often in "official capacities," but always because our mission and purposes resonate with them individually and serve purposes and values of the profession that they share.

Implicit in the notion of a dean's role in enlisting others is the expectation and responsibility to have an informed sense of the school's place and its promise, and to communicate this effectively to the several constituencies who comprise the community as well as those outside the community. A school's "place" encompasses the accomplishments, over time, of its faculty and graduates, the direction and character of the school that they reveal, and the ways in which current faculty, staff, students, and programs express that direction and character and offer means for building the school's future. Schools are not and do not want to be fungible, and a dean's role must include understanding, fostering, and appreciatively gathering support for what distinguishes or can distinguish the school from others.<sup>124</sup> Since the founding of Drake Law School, our passion has included providing exceptional preparation for the practice of law and participation in the work, responsibilities, and opportunities of the profession. That orientation embraces the ideals of the profession. Teaching ethics and professionalism as we do defines us in the way that we want to be known and helps us to excel. Fostering the linkage between an initiative or opportunity, on the one hand, and what could or does distinguish a school, on the other, is an essential part of the dean's role. Success in doing so enlists and unleashes people essential to the school's future and the fulfillment of its mission and goals.

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124. We at Drake do not, for example, tell applicants who are keenly interested in careers in legal education that Drake is the place for them; we would not offer the traditions or connections to facilitate fulfillment of that goal. But if they are interested in pursuing satisfying and rewarding careers in practice—and the opportunities for service, leadership, and impact that success in the practice of law, in any of a host of fields and ways, brings with it—then they should definitely consider us.