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Scully, Jed Oral History Interview

Roland di Franco

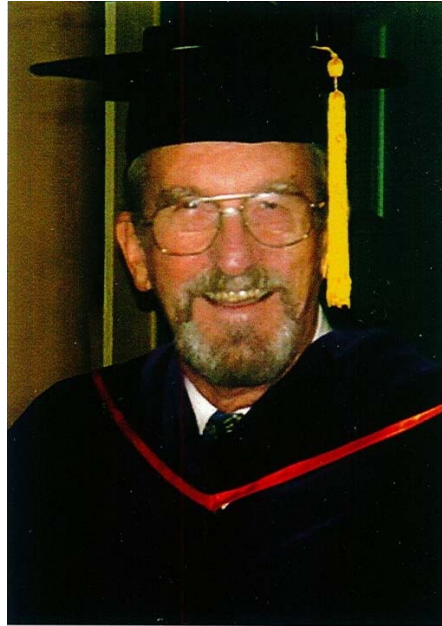
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FACULTY EMERITI INTERVIEWS
UNIVERSITY OF THE PACIFIC ARCHIVES



Jed Scully (1979-2008)
Professor of Law

March 28, 2013

By Roland di Franco

Transcription by Mark Linden, University of the Pacific,
Department of Special Collections, Library

Subjects: Comparison of COP charted with that of University of California; development of experiential education in the Law School program; development of new programs at McGeorge; Transition from UCLA and Loyola Marymount to McGeorge; tenure for clinical faculty.

UOP ARCHIVES FACULTY EMERITI INTERVIEWS

DI FRANCO: The mic is there.

SCULLY: Okay, oh, alright my name is Jed... J-E-D Scully... S-C-U-L-L-Y, an emeritus professor at Pacific McGeorge School of Law. I'm... in following... Today's date is March the 27th...

DI FRANCO: The 28TH

SCULLY: The 28th 2013 and the interview is being conducted by my colleague Roland di FRANCO at UOP Stockton. It's being conducted in the University library on this date. I have reviewed the questionnaire and do you want me to just begin?

DI FRANCO: Well, why don't we start with the questionnaire, and any time you wanna deviate from the questionnaire feel free to deviate. So what years did you serve at the University and what were your official titles?

SCULLY: I served at University of the Pacific from 1979 to 2008. That is active status. I retired in August of 2008. I started as a visiting professor of law, then a clinical professor, then a professor of law, a member and chair of the Academic Council, vice chair of the Presidential Search Committee in '94 and '95 and director of the Intellectual Property Concentration in the Law School from 2000 to 2008. Those are my administrative functions.

DI FRANCO: So what circumstances brought you to Pacific?

SCULLY: My wife was teaching at Pacific. I was teaching at Loyola Law School at Loyola Marymount University (LMU), and when we decided to put our lives together, one of us was going to move, then I was offered a visiting professorship at McGeorge, and that was the reason I came.

DI FRANCO: If you had to relocate to come to Pacific, what were your first impressions of the city of Sacramento and your campus?

SCULLY: Well, I thought you were asking about Stockton, but I can give answers to both.

DI FRANCO: It was... I need them both.

SCULLY: I thought Stockton was very provincial. It was trying to move its economy beyond shipping as an inland port in providing satellite services to the Bay Area. People were very friendly. As to Sacramento it was the state Capitol but it was... in those days, if one

was looking for a lively town with a lot of intellectual ferment you wouldn't go to Sacramento. You would go to the Bay Area or you would go to Los Angeles. Sacramento was a family-oriented town. In that respect it suited me just fine thirty-two years ago.

DI FRANCO: So what were your first impressions of the University of the Pacific?

SCULLY: My first impressions of the Stockton campus of Pacific were very positive in terms of its physical appearance. I had been here several times when I was Vice President of Loyola, and I thought it compared extremely well and favorably to LMU. I was very favorably impressed by all the students and staff and faculty that I met. In distinction to my time at the two campuses of the University of California, there the segregation between student, faculty and staff was significant, and the basic teaching mission was in most cases handled by contract staff and by teaching assistants, rather than by professors who largely limited themselves to research and external functions. I was very impressed with the fact that was not the scenario here. I was impressed by Pacific McGeorge because it was way far advanced in the development of the training of lawyers to be able to practice law and represent clients from the moment they completed their Bar examinations. As opposed to the system in which I was raised as a law student, in which those functions were largely performed if at all, within law firms or as court clerks, but certainly not within the Law School. So I was very impressed with that, and they were far advanced. They were more advanced than Loyola was, and that was my closest parallel.

DI FRANCO: Was there someone at Pacific that was helpful in your initial orientation to the University?

SCULLY: Yes, several people, yourself, Fred Muskal, and Joe Subiando who was the academic Vice President. They became mentors, good friends and lifelong associates.

DI FRANCO: Describe the changes you've observed in curriculum your years you were at Pacific.

SCULLY: With respect to Pacific I saw a movement away from free standing academic units in the Oxford-Harvard model and a move toward integration in the College of the Pacific as the overall liberal arts entity, the development of experiential education in the professional schools, specifically in pharmacy which was fairly obvious, and engineering which was not so obvious. Law was not so obvious and dentistry. It was extremely significant to me that Pacific had perfected a way of graduation, the expense of graduation for dental students had been reduced by 25% by taking their four nine month school years and compacting them into 36 months of twelve months each. I don't know any other dental school in the United States that was doing it with as great an effect and without any loss in practical based research. The whole experiential

education thing to me at McGeorge and Pacific and the Dental School was extraordinary, attractive to me then. To the extent that commitment has lessened, it's a matter of some disappointment.

DI FRANCO: Could you describe courses or innovative programs that you helped to develop at Pacific?

SCULLY: Yes. Because I chose to stay in a practice-oriented academic track I was given pretty free reign to develop the programs on my own and I worked as a subordinate academic to my wife who was director of Clinical Legal Education. In that context and with the approval of the Dean we developed a judicial law and a juvenile advocacy program, which represented every single juvenile committed to this California Youth Authority in Northern California. Since inmates or wards, as they were called, contacted us when they wished to contest or appeal their sentence, we had hundreds of clients. We had marvelous test cases that arose from that program. I did that as an addition to teaching a full academic load of classroom courses.

Then we also developed a federal civil rights practice for those who had claims under the civil rights statutes for discrimination and gender and other constitutionally impermissible cases and wished to take suit mostly against public entities and these clients didn't have the money for lawyers. The federal judges asked us whether we would agree to represent certain clients that we screened who presented very good constitutional test cases and we did. We continued and I and several others including my wife, Glee, continued that program from '79 for about eleven years.

Then I assisted in a development of a family law and appellate practice, but mostly on the appellate side. I had students that were interested in representing clients in the appellate courts. The trial practice areas in family law and civil law were generally the province of another part of the clinical program.

Then I developed a number of symposia in intellectual property copyright law, in the delineation of the rights of Indian tribes to their own intellectual property, when they were able to establish casinos and gaming as an economic initiative.

We also participated at the time that John Walker Lindh, the first American that was sentenced and imprisoned for allegedly cooperating with Al-Qaeda. We conducted a symposium for military lawyers, reserve and active, for people like Jim Brosnahan who was the lawyer for John Walker Lindh, and national security experts on the presidential power to try citizens and non citizens for alleged activities against the security interests of the United States. It didn't involve Guantanamo specifically, but it involved the whole

military tribunal area. That was an extraordinary successful symposium that I principally organized in 2002.

I developed the intellectual property concentration. McGeorge as a marketing and identifier for students who wanted to practice in a particular area were able to specialize and get a designation on their diploma in International Property Law. I was responsible for the development of the intellectual property concentration.

DI FRANCO: What was your perception of your test to enhance the education academic programs and the mission of the University? What were your challenges?

SCULLY: Well speaking personally. I had come from the UC system at a time of great turmoil. I was first hired as lawyer and Assistant Dean of Students at University California, Berkeley at the time of the free speech movement. The turmoil of those days and the threats to the notion of what a University was and its governance was such that it affected me significantly. I was first a lawyer and then I was an academic administrator. I was not then an academic teacher.

Later on when I went to UCLA I was the first lawyer at UCLA that was not part of the general council of Regents. I worked for UCLA's chancellor, but I was not only working for the chancellor, I was working for every student. I was developing quasi-judicial and hearing processes within the University itself. I was the first dean of foreign students in the UC system, which we had three thousand foreign students at UCLA. I became very intrigued with the governance system of how University governance work or didn't work. I told Glee the other day about the time when I was walking back with Franklin Murphy, who was the chancellor at UCLA, and a man who I revered greatly. He had a towering ego but he was a towering delegator. He would basically say to you, I want you to solve this problem. You can find or develop or come to me for any resources to solve it, but of course I want credit for it, but don't ask me any questions until it's done. So from my view point this was wonderful. The University flowered under that philosophy. The Department of Musicology, you know, just blossomed. Berkeley foiled the UCLA effort to set up a School of Architecture. So instead Murphy set up a School of Urban Studies and produced masses of fine arts and urban studies graduates who were among the finest architects in the land. Murphy was just an astonishing man at the time. I remember in 1968 about April there was some issue, some free speech issue and he had gone down with me to the student union and there were about two thousand students. They're spilling over on the sidewalks. It had to do with whether Jerry Ruben and the Yuppies would be permitted to come to campus even though they didn't apply and go through the channels to speak on campus. Murphy was explaining the policy that had been developed and he was shouted down and he was a man very fast on his feet, quite

witty but very persuasive. A kid named Gordy Alexander walked up to the speaker's table pours himself a glass of water sloppily right in front of Murphy's face slugs it down, slams the glass in front of Murphy and continues his diatribe while Murphy had the floor. So Murphy and I walked back to his office, and he said "I've got to leave the University. The talents I have for engagement, for compromise, for movement, for rational discourse, they're not working." So within a month he resigned and became chair of the Times Mirror Company and nobody wanted to succeed him as chancellor. It was a very bad year. It was a year that students of the Harvard strike. A colleague of mine, at the same age and experience level, was named chancellor and he was there for thirty years, a guy named Chuck Young. Anyway that interaction with and experience with Murphy, for whom I worked six years, was very formative to me. I was asked by the Law School to present a seminar series the internal law of academic institutions. What an irony! In those days there was no internal law. It was the internal lawlessness of academic institutions. Police riots, murders! So I taught that seminar for two semesters, and then they asked me whether I would become assistant dean at the Law School and I declined that because I perceived it to be a drop in status and money. But I was burned out in terms of being an academic administrator and a lawyer in an environment in which neither of those abilities was prized anymore.

After Chancellor Murphy left UCLA in 1968, there continued to be governance challenges in the UC system. After then Governor Reagan and the Regents were prevented from holding a Regents meeting on the UCLA campus, and his official Cadillac was rock and rolled in the Faculty Club parking lot, it became clear to me that my particular talents for dialogue and compromise as a lawyer and academic administrator were of declining value in the internal setting and in the larger political environment. Governor Reagan was telling professors to quit consulting to outside entities and get back to their classrooms. Most of the electorate were in agreement with those sentiments. The larger canvas outlining the functions of the modern university as outlined by such leaders and thinkers as former President Clark Kerr, in his essays on the Uses of the University; were rejected by majority public opinion I was a strong advocate and admirer of Kerr, so I felt my days in the UC system were numbered.

Several headhunters solicited me for appointment to other Universities in and outside California. For family reasons, I was not able to pursue these offers until the Fall of 1970, when following a governance consultation at the University of Texas, and at Loyola University in Los Angeles, I accepted an offer from Loyola (later LMU) as a vice-president for student affairs, and as a professor at Loyola Law School.

Throughout my time in the UC system as an academic administrator (1961-1970), I was active in the statewide UC system, as an evaluator for the Western Association of Schools and Colleges, and as a principal in the Ombudsman Foundation. I chaired a UC Statewide Committee on International Scholars and the University of California, authored a comprehensive study and blueprint on International Education for the UC System, and an analysis of the 1964 Immigration Act in the UCLA Law Review.

For the last five years that I was at UCLA, I served *of Counsel*, to Covey and Covey, an entertainment law firm in Beverly Hills, handling copyright law matters and immigration issues for the firm's entertainment law clients. I also continued my affiliation with the US Air Force, serving as the California Air National Guard State Judge Advocate during these years, where various units were periodically called to duty to quell riots and disturbances at UC Berkeley, and during the "Isla Vista Riots".

So these were very busy and sometimes traumatic years, both inside and outside the University. Most of these professional connections "meshed". As just one example, when I was legally advising UCLA's chancellor, an anthropology professor complained that commercial note takers were attending his classes, and then racing off campus to mimeograph the notes and sell them commercially to his students. The professor wanted the University to stop this practice. I advised the Chancellor, that the performance of classes and their transcript belonged to the professor, under a common law theory of copyright, and it was generally up to the professor to monitor who was or was not in attendance in his classroom. This common law theory of copyright in a professor's "work product", was affirmed in a California Supreme Court opinion, and is only modified, if at all, by contract between an academic institution and its professors. Ten years ago, I authored an article in the Pacific Law Journal, on a professor's rights and ownership under copyright law of her digital work, authorship and creations.

When I was recruited to go to Loyola, I accepted on the basis that it would be a joint appointment to the main campus in Playa del Rey, and on the regular faculty at Loyola Law School in downtown Los Angeles. President Merrifield specifically wanted me to lead the integration of Marymount College with Loyola University, as Marymount had just relocated from Palos Verdes to the Playa del Rey campus. Besides the VP for Finance, I was the only layman on the President's staff.

Dean O'Brien asked me to teach copyright and entertainment law, both subjects I had grown up with as the son of a Hollywood screenwriter and author, in my of counsel practice, and as the campus lawyer at UCLA. Through my law school teaching, I became acquainted with the beginnings of the then modern clinical education movement. After three years as vice president and the completion of the integration of Marymount

College into Loyola Marymount University, I accepted full time appointment to the Loyola Law School faculty and agreed to establish, together with colleague Christopher May, the Loyola Law Clinics. The LLC was a fully staffed general purpose law office with six full time supervising attorneys, some 60 students per semester, a full staff of paralegals, and Professor May and myself as Directors and Professors.

These were the glory years in refashioning legal education from a lecture and Socratic teaching system, to one which moved from abstract theory, to simulation of models of a lawyers work, to actual hands on handling of a client's case from A to Z under the supervision of an experienced clinical teacher in the medical, dental or engineering models. There was also evolving a more collaborative system of institutional governance, where academic administrators saw themselves as collaborators, rather than top down leaders.

It was in my capacity as Director of the Loyola Law Clinics, that a challenge to the right of certified law students to represent clients in Court, was made by a criminal defendant in a shoplifting case in Imperial County. A Mr. Perez, the client, claimed he had been deprived of his 4th Amendment Constitutional Rights to effective assistance of counsel, because he had been represented at his trial, by a certified law student from UCLA and his duly certified supervising attorney. The directors of all the clinical programs in the State of California became aware of this issue, when Perez filed an appeal from his conviction. Most of our clinical director colleagues at the other California law schools wanted to intervene in this appeal, but only after we could all agree on a lead counsel. McGeorge Professor Glee Garfield and I wished to move right away to address this issue in the appellate court. We did. Our intervention and brief was accepted. Sometime later on, the other law schools joined in the appeal.

The result of this appeal by the McGeorge and Loyola Law Clinics, was that the California Supreme Court adopted practice rules specifically authorizing law students certified under our model to represent clients in all the courts of California. Glee Scully (nee Pierce-Garfield) became the principal author of those practice rules and headed a state bar committee to put them into effect.

By that time, I had become completely committed to clinical training as an essential part of contemporary legal education. In addition to McGeorge and Loyola at that time, UCLA, USC, Santa Clara, Southwestern, University of San Diego, Hastings and USF, and Pepperdine also were fully committed to the clinical education model. Through our work together on the Perez case, Glee and I became romantically as well as professionally involved. Since either she or I would move and she still had two sons in high school, my move North was more feasible. I was then offered a visiting

professorship at McGeorge, primarily teaching academic subjects, but with a part time assignment to assist in the McGeorge Juvenile Law and Appellate program

When I arrived at Pacific, I knew President Stan McCaffrey from UC Statewide meetings such as the Cal Club. Stan was UC Vice President for Public Relations. I also knew Cliff Dochterman who was an UC Alumni Association President and an assistant to UC President Clark Kerr. Stan's son Steve was then teaching at McGeorge. I had known him from his days at Southwestern Law School. Fred Morrison was also teaching then; and I knew him as a colleague from the California National Guard.

I saw my principal objectives at McGeorge, as teaching copyright and entertainment law, criminal and juvenile law and appellate practice, trial advocacy, and advancing the objectives of the Clinical Legal Education program. Of course, I understood that I needed to continue my interests in public and professional service as an advocate, and to publish and disseminate research and writing.

DI FRANCO: Have you done some administrative work? To whom did you report?

SCULLY: In my administrative role, in my faculty role as a clinical teacher I reported to the Clinical Director of legal education, Glee Scully. In my academic side I reported to the Associate Dean John Ryan, John Ryan/Gordon Schaber depending on who was answering the phone that day, but it was Schaber when he wanted to be. That's all. You asked about describing my administrative philosophy and style.

DI FRANCO: Yeah.

SCULLY: First of all when I came I was not tenured in a university system until I was 58 or 59 years old here at McGeorge, so I had spent at that point 20, 29 years, fifteen of it anyway as an academic that had not been tenured. I understood the down side politically and otherwise of faculty that don't have an equivalent leverage in having their voices heard. In fact today I wrote that down for the woman who spoke.

DI FRANCO: Courtney Lehman?

SCULLY: Yeah, there ought to be a way to have a say. Although I never had any problem personally, I was brought up to believe that what I had and what my colleagues had was moral tenure. So morality and ethical response was very much part of what I believed the University was about, and maybe it was less important that so much emphasis was placed on the tenure system. I did see abuses before I came to McGeorge, of that tenure system where contract teachers began to be hired, and then they were only hired for a short term and all of a sudden they became a long term and then all of a

sudden they were a steady influence. They were decisional units. They had no cojones in terms of deciding the parameter of their work or even having a voice in how it was to be performed. I thought that was a very bad system, and when I came up here to McGeorge ironically McGeorge had some accreditation visits coming and so forth, and the whole clinical movement had become very big on the national scene. It was something that McGeorge was very prominent in, and there was demand that clinical faculty be accorded the same and equivalent rights as any other teaching faculty, and that happened at McGeorge. So because of my long background before, I became more fully engaged in the classroom. I believed in leadership by doing. I certainly learned at Glee's hand. That was absolutely her style with students. I believed in collaboration. I believed in delegation. I believed in teaching others to fly or teaching others to do basic dance steps. I got a big kick out of the first time a student could get up and make a presentation, a simple presentation in court. We hired a person who was a director of Trial Advocacy one time who lasted about six weeks. He was an excellent trial lawyer from New York. He had to leave after about six weeks.

DI FRANCO: How did you effectively [] with the University community?

SCULLY: The University community? Well I think early on thanks to you and several others I was... I got involved in an all University committee structure down here in Stockton. It happened as it had happened in the past. During a faculty meeting I went to the bathroom and when I came back I found out I had been nominated to the Academic Council down here and unanimously selected. My colleagues thought that was a big gag, and Schaber thought it was a huge joke and that would sort of put the spike to my... to any notions I might have on tilting with him on subjects cause, I... you know, be burned out driving back and forth to Stockton. What he didn't know and what my colleagues didn't know was they handed me a great gift cause it just... I was like the brer rabbit in a briar patch, just where I wanted to be. It was at a time when the University down here was going through terrible troubles financially, administratively and my contributions were not... were received... I got a good listening down here, and I formed an attachment to a couple of people. One of them was Lee Fenell and the second one was Dale Reddick, who was Chair of the Board of Regents at that time. I wasn't chair at that time. Joe Subiando was academic vice president. These individuals made things work for me.

DI FRANCO: In what ways were you accessible to the University community?

SCULLY: Well, when I worked at UCLA and I left, they gave me one of those Harvard type chairs... beautiful rot maple thing and there is a brass plaque on the back which says to the absent dean from the UCLA blue gang. They meant that as sarcasm because they

could virtually never find me at my office. Correct, I was all over the campus all of the time every day. I was vociferous like a honey bee info collector. I... to the extent I could, I followed the same practice around here. Telephone and [] committees personally.

DI FRANCO: Which of your administrative activities were the most and least productive?

SCULLY: Collaborative problem solving on some committees... certainly the Academic Council and the years that I was most active was thoroughly... well in retrospect was thoroughly enjoyable. I'm not saying there wasn't tension filter in the time but reaction committees, focus groups, the least. It seemed that a lot of structures were set up basically to keep faculty or faculty inputs out of administrative hair... to divert them with games and useless sorts of activities which would exhaust them so eventually they would go back to their podiums. I liked the collaborative problem solving. It's what I felt my nature and...

DI FRANCO: You think you got a lot done with that?

SCULLY: Well where I wasn't seen as a threat, yes. So in most scenarios up in the Law School I was seen as a threat. So I didn't get a lot done in that respect.

DI FRANCO: What about enjoyability? Which were the most and least enjoyable?

SCULLY: Well I think the least enjoyable activities were when you were flying blind because collaborative information was being withheld either because... well I was going through some of the material that I'll give you later on... for example University budget committee when they restructured it... I think you were on it at the time. I remember [Mike] [] saying to us when we asked for the backup material before he called a meeting so we would be informed when we get to the meeting. His statement was... well you see we're not asking you to make a decision here, it's just a focus group. Well, we want to see what's going on with that SAT contract and why, you know, what the source of the fund to keep that afloat are. Oh, well, you don't understand some things we will provide you because you asked for them, and some things we won't provide you because this is not a faculty committee here, it's a focus group. In which we bring you problems that we'd like your input on. Well that was entirely of course the reverse of the way that most of us saw our function there, so I would have to say that was not enjoyable. Tilting with the President... I can't say I had a long history as a street fighter, but if I had I would have said I enjoyed that aspect of it.

DI FRANCO: Are we speaking about President Atchley?

SCULLY: Yes. Yeah, he was a... he was nearly a cartoon figure of a person that was, it was easy to cause to fly from his agenda and force him to confront with you on your ground. He knew that he was no good at it. He uniformly failed at it; he had a bunch of apologists that didn't do very well to protect him either. It wasn't really... it was a fair fight especially. From his view point it was none of our business what he was up to. Our business was to stay in the classroom and keep our face out of his business...out of running the University. That was the way I saw it anyway.

DI FRANCO: What do you think about the committee structure here? Do you think it produces effective results?

SCULLY: Some I thought were very effective. I thought that the... initially the priority committee... the Institution Priority Committee... set up by Gilbertson... initially was effective. Then like a lot of these committees it got... over time... it became more administrative and less faculty input and more directive and less consultative. I thought the committee... the budget committee during the time of the [] accreditation, which had regents, faculty and some administrators on it... that worked well but it worked well because the tsunami was coming over the sea wall. Yeah, it concentrated our mind fairly quickly. I thought the presidential search that brought DeRosa here in the [] worked very well.

DI FRANCO: Yeah.

SCULLY: I don't think there was a great deal of trust on the various constituents on that committee, but it wound up working.

DI FRANCO: Yeah, the final votes were unanimous. The vote for [DeRose] was unanimous.

SCULLY: I think that I by contrast, I think that the governance system of the Law School is completely flawed. It's a faculty advisory committee and its advisory when the dean decides he wants to listen to it... If he or she chooses to... Most of the time it's composed of people who are not gunna give Pacific any grief in most cases and as long as finances and programs are in the upswing the impetus to change that into a more collaborative model just dives away.

DI FRANCO: Let's talk about the people at Pacific. Who were the individuals at Pacific that were most memorable and why were they memorable?

SCULLY: I think my colleagues on Academic Council, plus half a dozen regents, my clinical colleagues at McGeorge specifically [Subiando, Muscle, Dugoni, Reddig, Schaber, Curtis, Glee Scully] and yourself were very influential to me.

DI FRANCO: Who were the individuals who were most helpful and supportive of your mission, and who were the individuals who were not supportive?

SCULLY: Well, I think all of the above except Schaber and Eberhardt, Monagan, Ryan and Caplan and Parker. They were not supportive of... Schaber was supportive of me and programs either that he commissioned me to begin or that he conceded in my begging. Generally speaking he liked authorship rights, and he was not a collaborative guy in my book. It depends on what the issue was. I respected him, I think... I always thought he was wary of me. Monagan... I came from a position, an oppositional position essentially, but as I got to know him and work with him, I saw why he was a successful legislator. He did know how to deal, and he did know how to back down and modify, and he also knew how to push the buttons in his opponents that would make them do the same. I thought he was good. Ryan, I didn't... rest his soul I don't... I didn't feel he was a straight up guy in many respects. In any event most of what he was doing was, he was commissioned by Schaber to practice the black arts on his behalf, so I don't blame him personally. Caplan just mal-adapted to his position, but chosen by Atchley precisely for that... not because he was mal-adapted to the position but because he was a person who would not hesitate to genuflect in response to any presidential directive. Parker I believe... in retrospect I was... I supported Parker coming here. I thought that in retrospect due diligence should have had the faculty perform the same gut check on her that they performed when DeRosa was hired. In other words particularly somebody who had her history, which she was general council of the CIA and then the national security administration. For eight years and two republican administrations, you know, that should have told you right away that we're not dealing with a collaborative and open personality. Despite her general appearance to the contrary and her general cordiality would make it appear that she was so old. I think had we known how she was viewed within the Washington bubble... ourselves rather than paying attention to search committees and their canned recommendations and so forth. We might have come to a different conclusion. I don't know that but think that that was a... so she was very suspicious of me because I don't think she trusted my automatic positive reactions to whatever her initiatives were.

DI FRANCO: Let's talk about the various groups that make Pacific. How would you describe the students?

SCULLY: Excellent. I'm very impressed with the students across the board here on this campus. Listening to that program today... those interviews, you know, just verified what I've always felt. I wanted my own children to go here. None of them did but... yeah, excellent. Faculty... I thought the Pacific faculty, music, dentistry were excellent.

Education faculty in my opinion was about half and half, law, the same, pharmacy and engineering, good. Administrators with a few outstanding exceptions average to poor. I can't speak about the last five to ten years because I really don't know, at least on this campus. Staff excellent then, excellent now in my opinion... They have... superior people who are working subordinate positions at the University. Regents in my opinion, of the ones that I knew, half were very good, half were time servers. Now I know that dynamic has changed a lot and term limits and the whole bit so I don't know the current... I know a few regents very well but... so I don't know the present composition but the time that I knew them... Alumni and University donors as far as I knew... if I knew them... in describing the working relationship between faculty and administration during your years at Pacific... I believe the working relations between faculties, administrative, staff during the Atchley years was very poor. Except for Subiando; there may have been others but specifically for senior administrators I thought he was quite exceptional and out of state... out of step with the balance... very good initially with DeRosa and Gilbertson in the early years. I felt less so as time passed, but that's probably true with any administration or maybe true about any set of attitudes who is in that job a long time.

DI FRANCO: How about your working relationship with faculty and administrators?

SCULLY: I had quite positive working with faculty... with colleagues. Even on committees where I had to... where we had... never did... there is a fellow named [Mike Patello] I don't know if you've ever met him, but we don't agree on a single thing including the Gregorian calendar, but we're pretty good friends, and we served productively on committees although we never voted on the same thing. I'd say generally positive with faculty colleagues and half and half with administrators.

DI FRANCO: How about the programs you were involved in that you had an interest in that were particularly significant.

SCULLY: Clinical practice and teaching, symposia, specialty program development. Those were what I had. Which I did scholarship, produced materials, some of which I just, a sample which I provide []... Yeah.

DI FRANCO: Which ones were successful?

SCULLY: They were all successful, the ones I've mentioned early on. Some were abandoned administratively because the dean, for philosophical or other reasons... in this case we're talking about [Caplan] and [Parker]. Either didn't like his or didn't feel they fitted their view of what the University ought to be doing. In some cases they were abandoned, in other cases what they did was take them away from me and you know,

give me another class to teach, which I didn't object to the teaching part. The exception was intellectual property, but there when I mentioned to you about the Indian development of intellectual property rights for Indians and when I mentioned the business about the constitutionality of military tribunals and so forth. In both those instances, the dean and subordinate administrators, under her direction, tried to throttle them because they didn't suit her notion of the position the Law School ought to have. And I understand as the ex-CIA and NSA general counsel I don't believe that you're delighted to be having a symposium... a nationwide import that's busy throwing rocks at the Bush administration's notion about how we ought to run [extradital] tribunals. I understand why she was opposed to it... so she tried her best to sabotage those and when today at lunch how cooperative the dental school was... she wouldn't... she didn't have any particular interest in intellectual property. She wasn't an academic herself, and so she would provide essentially no support to things that I was doing along that line but the dental school jumped up and was delighted to do it.

DI FRANCO: How about controversies that emerged during your service? Describe them and who were the major players?

SCULLY: The departure of football [], a program at McGeorge. Governance... University Governance... Financial irresponsibility... Presidential failure to work with faculty and ultimately failure to work with the regents...

DI FRANCO: Wow

SCULLY: That was the end of the line. So those are the three or let me see four major issues from my perspective when I was active.

DI FRANCO: What do you think your most significant achievement is?

SCULLY: I notice that the suggestion is that you know maybe I'm responsible for facilities, buildings, libraries and laboratories. I was responsible for some technologies. For example Glee and myself early on, we got the notion that the direction of law practice was going to be not in the trial courts but in mediation and arbitration. In teaching students how to negotiate effectively and ethically with an opponent... You go in to buy a car from used car salesmen and you're the car salesmen, and he sees the two of us and he says, well here is the best I could do for you, and he scratches out a figure, you know, \$33,000 for this [] Lexus. Now we say that's way too much. Well what would be the most you could go for this exceptional car as he dangles the keys. Then you say well maybe I don't know 29? He says let me see what I can do. He exits, he engages in spirited chatter with the manager out there comes back. 31, the manager will go to 31. I did my best... that is I'm negotiating for you. All three of us are negotiating with that guy

outside that has the decision. Well we... Glee and I and others in our faculty had developed that we really ought to be training students how to effectively... not engaging in selling cars but in reaching resolutions and in trading information and doing so in an ethical fashion. We developed a set of programs in which individual students in Sacramento negotiated a conclusion on a contract in intellectual property dispute, trademark dispute, with an equivalent number of students in England at the [] Fort Law School. They communicated by E-mail and by telephone. This was fifteen years ago. It was highly successful. Of course it required commitment on the British side, and you know keeping that alive was not easy and we knew that from having taught there. I mean, there was... I would consider that a tremendous advance in the technology, and also how one envisioned how you would engage in transnational practice. So clinical practice programs, symposia, intellectual property concentrations, those were the bullet points that I recall from my time. My contact with students as an administrator, and I had a long history of that before I became a full time teacher... was continuous and it was very positive. If I were an administrator did I teach or advise students? Did I teach or advise in a way affected by perspectives of an administrator? Yes. In what way? It was the importance of collaborative problem solving, pragmatic scholarship and research. I mean, scholarship that is of use to people who perform in a professional function. What do you remember about the students and their activities during your years of service at Pacific? Their interests, their education and their preparation for professional life... I was very impressed with the fact that students here at Pacific during the initial days of IPC and when Gilbertson was first the provost. Visualizing themselves as entering public service. Whatever it was they were doing, they were entering public service.

DI FRANCO: Are you talking about the students at the law school mostly?

SCULLY: No, I'm talking about the students here.

DI FRANCO: The whole University.

SCULLY: Yeah, well in the law school it was an assumption that that's what they were going to do, but it wasn't an assumption that a student in philosophy or mathematics would necessarily see him or herself as entering a professional calling for which they needed to be prepared during the time they were in school.

DI FRANCO: What about the change in student attitudes while you were at Pacific?

SCULLY: I thought that one change was that education was clearly more important to them than intercollegiate athletics. Intercollegiate athletics was more important to the alumni at that time than education. Did I adapt to their changes? Of course I did. I did personally,

but many administrators resisted these changes. As a matter of fact there are substantial numbers of people that simply on signal resist change.

DI FRANCO: What about issues... were you involved... what stood out in your mind as important to the growth and development to the university?

SCULLY: What was that you just asked me?

DI FRANCO: 9A

SCULLY: 9A, oh. Faculty governance and responsibility... more involved... more engaged and which involved regents and members of the governing board. In other words I saw that one of the very positive things was not these three groups in the University - students, faculty, staff, administrators... actually four groups - as separated entities who's interests in communication rarely conjoined. I saw... there were periods of time when that was not the case... when they did conjoin. I don't think that's so true today, but I'm not informed enough to know.

DI FRANCO: What about the energy... come from... Where did the progress and evolution of Pacific derive from?

SCULLY: Disaster, impending collapse, I mean, in the time I was most active it was... the University was going to go down the drain if it didn't change. So it changes and has Pacific met my expectations? From when I came? Yes, for a considerable period of time; in the last few years that I was on the faculty no. But it is because it had got fat and comfortable. It wasn't... it didn't see the need for this... collaboration is hard work so it didn't see the need for it. That may be changing now, but that was...

DI FRANCO: Has external perception of the academic quality changed?

SCULLY: I think it has as far as this campus is concerned. I think you have to exclude the business school because I don't see that as having the same traction outside, but most definitely the College of the Pacific and the Pharmacy School and the Dental School. In respect to the law school, I think the law school has slipped because it had bought into the golden apple of the U.S. News and lost its arm lock on the Sacramento market and its northern Californian alumni.

DI FRANCO: Do you think that the question of excellence [] to McGeorge has slipped?

SCULLY: Yes. One reason is that they don't... they haven't replaced the ranks of tenured track faculty is declining. People who retire are not replaced except by adjuncts, contract people, teachers [d'jour], visitors. Some of that you could say... well it's a financial thing.

I think it's more than that. I think it has more to do with a control thing. I think it's very serious, you know, if you look at what saved this institution in its days of tribulation, it was an extraordinary group of twenty-five or thirty faculty, and there is a group at McGeorge, and I don't know the numbers but I would... it would be hard to think there are more than five or six of them. Out of... when we left what was there? A faculty of 40 to 45?

GLEE SCULLY: 40

SCULLY: So it's... of course even and the stars... at least the brightest star from the viewpoint of most people, he's taken off for a chair at Las Vegas, Reno.... Nevada, Las Vegas. Interestingly he must have been negotiating with the academic dean down there who is now our incoming dean. A remarkable coincidence that nobody wants to...

DI FRANCO: Well, what about the contributions to the local community?

SCULLY: I think that the contribution of McGeorge with the local community from the period of 1979 to about 1995 was extraordinary in the United States. I don't know of another community... possibly San Diego... possibly Vanderbilt... possibly NYU but mostly in the nineties. There was no school that I can think of that really could touch McGeorge's impact in the community. Those were the days that I first came here... McGeorge and its students represented the vast bulk of family law cases in the Sacramento Superior Court. It was completely remarkable. It represented under Glee's directorship of the small claims clinic program. It represented something like 40 thousand clients a year. That program was ash canned by Caplan. So that was... the community's response to this, by the way, was of course extremely positive. So when Davis wanted to get something going in Sacramento in terms of a practice clinic they had to do it through us. Yeah, we were the gatekeepers. Now that's no longer true.

DI FRANCO: Given that the current president wishes to establish this program Beyond Our Gates, do you have any feeling that it will be reestablished?

SCULLY: Not with the dean that's on her way out the door. The new dean I have no sense. I think that the school is in such hurting circumstances as I hear third and fourth hand, that it's hard to see that that will be number one priority. Number one priority is going to be stabilizing the income and the enrollment and the faculty losses. We know of faculty that are departing either because they are being muscled out by the present administration or because they are shopping for and have been finding better offers elsewhere. When we lose a recently tenured faculty member to Washington University, St. Louis, which is an excellent law school, because she was mad because she didn't get promoted to full professor at the same time she was tenured, which was the typical...

That was the typical situation at McGeorge. You're promoted... you're granted tenure, you're promoted to full professor. They didn't do it in her case, and she left for a significant status []. We are not clicking on the right cylinders.

DI FRANCO: Let's take the next question in terms of Sacramento. Has the town-gown relationship in Sacramento improved, declined, stayed the same? Which way?

SCULLY: I think it has significantly declined, and I believe in part it has to do with structural changes in the practice of law. The school and its teaching faculty are very unaware of. We now have a faculty that don't have any practice skills. They are not even [passing] the bar. Most of them are not from California. They're nationally recruited and there is no... I'm not complaining about that. That's just a reality. People come to McGeorge... at least have historically done so because they thought they'd get a good education... a superior education, and they would get very good placement because it had a good reputation for that. Again the faculty that's totally estranged from the notion of practice itself... What kind of value system does that create? Ditto for the administration... I think there is a substantial dysfunction now between the community on one hand and McGeorge on the other, which is typical of many schools in the country. It was never typical here until 1995. About three years into Caplan's []... To repair it requires... that was why I started pushing today at lunch... you know what was [Mr. Goff's] notion of what the law school is doing or the faculty up there are going in terms of getting a handle on the market for their own graduates. It is completely absurd for people to come out with \$150,000 in debt and maybe at \$50,000 a year job. Maybe if they're lucky. That's unsupportable...

DI FRANCO: Anything else you wanna say?

SCULLY: Well you know I've certainly exhausted you beyond...

DI FRANCO: No, no, no.

SCULLY: I do have some thoughts I'm just going to let you have in which you can append as you will or not. I think what I ought to do, if it's alright with you, I'll show you these when we've... when you've had a little break in preparation with your next interview.

DI FRANCO: So shall we for the moment terminate and we'll go on. Let's see, we got an hour and a quarter. About an hour and a...

GLEE SCULLY: Oh, my gosh I knew you were going to talk a long time.

SCULLY: I will tell you...

DI FRANCO: What did you think it was going to be?

GLEE SCULLY: I don't know I...

SCULLY: Yes, thank you, I wanted to hand over a conclusion to this interview. The balance of my correspondence files relating to my time as... on the Academic Council as chair... co-chair... vice chair of the presidential search committee for DeRosa. Academic Council chair in 93', 94'. A lot of my interactions with the regents... with the vice president for finance and with President Atchley and the members of the Academic Council during the period 1992-1995.... Together with the first and, as far as I can understand, the only presidential effectiveness evaluation ever done at this institution... Done by the faculty and administered by the emeriti faculty as a matter of fact. The part that I missed in the early part of the interview was a program... well in two parts. One was the Inns of Court program which Glee has eluded to earlier, which Justice Kennedy and Dean Schaber and [Bob O'Neil] a colleague in the trial advocacy unit and myself initially established, in which both [O'Neil] and myself were charged with bringing into being. I'm still associated with that inn. It began in 1983 or 84'. It's a... in about a 26th year of operation and about 25th year of actually service in the community. It is so successful that it had spawned an inn here in Stockton which is...

GLEE SCULLY: Named for [Connie Callahan]

SCULLY: Which is named for one of our own regents [Connie Callahan] who is a ninth circuit Court of Appeals federal judge and which meets at the [Divon] Law School here in Stockton. An additional inn in Modesto and a fourth inn at UC Davis... All of which are basically satellite and populated and commenced by our Inn itself. Our inn in the last 12 years of the 450 inns in the United States has competed on bases of its programs... has placed in the first four or five of all the programs in each program year in the United States all twelve years. For several of those years has been number one. So it's an outstanding resource. It exists sort of independently of the Law School, although we meet there are, there is some support given to it and even if there was no other interest as far as the school itself is concerned it would carry on its own. [] with that or actually just beyond that... McGeorge had several international programs. One was a long standing program that developed at University of Salzburg in Germany. Excuse me in Austria. Primarily it was a vehicle for Justice Kennedy to teach a course each summer on international human rights. Very, very popular; it's not going on the last year or two, and I understand that that program is faltering, and so that program is in danger of shutting down. Part of it is a notion that the globalization of law practice doesn't necessarily require physical campuses everywhere anyway. The second development was that through the inns movement the dean of the Inns of Court School of Law in

London, which at that time had a monopoly for the training of barristers... ran into Dean Schaber in some meeting or other, and he invited her to come and visit the advocacy program at McGeorge, which she did. This was in 1992. When she came she was so impressed by both the clinical program under the direction of Glee and the advocacy... the trial advocacy program in my direction at that time... that she asked Schaber whether he would agree to allow us to serve as consultants to them to develop practical training for barristers. Now isn't that as an amazing thing! We think of barristers as the ultimate...

GLEE SCULLY: forgetting all about this... you're right.

SCULLY: But in point of fact during their professional training cycle in England... until Glee and I showed up and they revised their curriculum they had no practical training. They watched and became barristers themselves by watching other people do it, not by ever doing anything themselves so when... So Glee and I spent the summer... one summer of '92 and a part of the summer of '93, and we assisted with their faculty in redoing their curriculum for that law school that trained thirteen hundred students a year.

GLEE SCULLY: And we taught there...

SCULLY: And in 1995 we spent a sabbatical year there, which Caplan was very, very unhappy about. We had at that time the structure for a cooperative LLM, master's program both in London at the Inns of Court School of Law and here in Sacramento. We had the physical structure, we had the personnel, we had the commitment on both sides. Well we had the commitment on both sides until Caplan found out about it and he... it didn't suit his notion of what should be... of his sense of priority. So he basically collapsed that program completely. It was resuscitated briefly by a colleague named [Mike Malloy] who tried to get something going at the Queen Mary's College but was not associated with one of the Inns of Court instructional programs. In the time when it seemed to be taking its full flowering after our sabbatical was about ended... we had arranged for practical training opportunities in solicitor firms for American Law students from McGeorge and from the United States on a reciprocal basis with British students coming to Sacramento. That too died because administrative hostility on this side, not on the British side. Anyway, that was just a... that was an outstanding experience from our view point, and it was a pity that that program didn't get legs and continue after our association with it ended. Finally in 1998, even after it was clear that McGeorge was pulling the pin in terms of its participation... Glee and I were asked whether we would help the Inns of Court Law School put on the first worldwide advocacy conference and we did. We were key note speakers for about a hundred fifty advocates from all over the world. Australia, New Zealand, South Africa, India... the one from India wanted to

invite Glee to spend important time with him in the Supreme Court in India. I was pointedly not invited, and it was an outstanding event. It should have naturally been followed up by something that we would have done here in the United States, but that was never going to happen with Caplan. Anyway, that was the rise and fall... and then shortly after the Inns of Court School of Law, under the Thatcher mode of decentralization and so forth and antimonopoly programs... the monopoly of the training of barristers was removed from the Inns of Court Law School and given to about five or six other vocational institutions in England. Thereafter the Inns of Court Law School affiliated with a British University called City University. Anyway, that was something that I think was of... well certainly was of great personal significance to me and to us and for a brief period to McGeorge.

Tape End