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U.S. Deputy AG Rod Rosenstein Tells MLaw Crowd, “Nobody Dictates What Cases We Take”

By Jordan Poll
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U.S. Deputy Attorney General Rod Rosenstein visited the Quad recently to speak with Michigan Law students and participate in a Q&A session moderated by his former U.S. attorney colleague, Professor Barbara McQuade, ’91. In the wake of the first indictments stemming from the ongoing Russia investigation, questions ranged from priorities of the U.S. Department of Justice (DOJ) to foreign interference with U.S. elections.

McQuade opened the conversation by asking Rosenstein to speak on his 30-year career with the DOJ, which has spanned three changes in administration and both ends of the political spectrum. “Different administrations have different priorities, and allocate resources accordingly, but the DOJ’s principles remain consistent,” said Rosenstein. “On most issues—like violent crime, drugs, or immigration—we aren’t going from zero to 60 in a new administration versus the previous one. We are maybe going from 45 to 60. In the other areas, we might be going from 60 to 45, not 60 to zero.”

Rosenstein also stressed the DOJ’s independence from the White House, and said that while the department follows the administration’s policy direction in terms of allocating resources, “We decide which cases to pursue based on our analysis of the facts and the law. Nobody dictates what cases we take.”

Rosenstein began his decades-long career with the DOJ when he joined the attorney general’s honors program in 1990. For the next three years, he prosecuted public corruption cases as a trial attorney with the public integrity section of the criminal division, then led by Assistant Attorney General Robert Mueller.

In May, Rosenstein appointed Mueller to the special counsel’s office in order to lead the investigation into Russian meddling in the 2016 presidential election. While he would not comment on the ongoing investigation, he was adamant that it is a bipartisan issue. “There are things the government should be doing to prevent anyone from interfering with American elections,” said Rosenstein. “It’s not about partisanship; it’s about protecting America’s interests against any hostile foreign country. What is confusing some people is that they are trying to figure out whose side Russia is on. Russia is on Russia’s side.” Rosenstein also said Americans are more politically savvy than some foreign interlopers might think. “You’d have to run a lot of ads to persuade someone to change their vote.”

During his tenure as U.S. attorney for the District of Maryland, Rosenstein served on the Washington/Baltimore High Intensity Drug Trafficking Area Task Force. He continues to pursue solutions to the opioid crisis, which the administration has made a top priority. “We have a tremendous, unprecedented epidemic of drug overdose deaths,” said Rosenstein, who noted that the number of Americans who die each year from drug overdoses has skyrocketed since he started working for the DOJ in 1990. “A lot of it is a function of heroin and fentanyl.” Because the majority of fentanyl is manufactured in China, Rosenstein works closely with the Drug Enforcement Agency and their counterparts overseas to shut down fentanyl labs. “From my perspective, from a law enforcement perspective, the two most important things we can do are to prosecute significant dealers and curb the supply,” said Rosenstein. “We have had some success but not enough yet.”

Rosenstein is vice chair of the Violent and Organized Crime Subcommittee, and a member of the subcommittees on white-collar crime, sentencing issues, and cyber/intellectual property crime. He told the audience that cybersecurity is another top priority for the administration and acknowledged that elements of the problem present a new frontier for law enforcement. “The technology companies and privacy advocates, for legitimate reasons, take the position that encryption is good, and I agree. The dark side, however, is that people can engage in criminal activity with some confidence that it won’t be intercepted by law enforcement. If you’re a law-abiding citizen, you might think greater privacy is a good thing. But if you’re a victim, you might feel differently.”

As deputy attorney general, Rosenstein advises and assists the attorney general in formulating and implementing DOJ policies and programs, and he oversees the day-to-day operation of 115,000 employees in multiple agencies. He says the enormity of the task does not intimidate him.

“What attracted me to the job was the mission and opportunities,” said Rosenstein to the packed room. “What has kept me at the department for so long is in large part the people, getting to work with people who are motivated to do the right thing.”

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