

ATTORNEY GENERAL JANET RENO ADDRESS AT THE U.S. CHAMBER OF
COMMERCE'S NATIONAL CONFERENCE ON CIVIL JUSTICE REFORM

Time: 8:25 a.m.

Location: U.S. Chamber of Commerce, 1615 H St. NW
April 21, 1993

The editor of the report is Steve Ginsburg. Tim Ahmann, Peter Ramjug, Eric Beech, Melissa Bland, Paul Schomer and Will Dunham assisted in editing this report.

This transcript is provided by News Transcripts, Inc.

ATTORNEY GENERAL JANET RENO: Thank you. It's nice to hear a Miami voice, even with a Jacksonville overlay. I'd like to tell you how history is written. If you read The Washington Post, I will engage in revisionist history immediately. I'm a scuba diver, but not certified. I have never saw in the Tamiami Canal with water moccasins and alligators. And I live on a pine ridge, not in a swamp. Otherwise I think it's fairly accurate.

It's a great pleasure to be here today. I love lawyers. And I like to talk to lawyers, and I like to engage in a spirited discussion with lawyers.

One of the reasons I love the law is because I was raised in family, my grandfather was a lawyer, but more importantly, my grandmother was his secretary. And she taught me that lawyers were some of the most civil, most courteous--and in those days, most courtly--people that she knew. She taught me that lawyers were great adversaries.

Over the years since she taught me those lessons, I have known so many lawyers that I prize. Mr. Hale and Mr. Corlette (phonetic) are examples. Tried a case with Mr. Corlette. We won it, as I

recall.

I remember starting the practice of law in Dade County. There were some older gentlemen who were fierce adversaries. They'd beat me over the head in the court room, and then they would go out and be extraordinarily courtly and very gracious. But they were ethical in that court room, they were informed in that court room, they were vigorous. But they were advocates.

I am distressed as we consider civil justice and criminal justice over these last years in the decline of civility in our court rooms, and I would like to do whatever I can at the Department of Justice to try to set an example of civility, of courtesy, of informed and vigorous advocacy.

We look now to one of the first responsibilities of the department, and that is to fill over a hundred vacancies for federal judges. We want to do that in a careful, thoughtful way, with excellence, diversity and excellence in judicial temperament as the criteria which we judge. It is important. We want to be inclusive. We want to do it in an orderly and deliberate manner, but we want to get those positions filled.

As I approach the issue of civil justice reform, and as I have listened to the debate, sometimes shrill, over the last three or four years, I want to approach it in a non-partisan, careful, thoughtful way.

Through the creation in the Department of Justice of something akin to the old Office of Justice Improvement, an office where we can focus on the issues of civil justice reform, without

buzzwords, without labels, and without political debate, looking at what is best for the system, looking at issues of alternative dispute resolution, of case management, of what to do about punitive damages, of product liability reforms, of pre-filing requirements and of early settlement provisions. I don't have answers for you now, because it's been a long time since I've been involved in civil justice reform. But I have a commitment to this area as one of the most important that the Department of Justice can undertake, and I want to do everything I can in working with everyone concerned in a good, open, frank and candid discussion as to what is ultimately best for the justice system in America.

But I do know something about criminal law, and I know from listening to civil lawyers throughout America that the criminal dockets have overwhelmed federal courts. They've clearly overwhelmed state courts, and although you may have never set foot in a criminal court room, it's got to have had a dramatic impact on your practice.

I think it's time that all members of the bar understand that we cannot ignore the criminal arena if we're going to address the ultimate issues of reform in America, if we're going to address the hard issues of how our courts are used. We are in the process of focusing on sentencing policies that will inevitably have an impact on you. We're looking at what should be a federal prosecution, and what should be a state prosecution. I want to develop guidelines so that there is an understanding that these

are the principles that govern, not that this is the political consideration that governs, that a case involving local drug treatment programs with somebody who has a drug abuse problem is probably far better handled by state courts who can design programs with their knowledge of the community and community-based organizations. But a complicated matter that cuts across state lines, involves a number of jurisdictions is far better prosecuted in federal court.

As part of our effort in terms of justice improvement, we want to address this hard issue of what should be federalized and what shouldn't, and by guidelines for U.S. attorneys try to develop some better and more principled approach to this problem.

We want to understand sentencing policies, and the impact that minimum mandatory sentences have on our federal courts, what impact the sentencing guidelines have on federal courts, and in a non-demagogic way try to determine and make recommendations to all concerned as to what is in the best interest of the people of America in terms of sentencing policies.

To understand that, we've got to appreciate the fact that we can build just so many prisons, and that if we are going to have sentencing policies, we need to have jails that match the sentences.

We've got to consider charging decisions, but mostly--the most important thing is to do it in a thoughtful, principled way that gets to what is the right thing to do to ultimately prevent crime.

ATTORNEY GENERAL RENO (continuing): But, ladies and gentlemen, there is a deeper issue with regards to civil justice reform, and I think all lawyers in America are going to have to address it.

Today in America, over 20 percent of our children live in poverty, and do not have access to civil justice. We see an ever increasing number of working poor in America, hard working people who may not have health care benefits, who don't know where the next dime is coming from if there is an emergency, hard working people who do not begin to have access to civil justice in America.

And you say, well, that may be fine. I saw in some of the notes sent me about this conference, that might be fine if we don't worry about access, and if we don't worry about cost and delay, because that will mean that not so many people come to our courts.

But civil justice is something that I hope we can attain without reference to our courts by looking at our American laws, and understanding how bureaucratic they have become. Have you ever tried to figure out some complicated Social Security problem of a relative? If you haven't had any Social Security experience, you end up scratching your head and wonder how anybody ever figured these things out. Have you ever been through a complicated tax form, or figured out what Social Security taxes you owe? That gets fairly complicated, too, and lawyers get confused.

All lawyers are going to have to, if we really want to attain civil justice, address the issue of how complicated we have made the laws, what we have done to ensnarl the American people in bureaucratic rules and regulations that make access to services or compliance with the law sometimes difficult, if not impossible.

I think we can make some strides in that direction. I think we can begin with the federal government, and as the lawyer for a substantial part of the federal government, I want to do what I can during the time I am attorney general to make the laws make sense to people, to that working poor person who is hard at work, that doesn't have access to legal services. I want to make the laws make sense to that business person who is trying to comply with environmental regulations, but is so confused now by both federal, state and local regulations that they don't know where to begin or what to do. I want to talk to the well-to-do homeowner who's just bought land that after the purchase they're told it's wetland, and they can't do anything with it. I want to make sure that the laws are noticed to people in simple and understandable terms so that Americans--I think the far greatest majority of whom want to comply--can comply in sensible, low cost ways that keep them out of our courts.

But I think that there is a deeper problem, and I think that all lawyers have a special responsibility. Your in house counsel, knowing Jim and Mr. Hale and Mr. Corlette, you are pillars of your community, and if we are going to have civil justice in

America, if we're going to have the American people support the government and feel that they have a voice in it, and that they are enfranchised, and that they can participate, and that they can indeed have some say in their destiny, we are going to have to address the problem of children in America.

What in the world is the attorney general standing before us in a conference on civil justice reform talking about children in America for? Because I suggest to you that the problems that plague us, the problems that plague our courts, crime, drugs, the problems that prevent your corporations from hiring work forces that can fill the jobs to maintain your corporation or your business as a strong and viable force in your industry or profession, all of that comes back to the fact that for too long now America has forgotten and neglected its children.

Over 20 percent live in poverty. If you see the instances in which children do not have access to legal services, their mothers do not have access to legal services. I think it is imperative that we start focusing on at least giving them a strong environment in which to grow as constructive human beings.

In short, I think the time has come for all America to look beyond the bounds of their narrow specialization in the profession, beyond their profession, beyond their age group, and beyond their socio-economic group, to look at what's best for America as a whole.

And I suggest to you that if we again try to design our laws,

build our institutions so that we give people an opportunity to grow as constructive human beings, so that if we reform our welfare laws so that people can truly work their ways into self-sufficiency, if we address opportunities for young people so that they know they can go out and become productive, we can do so much toward stemming the tide of cases that plague our system that cause interruption to you in civil dockets, that cause problems.

But most of all, we've got to do everything we can as lawyers to make people believe in the law.

(Applause.)

MODERATOR: Do we have any questions?

(No response.)

ATTORNEY GENERAL RENO: I like those kind. I would ask each one of you--I do want the Department of Justice to be accessible to everyone. If you have questions that you can't get resolved through the bureaucracy, pick up the phone and call me. Judging by my calendar, it may be a day or so before I return that call.

Other people say that they're having difficulty getting through. We're trying to design that system.

But I want the Department of Justice to be accessible.

Q: I would like to ask you, you mentioned some of the less controversial measures in ticking off some of the things that

might be accomplished in civil justice reform. Would you also mention what I think is very controversial, which is punitive damages. Do you think that there is a prospect for defense lawyers and plaintiffs lawyers and the corporations and plaintiffs to agree on a reasonable method of assessing damages?

ATTORNEY GENERAL RENO: I am convinced that if people will just put aside the rhetoric for a moment, lower the pitch, sit down and discuss it in as informed discussions as possible, that nobody will be absolutely delighted because their side won't prevail, but that we can reach consensus that deal with some of the major issues of concern that we had. That may not be possible. I may misjudge it by having been gone so long from the civil justice arena. But the thing that concerns me as someone who has been a bit on the sidelines is the shrillness of the debate, and the political character of the debate. And I just don't think that that is the forum or the tone in which we are going to get what everybody agrees are critical issues addressed.

Q: My question is there are few things I would like you to think about. One, I think you're about to (inaudible) an issue which we in the civil justice arena confront regularly, which is second guessing, where people exercise reasonable judgment, and are then brought before a court and exposed to (inaudible) experts,

with unwarranted leeway to second guess. It's a major problem in the tort reform area.

The second area that I'd like you to consider is the area of retroactive (inaudible) in joint and several liability under Superfund. We think that's a system that's wasteful. It doesn't accomplish its end results, and feeds the kind of incivility you mentioned.

ATTORNEY GENERAL RENO: Would you do me a favor, and send me your thoughts on the second issue? And address it to Donna Templeton, please.

Secondly, with respect to the first, for fifteen years I have been second guessed as prosecutor in Dade County; during the most tumultuous years, or some of the most tumultuous years in Miami's history. And I'm prepared to have it happen again. Thank you.

The Reuter Transcript Report
Reno address/Civil justice reform
April 21, 1993
REUTER