



Transcript of Comments of

JANET RENO

Attorney General, United States of America

At the Convention of the

American Bar Association

On August 10, 1999

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Reported by Lori T. Donovan,

Certified Court Reporter and Notary Public.

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August 10, 1999

8:32 a.m.

THE CHAIRMAN: Ladies and gentlemen, join me in welcoming the Attorney General of the United States, the Honorable Janet Reno.

(Whereupon Ms. Reno entered the meeting room.)

MS. RENO: Thank you so very much, but it is I who take privilege to be with you today. This is my fourth time before this House. As I've told so many, I love the law,

and I love good and caring lawyers. And I can tell you now this fourth time before you that after six and a half years in this office, though, feelings are stronger than ever, for I have seen you across America use the law to make things better for people. I've seen your efforts around the world, and based on what I have seen, I am prouder than ever to be a lawyer in the United States.

I am proud to stand with people like Bill Anderson, and I salute you for your patience. Anybody that can be as patient with the Attorney General over 4.2 as Bill Anderson has been is amazing.

This fall we're going to work through this. We're going to get there. And Mr. Anderson, I want to salute you for your tenacious advocacy. Sometimes people forget what it's like to be an advocate, but your advocacy for those detained in jails across this country is extraordinarily important, and we're not going to let this drop.

Bill Paul, your message about diversity in the profession is so critically important. Lawyers will never with be able to speak with full voice until they speak with all voices of all the people, and we will join with you in your effort in every way that we can.

I would like to discuss with you in an informal way what I think is one of the great issues facing the legal profession in America. How do we increase public trust and confidence in the criminal justice system? How will we make the criminal justice system fair in the eyes of all of the people? How do we enable the criminal justice system to better solve the problems of the people and to help heal the harm that caused them to come into the system in the first place?

Beginning in the late '70s our criminal justice system found itself on the front line as crime rose, as drugs washed across America, as crack destroyed communities, as crack dealers put guns in the hands of kids, and the kids became the violent ones. The criminal justice system found itself on the front line as kids were unsupervised more so

than any time in history, and in those unsupervised afternoons and summertimes, they dealt with what it was like to be teased and put down and bullied.

The criminal justice system found itself on the front line as mental institutions for the institutionalized and the mentally ill went to the streets and tragically into the criminal justice system. They have faced human problems of dimensions rarely known in history. They have faced them after other institutions, family, the school, the neighborhood, have failed.

The criminal justice system is at the end of the line, and there is no other place to go. And so when failure occurs, it is the criminal justice system that takes the blame.

Now, there have been dedicated police officers, prosecutors, public defenders, and most of all judges who day in and day out have withstood this time and done such distinguished service for this country. I salute them because they did so in the light of limited response.

The response to this wave across our court system has been to limit the authority of the court but not limit the caseload. The number and magnitude of the problems grew, but the resources and the expertise to cope with it didn't.

Sentences increased, but the resources necessary to solve the problem didn't. The offender finished the sentence, returned to the neighborhood with the same problem, and no resources to solve it. They can't get a job. They haven't finished school. They do it again, and people don't think the criminal justice system works. No wonder the people don't have confidence in the system. In this next year the Department of Justice through the National Institute of Justice and the policy-makers of our government is going to be engaged in a dialogue and in a discussion with community leaders, our leaders, experts, academicians, people in the criminal justice system as to what we can do to give confidence in the system to the people.

I think the answer is deceptively simple. Let's give our

courts, our judges, what it takes to do justice, what it takes to solve the human problems that bring the case before them, and what it takes to ease the pain, the pain to the victim and the pain to the defendant and the pain to the community. Chief Judge Judith Kay of the New York Court of Appeals has said and done so much on this subject, and I take lessons from her, as I do from jurists across this land who are doing so much. But let me talk to you just in terms of the experience that I have had that indicates to me that if courts are given the tools to do the job, they can do so much. Now, I admit a prejudice. My first visit to a court was when I was five years old, and my father was the reporter for the Miami Herald who covered the courts. It was a wonderful court, high ceiling, beautiful panelling. There was some rough justice, and there was some justice I would change, but I came away as a five-year-old with a confidence in the courts.

As Mr. Stienen said, we're coming to a new century, and courts are going to have to do it differently. There's still the ingredient of the courts of the judge that makes such a difference in the lives of people if he or she is only given the resources.

In 1989 in Miami we were dealing with a system that rotated people through the system one after another and then back again. People charged with possession of a small amount of cocaine, first offenders, were simply getting credit for time served. They were not getting treatment, they were not getting punishment, and they were coming back in six weeks, or in a year.

The Supreme Court and the chief judge of the circuit came together and authorized a judge to have a sabbatical for a year to set up the drug court. The ingredients of the drug court were a manageable caseload and resources that matched the caseload, and the court controlled it so that it was never spread too thin.

The ingredients included close supervision by the judge who knew the people appearing before him, who was not going to be conned, who knew when to give them a pat on the back, when to speak harshly to them, when to sanction them.

There was authority in the judge. The judge knew the treatment resources, knew what to do with the treatment resources. The judge cared and had some expertise. The latest knowledge in terms of treatment was used. It was a tough road to get that drug court established, but about two months ago I appeared in Miami for the tenth anniversary of drug courts. There are now over 359 drug courts across the country with some 200 on the drawing boards. Courts can solve problems if given the authority and the resources and the expertise, and there are evaluations now that indicate that the drug court in its various forms is working across the country. Let us use that example and show what can be done and let the courts lead the way.

Let me give you some examples of where we can focus attention as we have in drug courts. Domestic violence courts. When I started out as a prosecutor in Miami, people said, Janet, that's just a domestic. It's a domestic that killed and contributed to some 40 percent of the homicides in Dade County.

It doesn't have to be. If we develop an expertise in our courts, in our judges, in the resources, in the treatment programs necessary to deal with this problem, we can make a difference. Sixteen percent of the people in prison today are estimated to have a mental illness. They rotate through the system as a revolving door. We as lawyers cannot stand by and watch that happen again and again without providing support.

When I was 18 I worked with the Dade County Welfare Department. I supervised indigent patients in a mental hospital. We knew so little. We know so much now, and knowledge is developing every day.

We as lawyers, if we use the model of the drug court and other models, if we manage our caseload, if we give the judge the authority, we can make a difference.

Child abuse and neglect, we call it the dependency court.

People don't know what the dependency court is, but they know what abuse and neglect means. Let's call it what it is, and let's give our judges the tools to do the job, a caseload that can be managed with investigators that can find out the correct situation as to what is happening at home, making recommendations to the court for treatment and follow-up and supervision in programs that are properly staffed to match the caseload with the judge constantly supervising it, making sure that everything is happening as it should happen, providing sanctions and cautions and support as we have seen judges do in the drug court setting.

Now you say, somebody else can do that. Ladies and gentlemen, there's something magic about a judge. A judge knows what she or he is doing. That black robe can make a difference. It can add a dignity to the human problem that we're dealing with.

We can make a difference if we give that person in that robe and with that authority and in that setting the tools to do the job. But we can't if we make justice a hollow, hollow voice.

And finally, the court nearest and dearest to my heart. Look at what we have done to the juvenile courts of this nation. We have brought kid after kid into them, and when they turn around for resources to help that child, help that child who is crying out for help because they have a mental illness or an emotional problem or they feel alone and threatened and bullied, there is no place to send them in too many instances.

But if the courts had the place to send them, if the courts could supervise their treatment, if the courts can could make a difference, just think of what the court system in this nation could do to be the problem-solver and the dispenser of justice. Now, some of the cynics might say, how do you afford it? How do we afford what we have now when people recycle through the system again and again and again? If we solve the problem in the first place, it would make such a difference.

How do we afford it? If we make an investment to solve problems now rather than wait until that person is no longer a person who can find a job because they don't have a skill, we can make this nation a stronger, better nation. It's common sense, using community resources in the wisest way possible.

Now, one of the problems is developing the expertise and learning what's working and what's not working across the country. In these last six and a half years there has been an exciting development, a partnership between the public health system and the criminal justice system, between the medical community and the legal community.

I come to the advisory committee for the Violence Against Women Act, and I find the president of the AMA there with the past president of the ABA, shoulder-to-shoulder addressing the issues. I suggest to you that we all together challenge the university system in this country to start new efforts. Some can be long courses leading to degrees. Others can be special programs designed for the judiciary where the lawyers and the doctors come together.

The judges so far have just been feeling their way as if in the dark trying to figure out what the best answer is, when the doctors don't know what the best answer is, and lawyers have never been trained in the best answer.

Let's start focusing on issues of domestic violence, of youth violence, of mental health, of substance abuse and alcohol abuse, so that we can use the knowledge that is there for the courts to apply in settings where the courts can control and make a difference.

We need a system for dispensing the latest knowledge because it's changing every day. And experts caution me, Janet, you are talking about old theories. There are a lot newer ones, so I constantly have to check to see what is developing in this area. There needs to be case management so that a person coming out of prison 500 miles away doesn't flimflam the people he's coming to, and people know what he's capable of, what he's done, what he can do, and

how he can best be motivated.

Now, you as lawyers need to ask one major question about all this. Janet, it sounds good, but you are just getting a person into a social work setting, and you are forgetting their rights. You are forgetting due process.

I think we as lawyers in this country can define due process and ensure due process while at the same time solving problems, and if we can't, we ought to go find another job to do. Certainly with the knowledge that exists in this country, with the record of drug courts and other courts that have started initiatives such as this, we can begin to solve people's problems far better than we have in the past. We can begin to be more friendly toward the people who come into our court. We can begin to focus on victims and how they feel about the system, not just in words but in action. We can begin to make the courts truly an institution of the people.

But there is one particular challenge that we all face. We have talked about prevention. We have talked about the need to invest in the children. But ladies and gentlemen, there is a category of people that we must address if we're going to make the court system work. It makes no sense to send somebody to prison for an armed robbery and have them come out in four years with appropriate penalties having been served but without the problem being addressed, come back to the apartment over in Hargrove Park where they got in trouble in the first place, no job, no GED, and guess what. They are going to be doing it again.

This nation is in the next five years going to have as many as two and a half million people come back to prison, 450,000 to 500,000 each year. Unless you bring them back to our communities with a chance of success, the criminal justice system is going to fail again because it is going to be overwhelmed with people coming back through the system.

We have got to start thinking in terms of reentry courts, courts that begin to provide the judgment to know when to

give a pat on the back, to say you are doing fine, and when to pull them back into the system and a carrot stick approach that can make a difference.

I believe with all my heart and soul that if we can give the judges the tools to do the job, they will do it. They will be able to do it. We cannot stand by and watch a system being asked to do so much for so many with totally inadequate resources.

Now, in July of last year at this time I challenged you. I challenged you as I've challenged myself and others, not to become complacent as crime reduces again, six years in a row, not to turn our heads to other issues, but to work to continue to reduce crime and to end the culture of violence in this country.

I talked about gun legislation. That still has to be done. And I thank Mr. Anderson for his leadership in this area. But ladies and gentlemen, crime is now down seven years in a row. We cannot become complacent. We can reduce violence. We can end the culture of violence in this country if lawyers will use their common sense, their dedication, their advocacy to make a difference. If we will give the courts the tools to do the job, we can make a difference.

I am so proud to stand with you. I think back to when I first became a lawyer. I never thought that I would have this opportunity. It has been the greatest opportunity that anybody could have, and I salute you all. You do this nation and this profession such great credit.

(Comments concluded, 8:57 a.m.)

C E R T I F I C A T E

GEORGIA

COBB COUNTY

I hereby certify that the above and foregoing pages 1 through 18 are a true, complete, correct and exact

transcript of my shorthand notes taken in the above-referenced matter; That same constitutes a true, complete, correct and exact record of the above-referenced matter; That same was transcribed through computer assisted transcription;

This _____ day of _____, 1999.

LORI T. DONOVAN, A-427

Certified Court Reporter

and Notary Public