



UNITED STATES DEPARTMENT OF JUSTICE

NATIVE AMERICAN BAR ASSOCIATION

REMARKS BY ATTORNEY GENERAL JANET RENO

Friday, November 19, 1999

United States Department of Justice,

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(1:08 p.m.)

P R O C E E D I N G S

GENERAL RENO: Thank you so very much, and I am the one that really should be applauding you.

You all, young lawyers, young people who care about tribal conditions, are going to do so much to change the course of history and to take it to the point where I think we have always wanted it to go.

I just wish that I could combine my commitment to Indian country, my commitment to tribal courts and proper law enforcement, to economic development, to health services, with the resources, but I'm not the one that doles out the money, but I will continue to advocate for it in every way that I can, because I think there has been long neglect, and I think it is high time that we have begun to address the issues affecting Indian country.

President Clinton has certainly shared those views, and has declared that November is Native American heritage month.

My mother used to say that she didn't like Mother's Day, because every day should be Mother's Day --

(Laughter.)

GENERAL RENO: -- and I think every month should be Native American Heritage Month, for as we stand at the end of the 20th Century, Indian peoples may look back and be so proud of the traditions that look upon community as a sacred circle that goes forth from generation to generation and that honors the world, the land, the sky and the world of nature.

I have learned two wonderful concepts, amongst many others, in these 6-1/2 years from my Native American friends.

One stood in my law school alma mater and said, you all just talk about blame.

You just talk about guilt or innocence; you don't solve the problem; you don't restore the situation to what it should have been.

And I've thought about that so much ever since, and have since then, based on that comment, given a speech to the American Law School Association saying, let's start talking about problem-solving and not just about guilt or innocence.

The other issue is concept of community and the sacred circle that represents it.

One of the things that I have learned is that America's communities, or those that are strong, are those that are making a difference, that the focus in America is now on community, but a lawyer can't do it by himself or herself, the doctor can't do it by himself or herself, nobody can do it by themselves.

They've got to work together to strong communities and

strong tribal communities, and I think again you lead the way.

Chief Seattle once said, every part of the soil is sacred. Every hillside, every valley, every plain and grove has been hallowed by some sad or happy event in days long vanished.

Even the rocks, as they swelter in the sun along the silent shore thrill with memories of stirring events of my people.

I'm going home for Thanksgiving, and I'm going to go to a flooded Everglades and look out upon it, and not be able to get into it the way I want to unless I get up my energies and go canoeing.

But I will look out on a land that has meant so much to so many different people, and you have taught me, don't take anything for granted.

Treasure the possessions we hold dear, and the land is one of those.

Before Columbus, Native peoples had made remarkable scientific, literary, and cultural progress, and had democratic governments, diverse social institutions, and far-flung networks of trade. Native American monuments are found throughout our country, from the Pueblo Bonito of New Mexico, to the Serpent Mount of Ohio.

In Mexico, the Aztec capital, with 250,000 residents, was larger than any city of continental Europe at the time of Columbus.

I am also fascinated by the fact that Cahokia had 20,000 people in I think the year 1200, larger than the City of London.

It just helps to put things in perspective, and to understand where we are in the passage of time.

The contributions of Native Americans are with us every

day. Pre-Columbian Americans developed staple crops such as corn, potatoes, and tomatoes.

60 percent of the food we eat today around the world is derived from plants domesticated by those first Americans.

Medicines such as aspirin and quinine also come to us through Indian societies.

I used to think of what it was like when the English got to our shores.

Was there popcorn?

(Laughter.)

GENERAL RENO: It just puts it in perspective how we find things, how we discover things, how we learn from each other, how we learn across history and down the passage of time, and how your sense of restorative justice and healing is so widely important to us, and one that we should learn more from and develop, and finer tune.

American Indians are the successors of Pre-Columbian Native American civilizations.

This is significant, because the sovereign powers exercised by Indians today flow from the original natural right of Indian peoples to self-government.

In the Northwest Ordinance of 1787, our Nation pledged that good faith should be observed toward Indian tribes, and that their rights and liberties would be respected.

While our Nation has strayed from these ideals, sometimes grievously, we have come full circle with our firm commitment to Government-to-Government relations today.

Last year in the executive order on consultation with tribal Governments, the President said, since the formation of the Union, the United States has recognized Indian tribes as domestic, dependant nations under its protection.

In treaties, our Nation guaranteed the right of Indian tribes to self-government.

We've got to do everything we can to work together to learn from your wonderful tradition, to build on your wonderful traditions of democracy of government, of tribal government, that looks at the people and cherishes and appreciates everybody for what they are.

We have got to make sure that your children -- your children -- are the people leading the way, that in about 50 years we will look back, or my nephews will look back and think, was it possible that we had so neglected tribes across this Nation, and yet they have thrived, they have come back, they are able to live on their land, enjoy their air and water and sky in the way their traditions have told them is the right way to do it.

It is possible, and I hope you don't ever, ever give up. As Attorney General, I think I have the solemn duty to do everything I can to help achieve that goal.

In our policy on Government to Government relations we have stated our commitment to promoting Indian self-government, and we pledge to assist Indian tribes in the development of their law enforcement systems, tribal courts, and traditional justice systems.

I want to be a partner. I don't want to tell people what to do. I don't want to go in and say, you should do this, this, this, and this.

In my first meetings, I listened, until finally somebody said, now you've got to stop listening and do something.

(Laughter.)

GENERAL RENO: And I have tried to do something since then.

This is important, because we have broad law enforcement responsibilities in Indian country, and we're often

involved in litigation concerning tribal interests.

Under our trust responsibility, the United States attorneys prosecute felony crimes filed against Indians in most of Indian country.

Tribal police serve as first responders to these crimes, and assist the FBI and the BIA in investigating felonies.

Tribal courts and prosecutors also try and prosecute misdemeanor Indian tribes.

We acknowledge that an effective tribal justice system is an essential adjunct to an effective Federal law enforcement in Indian country, but as you point out, Mr. Chairman, while crime rates have fallen in the rest of the country, violent crime has risen in Indian country.

Violence against women and child abuse are serious problems. To address them, after consulting with tribal leaders the Departments of Justice and the Interior developed a plan to strengthen tribal justice systems and law enforcement agencies.

In fiscal year 1999, the Justice Department received \$89 million under the Indian Law Enforcement Improvement Initiative, and these funds were used for FBI agents and tribal law enforcement officers, detention centers, courts, and youth crime prevention programs.

For fiscal year 2000, the President requested \$124 million, and we received \$91.5 million, which is actually probably a \$5 million increase over last year, because it will now go to Indian country totally.

At the same time, we're planning a third year of the initiative for the fiscal year 2001 budget.

My goal is to ensure that the progress we have made continues, but we have much to do.

A complementary goal is to ensure that our work in this

area is consistent with tribal traditions.

If I am using what I have learned from you to solve problems in communities which have never really understood the concept of problem-solving, if I am using community police officers to heal, rather than just arrest and carry off to jail, when I can stand in the Great Hall of the Department of Justice and have two young men from Dorchester, Massachusetts, hook up with the President of the United States with their two community police officers with them and say, Mr. President, these guys saved my life, Mr. President, these guys got me out of trouble, they're my mentors, they helped me, I'm going to college, I'm going to make a difference, the messages were so positive because of what these men have done.

If I have learned something from you, then we have got to work together to use your knowledge in your community to build.

How do we do it? First of all, a community must reach a certain level in which it demands enforcement, demands accountability, but at the same time demands that young people be given the opportunity they need to grow in a strong tribally sensitive and constructive sort of way.

Where do you begin? You've got to begin before that child is born, making sure that that parent has the ability to cope, has the advice of the elders, lets them understand what is needed, how to take care of that baby, how to raise that baby so that they understand that problem-solving and not conflict is the way to go, so that they understand the beauty of the stories handed down, so that they understand the feeling of arms around them.

Raising children is the single most difficult thing I know to do, whether it be in Indian country or in Miami, Florida. It takes hard work, love, and an awful lot of intelligence, and a lot of luck.

But it does take luck, and it takes hard, hard work.

But it is the single most rewarding thing I know to do, and we have got to somehow or another reweave the fabric around children in all communities of America.

This is what we have tried to do in instances where crime is coming down. Hold people accountable, but give young people the chance to grow in a strong and positive way.

How do we hold them accountable?

Giving them the early foundation, giving them the opportunity to grow with supervision, how do we hold them accountable?

It's going to do no good for us to arrest one person over here and say, okay, you've been using cocaine, you get some jail time, and we do nothing to solve the problem of the cocaine, nothing to solve the problem that caused them to start taking the cocaine in the first place.

It's going to do us no good if there are organized criminal gangs in Indian country, spilled over from Los Angeles, out recruiting youngsters, just to take one over another on a random basis.

The most important thing is to take people and arrest them and treat them with due process and fair play, and hold them accountable for the crimes that they have committed, but that's not enough.

Get to the young ones, the little wannabees, and say, see what happened to him?

Same thing is going to happen to you, but we have some other alternatives for you.

We have mentors.

We have people who care, and who can make a difference.

If it's domestic violence, we're going to have to figure a way to do the same thing through a domestic violence tribal

court, where you apply tribal traditions but hold people accountable, and let them know unless we end violence in the home, we will never end it in our lands, on our streets, or anywhere in this Nation.

If I had stood before you 6 years ago and told you that you really could make a difference with respect to crime, I'm wondering whether I would have believed myself.

But I have watched community after community across America address the problem and do it in a comprehensive way that combines prevention, intervention, punishment, and reentry programs, punishment that holds people accountable, but recognizes that what Winston Churchill said is so true.

The symbol of a civilization and of the advancement of a civilization is the way it treats its criminals, those charged with the crime, and those convicted of a crime, and we must work together to make sure that we use the resources that we can find to do just this, that the answer will lie with the people, and when the people say, we will not tolerate this any longer, then I think we can move forward and upward and make a difference.

I received another lesson in tribal traditions from the young people who ran a relay race from the pueblo in New Mexico to Washington, D.C. to deliver a message to me.

They were a living testimony of, I think, one of the most important values that you hold dear.

They were requesting help for their tribal elders and support for their elders, and ever since I was a little girl and would go out to the glades to visit the Miccosukees, it was always the elders who were so important.

You have taught us another lesson.

The Northern Cheyenne tribal leaders tell me that violence against women is not part of their traditions, and so the tribe hired a prosecutor to focus on domestic violence.

This effort reinforced tribal traditions concerning respect for women, and the tribe reports a decrease in domestic violence.

If that be the tradition, then you're a long way ahead of some of the other communities in this country, where for too long I heard courts say, but Janet, that's a domestic.

Why don't you just let them dismiss it?

And I'd say, Your Honor, I can't let that happen.

Next time one of them will be in the morgue and the other will be in the jail, and children will be at risk, and slowly we are overcoming a tradition where domestic violence is accepted.

If it's not accepted in tribal traditions, use the head start you have to move tribal practice down the road to cope with this problem.

I am sure that we all agree that reducing violent crime is critical to the peace and safety of Indian communities.

Sitting Bull said it best.

Let us put our minds together and see what lives we can make for our children let us put our minds together and see what we can draw from your great traditions which solve problems and don't concentrate on blame, and see what lives we can make for your children.

One of the points that was made to me at Albuquerque in the first listening conference that we had was, we don't know how to get into the Justice Department.

We hear about some big piece of litigation only after you've already gotten up to the court of appeals.

You've already made your decision as to whether to appeal before we've ever gotten involved.

We need a point of entry into the Justice Department.

We created the Office of Tribal Justice, and Mark and all the people who've worked there have done such a wonderful job, and the Solicitor General has heard, and all those involved in the process are getting the message, where there are tribal interests involved, let's make sure they get heard at the ground floor.

Let me discuss briefly some of our litigation activities. The Justice Department is sometimes referred to as the Nation's litigator, and in that role we acknowledge our Federal trust responsibility to report tribal self-government.

Thus, we're often involved in litigation involving tribal rights.

2 years ago, Kiowa and other Oklahoma tribal leaders were concerned that litigants were hailing their tribes into State court without regard for their sovereign immunity.

The Justice Department participated as amicus in the United States Supreme Court in *Kiowa Tribe v. Manufacturing Technologies* to support tribal sovereign immunity.

The Supreme Court ruled that tribal sovereign immunity bars suits against Indian tribes in the absence of a tribal or congressional waiver.

Of course, we're interested in supporting tribal sovereign authority not only through litigation, but also through dialogue and intergovernmental cooperation, so following the Kiowa decision the Office of Tribal Justice worked with the BIA and the Indian Health Service to sponsor a conference on tribal risk management.

I know that many tribal governments are dealing with risk management issues through insurance coverage, self-insurance and safety programs.

It is important for tribes to continue to review these

issues to ensure that a balance is maintained between the sovereign immunity protection of governmental activities and third party loss prevention, and between the need to protect tribal property and the development of a positive climate for business.

In this way, Indian tribes can continue to protect sovereign immunity while promoting community interaction and business activity necessary for the health of the reservation economy.

Another important case that the Department of Justice participated in was the Mille Lacs Treaty hunting and fishing case.

The United States intervened on behalf of the tribe to protect treaty hunting and fishing rights that are central to tribal culture.

The Supreme Court affirmed the continuing validity of the treaty rights.

In our view, this case was important because it ensures tribal members may continue traditional hunting and fishing practices.

The Department also participated in *John v. Baker*, a case involving Alaska Native village authority to determine child custody.

In September, the Alaska supreme court held that the Alaska Native village court child custody rulings are to be recognized by the States under the principle of comity.

The Department is engaged in the continuing dialogue with Alaska Native village leaders to address public safety issues, and the State supreme court's ruling affirms the fundamental Indian law principles that form the basis for our efforts in Alaska.

Our Civil Rights Division has also been active in reviewing complaints from Indian country such as fair lending and

other discrimination complaints.

I remain interested in ensuring that Indian people have fair access to financial institutions, because such access is essential to the economic development that is desperately needed in so many areas of Indian country.

And we have another opportunity.

The Federal Reserve I hope will shortly confirm a reg that has been put out for comment, and the comment period is ending, that will permit financial institutions collect data that can help inform us on the issues of lending and on the fact or nonexistence of discrimination.

I think, again, we can make a difference if we work together.

Finally, let me say a few words about economic development.

How do you live on your land, how do you live out in those beautiful remote, and magnificent areas, how do you live in a land where the sky is bluer than any blue that you can imagine, and doesn't have smog on it, without industry, without business that spoils that land and that sky and that water?

I don't know whether the stars have come together in the right way, but think about it for a moment.

UPS, as I understand it, just went public because it has so much business from people who are buying on the Internet, and a man is sitting in a kitchen in St. Petersburg, Russia, and stealing from a bank in New York, and I'm having to prosecute him.

(Laughter.)

GENERAL RENO: And if we've gotten that far, so that the Council of Europe, the G-8 ministers of justice, the OAS are all trying to figure out what we're going to do about e-commerce, about how we function in the information age,

just think what you can do with the computer.

It's not going to hurt the sky, it's not going to hurt the water, it's not going to mar that magnificent land.

How do we do it? Again, it's part of my dream. I may be a little old lady, but I believe I'm going to live long enough to see Indian country come into its own with prosperity that's not just based on one industry, prosperity that's based on young people who have learned to use the technology of the future to communicate, to serve, to sell, to buy, to sort, to catalogue.

The technology out there, Adlai Stevenson had said, staggers the imagination and converts vanity to prayer.

I don't think it may stagger the imagination.

I just believe that with the traditions that you hold so dear, with your commitment to what is so right, with the dedication of people in this room who are giving their time, when they could be making bundles of money and doing so many other things and worrying about billable hours -- though I think I'd probably rather do this than worry about billable hours.

(Laughter.)

GENERAL RENO: With all of that, we can make a difference, and you will lead the way.

Thank you for all that you do, and for giving me the ability to believe that you can do it.

(Applause.)

(Whereupon, at 1:35 p.m., the remarks ended.)