



**UNITED STATES DEPARTMENT OF JUSTICE**

**REMARKS OF ATTORNEY GENERAL JANET RENO**

**TO THE MASSACHUSETTS CHAPTER**

**OF THE FEDERAL BAR ASSOCIATION**

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GENERAL RENO: One of the things that you learn about, if you're a state attorney in Miami for any length of time or Attorney General during these years, is that you think that friendship is one of the most wonderful things that you can have. And Bob and Lynn's friendship is one of the things I treasure.

I came to Washington saying that I love lawyers, that I loved the law, didn't like greedy, indifferent lawyers, but thought lawyers were pretty special. In the course of time, I have developed an even greater respect for trial lawyers because one of the things that I've learned is that many decisions are made without the accountability, the attention to detail, the commitment to proof and the sense of innovation that trial lawyers have. People make decisions in Washington, and in other parts of the country I discovered, based on discussion. But discussion doesn't get you to the truth, by trying a case, particularly trying a criminal case, so I feel very good about being around trial lawyers today.

I've been there for seven and a half years. I've had an opportunity to watch some of the great trial lawyers in

action, both before me and in our courts. After seven and a half years of watching America's lawyers at work from an extraordinary vantage point, I am prouder than ever of being a lawyer in the United States.

You have done so much. I just look around this room and see people I have such profound respect for. I've seen what you've done in your community, a community we love. I've seen what you contribute to this nation. But I would ask to you join me and others because I'm speaking on this issue and will continue to speak on this issue to address what I think is one of the greatest problems we face, both in America and around the world, today with regard to the law.

Too many people don't have access to the law, and it doesn't mean much more than the paper it's written on. Last week I spoke about Runny Meade. I could see the barons coming up the plain, meeting with King John, and I'm reminded of Chapter 40: "To no one will we sell. To no one will we deny or delay right or justice." I think it's one of the most beautiful lines from the law that I know. But for too many people in this country that clause, that chapter means nothing. The woman who's just getting off welfare who can't get the landlord to fix the toilet that's been stopped up again and again and again. The young man who's charged with a capital case who has a lawyer that isn't competent to handle a capital case and no one will provide anything otherwise.

There are so many instances that we see where Americans do not have access to the law that is necessary to defend them. And I would like to suggest that in these next three years lawyers, both in their associations and in their individual capacities, come together and once and for all address the issue of how we make the law real for all people.

A lot of people do pro bono work. Public defenders perform valiant service. People do so much, and I take nothing from what we have done. But we have got to do it in a far more effective, far more comprehensive effort that leaves no one out. We have got to look at what the problem is, design a solution, and make it last. And I would suggest to you some

points in this initiative.

First of all, let us define jurisdictions in which we develop a comprehensive plan. In some instances it may be a state or a county or municipality. It may be the area or the people covered by a bar association. But let's define the entity and develop the comprehensive plan for that entity. Let us consider the entities that would be involved. Is it the state Supreme Court or the state bar or the local bar association? Is it a municipality? How do we define the structure and identify the people who will participate and the person responsible or the institution responsible for achieving the plan that would provide comprehensive service.

Then let's inventory the need for legal services in that particular jurisdiction. Is it landlord/tenant problems that plague most people? We can do surveys. Is it a failure of government to provide municipal services in an equal manner throughout the community? Is it immigration and nationalization issues that plague us? What are the issues for which we need to provide legal services to make the law real for all Americans? Then secondly, let us inventory the problems that are generating the need for legal services, and let us figure out what to do about that.

Fourth is identify the traditional means of providing services for those who can't afford it and let us then figure out what we can do to enhance our ability to provide such traditional services. Let us take pro bono services, for example. In most jurisdictions in this country lawyers provided, sometimes on an ad hoc basis, sometimes in a program, but in most instances it is not provided in a comprehensive way. It's not provided so as to meet the needs of the community. Let us figure out how we can make it more effective by proper supervision, by proper training, by consideration of ethical issues up front so that people will feel freer to provide pro bono services knowing that they have addressed the issue of competency and addressed the ethical issues that might confront them and that they can feel comfortable in doing the work and feeling the success of the work.

Let us look at legal services, the public defenders program, court-appointed services, to see what we can do to enhance them. But then, ladies and gentlemen, let us say that at least there's got to be some minimal service and that the bar of America will come together in legislative halls, in congress and everywhere we can go to say that somebody charged with a capital crime facing the death penalty or life imprisonment or a serious prison term, will not have to do that without competent counsel. If we bring the force of the bar together we ought to be able to do it.

But competent counsel is one thing. For these cases involving serious penalties, let's at least make sure not only that we have competent counsel, but that we have the forensic tools available to those lawyers to enable them to properly represent their client and that we have investigative capacity available to those lawyers to enable them to properly look at the facts, dig at the cases and come up with the truth.

But I suggest to you that the traditional forums of delivering services to indigent people or people who cannot afford lawyers is not adequate. And that it has come time for us to consider a new means of delivering services. I call it a community advocate and problem solver. I see this person as a person who gets a four-year college degree in community advocacy. That degree could be a degree specializing in immigration issues, in landlord/tenant issues, in domestic violence issues, in whatever issue is a category or subject matter that reflects the need for legal services in America.

Now, I made this proposition once to a group of lawyers, and I got a letter back that just -- you could see the flames and the smoke. And this man told me that I was going to be taking work away from lawyers and I'd better not pursue the idea. Well, I picked up the phone and called him and said, "Sir, you don't have to worry about taking this business from lawyers. They don't want it anyway." I said I'm talking about problems that beset people, that bring down their lives, that weigh them down, that keep them from functioning as effectively as they can, that people can address and solve as they do it in a reasonable way.

Somebody who has two good years of specialty in a four-year college degree about how to do landlord/tenant work is going to be better than the average lawyer that I know that occasionally helps out somebody in trying to get that landlord to do what he wants to do.

Furthermore, we can do it based on a variety of certifications or supervision. This person could be assigned to or work under the auspices of a law firm. He could assigned to or work under the auspices of a municipal government or a private employer who wants to provide advocacy for his, the people that work for him. Or it could be a free-standing person subject to state certification that the bar could participate in. But it was best explained to me when I told a lawyer, whom I admire a great deal, I said, "You're not going to like this, but this is what I'm proposing." He said, "I would have disagreed violently with the proposal four years ago until I went to Africa and saw people operating and saving eyesight, people who had no, not even a high school education, but who had learned from American surgeons who had volunteered their time and come and teach people who had the ability with their hands and the basic knowledge, and sight is being saved that otherwise wouldn't have been saved. We've got to reach out and give people some rights that they wouldn't have if we didn't have this type of a function or a person to perform the function.

Then I suggest it has come time for lawyers to really become move involved in problem solving. What are the problems that are generating the need to legal services? Part of it is lack of diversity in the profession and lack of equal opportunities for the people of this country. But if we're good at problem solving, we're going to look at diversity and say, Why do we wait until law school and until the university to address the issue of affirmative action? We should be addressing affirmative action up front for that child who has just been born into this world and make sure that they have the health care, the housing and the supervision they need to grow into strong, constructive people and take advantage of the educational opportunities that can otherwise be afforded to them. If we start looking at it from that vantage point and solving the problem

before it's generated, we can make a lot more sense.

Now, some people tell me that trial lawyers aren't problem solvers, they just litigate. The best trial lawyers I know can run rings around anybody in trying a case, but they know how to resolve the issue in the best interest, long range of their clients. And most of the good trial lawyers I know would rather have avoided the trial for their client in the first place, avoided the problem in the first place, than ever go through the trial and see the damage done for which the trial is simply the compensation.

I suggest to you that there are two or three years where we really must focus in terms of problems that we must address if we are to ensure access to legal services. This world is becoming international in so many ways. The word "globalization" is now a standard reference in our vocabulary each day. Crime is international in its origins and its results. When a man can sit in a kitchen in St. Petersburg, Russia and steal from a bank in Boston, you understand more than ever that boundaries are becoming meaningless as cyber tools erase the concept of boundaries.

It is time for all the lawyers of America to gain a proficiency in cyber technology sufficient to apply the Constitution that John Marshall knew to this day in time, to this technology and to ensure that those constitutional protections that we have cherished for all of our lives as a nation are not diminished because we let technology control us rather than us control technology. It is important that we come together with our colleagues around the world to address this problem. I have been working with the Ministers of Justice in the G8, the big industrial nations, the eight big industrial nations as well as this past week meeting with representatives of the European Union. We're going to have to have new concepts of venue, of how we handle cases, of how we bring people to justice. We're going to have to make sure that we extradite based on where the action took place rather than whether and who is a national of which country. We have got to make sure -- and I think this organization can take the lead amongst others in ensuring that the rule of law is extended around the world, and that forums are made available for everyone

to resolve their problems.

It's going to do me no good to get someone access to justice if they can't get access to justice halfway around the world against a person who's tried to con them out of their savings over the internet. How do we do it? Some people tell me it seems impossible. I suggest to you nothing is impossible for lawyers that put their mind to it and get to the good solutions.

The next issue is we have a chance to end the culture of violence in this country if we only put our mind to it. Crime is down now seven years in a row. People say, "It happened during your watch." I said, "Yes, but I've been there before when crime's gone up." If we have done anything, I think what we have tried to do is address it from the point of view that crime is not a political problem in terms of partisan political issues. It is neither a Democratic nor Republican problem. It is everyone's problem. And should be approached not with political rhetoric but with hard data, people working together using common-sense approaches that involve both punishment and prevention and accountability and opportunity and I think we can make a difference if we just don't become complacent. I've already heard people say, Oh, we don't have near as much crime. I feel much safer. I can go out, and I don't worry about it anymore. That time of complacency is going to lead us back to crime rising again. But if the lawyers of America come together and work with communities in building a community fabric that can deal with crime in a sensible way, assessing the crime in a community, saying this is what the feds can do; this is what state and locals can do; this is what the prevention people can do; this is where we need to punish; this is what we need to do to give a young man coming back from prison an opportunity to get off on the right foot. If we use common sense, we can bring the culture of violence to an end in this country. Of course, we will never eliminate it, but let me give you a reminder. Between 1992 and 1996 compare Chicago and Toronto, two cities of somewhat equal size, there were 100 gun homicides in Toronto; there were 3,060 in Chicago. You don't need to accept violence as a way of life. And I think the lawyers of America, public

defenders, trial lawyers, transaction lawyers, prosecutors should come together and make sure that we never let ourselves just succumb to partisan politics again in crime efforts. Let's make sure we do it in the way that make sense.

Now, there are some tools to these approaches that I think are important, and I don't think lawyers are being taught some of the tools that are important in law school. I think law school teaches people a lot of good case law. I have often said that the best educational experience I had was in law school, so I don't take a thing away from it. But law schools don't teach people how to put the can-do to a court order. I've seen too many court orders directed towards correcting an activity with no one knowing how the people are going to afford the resources necessary to properly implement the order. Lawyers are very good at coming up with a structure, but they're not very good often times in the appropriations process and understanding how you get government to move to properly fund a program that can make sense.

And that leads me to the second issue. We need to look at how we have access to laws being made. Today, you watch congress in action, you watch state legislatures in action, even county commissions. Somehow as lawyers we must remember that we have got to give our clients, all our clients, not just those that can afford lobbyists, but all our clients access to the halls of the legislature, or otherwise we will again be left out. And we must give all our clients access to our courts.

Let me give you an example. In 1988 we were faced with what to do about people charged with possession of a small amount of cocaine, first offenders. Nothing was happening to them because the court calendars were so crowded that the courts were giving them credit for time served when speedy trial was about to run. We developed a drug court, one that provided a case load small enough and resources sufficient to deal with the issue before the court. We put these people in the court with a carrot and stick approach that said, You can work with us. We can give you treatment. We can give you job training. We can get you an education.

Or you can face a more serious punishment every time you come back testing positive. We struggled. The evaluations came back indicating that it was working. There are now over 400 drug courts across the country that are making a difference.

Ladies and gentlemen, the lawyers of America have failed their courts. You who try many of your cases in beautiful courthouses like this, with distinguished judges who generally have case loads that are somewhat manageable, have not failed this court. But there are state and local courts across this country, particularly juvenile and criminal courts, that have been absolutely overwhelmed and so overwhelmed with case load and with inadequate resources that they can not be expected to cope with the problems presented to them because other institutions from the family, the schools and the neighborhoods have failed at every step along the way.

I suggest, as we focus on making sure that those charged with serious crimes have truly effective assistance of counsel. That we all have a responsibility to make sure that the courts of our nation have a case load and a resource commitment that makes it realistic to expect that they can change behavior. If we do that, we're going to save money in the long run. We're going to make this community a more productive nation. We're going to get a better return on our dollars.

But finally, I come to one final point. Lawyers are often described as contentious. Yeah, I've been up against some really contentious lawyers, some that I would think were rude, crude bores, but they're very few and far between, and far less in number than perhaps in other professions. I suggest to you there is an elegance and a grace and a civility in most lawyers in America. There is a sense of public spirit and public commitment. But too many of our young people don't want to become involved. The institute of politics at Harvard University has done a recent study that says young people want to do community service. They want to contribute. They want to make a difference, but they don't want to become involved in the political process. People ask me, Why do you participate? Why do you

put yourself through this, getting cussed at, fussed at and figuratively beaten around the ears at every other congressional hearing? Ladies and gentlemen, no lawyer has ever been given such a wonderful opportunity to try to use the law the right way to make America safer, healthier, freer.

There are so many wonderful opportunities. And yes, public service can be trying. But I watched the other day as we rededicated the site where the ABA had honored the Magna Carta, and you thought about what happened 60 years ago this August over that plain at Runny Meade. Some very valiant pilots, probably saved at least a nation and perhaps western civilization, some very brave Englishmen took some very small boats from there along the Thames as we rode by and took them across the channel and evacuated an entire army which lived to fight again and win. And then to go to the war room where the cabinet met during the bombing raids, and read that 29,000 people died in London of bombings.

We need to make sure that we can contribute in public service and to our nation, not just in times of crisis but always. And if we think that public service is arduous, all we need to do is to think of what these people gave in terms of lives and honor and commitment and courage.

We're going to have to figure out how lawyers can become involved in the political process, not just as paid lobbyists, not just a people who are trying to do good, but we need the eloquence and the grace and the civility of lawyers who know how to contend against each other but to do so with honor and vigor and respect. We need that ability in our county commissions, our city commissions and elected office, and somehow or another we're going to have to see that lawyers in America become more involved in actual service in the political process than ever before.

When I first started there were wonderful young lawyers participating in the process in Florida. One by one their firm said they couldn't do it anymore. Couldn't afford it anymore. If we don't contribute, we're going to have to work a lot harder in the end. But the American people have

a strength and a resilience that if we serve them we can make a difference. I have seen the people of Oklahoma City overcome a blast from hell. I've seen communities come together to develop great new programs. I have seen brave and courageous people take extraordinary steps on behalf of their nation. I hope the lawyers of America, and particularly the trial lawyers with the virtues that you have, will join with me in addressing America's issues now in making the law real for all Americans and in servicing our people the way I think only lawyers can do.

Thank you.

(Applause)

(End of Attorney General's remarks.)