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The Cleveland-Marshall Centennial Inauguration Address

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THE CLEVELAND-MARSHALL CENTENNIAL INAUGURATION ADDRESS

JANET RENO¹

I love lawyers. And I love the law. It has been the most wonderful profession I ever could have pursued. But I don't like greedy, indifferent lawyers who don't reach out and care for others. Fortunately, they are few and far between. In the three and one-half years that I have been Attorney General, I continue to be impressed with lawyers across this country who do so much in their practice and so much in their pro bono efforts to make sure that justice is accessible to all Americans. I continue to marvel at the law and what it can do for people.

I continue to remember the time when, as a prosecutor, I was asked to do an extraordinary thing: Go and reinvestigate a case in another jurisdiction of a man who had been prosecuted, convicted and sentenced to death for the poisoning death of his seven children 21 years before. The death penalty had been set aside by a Supreme Court decision. That man had been in prison for 21 years for a crime he said he did not commit. I concluded that the evidence was insufficient to charge him, that he was probably innocent and that he should go free.

Now, I recall watching that man walk out of the courthouse a free man, I know the law can make mistakes, but, ultimately, it can protect the innocent. Today, as I watch people with disabilities gain new access to so many opportunities because of the Americans with Disabilities Act and the opportunities that lawyers have provided, I again marvel at the wonder and magnificence of the law.

But we still have challenges and I think the challenge that we in the legal profession must prepare for now is: How do we encourage the lawyers of America, not just in their role as adversaries or as advocates, but in their role as peacemakers and problem solvers? I would like to share a few suggestions with you. I think the key in developing this capacity in all lawyers is learning to communicate, to listen carefully, and not to judge until the discussion has ended.

I think it is important to speak with small, old words. You have no idea what it's like to go into the Department of Justice and have this title, that title, this name, that name, all of which the average person doesn't understand. It has been a challenge to try to persuade people to use small words. Use words that people can truly understand. Learn the art of communication. Learn the art of looking directly at the person. Learn the art of listening. In that way we can do so much to resolve conflict and resolve problems.

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I think it is imperative to simplify the language of the law. We don't have to use words or expressions that we have to look up. We can talk about the rights that are essential to all of us in words that everyone can understand. Explain to our clients, explain to the people we serve just what their remedies are and do everything we can to make them self-sufficient. I think there is the tendency on the part of some lawyers to sit down with the client and make it as mysterious as possible so they'll have to come back again.

I think that one of the most extraordinary challenges that lawyers face today is to learn the art of negotiation, the art of resolving conflict without trial, the art of resolving conflict, if necessary, by mediation. An exciting thing is happening in this country. Wherever you go, people are asking: How do I learn to negotiate? How do I resolve that conflict without so much fuss and cost and litigation?

This summer I participated, as part of my pro bono service with the Department of Justice, in a community dispute resolution program with the Washington, D.C. public schools. It was remarkable to see 20 teachers on their day off learning how to teach kids to resolve conflicts without knives and guns and fists. It has also been remarkable to go to the Air Force Academy, the first service academy with an entire force devoted to negotiation. I've also watched what lawyers around the country are doing in learning to negotiate, and learning to use mediation and arbitration, if necessary.

At the Department of Justice, we have an Alternative Dispute Resolution initiative. I was amazed how difficult it was to get it passed. People said you don't want us to be trial lawyers. That's basically what we are. I said, you can't be a good negotiator if you're not a good trial lawyer. You have to be absolutely prepared as if you're going to trial to negotiate successfully. One is not exclusive of the other.

It took a while, but now it's catching on. We're teaching lawyers across the country in the Department of Justice how to negotiate, how to value the case, how to communicate, how to get to "yes" quickly and without wasting the taxpayer's money.

We have appointed a senior counsel who has developed a training program. We are working with United States Attorney offices across the country. I commend the process to all of us if we are going to go into this next century as peace keepers and problem solvers. Each of us, no matter whether Attorney General or first year law student, can benefit from enhanced training in negotiation and resolving disputes.

But we will still face dispute and conflict and sometimes hatred as a result of that dispute and conflict. And lawyers must renew their responsibilities by committing themselves once again to speak out against the hatred and the divisiveness that sometimes divides this nation.

In Billings, Montana, in 1993 some person defaced temples and threw rocks through the windows of a Jewish family's home. The entire community of Billings rose up and stood with their Jewish friends at the temple, stood guard at their home, put Hanukkah candles in their windows and stood up against the violence and the hatred that came with it. That type of bigotry was not seen again in Billings.

Haters are cowards. When you stand up they often back down. Lawyers have a special responsibility to stand up to the haters of the world and speak

out against that hatred and that bigotry. But there are others who are motivated not by hatred but by confusion and we as lawyers must speak out for the diversity that has made this law school and this university great, that has made this nation great.

My father came from Denmark to Racine, Wisconsin, when he was 12-years-old. He spoke not a word of English and people laughed at him about his funny clothes. He never forgot that. But he also never forgot that some teachers cared and four years later he was the editor of the high school newspaper and subsequently he was a reporter for the Miami Herald for 43 years and wrote beautiful English. It is imperative that we in the Department of Justice and our law schools, in everything that we do, reach out to appreciate the magnificence and diversity of this nation and let no one remain behind.

Another area is affirmative action. All of us at one time or another have been the beneficiary of affirmative action. The father calls the local prosecutor so his son can get a job. The goal of affirmative action in a law school is diversity to help achieve inclusion of all Americans in the process that we hold dear.

One of the great strengths of this law school, as I've already alluded, is its commitment to community, to reaching out and involving itself in the community. As I listened to the graduates and met leaders from the community today, it's like a hall of fame of Cleveland-Marshall Law School.

But it is imperative that lawyers involve themselves in the community. Some lawyers do it beautifully. Others say, well, I'm a lawyer and I'm too busy to get involved. We can be involved in our community. We can be involved in helping city managers and helping others structure systems that can make a difference. We can work with bankers to figure out better financing methods. We can volunteer in our schools. Each of us can make a difference in the community. We've got to figure out how we make our services available to everyone in the community so that they will truly feel they have access to justice for all.

I think one of the arenas in which we are less the problem solver and more the adversary, sometimes to the detriment of our clients, is in criminal justice. As a prosecutor, I have seen too many prosecutors who feel they've won their case when they get the conviction. They don't wait to see what happens. If he's sentenced to three years, they don't pay any attention to the fact he may be out in one because of overcrowded prisons or that he had a drug problem and he didn't get drug treatment in prison.

All of us as prosecutors and public defenders have a responsibility to solve the problem that caused the crime in the first place, whether it be in terms of the drug addiction that fueled the crime or whether it be in terms of lost opportunities to drop out, through inability to get a job. We have got to turn our attention as much to the problem as to the process that we have become so adept in using.

But it applies in other areas. Legal services lawyers will sue the city to improve public housing, but it won't help unless we work with the city to figure out how to finance the improvements that are so necessary. We have got to make very sure that the Constitution is not just a paper with written words on it. We have got to make sure that the Constitution is a living, breathing document with meaning. There are too many instances in which judges have had to issue injunctions requiring certain things whereas the person

responsible or the government responsible turns around and says, "but we don't have the money."

If we sit down and figure out how we make that injunction real, then we've really done our duty. If we sit down and figure out with public housing administrators for the public housing unit that we've sued how to reduce the vacancies, enhance the building, provide for preventive maintenance, save money and work together, we can do far more. But we have got to get to problem solving, not just the process of the law.

But as we focus on community, as we focus on problems and how to resolve them, as we focus on how we end conflict, we have got to remember that in Cleveland, or in my case Miami, or even the small towns that surround Cleveland, are in a different context in this world today with high speed transportation, with modern technology.

We now have situations where a man can sit in his kitchen in St. Petersburg, Russia, and steal from a bank in Cleveland. We have hackers who can cause problems around the world and we have people coming back and forth across our borders that bring to us the clear realization that crime has become international in its impact. Then we look at the environment and see what events halfway around the world can do to our environment. We look at the issues of migration and realize how locally they come in all their aspects. We look at customers and understand the nature of it in terms of its local impact. It is imperative that as we look at our communities, as we look at the law, we make sure that we adjust the law to the international world in which we live. It is important if you have a hacker in Argentina invading a computer system in this country that you have laws that will match—that will bring people to justice.

Now we have a strange situation where the hacker in Argentina can bust into a university system in this country and we can't do anything about it because the case—the matter is not a crime in Argentina. We have got to, if we're going to serve all our people, develop systems throughout the world that gives the law real clout in terms of its impact on us.

That leads me to technology. I met your web master. He said he got dressed up in a suit for me. And I was so impressed with him because he talked my language, or at least so I could understand it. It is important that we as lawyers make sure that we do not let technology control us, but that we ensure that the people, all the people control technology. And that is going to be a great challenge for us as we come to understand the language of cyberspace and the impact of cyberspace.

We have issues to confront in ensuring people's privacy while at the same time providing for protection against those that hack. I am convinced if we work together we can address this problem, but it is going to be imperative in these next ten years that lawyers devote their attention at every level of the issue to how we use these marvelous tools of cyber time, while at the same time ensuring the Constitutional protections and the privacy interests that we have always held so dear.

In the Department of Justice we have organized to try to address these issues. We need to do much more as I think the entire legal profession must do if we are truly to be problem solvers, if we are truly to reduce the conflict that besets

But none of this will be helpful unless we give access to justice to all Americans. The American Bar Association estimates that between 70 and 80 percent of the poor and the working poor in America do not have access to a lawyer or to the courts. As we watch a nation that has seen in the last 15 years more people fall into the class of poor and working poor, it becomes more imperative than ever that we focus our attention on how we construct a legal system that can make the law real for all Americans.

If there are sizeable segments of this population that cannot get to a lawyer, then for these people, the law is worth a little more than the paper it's written on. You may say, that's not my problem. But if you have an increasing number of people who feel they have no access to justice, no way to get into the door, they become angry and disenchanting and they are the people that turn against the law we hold dear.

How do we do it? I've already used the word *pro bono* and I got mad at myself for doing it because one of the things we've got to do is make sure lawyers volunteer their services. We've got to use words again that people understand and I've never tried to convince the average person what *pro bono* means when you can say, "here, I want to help." We can do so much.

But, again, I find frustrations. When I got to Washington there was no *pro bono* policy or offers to help in the Justice Department because people said, well, the federal government doesn't do that. Public service lawyers can't do that. Government lawyers can't do that. And I said, hogwash, we ought to be able to do this. It has been a very trying time working through the ethical procedures, addressing the issues, but it is possible to do it. We now have developed a *pro bono* initiative in which I announced a voluntary goal of 50 hours of community or legal services on the part of every lawyer in the Department of Justice per year.

We have reached out to other general counsel and to other agencies to expand it. Yes, it was difficult, but we went to the Washington, D.C. Bar to address issues of licensing, to address issues of waivers that would give them the authority to supervise Justice Department lawyers who might not be admitted to the Washington, D.C. Bar. Don't take no for an answer. It is possible to do public service and to still reach out and do more for the communities that you care about.

I suspect from my comments with many people earlier whom I've had a chance to meet that there are advocates here of the Legal Services Corporation. It is imperative that all of us as lawyers fight to maintain that great institution. It has done so much and can do far more. We must fight as hard as we can to maintain that institution.

I would challenge the Cleveland State University and the Cleveland-Marshall College of Law, particularly in their spirit of community, to consider another concept. If I walk into a public housing project today, there may be several lawyers volunteering from the community. But on the table will be welfare issues and what to do about welfare reform and what to do about the vacant lot and what to do about the automobile that has been stuck outside the vacant lot for a long time. And all these lawyers won't know a thing about it because they practice some other kind of law.

There will be on rare occasions a very shrewd person who will have been acting in the community, will be a community organizer and say this is what

you do about this, this is what you do about that. What about a degree? A four year degree of community advocate that would permit a person licensed by state law to serve an underserved community. That person would focus upon specific issues the community needs. I think it could be done.

I think you could have city officials working with the law school and Cleveland State University to design programs that help people understand the city's bureaucracy so they can cut through it on behalf of so many people who get stymied in it. But unless we give people access to the law, our agreements of what the law should be will never be realized.

Finally, the group of people most underserved in America by lawyers are our children. Our children come to have protection and they become involved in litigation when they get charged as delinquent or they are considered dependent. The vast number of children at risk in our nation, children who are out there and who have not yet been brought into the system because of crisis, have no voice and no access to the law. How to give them that requires creativity on the part of so many lawyers. But, again, if you focus on community in terms of building community and reweaving the fabric of community around children in the family at risk, we can make a difference.

I started off by talking about problem solving. As I come back to it, I think the great problem this nation faces is too often for too long we have forgotten and neglected our children. And we see too many children at risk today. As lawyers, we are intent upon problem solving. We must join with doctors, with school teachers, with other professionals to develop an agenda for children that can provide protection, that can focus on the problem of domestic violence so children are brought into the world in a nonviolent world, that can focus on parenting skills, that can focus on how we provide preventive health care for children.

Something is wrong with a nation when it pays its football players in six digit figures and pays school teachers what we pay them. Something is wrong with a nation that says to a 70-year-old person you can have an operation that extends your life expectancy by three years then turns to the child of a working poor person and says, sorry, you make too much money to be eligible for Medicaid and you don't have health insurance and you can't get preventive medicine here.

We have to develop a system that provides sound, safe education for children in the early years. We've got to strengthen our teachers in the public schools so they have time to teach and are free of bureaucracy, so they challenge our young people. We have to be creative and bold and suggest that if the hours of 8:30 to 3 are so important then what are we going to do about our children who are on the streets from 3 to 7 before the parents get home from work. We're going to have to make sure we focus on truancy prevention and that we teach our children how to resolve conflicts without knives and guns and fists.

I've been Attorney General for a little over three and one-half years. Some of these problems sound daunting, but I have watched lawyers at work in their communities across this nation. I have watched other Americans at work and never, ever have I believed so profoundly and so deeply in our ability to solve a problem as I've watched people come together to use the law to do what's right.

In this next century of the Cleveland-Marshall law school I know you will lead the way in doing what's right.

