



UNITED STATES DEPARTMENT OF JUSTICE

REMARKS OF ATTORNEY GENERAL

Monday, September 25, 2000

Convocation Ceremony

Pace Law School

78 North Broadway

White Plains New York

REMARKS BY ATTORNEY GENERAL

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This is a great honor for me, because I had, just a moment ago, the opportunity to talk with some members of the Class of 2000 and to remember how exciting law school is. It is a great privilege. I hope to do justice to the confidence that you exhibit in awarding me this honorary degree.

And to the platform guests, to Chief Judge Kay (phonetic), to the faculty, but especially to the students, it's wonderful to be here today, because it was 40 years ago this month that I went to law school. I was scared. I wondered what I had gotten myself into. In those days, they said, "Look to the right of you, look to the left of you. One of you won't be here next year." (Laughter.)

The dean asked us what the 16 women out of the class of 540 were going to do with their law school education. I did have the chance to tell him before he died what I had done. But Dean Griswold (phonetic) was very special. And to the dean and to the faculty, just know how you have touched the lives of students and how you will touch the lives of students for the future -- not just here at Pace, but as Dean Griswold did on so many occasions when he would check with me to make sure that things were going well, long before I ever thought that I would come to Washington. I

never dreamed that I would have the 40 years experience that I have had in the law, that it would be such a wonderful profession, a profession that could help shape America. Never did I dream that I would have the extraordinary opportunity to try to use the law the right way to make America safer, freer, and healthier. To the students, I urge on you one piece of advice that I give respectfully.

Don't ever do anything you don't enjoy doing.

The law is too wonderful, and life is too short, and there are too many things to do to do things that you don't want to do.

But then figure out how you use the law, and figure out how you, in some small measure or in large measure, can contribute to public service.

What can you do, either part-time or full-time, to make a difference with the law?

As you do it, think of the law in four ways: the lawyer as the advocate and as the defender; the lawyer as the problem solver and the peacemaker.

Traditionally, the lawyer has been thought more often as the deal-maker or the advocate or defender, and I take not a thing away from those functions.

For as long as I live I will remember a case in which I was asked by the Governor of Florida to reinvestigate the case of a man who had been prosecuted, convicted, and sentenced to death for the poisoning death of his seven children, 22 years before. He had spent 21 years in prison for a crime he claimed he did not commit.

The Supreme Court had set aside the death penalty in 1972, but he had been in prison for all that time.

I watched him go free because of what we had done in terms of exposing the lack of evidence sufficient to convict him.

For as long as I live, I will remember that man walking out of that courthouse free for the first time in 22 years.

And never has the law meant what it did to me that afternoon.

But then there have been other moments where the law has been, for me, a problem solver.

And I watched --after I had come down an old dirt road in South Carolina, passed an old oak tree that stood where a church had burnt out; the president of the United States and I came to dedicate a new church to replace the one razed by arson -- as we came down from the platform, a lady burst through the rope line and said, "Janet, how are you?

I haven't seen you since hurricane Andrew, and Drew (phonetic) drove me up here. You got me child support in Miami, and I've always been grateful.

And these are the two children you got child support for."

(Laughter.)And two fine young men greeted me, and they made you realize that all the functions of the law are important.

But I would like to talk to you about the problem solver and the peacemaker, because I don't think enough attention is given by any of us to solving people's problems in a real way and in a permanent way. Let me give you an example of what I'm talking about. When we deal with an angry young man who has an assault and battery charge and is charged with possession of drugs, the police officer too often thinks he's won the victory by making the arrest and presenting a strong case to the prosecutor only to ignore the impact on the siblings of the young man who rely on the young man for financial support and become adrift and unsupervised. The prosecutor too often thinks that she's won a victory when she gets that person convicted only to ignore the fact that there are not enough prison cells to house him or anybody else through the length of time the

judges are sentencing them and that there are not enough treatment programs to do something about the problem that got him it into the jail in the first place.

The public defender thinks he's won the case when he gets his client off on a motion to dismiss, oftentimes watching as he walks out of the courtroom in the grip of an addiction to crack that is far more of a prison than the prison he has avoided. The judge too often thinks that he's done his job well if he presides over a fair trial and ensures the law was properly applied to the facts of the case only to miss the bigger picture that the community is the context for the crime. Why not really solve the problem? Why don't police and prosecutors and public defenders and judges and all those associated with a community solve the problem so we don't have to see people recycled through the system again and again?

Chief Judge Kay, who is here today, who I think is probably the best problem solver I know and the best example of a public servant that I know, is a wonderful proponent of common-sense problem-solving approaches to justice, and she recently delivered some very wise words. She said, "We're recycling the same people through the system, and things get worse. We know from experience that a drug possession or an assault today could be something considerably worse tomorrow." She's right.

And a tribal leader stood in Austin Hall (phonetic) at Harvard Law School, and pointed his finger at me and said, "You all in the common law tradition just call it one way or the other -- guilt or innocence, black or white. You don't deal with the gray areas of human existence. You don't try to solve the problem that caused the crime in the first place." We can learn much from our Native American friends. But we are learning. In the last eight years, crime has gone down to historic lows eight years in a row. I don't claim credit for it, but I think what's happened is that America has learned how to approach the problem of crime from a problem-solving perspective, and I see it, that function, in action across American.

Let me give you what I think are the ingredients of good

problem solving on the part of lawyers, judges, and others who participate in the criminal justice system or, indeed, in our justice system. First of all, and one ingredient that people too often don't put into the mix, listen to the people who are your clients, listen to the people who are your constituency, listen to the people whom you serve, and listen with a listening ear. They have so much to tell you. And you say, "Why should I listen to them? I went to law school. I have a degree in such and such. I know best." There is, on the wall of the justice building, on the 9th Street side, an inscription that says, "The common law is the will of mankind issuing from the life of the people, framed through mutual confidences, and sanctioned by the light of reason." Unless the people feel that they have an investment and an involvement in the law, the law will not, in the long range and the long run, work. People have to be involved. That old lady has to feel safe enough to walk out from behind the bar doors of her apartment down to the community center to give the police officer a few pieces of wise words and a piece of her mind. She's got to be involved in the community for her to believe in the law and in justice in America.

If people are left out, they become angry, they become alienated, and they do not serve to be part of democracy.

One of the great experiences that I have had as attorney general is to welcome ministers of justice, prime ministers, and other leaders from emerging democracies to the justice building.

They come with stars in their eyes.

They're so excited.

They want to know how to build institutions.

They want to know how to engage in the administration of justice.

And you realize that democracy and, most particularly, the judicial branch of our democracies around the world, is a

very fragile, very precious institution and institutions.
We too often take it for granted.

When you watch these people trying to build a judiciary, you stand in awe of our judiciary, both federal and state, but it requires a constant vigilance. It requires that judiciary and that government deal with the real world.

The old lady wants to get out and in her community, and she wants to be involved.

We've got to listen to her and make her community safe enough to do it, but we've got to listen to her to find out how to make the community safe enough to do it.

For the lady who has two children who lives in an apartment where the toilet from above is falling into the kitchen below and nobody will do anything to change it and she can't afford to go to the court or go to a lawyer, we've got to solve her problem in a system that permits the solution of problems so that she will have confidence in her government, in her courts, and believe in her democracy.

The second ingredient is that it must be comprehensive. The criminal justice system, for example, is not prevention and it's not punishment, solely, on either side.

It is both.

It is not intervention alone or aftercare alone.

It is both.

It is fighting crime from zero to three when a child is born and child learns what conscience, punishment, and reward mean.

It is fighting crime by developing after-school programs that provide for mentoring and supervision of our children.

It is educational system that puts teachers first, rather

than football players, and starts doing something about salaries for teachers that attracts the very best into teaching our children from the beginning.

Secondly, let's just consider domestic violence.

We can approach it from the point of view of processing a case through the courts.

With your marvelous clinic here, you're doing so much to look beyond that, to look beyond the number of cases processed.

We have got to start early.

And pediatricians' offices, doctors' offices, should have material on domestic violence -- on where to go, what to do if you're a victim of domestic violence.

Doctors -- every doctor should be trained in how you identify it early on and make appropriate referrals. We have got to look at how we deal with it in particular communities.

Reaching out to immigrants who say, "But it's a fact of life in my world, and it is accepted." It is not accepted, and we have to start very early, because if our children observe it and we do nothing about it and fail to intervene in their lives, they're going to come to accept violence as a way of life for the rest of their life. It must be comprehensive. We must consider all parts of the problem and how they interact rather than focusing the narrow -- in the narrow perspective on just one isolated part.

The third ingredient for good problem solving is collaboration. The schools of higher education of this nation have too often sent us down little pig trails -- the little pig trail of the law, the little pig trail of public health, the little pig trail of medicine. If you can tell me that lawyers can solve all the problems by themselves, I'll listen, but you're going to have to convince me. We have got to form new alliances -- of lawyers and public-health

specialists, of social workers and teachers, of police officers and businessmen, of preachers and pastors and poets -- to make a difference and to teach America how to solve problems as a collective whole. We can do so much if we do it together.

Now, problem solving must also be driven by the fourth ingredient, a very, very valuable ingredient for lawyers: facts and information. The criminal justice system for too long reacted just to a lead. A police officer would get a tip from a confidential informant that would lead him on an interesting path, and he would end up with the Number 10 drug organization down from the big organization, Number 1. With computers and databases, we now have the opportunity to collect information as we never have before, to understand patterns and trends, and we can make such a difference if we use that information the right way. The fact that problem solvers are collaborative, information driven, and comprehensive allows problem solvers to be strategic, and it means we can try to effect a real-world solution. Rather than saying that Janet Reno, as state attorney in Miami, processed 30,000 cases, we can say Janet Reno did this that reduced crime by so much. But it shouldn't be one person's credit. It should be a community and a nation's credit. And we can achieve this if we start believing in our capacity to make a difference.

Finally, Dean, there's another ingredient to problem solving, an ingredient that lawyers too often don't have -- two ingredients. One, how to finance things in a cost-effective manner and, two, how to manage things in a sensitive and informed manner. Now, first of all in problem solving, I want to suggest to you that money is not always the answer, and the lack of money is not always an excuse. It is amazing what you can do if you've got your money hat on, have the inventory of resources in the community assessed, and you figure out what you can do by eliminating duplication, by providing early intervention so you save people revolving back through the system again and again, what you can do if you work with people to bring communities together as a glue and bring resources together that never existed before.

I have urged the Dean to establish a course at Pace in appropriations law because most lawyers don't know anything about the appropriations process, and that's where most of the work of the legislature and the congress gets done. You've got to understand that if you're going to be a good problem solver. You've got to understand how you're going to make a lawsuit real. How many of you have watched somebody sue, get a judgment, and have that judgment be absolutely worthless? That's not solving a problem. You sue a housing authority and you want them to fix up the housing, and they turn to you say, "But we don't have any money." The good lawyer's going to say, "Your Honor, they have money by doing this, this, this, and this. And if they make an investment, they can lower their vacancy rate, they can put more money into infrastructure improvement, they can build a better client base, they can develop better customer-friendly services, and they can begin to be self-sufficient again." But that's going to take management skills. And, as I said, what lawyers are very good at -- I've discovered since I've operated under their regulations and their rules -- is that they're very good at providing regulations that affect managers. And then you put a lawyer in the management position, and they say, "How did we get this? What did we do with this?" We've got to learn how to be managers if we're going to be good problem solvers.

But let me be clear, problem solving does not mean we abandon the law as we know it. We must always work to improve and enforce the rule of law, but the rule of law, and law and its institutions and its practitioners, cannot function isolated from the everyday experience of the people. The lawyer must serve the people and solve their problems rather than just winning cases. The lawyers must be problem solvers and peacemakers. We must use the law the right way to look at the whole picture of a human life in community and make reasoned judgments on how to proceed. That leads me to one of the best arenas for problem solving that exists now, and that is the courts of this country. One of the people that has been most adept at using the courts and showing this nation what courts can do is Chief Judge Kay and her colleagues. Her colleagues are powerful forces behind her, and you present a tremendous team.

All you have to do is go to the Midtown Community Court in Manhattan. It is a remarkable story. You walk out of there with such spirit, with a greater faith in human beings and their capacity to recover and their capacity to contribute if given only half a chance. It takes an aggressive problem-solving approach to neighborhood issues and neighborhood crime. The court draws upon neighborhood resources and partners to develop a broad menu of constructive responses to low-level crime: painting over graffiti, sweeping the streets, stuffing envelopes for local nonprofits in the neighborhood they have harmed.

In addition, the court provides a variety of social services on site. All of this is such common sense, and it is working. The Redhook Justice Center (phonetic) is taking a comprehensive approach to crime delinquency, family violence, and housing problems, another project of the New York courts -- again, an exciting project, one that can make a difference. Now, some of you will say, "But what can I, as one person, do?" We had a problem in Dade County in 1988. We had these large number of offenders charged with possession of a small amount of cocaine -- first offenders. And all that they were getting was credit time served. No treatment, no prison, no jail, just -- you were there, you got booked, and you're off on your own. And they were rotating happily through the system, getting worse as they went. We developed a drug court that was small enough in caseload, had resources sufficient to begin to deal with the people's problems. We control the caseload. We required testing. We operated on a carrot-and-stick approach that said, "Work with us. We'll get you into job training, placement, we will support you as you leave the system.

But if you fail and come in and test positive, you're going to face a more serious sanction every step of the way." But we did more than that. We had it evaluated to see if it was really working. Was it making a difference? And it was. Recidivism was significantly reduced. What do we do? Suddenly we found that people were writing about it, and people were coming to visit to understand how the drug court worked. There are now 508 drug courts in the country. And I went back for the tenth anniversary in Miami. From the five people who had originally founded the first drug

court, there were now over a thousand in the room. Each one of you can solve problems and make a difference, but the whole concept has created something that is important for this nation. The courts of this nation have been totally overwhelmed in the last 30 years. As institutions of the family, the neighborhood, and the schools failed, this court saw an onslaught of cases. Without resources, without sufficient judiciary to manage these cases, the credibility of the courts was eroded. But when you watch something like the drug court, when you watch the new and innovative solutions, Redhook and otherwise, you see what can be done by a judiciary to give people an acceptance in the system, to give people access to the system, most of all, ladies and gentlemen, to enable people to believe in the system. You have no idea what it's like when somebody walks out of the courthouse with a problem solved. They think, "It's almost a miracle. How did it work out? How did I do that?" Compared to the person who often walked out just frustrated, angry, and upset at a court that did not know their name, did not know their background, and treated them like a number. A man stopped me once and said, "Thank you fo arresting me." I said, "Sir, I didn't arrest you." "Yeah, that's right," said he, "but you got into drug treatment, and you gave me a chance. I had lost my family. I had lost my job. I had hit rock bottom. You gave me a chance. I've had my job back for two years. I have my family back. I've been drug-free for two years. Thank you." Those are the things that lawyers and judges who love the law and love problem solving in the law will always remember. But there is more to be doing.

Let's look at what the drug court track record is. More than 210,000 individuals have enrolled in drug court in this nation. More than 22 states have enacted legislation. More than 57,000 people have graduated from drug courts. More than a thousand babies have been born drug-free to drug-court participants who otherwise would have been born to substance abuse. More than 3,500 parents have been able to regain custody of their children as a result of their drug-court participation. More than 4,500 parents have become current in child support payments as a result of drug-court participation. These are real results, not just cases processed through the system, but lives that have a

chance to make a difference in the world.

The most critical person in the whole problem solving equation is, I think, the judge. And you should think about how you train judges. I don't know whether you train them. I don't know whether it's possible because sometimes the person just knows how to do it, but a great judge is an extraordinary person -- the one who understands substance abuse enough, understands mental illness, appreciates the human spirit, and knows when to give a person a pat on the back and when to give them a figurative kick to get them moving again.

It is a delicate balance, but I think we can teach people, more than we have, how to be great judges. And I think if we provide the judge with the resources to make appropriate referrals, if we give them caseloads that will permit them to listen to people, if we give them the information and databases necessary to understand their community and understand the trends, we can make such an extraordinary difference.

For eight years now, I have had the chance to cross-cross this nation and to see lawyers in action, to see judges in action. Ladies and gentlemen, never have I been so proud to be a lawyer as after these eight years. The law is a wonderful institution. Justice is something that is mighty and marvelous and too often not within our reach. None of these efforts will work unless we realize and understand a new day in America in which everyone has access to justice. Even the smallest and the lowest who cannot afford justice must have access of this democracy is to reach its full potential. All America must feel that they have a chance, if they've messed up, to start off on a new, fresh foot. We have an obligation to the some 500,000 people who will come out of prisons and jails in America each year for the next four or five years to give them a fresh good, positive start; to have their civil rights restore if they have paid their duty to society by serving their

time; to a community that gives them support rather than suspects them of being the recidivists. We can do this by re-entry courts that provide for supervision of a person

coming out of prison with a judge who is responsive, who understands what it's like to be returning to the community, who has resources and structure that will give that re-entry participant a chance to get off on the right foot under the carrot-and-stick approach of, "Work with us and we'll work with you and give you a good supporting foundation as you return; or, if you choose not to, you can face a more serious sanction every step of the way."

Let us use it for juvenile delinquency court. The juvenile court judge is oftentimes a little lower than the angels. To try to deal with the horrors that some children are born into in this world, and to give these children a future, to be mother, father, teacher, community, all at the same -- is one of the hardest jobs in the world; but if we can train people as to the resources needed, as to the best programs, as to how to handle particular aspects of it; if we give them caseloads that they can manage, we can make the courts a powerful, great, and wonderful force in this nation. They contribute so much now. They can be the glue that brings us together. They can be the sword that protects us. They can be the things we dream of with justice. About January 20th, I'm going to go home to Miami, and I'm going to get in my red truck -- (laughter.) -- and I'm going to start out across America to see the places and to climb the mountains that I didn't get a chance to climb because I had to go back to Washington and to talk with the wonderful people of America because I didn't have a chance to talk to them long enough because I had to catch a plane.

I hope I'll come this way, or wherever you're practicing law on sitting on the bench. You have done me a great and single honor today, and I hope I can do you justice. Thank you very much.

(Applause.)

(Conclusion of remarks.)