

Memphis Rotary Club
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Keynote Remarks as Prepared

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It's an honor to be here in Memphis continuing a long tradition of ABA presidents addressing you. This morning I met Governor (Phil) Bredesen and Mayor Wharton, and I've visited a wonderful program here in Memphis devoted to the protection and care of your city's foster care youth. My remarks will cover young people at risk.

I'd like to start with some thoughts on the legal profession itself, and the mission of justice we pursue.

The philosopher John Rawls said that "Justice is the first virtue of social institutions . . ." ¹

- He might have added: The balance of opposing forces is critical to the concept of justice.
- We see the statue of justice so often that we forget she holds scales.

Today, I want to talk to you about the many ways in which we in the legal profession try to balance competing interests and beliefs, and to work for justice.

These concepts sometimes seem abstract, but they have a profound impact today, as we continue to feel the ripple effects of September 11, and the quandaries of fighting terrorists who have no respect for justice.

We are being asked as a society to decide old questions in new ways:

- Where is the line between the individual and the government properly drawn?
- Where is the trade-off between freedom and security appropriately balanced?
- And how do we protect our values and our ideals, as we do everything we can to prevent threats

¹ John Rawls, A THEORY OF JUSTICE (revised ed. Oxford 1999) at 3.

to our safety?

In the last two weeks, we received a fresh reminder of these tensions, and what's at stake for us all.

- A senior Pentagon official, Charles D. Stimson, cited a list of law firms whose lawyers provided volunteer representation to detainees in Guantanamo.
- He publicly urged large corporations to stop doing business with these law firms.

Stimson's comments were met with almost universal rejection, including the Defense Department, the attorney general and the White House. The press has woodshedded him and Stimson apologized last week, in a letter to the Washington Post. It was appropriate that he apologize, even if the sincerity of his words is questionable.

- This incident was unfortunate, yet it's a wonderful teaching opportunity. Lawyers represent people in criminal cases to fulfill a core American value: the treatment of all people equally before the law. The American Bar Association supports lawyers who give of their time and expertise defending those involved in legal actions.
- It reminds us that in our system, every accused person deserves legal representation.
- No matter who they are or what they are accused of doing, in America, we just don't lock people away without giving their case a fair review.

This ideal protects not just individuals, but society itself.

- By making the legal system accountable, we work to ensure that no one is imprisoned by mistake.

I would actually say this ideal is one of our nation's greatest attributes.

- Dictatorships, and the terrorists we are fighting, have no qualms about locking up or even killing the innocent. We do.

Where do lawyers fit in, in protecting this ideal?

- A vigorous defense is what keeps the legal system accountable.

- It's a vital part of the balance that insures justice.

This ideal is so important that all lawyers are called on to provide a certain portion of their time at no charge, to work for those who cannot afford representation.

- The ABA has a pro bono standard, that calls on lawyers to provide at least 50 hours of free legal services to those in need.
- These lawyers representing the Guantanamo detainees all were working as volunteers, in the best tradition of the legal profession.
- Americans overwhelmingly saw that it was wrong to threaten law firms whose lawyers defend detainees.

This same need to protect our Nation's principles of justice is at the heart of the American Bar Association's policies in the fight against terrorism.

It is why the ABA has argued that electronic surveillance against suspected terrorists should be reviewed, on a case-by-case basis, by courts that specialize in national security law.

- The government certainly has the right to eavesdrop for national security reasons.
- But the checks and balances that come from case-by-case court review make sure that this awesome power of government, to listen in on private conversations, is exercised responsibly.

That is the enduring lesson of the debate over Charles Stimson's remarks.

- We are strong enough as a nation to insist that every accused has his day in court, even a person accused of terrorism.
- We are strong enough, even when facing threats and challenges, to strike a balance, between security and justice.

We have made many changes—and will make many more—to adapt to new dangers. But we must not give up our basic values.

An open and free society is our greatest strength; we should not now view it as a weakness.

MEMPHIS/YOUTH AT RISK

As important as the tradition of ABA Presidents coming to the Memphis Rotary Club is, this year has special importance.

The Rotary's projects like:

- the PREP School Program
- Award for Teacher Excellence,
- Rotary Reader
- the adoption of a new elementary school

all reflect your dedication to the youth of this community! And the ABA is right there with you.

In the past year, the ABA established a new Commission on Youth at Risk, which is focused on legal and other issues that threaten our next generation.

The youth of America are our future. They are our most precious asset.

- Many young people are facing problems that are wider, deeper and more complex than ever before.
- These problems put many young people in danger of sliding into the juvenile justice, or even the criminal justice system.

The ABA Youth at Risk Commission has focused on three main areas:

- juvenile status offenders—that is, youngsters who run away, skip school, or are uncontrollable by their parents: the kinds of activities that wouldn't be crimes as adults but are warning signs of deeper trouble;
- foster children who need help as they “age out” of the social system;
- and the growing numbers of girls entering the juvenile justice system.

In Denver, my hometown, Memphis, and most American cities, we have all of these problems, but here in Memphis you also have some outstanding programs and efforts to help our young.

I've just come from Youth Villages, which for 20 years has helped thousands of troubled youngsters.

- Governor Bredeesen spoke of his new program to pair adult mentors with teenage children in foster care, to help guide them as they make their own transition to adulthood.
- Memphis's Day Foundation announced today that is donating \$1 million to this effort.

The American Bar Association and the Tennessee Bar Association also are supporting Governor Bredeesen's initiative by reaching out to our members, calling on them to volunteer as mentors to these foster youths.

Why is this kind of adult support for foster children so important?

- There were 532,000 children in foster care in September 2002, which is the latest available statistic.
- Like most children, foster kids aren't ready for full adulthood at age 18, but courts treat them as if they are.
- In most states, foster children are cut off from social services or housing assistance the moment they turn 18.
- They are like instant orphans.

This is commonly known as "aging out," or as the "18-and-out" syndrome, and the results can be horrendous. The "18-and-out" system exposes foster children to homelessness, prostitution, early pregnancy, petty crime, and violence.

According to a 2003 study of 659 adult foster-care "alumni" in Oregon and Washington state, who were ages 18 to 24,

- 22.2 percent had been homeless at some time;
- 17 percent were on welfare at the time of the study;
- 33 percent lived at or below poverty level.
- Even more disturbingly, 54 percent had a mental disorder, and 25.2 percent suffered post-traumatic stress disorder—a rate nearly double that of U.S. war veterans.

The American Bar Association has urged that courts oversee services to foster children until age 21.

- Only half of all states have such laws, and many don't enforce them.
- TN-

It's vitally important to help these young people build functioning support systems as they become adults.

- The work of Youth Villages, and Governor Bredesen's mentoring program, help make these connections.
- These efforts help young people who are in foster care, not because they failed, but because their family systems did.

I also will be visiting the Truancy Assessment Center before I leave Memphis. This program brings different agencies together to keep youngsters in school.

Truancy is one of the most devastating examples of juvenile status offenses. It is closely tied with dropping out, and is linked to higher rates of delinquency and criminal behavior.

In 2004, 400,000 young people were arrested for juvenile status offenses, including chronic truancy, running away, uncontrollable behavior and possession of alcohol.

Unfortunately, status offenders live in the twilight world of our juvenile system—

- they're not a perfect fit for our child welfare system, which protects children from abuse, abandonment and neglect;
- or for our juvenile justice system, which addresses youngsters charged with criminal behavior.
- Many states and localities struggle to respond appropriately and effectively.

The ABA is working with the U.S. Department of Justice and the Department of Health and Human Services to develop new and more effective models.

- Models that work with whole families and not just individual offenders, to keep these youngsters out of the criminal system.

Just last week, we collaborated on a video conference broadcast to thousands of specialists around the country.

• This was the first major national examination of status offense policies in more than 30 years. This is one example of how lawyers have a unique perspective and can play a special role in better helping young people.

- Lawyers come in contact with young people every day.
- We can help connect the dots, by bringing together the many passionate and dedicated specialists who work with youth.
- The ABA has sponsored a number of community round table discussions for youth specialists in American cities.
- We are holding one tomorrow morning at the University of Memphis Law School.
- One of my most gratifying experiences has been seeing the energy that seizes these rooms when people who are natural partners in helping young people, but who often work apart, get together at these roundtables.

CLOSING

Thank you very much, and I'm happy to take any questions.