



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Speeches

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A GOVERNMENT'S ROLE IN THE PURSUIT OF JUSTICE

ADDRESS OF CORPORATION COUNSEL MICHAEL A. CARDOZO FOR THE SAMUEL AND ANNA JACOBS FOUNDATION LECTURE ON LAW AND THE LEGAL PROFESSION, JOHN JAY COLLEGE LAW DAY

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Introduction

Thank you Jeremy [Travis, President of John Jay College of Criminal Justice] for that most generous introduction. I am truly honored to have the opportunity to speak to you all today. Based on my visit here a few weeks ago, and after spending some time learning more about John Jay College, and particularly its Pre Law Institute, I've become very excited and energized about what's happening in this great institution.

I want to thank Jeremy not only for inviting me to participate in today's events, but also for what he's done over the past six years to support motivated, ambitious students who are interested in attending law school and pursuing a legal career. Seeing what the Pre Law Institute is doing for its students and alumni, and in turn, what they are doing for their communities, is very, very impressive. I know you're doing something right because my Office is a direct beneficiary of the Pre Law Institute's efforts. We have the pleasure of having several fantastic John Jay students and alumni working for us, some of whom provided me with helpful advice for my remarks today, and I hope we see even more of you in the future.

I also want to congratulate Seny Taveras, your Alumni Honoree and, someone, I'm pleased to note, who like me is working in New York City government

Consistent with the Pre Law Institute's efforts to help you decide whether law school is the right place for you, and to give you the tools to prepare for the road ahead if that answer is yes, I want to talk to you today about some of the exciting and rewarding things people can do with a law degree, and the opportunities that the legal profession provides, especially in the public sector.

But I would be doing you a disservice if I didn't also address some of the very real challenges and obstacles you have to be willing to face if you decide to pursue a legal career.

Personal Journey

Let me begin by telling you a little about myself and my own pursuit of justice.

When I was a young lawyer working for what was then considered a large private law firm—60 lawyers—in New York City, I was asked to serve as counsel to a Task Force to improve the way judges in New York were chosen. The head of that Task Force was Cyrus Vance, the father of the present District Attorney who delivered this lecture here last year. Also on that Task Force were two relatively junior lawyers, an assistant professor from Columbia Law School and a lawyer with a small practice in Brooklyn. In my role as Task Force counsel I had the opportunity to work with and get to know Vance, who went on to become U.S. Secretary of State, as well as those two young lawyers, whose names were Ruth Bader Ginsburg, now a justice on the United States Supreme Court, and Mario Cuomo, who later became Governor and who is the father of our current Governor. It is my sincere belief that had I not accepted the appointment as counsel to the Task Force so many years ago, I would not be Corporation Counsel today.

My involvement in that Task Force gave me a first hand introduction to the role of lawyers and judges in safeguarding justice. Something resonated with me when Vance asked me to join the Task Force; the sense that working on issues affecting the judiciary was a way for me to more directly promote the rule of law, which I believe to be the very essence of the greatness of this country.

I practiced law for 35 years at the firm I joined after law school. Like most junior lawyers at the time, I was given a high level of responsibility early on. This included working with another junior lawyer named David Stern to defend what was then a small sports league known as the National Basketball Association. The case we worked on together, known as *Oscar Robertson v. National Basketball Association*, was one of the first major sports lawsuits ever brought.

Needless to say, working on that case, arguing motions concerning it in courts across the country, and taking the depositions of famous basketball players was a memorable experience, and provided Stern and me with extraordinary legal training. The case also played a role in shaping our careers—Stern eventually became, and still is, the Commissioner of the NBA, and I went on to develop a specialty in sports law, serving as the principal outside lawyer for the NBA, the NHL, Major League Soccer, and other sports interests.

Private practice also gave me a chance to have a significant role, albeit from the outside, in public policy issues. In addition to working on the Task Force, in the late 1990s I was fortunate enough to be elected president of the 22,000-member New York City Bar Association, whose mission is to improve the law.

And in 2001, shortly after 9/11, when then Mayor-Elect Bloomberg called to ask me to serve as his Corporation Counsel—serving as the chief lawyer for New York City and running the City's own law firm—I jumped at the opportunity. Yes, representing the NBA and the NHL was exciting. But having the opportunity to do justice, and to help the City that I was born in and that I love, was too good an opportunity to pass up.

The Law Department

Serving as Corporation Counsel has brought home to me how much lawyers can make a difference in this world, and how rewarding public service can be. I want to illustrate this by

talking about some of the exciting things the 650 lawyers in my Office have done over the last 10 years. This work also highlights how difficult achieving justice and the right result can be.

Public Safety

I will begin with some of our public safety work, which presents extraordinarily difficult legal and policy questions, particularly in this post-9/11 age. For example, how do we protect essential rights like freedom of speech and freedom from arrests without probable cause, while also guarding against terrorism? The recent controversies over the Police Department's stop and frisk policies, and its monitoring of certain groups, are the latest examples of this challenge.

Less controversial, at least in New York, but no less urgent, relates to the City's efforts to crack down on illegal gun sales. Most of the homicides in this City result from guns that have been brought here illegally from other states. In order to stop what has been called this "Iron Pipeline," we set up a sting operation. Undercover agents wearing New York Yankee baseball caps, with cameras hidden inside, captured on videotape illegal gun sales in five different states. Armed with that videotape evidence, Law Department lawyers sued in Brooklyn federal court more than 20 gun dealers from Georgia, South Carolina, Virginia, Ohio, and Pennsylvania. Faced with the overwhelming evidence against them, most of those gun dealers entered into settlements, agreeing to have their sales monitored to ensure future compliance with the law. The result? Illegal gun traffic into New York from the areas in which these stores were located, and with it the resulting homicides, was sharply reduced.

Another recent example of my Office's public safety efforts relates to juvenile delinquency, since it is the Corporation Counsel, not the District Attorney, who prosecutes children under the age of 16. For example, lawyers in my Office recently prosecuted the highly publicized shopping cart case involving two 12-year-old boys who threw a shopping cart from a building, critically injuring a woman below. The sentences that were handed down a few weeks ago, and the case as a whole, highlight the important role that these lawyers play, not only in protecting the public and vindicating the victim, but also in rehabilitating the youth who commit these crimes so they can become contributing members of society.

Economic Development

A completely different—but equally vital—part of ensuring the City's well-being involves economic development. Many of the lawyers in my Office have handled projects that will improve New Yorkers' quality of life for decades to come. For example, they've handled the legal work for the City's major redevelopment projects, including the High Line, the new stadiums for the Yankees and the Mets, and the redevelopment of Times Square, the World Trade Center site, and Brooklyn Bridge Park.

Public Health

Lawyers in my Office have also had a major impact on public health.

As a result of a law drafted by Corporation Counsel lawyers and passed by the City Council in 2002 at Mayor Bloomberg's urging, smoking in virtually every indoor public area in New York City is prohibited. Just two years after the law passed, the number of New Yorkers who smoke dropped by about 200,000, preventing an estimated 60,000 premature deaths. The City's adult smoking rate is now at an all-time low of 14 percent compared to 22 percent before the law was enacted. Our efforts to reduce smoking have also involved bringing lawsuits against the illegal sale of cigarettes on Native American Indian reservations and on the Internet, with one case

reaching all the way to the United States Supreme Court. In another suit, we successfully defended the City's ban on flavored tobacco, which is often targeted to children.

Also in the health area, lawyers in my Office have helped protect our City's water supply. For example, when ExxonMobil put an additive in its gasoline that leaked into the ground from gas stations and polluted drinking water in Queens, we sued. The result was a \$105 million jury verdict against ExxonMobil for clean-up costs.

Civil Rights

Civil rights is another area where lawyers play an essential role. You all know about freedom of religion and the separation of church and state. Well if a public elementary school is not being used on a Sunday, should a church group be allowed to have worship services in it? Would the government—here, the public school—be seen as “establishing” or endorsing religion if it allowed the services? If it didn't, would it be prohibiting “freedom” of religion? My Office is currently litigating a First Amendment case that tackles these very questions.

The numerous legal issues stemming from the Occupy Wall Street protests and the use of Zuccotti Park, issues that are again in the news in light of this past week's protests, offer still further examples of civil rights issues my Office handles.

What's Great About Being a Lawyer

What I've talked about thus far illustrates a few points.

First, working as a lawyer can provide you with incredible opportunities. And if you're willing to work hard and take advantage of them, those opportunities can sometimes inspire you to change the course of your professional career.

Second, a law degree offers you the means to make major changes, as well as do every day good work. Landmark lawsuits have changed our society—to name just a few, *Brown v. Board of Education*, which ended the terrible legacy of “separate but equal”; *Gideon v. Wainwright*, which guaranteed counsel for criminal defendants who couldn't afford to hire lawyers; and *Loving v. Virginia*, which struck down laws prohibiting interracial marriage. We also know about many lawyers who went on to become leaders and trailblazers—like Thurgood Marshall, Sonia Sotomayor, Barack Obama, and John Jay, the namesake of this great school—but there are literally thousands of others attorneys who, even if not famous, have made meaningful contributions to their communities. Think for example of the impact the lawyers in my Office have had who worked on the matters I just cited. They reduced the flow of illegal guns, they saved the lives of thousands of people who would otherwise smoke, they protected the safety of New York's drinking water, and they helped to develop projects that will last for decades, like Yankee Stadium and Brooklyn Bridge Park.

Third, as I hope the matters I just mentioned reflect, the law is an unending source of exciting, challenging problems to solve, problems that don't necessarily have clear answers. Let me give you another recent real-life example of the challenging issues a City lawyer faces. Imagine there's a privately owned park that's also a public space. Protestors want to stay in that park 24 hours a day in violation of park rules. You believe, as I do, passionately in the First Amendment, the right to assemble, and the right to free speech, and you may even agree with the protestors' message. But you also believe in the need to preserve public safety and health, and the need to follow laws and maintain a civil society. What would you say if you were me, and Mayor Bloomberg called, as he did, and asked what the City should do with the Occupy Wall Street protestors who won't leave Zuccotti Park or Union Square Park?

Or take another real life example. Many of the people who worked on the clean-up at Ground Zero after the 9/11 attacks became very sick, and some died, because of the pollutants that were in the air at Ground Zero. Those who became sick and the families of those who died understandably felt they should be compensated, and they sued the City, seeking billions of dollars. But what had the City, as distinct from Osama bin Laden or Al Qaeda, done wrong? And not to defend the City could bankrupt it. Yet to fight the lawsuit would prevent these innocent people who were working to help the City after 9/11 from being compensated. What should you—the lawyer for the City—do?

These kinds of controversial questions lie at the heart of being a lawyer.

The Legal Profession Today

I want to move now from the challenges and excitement of working in the law to the legal profession as it exists today.

The profession has undergone significant changes since I began my law career. While some of these changes have been very positive, others have been quite the reverse.

The Positive Changes

Probably the most positive change that has come about is that the profession has become much more diverse. Early in my career—including when I worked alongside Ruth Bader Ginsburg on judicial reform—there were no women justices on the U.S. Supreme Court, and no women or minority judges on New York’s highest court, the Court of Appeals. The Supreme Court has now had four female justices, three of whom are currently serving, and one of whom is also the Court’s first Hispanic justice. As for the Court of Appeals, the longest serving Chief Judge in its history is a woman, the highly esteemed Judith Kaye, who spoke at this event a few years ago, and since 1985 there has been at least one Black Judge on that court. More than 70 percent of the judges confirmed during President Obama’s first two years in office are women, Black, Hispanic, or Asian American. Very recently, Margo Brodie, a former Law Department attorney, was confirmed to the federal district court in Brooklyn, which made her the first Caribbean-born citizen to serve as a federal judge.

My law school class of 300 had 20 women and virtually no students of color. Today nearly half of enrolled law students are women, and nearly 20 to 25 percent are minority students. Black, Hispanic, Asian, openly gay or lesbian, and women lawyers have not only increased in numbers since I began my career, but also now serve in many positions of leadership throughout both the public and private sectors.

Problems in the Profession and Legal Education

And now for the not-so-positive changes. As much as I believe in the potential for good that comes with having a law degree, the legal profession is not a cloudless sky. As you may already know, this is a difficult time to be entering it.

There are fewer jobs out there than there were a few years ago: in 2009 alone, the legal industry shed over 40,000 jobs, and many law firms have cut their numbers of entry-level lawyers by as much as half from 2008 levels. Government and public interest employers have also seen major budget and funding cutbacks, leading to reductions in hiring. While, as *The New York Times* reported earlier this week, the number of LSAT takers has declined, the number of people applying to and graduating from law school remains high. This means that there’s more

competition for fewer jobs, whether in the public or private sector, and higher rates of attorney unemployment. New York in fact has the largest number of surplus attorneys in the country. Law school tuition also continues to rise, leaving graduates saddled with large debts. According to recent figures, the average debt for public law school graduates is nearly \$70,000 and is over \$100,000 for private law school graduates. Almost one-third of today's graduates are at least \$120,000 in debt, and tuition at some law schools now tops \$50,000 a year.

Private practice is where the vast majority of young lawyers begin their careers, but job dissatisfaction among law firm associates has skyrocketed. Changes in technology, the large size of today's law firms, and financial pressures—including clients' recent unwillingness to pay for junior associates to staff their matters—mean that there are fewer opportunities for the one-on-one training or real case responsibility that I had as a junior lawyer working on the NBA case and others.

Despite the surplus of attorneys we're now seeing, and the job dissatisfaction in private practice, there continues to be a huge unmet need for legal services for the poor. Last year, more than two million New Yorkers had to navigate the legal system without a lawyer. According to a recent report, 97 to 99 percent of the City's residents are unrepresented in child support, consumer credit, and eviction cases.

Promising Developments

The at least partial good news is that we are starting to see some promising developments designed to deal with these problems.

In particular, some law schools have started to change their curricula in response to the difficulties today's young lawyers often have in getting on-the-job training, providing more skills-based learning and opportunities to practice those skills. Many law schools now also allow third-year students to spend an entire semester doing a full-time externship for credit—we have an active externship program at the Law Department, and I'm happy to say it's been a valuable experience for all involved.

At the same time, law firms are increasingly collaborating with the public sector to allow their junior lawyers to work on a full or part-time basis with government or legal service organizations. Not only does this give the public sector vitally needed person power, but it offers the junior lawyer the skills and valuable hands-on training and experience that are too often missing at the private firms.

Conclusion

What does all of this mean for you? Being a lawyer can be incredibly exciting and fulfilling, but the decision to go to law school should be made with your eyes wide open. As with any other major investment, you should get as much information as you can and give it as much thought as you can before you take the plunge. And if or when you're there, don't lose sight of your goals and what led you to pursue a legal career. A career in the law continues to be a way to make the world a better place, to promote justice, and to champion and give a voice to those who most need it and yet may be least heard in our society. A career in the law also provides meaningful rewards and opportunities to those who are smart and willing to work hard. The journey can be a difficult one, but I think it's worth it.

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