

## WILLIAM REECE SMITH, JR. DISTINGUISHED LECTURE IN LEGAL ETHICS

### ADVOCACY MAKES A DIFFERENCE\*

Janet Reno\*\*

I was just a young woman as staff director of the Florida House Judiciary Committee<sup>1</sup> when a tall man walked in and made sure that we knew who he was. He made sure we knew that he was there to help us and to back us up, and Reece Smith<sup>2</sup> has backed me up every time I have needed him over a long time of service. My service has been influenced extraordinarily by this man who cares so much, and who embodies the word pro bono for

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\*\* © 2008, Janet Reno. All rights reserved. B.S., Cornell University, 1960; LL.B., Harvard Law School, 1963. Attorney General Reno served as staff director of the Judiciary Committee of the Florida House of Representatives in 1971. From 1973 to 1976, she served as staff attorney for the Dade County State Attorney's Office in Florida. In 1978, she was appointed as State Attorney for Dade County, Florida. President Bill Clinton nominated her as the first woman Attorney General of the United States in 1993. She served as Attorney General of the United States until 2001.

1. In 1971, Janet Reno became staff director of the Judiciary Committee of the Florida House of Representatives in Tallahassee, Florida. U.S. Dept. Just., *Biographies of the Attorneys General*, <http://www.usdoj.gov/jmd/ls/agbiographies.htm#reno> (accessed Dec. 29, 2008).

2. William Reece Smith, Jr., has assumed numerous leadership positions over the course of his fifty-year career. He has served as president of the Florida Bar Foundation, of the Florida Bar, and of the International Bar Association. He is currently the Chair Emeritus at the law firm of Carlton Fields in Tampa, Florida. The National Association of Pro Bono Professionals annually bestows the William Reece Smith, Jr. Special Services and Pro Bono Award to individuals who have made outstanding commitments to and positive impacts upon institutions or systems by providing pro bono legal services. ABA, NAPBPro—*National Association of Pro Bono Professionals*, [http://www.abanet.org/legalservices/probono/napbpro/wm\\_reece\\_smith\\_2007.pdf](http://www.abanet.org/legalservices/probono/napbpro/wm_reece_smith_2007.pdf) (accessed July 17, 2008); Am. Inns Ct., *Awards*, <http://www.innsofcourt.org/content/Default.aspx?Id=362> (accessed Dec. 29, 2008).

all America and for the world in terms of how lawyers should react to their professional responsibilities.

It has been a wonderful occasion tonight to meet so many students who care so much about the law, even at this early stage in their lives, and who are so anxious to talk about what we can do to make this world a better place.

The greatest experience that I have had as a lawyer is developing programs, evidence, and materials that show that if lawyers work together to solve problems, they can make this world a better place. The advocate who takes the case to trial is quite an important person in the equation of problem solvers. This is because if they do not believe we can try cases, nobody will pay any attention to the law.

So litigators are part and parcel of this effort to make sure that we use the law the right way to make this world a better place by solving problems before they get too complicated, too expensive, and too embroiled to solve in the long run. Let us solve problems up front. Let us prevent them up front. Let us prevent crime rather than prosecute crime, and let us do it the right way with smart, problem-solving tactics.

I did not know whether crime prevention was possible when I joined the State Attorney's Office in Dade County in 1973.<sup>3</sup> My first objective was to make sure that innocent people did not get prosecuted. My second objective was to convict the guilty according to principles of due process and fair play.

I have now had an opportunity to watch the system work. Students, lawyers, and individuals can make a difference. You can participate in the problem solving that is so much a part of the law; this participation makes the world a better place. When people say, "Don't use those expressions, those are just corny expressions from the likes of people who daydream about the law," I have real evidence of what can be done.

In 1978 when I became State Attorney,<sup>4</sup> the medical examiner in Miami, Dr. Joe Davis,<sup>5</sup> said, "Janet, why don't you find out

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3. *Biographies*, *supra* n. 1.

4. *Id.*

5. Dr. Joseph H. Davis served as Chief Medical Examiner of Miami-Dade County, Florida, from 1957 to 1996. Miami-Dade Co., *Medical Examiner-History*, [http://www.miamidade.gov/medexam/about\\_history.asp](http://www.miamidade.gov/medexam/about_history.asp) (accessed Dec. 29, 2008).

why people were killed in Dade County and what we can do to prevent it.” I had an intern go over to Dr. Davis’ morgue and go through the records. He developed the evidence that forty percent of the homicides in Dade County were related to domestic violence.<sup>6</sup>

We applied for grants to institute domestic violence programs, and we were able to obtain them from the Law Enforcement Assistance Administration (LEAA).<sup>7</sup> According to the LEAA, we ran the best program with respect to domestic violence.<sup>8</sup> But when the LEAA monies dried up, we went back to Dade County, and the County supported our efforts. We still have the vestige many years later of the original domestic-violence intervention program.

I went to Washington as Attorney General with that experience,<sup>9</sup> and I assisted in the passage of the Violence Against Women Act of 1994.<sup>10</sup> Others joined in that effort. Prosecutors and police agencies developed specialized projects and programs for domestic violence. I did so because I wanted to prevent problems before they started. I was convinced that the man who beat his wife would influence his son to accept domestic violence as a way of life. If we could prevent this cycle, we could do so much to make a difference in the world.

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6. *E.g.* Janet Reno, Speech, *Remarks of the Honorable Janet Reno, Attorney General of the United States to the Natl. Conf. of Women Legislators* (D.C., Feb. 6, 1998) (copy available at [http://www.usdoj.gov/archive/ag/speeches/1998/0206\\_ag\\_wom.htm](http://www.usdoj.gov/archive/ag/speeches/1998/0206_ag_wom.htm)) (describing her experiences with the medical examiner, Dr. Davis, while trying to reduce domestic violence in Dade County).

7. Martin Dyckman, *Janet Reno\Justice for All*, *St. Petersburg Times* 1D (July 4, 1993) (available at 1993 WLNR 2077294) (noting that funding from the Law Enforcement Assistance Administration was key to the success of Miami-Dade’s domestic-intervention efforts).

8. *See Intimate Partner Violence Declined between 1993 and 2004*, *Bur. Just. Statistics Press Release* (Dec. 28, 2006) (available at <http://www.ojp.usdoj.gov/bjs/pub/press/ipvpr.htm>) (noting the significant decline in violence between domestic partners from 1993 to 2004).

9. The U.S. Senate unanimously confirmed Reno as the nation’s first female Attorney General on March 11, 1993. Gwen Ifill, *Reno Is Confirmed in Top Justice Job*, *N.Y. Times* A10 (Mar. 12, 1993) (available at 1993 WLNR 3358677).

10. Pub. L. No. 103–322, § 40001, 108 Stat. 1796, 1902 (1993); *see also U.S. v. Morrison*, 529 U.S. 598 (2000) (holding much of the Act unconstitutional); David Johnston, *Reno’s Tenure Sets a Record This Century*, *N.Y. Times* A14 (Jan. 11, 1999) (available at 1999 WLNR 3043320) (noting that Reno, as Attorney General, had been “an advocate for law enforcement and measures against . . . violence against women”).

We tried to prevent problems up front, but at first we did not see any results in the statistics. Recently, however, the Bureau of Justice Statistics announced that domestic violence has declined in this country by over fifty percent from 1993, when we came into office, through 2004.<sup>11</sup> I think this statistic is proof positive that you can make a difference by using a sound foundation of fact, applying it to what we are faced with, and using it in the finest way possible.

We did just that with drug courts.<sup>12</sup> My former chief assistant, now the State Attorney in Dade County,<sup>13</sup> came to me and said we needed to develop a drug court. To make sure that we did not get spread too thin, he suggested that we use the drug court and our resources as wisely as possible and that we use a “carrot and stick” approach that says to somebody, “You can work with us and we’ll cooperate with you in giving you advantages, or you can backslide, test positive for drugs, and get sent to the system, and let the system take its course.” There are now more than 2,000 drug court programs in the country, and the results that I hear about are really remarkable.<sup>14</sup>

But sometimes the efforts that we have to undertake are not glamorous. When I took office, child support was not held in great respect in Dade County. I took over child support enforcement and increased collections dramatically.<sup>15</sup> It is not an easy thing to do. You get a call on Sunday night, “He hasn’t paid his child support yet. It’s all your fault, and it’s going to be your fault when I end up in the car with the children tomorrow.” And then you get a

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11. *Intimate Partner Violence*, *supra* n. 8.

12. Larry Rohter, *Woman in the News: Clinton Picks Miami Woman, Veteran Miami Prosecutor To Be His Attorney General; Tough Front-Line Warrior Janet Reno*, N.Y. Times A1 (Feb. 12, 1993) (available at 1993 WLNR 3421050) (noting that Reno had established an innovative drug court).

13. Miami-Dade Co. Off. St. Atty., *Biography*, [http://www.miamisao.com/about\\_us/biography.htm](http://www.miamisao.com/about_us/biography.htm) (accessed Dec. 29, 2008) (explaining that Katherine Fernandez Rundle, who succeeded Reno as State Attorney in 1993, was “instrumental” in creating Miami-Dade’s “celebrated drug court”).

14. National Drug Court Institute, *Drug Courts: A National Phenomenon*, <http://www.ndci.org/courtfacts.htm> (accessed Dec. 29, 2008) (discussing how the success of the nation’s first drug court in Miami-Dade County spawned a nationwide effort to establish drug courts in every U.S. county).

15. Deborah Ramirez, *Women Find Their Wings Program Aids Hispanics’ Personal Growth and Careers*, S. Fla. Sun-Sentinel 1B (Mar. 20, 1993) (available at 1993 WLNR 4309442) (crediting Reno with nearly doubling child support collections from 1986 to 1992).

call the next morning saying, “The check came in the mail, and I wanted to apologize for cussing you out last night.”

We have got to remember as lawyers that it is that check in the mail that we need to focus on. That child in the back seat, who needs an opportunity to grow in a strong, constructive way, is part and parcel of what lawyers should be about in problem solving.

In terms of problem solving with child support, I can walk the length of the Martin Luther King Jr. Parade, which I last did with my mother just before she died,<sup>16</sup> and have parents and children believe that there are people listening to their troubles and who want to respond to the demands made on their lives. But, if we are going to do it intelligently, if we are going to be smart problem solvers, we have to start up front.

When the crack epidemic hit Dade County in the 1980s,<sup>17</sup> I went to Jackson Memorial Hospital, our public hospital, to try to figure out what to do about crack-involved infants and their mothers. In the nursery, children were stacked up. They were not being held or talked to except when being changed or fed because the crack epidemic was keeping the mothers in treatment, and the children had no place to go.

That afternoon, the doctors taught me that fifty percent of all human responses are learned in the first year of life and that the concept of reward and punishment and the conscience are developed in the first three years of life. I looked at him and could not believe the statistics. But in the years that have followed, doctors and other experts have verified exactly what I say.<sup>18</sup> Unless we address the problems of children aged zero to three, kindergartners through third graders, and ninth graders who are about to

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16. Jane Wood Reno, a prize-winning journalist and mother of Janet Reno, passed away in December 1992. Sabrina Miller, *Not Just Janet Reno's Mom*, St. Petersburg Times 1 (Oct. 28, 1993) (available at 1993 WLNR 2022481).

17. Carson Fox & West Huddleston, *Drug Courts in the U.S.*, InfoUSA U.S. Dept. State, <http://usinfo.org/enus/government/branches/fox.html> (accessed Dec. 29, 2008) (noting the dramatic increase in crack cocaine arrests during the 1980s and the “particularly daunting” challenges facing Miami).

18. Carnegie Corp. N.Y., *Starting Points: The Quiet Crisis*, [http://www.carnegie.org/starting\\_points/startpt1.html](http://www.carnegie.org/starting_points/startpt1.html) (accessed Dec. 29, 2008) (noting new scientific findings on the relationship between a newborn's environment and brain development during the first three years of life).

drop out of school, we are going to be in a problem area that is going to be more difficult for the law to unwrap.

But what we face today is the fact that violent crimes are starting to rise again.<sup>19</sup> Mayors and police chiefs across the country are having meetings about what they can do about violent crimes.<sup>20</sup> My theory is that violent crimes are rising because time has run out. Fifteen years ago we needed to start talking about young children aged zero to three and kindergarteners through third graders, where we could have made a difference. If we are going to be problem solvers let us solve the problems up front before they get so big that we cannot manage them. We have the opportunity to do it now because we have lawyers and judges working together in drug courts and other efforts that can make a true difference for this country.

We have evidence that if we use our smarts the right way, we can prevent crime. Yes, September 11th complicated the equation by draining funds from violent crime fighting in the domestic arena and diverting them to the war halfway around the world.<sup>21</sup> But judging by what police chiefs tell me, it is not just jail that will solve the problem. Rather, it is the sophisticated use of police power, authority, strategic planning, and intervention in neighborhoods to help build better communities that will solve the problem. It is working with people such as former Florida Attorney General Butterworth, who also served as Secretary of the Department of Children and Families,<sup>22</sup> and asking, "What can we do to provide support and intervention for youngsters who do not have parents that can give them the love and nurturing that is so important those first years from zero to three? What can we do with home visitation programs that can make a difference?"

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19. Jocelyn Bogen & Ed Somers, *Violent Crime Up in Cities—Mayors, Police Chiefs Convene to Discuss Strategies*, U.S. Mayor Newsp., U.S. Conf. Mayors (Sept. 11, 2006) [http://www.usmayors.org/usmayornewspaper/documents/09\\_11\\_06/pg1\\_violent\\_crime.asp](http://www.usmayors.org/usmayornewspaper/documents/09_11_06/pg1_violent_crime.asp) (describing increases in violent crimes across the country from 2005 through 2006 after a decade of decline).

20. *Id.*

21. *E.g.* Blas Nuñez-Neto, *Juvenile Justice Funding Trends*, Cong. Research Serv. Rpt. (April 27, 2007) (available at [http://assets.opencrs.com/rpts/RS22655\\_20070427.pdf](http://assets.opencrs.com/rpts/RS22655_20070427.pdf)) (noting that federal funding for juvenile justice programs fell by thirty-eight percent from 2002 through 2007).

22. Joni James, *Butterworth Will Lead DCF*, St. Petersburg Times 1A (Dec. 20, 2006) (available at 2006 WLNR 22260549).

Problem solving is acknowledging that the criminal justice system cannot do it by itself, but the criminal justice system can help educators make a better educational system. It is not going to help if we let a kid become ten, eleven, or twelve years old without addressing the problems that have been evidenced in the first three years of his life. To make a difference, we need to bring influences to bear early, before that child drops out and becomes one of the wayward kids in the neighborhood.

Professionalism is using our talents as wisely, as ethically, and as efficiently as possible to serve the American people. Reece Smith stands for that, stands for what it means to serve and to serve the profession. We have an opportunity now, and I believe with all my heart that if we use our resources and our talents as lawyers and judges in the wisest way possible, we can make a difference in crime. We do not have to stand by and wring our hands and say, "We can't do anything about it." We can say, "Yes, we can do something about it." We can develop a drug court that can do it the right way. We can develop a domestic violence effort that can do it the right way. We can collect child support the right way. We can provide an education that gives youngsters an opportunity to care.

Someone asked me at a program what happens when you get to an eleventh grader who doesn't care because he's found life on the streets far more interesting? My response is that we should find the ninth-grade teacher that let him get to that point, and get somebody in place that can give him the hope and the feeling that life is worth living and that there are challenges. Then I give them an example.

In Plant City I had the opportunity to meet a mother at a vocational center. She introduced us to her son who was a student there. She said she had pulled him out of the regular public schools to put him in this program where he was learning to be a chef because he was going to drop out and get into trouble if he stayed in the regular school.

The young man made a marvelous presentation to us. He was an expert in nutrition, he was an expert in funding, he was an expert in the day-to-day operations of a restaurant, and—judging by the meal he served us—he was an expert in great cooking. He said his mother was right. He concluded his testimony to us by saying, "And now I want to go on to be a physician. I'm going to

medical school because I have found something that I care deeply about.”

We can solve problems if we use the law the right way to make a difference. Advocates say, “Well, don’t forget the advocates.” I am not going to forget the advocates because if I don’t have the advocates, I am not going to have the trial lawyer that can tell somebody, “You do it or else. We’re out to do the right thing, and we’re going to compel you to do the right thing under the law. Just try and see if you want to bluff with us.”

But if we do not bluff, if we try to see the best in people and expect the best in people, and if we give people the opportunity to grow and flourish, then we can use the standard set for us by William Reece Smith, Jr., and make a big difference in this world. Thank you very much.