

Opening Statement

Lawyers as Public Servants

by Brad D. Brian
Chair, Section of Litigation

As a boy I had two passions—baseball and American history. Age has cramped my batting style but whetted my appetite for biographies of great Americans.

I've long been fascinated by prominent lawyers in American history. John Adams, Alexander Hamilton, Andrew Jackson, Henry Clay, Daniel Webster, Abraham Lincoln, Rutherford B. Hayes, William Jennings Bryan: All were lawyers who combined successful private practices with the highest levels of public service. Webster even argued cases in the U.S. Supreme Court while serving as a senator for Massachusetts.

You don't need to go back to the nineteenth century to find examples of lawyers as public servants. In my lifetime, John Foster Dulles, Cyrus Vance, Warren Christopher, Carla Hills, and Vernon Jordan devoted significant portions of their professional lives to national public service. Most of us could name many other examples in our state and local communities.

I don't mean to suggest that government service is the only, or even the best, outlet for attorneys looking to make contributions beyond their law firms. Lawyers serve their communities in many ways every day—working pro bono for indigent clients, assisting nonprofit organizations, serving on local school boards, and even coaching Little League. All of these activities, and many more, provide needed and invaluable service to our communities.

In the legal profession today, various pressures make it hard for lawyers to devote time to public service. Our world is changing. Identifying all the resulting changes to the legal profession would take a book, and the list would still be incomplete, so I'll name just a few.

Law school tuition has skyrocketed. Faced with large debts upon graduation, many young lawyers feel compelled to choose private practice over government service as their initial job choices. Many think this is only an initial choice, but without great effort, it is likely to be a permanent one.

Once those lawyers get into private law firms, they face the many professional and business pressures of satisfying clients and their colleagues. Clients demand and deserve a commitment to their cases. Many large law firms have instituted minimum billable-hour requirements for their associates, partially in response to these client demands and partially in response to the escalating salaries paid to young lawyers. As a result, young

lawyers have less time and opportunity to devote themselves to the kinds of pro bono and community activities that historically have been important to so many in our profession.

Senior lawyers face different but equally powerful pressures. The growing trend toward consumerism and growing demands of clients and law firms, coupled with the increased press scrutiny of public servants and tightened conflict of interest rules, all combine to convince many attorneys to shy away from public service and to focus instead on the many and varied rewards of private practice.

The potential consequences to our profession are severe. In pro bono work, community activities, and government service, many lawyers—particularly younger lawyers—are given early opportunities to exercise leadership, make judgment calls, and broaden their understanding of the world. They mature as people and so become better lawyers. They gain broad, satisfying experiences that make them happier professionally. And they show the public that lawyers care about, and contribute to, their communities.

I both enjoyed and learned immensely from my own community service early in my career—whether trying cases as an Assistant U.S. Attorney, representing poor criminal defendants as a member of the Federal Indigent Defense Panel, serving on the board of directors of the Legal Aid Foundation, or helping to run a ballet company for a year. I often say that my experience with the dance company contributed more than anything else to my growth as a lawyer and a citizen. It broadened my horizons, taught me a lot about working with people, strengthened my ability to make decisions, and, perhaps most importantly, convinced me that the best lessons in life are not always learned from casebooks or cases.

It wasn't so long ago when a lawyer was often the most respected person in his town (yes, unfortunately, it was usually *his*, not *her*). Think of Gregory Peck in *To Kill a Mockingbird*. To be sure, Atticus had his detractors—the racists who opposed anyone siding with an African American against a white person. But among the thoughtful, caring people in town, he was one of the most venerated.

In the past, townspeople looked to lawyers in the community for leadership and judgment on important issues.

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When someone asked “What’s your occupation?” and the answer was “I’m a lawyer,” it was spoken with pride and usually generated instant respect.

At the Section of Litigation’s Raise the Bar symposium in Chicago last May, we heard very different stories of how this conversation proceeds today. Seventy lawyers and other professionals of all ages and backgrounds reached a revealing consensus: When someone now asks their occupation, many lawyers are almost defensive. They drop their voices or even lower their eyes. They *confess* to being a lawyer, as if they are embarrassed or ashamed.

Many lawyers have come to accept an increasingly jaded public view of their profession. Newspapers run articles about lawyers accused of criminal behavior or misconduct. Many lawyers appear more interested in amassing their own wealth than in serving the public. A 2005 Harris Poll shows that the public has less confidence in lawyers and law firms than they have in leaders of organized religion, Congress, and even Wall Street.

No one can change this perception but us. Leaders within our profession need to inspire ourselves and our colleagues to devote more time to serving our communities. As lawyers trained to solve legal problems, we are uniquely equipped to help with community problems—a responsibility that, if fulfilled, will bring greater respect to the profession as a whole and more happiness to individual lawyers.

The Section has dedicated itself to this goal. Commitment to public service is a key component of my Raise the Bar initiative. We intend to convene three meetings—in San Francisco, New York, and Atlanta—to help promote the commitment to public service. We intend to propose to law firms a set of best practices that includes a commitment to community service.

The Section has a number of ongoing projects designed both to help less fortunate members of our society and to provide lawyers with opportunities to contribute their time and talents to public service:

- The Judicial Intern Opportunity Program has placed more than 250 law students—all minorities or students from economically disadvantaged backgrounds—in judicial internships in various cities throughout the coun-

try. This program not only enhances diversity in our profession but also helps instill a greater spirit of public service among lawyers just entering law practice.

- The Section’s Legal Services Training Program will be sponsoring three day-long seminars for public interest and legal services lawyers, taught by experienced trial lawyers from around the country.
- The Legal Assistance Placement Project, working with our Pro Bono and Public Interest Litigation Committee, pairs important pro bono cases with private law firms throughout the country.
- The Section’s Children’s Rights Litigation Committee sponsors activities to promote and assist lawyers’ involvement in protecting children’s rights, including national teleconference programs with hundreds of registrants; cosponsorship of a national gathering of children’s law experts to discuss litigation issues (scheduled for January 12 to 14, 2006, at the University of Nevada Law School in Las Vegas); and working with the National Association of Counsel for Children to create a Children’s Law Office Guidebook and a training video for children’s rights lawyers on how to interview children.

These laudable efforts, by many dedicated and public-spirited lawyers, are not enough. If we, as members of our profession, cannot take back our historic roles in helping our communities, then we will deserve to hang our heads when asked what we do. I believe we can do more, and, having struck out as a ballplayer, I am motivated to do more. I ask your help. Together, we *can* make a difference. □