DIVERSITY IN THE CRIMINAL JUSTICE SYSTEM-ITS VALUE AND ITS IMPLICATIONS

By

Judge Lubbie Harper, Jr. Presented At The Division of Criminal Justice's Multicultural Luncheon 300 Corporate Place, Rocky Hill

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Thank you Kevin for that kind introduction and good afternoon ladies and gentlemen, friends and colleagues. It is indeed a pleasure for me to be here this afternoon and to have the opportunity to speak to you, on such a special occasion, at the Division of Criminal Justice's Multicultural Luncheon. Now, since this luncheon is being held in recognition of Black History Month and since this luncheon is featured as a multicultural event, I would like to share with you this afternoon a few thoughts about black history month from the perspective of America's history, some ideas about diversity in general and its implications for our profession and for the criminal justice system.

Mindful that February is traditionally referred to as Black History month, I am forced to reflect on our nation's history. I am forced to think about the civil rights movement and the concomitant struggles and sacrifices of so many people of different racial, cultural and ethnic backgrounds who believed in, and who continue to believe in, human dignity and equal justice for all.

Today, I am reminded that the framers of the United States Constitution and the subsequent Bill of Rights were no more able to empathize with the struggles for justice and equality than King John of England was, in 1215, when he signed the Magna Carta guaranteeing certain rights to his nobles. In fact, the United States Constitution was framed without any consideration for the interest or welfare of Black people, because we were chattel property, destined for a life of oppression, misery and pain. Today, I am reminded that America, in the past, has been less than truthful about the contributions that black Americans have made to our country. I am reminded that, because this nation chose to largely write African-Americans out of its history book, denying and ignoring the important role "black folks" played and the contributions they made in the development of our country, we are the recipients of a month to recognize and celebrate our history. What a troublesome notion. Troublesome because black Americans are an inextricable part of America's history and consequently there should be no need to single out black history during one month of the year. Black history, in its true form, should be recognized and valued and taught as an inherent part of American history. So, it is within this context and against this backdrop that we must come to grips with the stark reality that proper recognition for all groups in our society and equal justice for all remain enduring challenges to those of us who are committed to equal justice for all. Central to this principle is the belief that all people regardless of color, creed or culture-should be treated with dignity and respect. This principle, if embraced, can transform, if not catapult, ignorance into understanding, indifference

into appreciation and intolerance into acceptance. It is a principle that recognizes differences and supports the proposition that one of America's greatest strengths is its diverse population.

Diversity means different things to different people. To some folks, diversity is defined as access to opportunities, allowance for public accommodations, affirmative action, social tolerance and quotas. For me, however, these concepts play no role in the definition of diversity. Diversity, and I am talking about cultural diversity, is a much more basic concept. Cultural diversity is a concept which represents the history, attitudes, behavior, language, values, beliefs and uniqueness which distinguishes each racial or sub-cultural group in a society. Diversity is a concept that, if accepted, embraces, appreciates and values the beauty of intrinsic human and cultural differences. It is a source of national strength, it is a concept that can increase our sensitivity and awareness, enrich our lives, increase our knowledge, expand the scope of our understanding, and improve the quality of our lives in so many different ways.

Former President Jimmy Carter once said, and I agree: "We are, of course, a nation of differences. Those differences don't make us weak. They're the source of our strength." This strength has particular implications not only for our society, but also for those of us involved in the legal system. The legal profession, and the people we serve, represent a microcosm of our greater society. Our profession should serve as a beacon for promoting fairness and civil rights. With the constitution as our mantra, we should tear down the obstacles to inclusion, we

should tear down the obstacles that prevent society in general, and people in particular, from accepting and concomitantly reaping the benefits of cultural diversity. We will never live up to the American ideals nor will we ever transcend beyond paying lip service to the concepts of "inclusiveness" and "equal justice" unless we develop respect, understanding and an appreciation for differences, a respect, understanding and an appreciation for people who do not look the same, think the same, act the same, talk the same or whose life experiences are different than our own.

Diversity is tantamount to treating everyone with dignity, it's tantamount to respect; respect for cultural differences, which certainly includes members of our profession as well as respect for all the people we serve. Those who fear diversity, those who derogate its value and those who fail to appreciate its amazing advantages are depriving themselves of a wonderful opportunity to grow, to develop and to expand their understanding and knowledge of the beauty of the different array of human experiences. How do you learn? How do you grow? How do you teach respect, and humility? How do you experience all that life has to offer if you segregate yourself from the "wonderment" of diversity?

Segregation of the mind is just as serious and as insidious as any other form of segregation. Segregation of the mind breeds fear, resentment and anger. It serves as a justification not only for fearful and angry thoughts, but at times violent behavior. Cultural diversity is a social imperative, it is a human blessing, it is an imperative that will allow us the opportunity to challenge those who feed on

bigotry and hatred. We have the opportunity as members of the legal profession to make a difference. We have the opportunity to declare to our profession, our community and our society the "wonderment" of diversity. We have the opportunity to dismantle the forces that seek to prevent us from building one America. We have the opportunity to make a declaration that diversity is a public good, a pronouncement which says that our strength as a people, a profession and a society reside within our differences. We can all learn from each other. We must inspire, we must serve, and we must let the mountains ring with our message of diversity. We will make this journey together, regardless of race, religion, culture or creed, to promote the value of diversity. Dr. Martin Luther King said, "I Have a Dream." I say, "We should Have a Dream for a Better Society." A dream which illuminates diversity as God's oasis---a wonderful source of potential, replete with a vast array of human knowledge; and if we accept the "wonderment" of our diversity we will all become receptive to removing shackles from our minds, shackles which prevent us from understanding and learning from each other. Each one of us has had unique life experiences, each one of us-because of our differences- may serve as a fertile source of knowledge because of the "wonderment" of our diversity.

This "wonderment" has particular implications for our criminal justice system and prosecutors, who are an inherent part of our system of justice. In fact, this "wonderment" has particular implications for me and at times has caused me to wonder what it would be like to do something else. To be certain, I love being a

judge. But some days I ask myself what if I owned a newspaper? If I were a publisher, a great journalist who wanted to leave a record of our deeds for the generations to come, I think I would like to focus on all of the news that occurs in and out of our courtrooms on a daily basis that never sees the light of day.

I would, for example, publish a story about the dedication of the prosecutor who took a deep breath and put another witness on the stand, in a gang murder, in a child sexual assault, in the trials that have the most recalcitrant witnesses, the most sordid facts, and the potential for the most heartbreak known to man.

I would include an article about the prosecutor who missed his daughter's recital, fed her family for a week with take-out food and spent holidays preparing for a murder trial, a cross-examination, or a final argument, knowing that the members of a victim's family and the people of the state of Connecticut want to see justice done, while at the same time ensuring that the constitutional rights of a defendant are upheld.

Or how about the prosecutor who goes to court every day and slogs away in the GA, handling case after case, each individually and with a human touch? You don't read about that very often, do you? People doing their jobs, and doing them well, treating the people before them with respect and dignity.

Finally, I would write about the prosecutor who had the courage to plea bargain or to dismiss a case, to admit when a case has holes, that the police erred, and to know that they have made the right decision, even if criticism will follow.

The great general, Douglas McArthur, once said: "Moral courage (is) the courage of one's convictions, the courage to see things through. The world is in a constant conspiracy against the brave. It's the age-old struggle – the roar of the crowd on one side, and the voice of your conscience on the other."

So today, I want to take the opportunity to thank you for the moral courage you bring to our courts every day, for your dedication to justice and your commitment to doing the right thing. Yes, you are just doing your job, but I think you know that your job is not just any job. You are the infantry in our courts, the front-line troops who deserve our deepest thanks and gratitude.

That said, you often have a thankless job. When people have lost a loved one, their home, their security or their pride, there is little that the criminal justice system can do to make them whole again. I believe that people in courts sometimes look to you as Merlin, with a sword in the stone under your desk. They have learned about justice from "Law and Order," "CSI" and countless other TV shows; your job is to explain a reality that they usually have no interest in hearing.

You have been accused of being too soft, too hard, too insensitive and too much of a part of the bureaucracy. And no doubt, you know in your heart that there will always be someone too wounded and too angry to tell you that they understand what you did.

We surely do need a thick skin in this business. But we should also make sure that we don't become so thick that we lose our ability to see something through another person's eyes.

We are all part of a criminal justice system that is obligated to serve people from different walks of life; a system that is designed to redress breaches of society's legal code without regard to a person's racial, social, ethnic or economic status. So, I stand here today to promote the "wonderment" of diversity as a source of strength and richness in our criminal justice system. With diversity, with knowledge, and an understanding of one another, we have the opportunity to challenge those who feed on bigotry and hate. To look through my eyes is to see my perceptions; to see my perceptions is to understand me better; and to understand me better is to be able to communicate more effectively with me, to be able and willing to say what we need to say, honestly and openly.

We can fulfill this objective in many other ways, such as providing job opportunities to young men and women of color and different ethnicities upon their graduation from law school. Public service is a noble calling, and we should spread that message within our schools, our professional organizations, and especially among our younger students who are still in high school.

Ladies and gentlemen, I believe that we have an additional responsibility to serve as role models for our young kids, particularly those who may be at risk. We should and must provide examples of how they may succeed by following the rules, and we must have the opportunity to do just that.

As we promote the "wonderment" of diversity, I must also tell you that I reject on its face the argument that race or ethnicity is an excuse for crime. Color or ethnicity didn't murder the store owner, or sell drugs on the corner next to the

day-care center where mothers, who are trying to do the right thing, drop off their kids in the morning. Color or ethnicity didn't hijack a car, or steal a purse, or break into someone's home. No, I submit to you that while environmental factors may play a role in the development of one's character, the decision to commit a crime belongs to the person who made it. Personal responsibility is what I'm talking about. No excuses. Accountability. Words that call for a look in the mirror rather than pointing a finger at someone else.

That said, I hope that you will fight like the dickens for the good and decent people who live in our inner-city neighborhoods. We have too many mothers who can't let their children play outside for fear of a bullet killing them, or for fear that the lure of the gang and easy money will kill their sons' souls long before the bullet pierces their hearts. If you embrace the "wonderment" of diversity, you embrace the challenges these

hard-working individuals face every day in our cities.

There is no denying that there is a mistrust of our court system, of law enforcement in the inner city community. But I submit to you that making a difference in the lives of one family is worth your time and energy.

It is also worth your faith. Faith in our system, faith in yourselves, faith in the basic goodness of people. I know that you see, every day, the worst of humanity, an evil that you perhaps never imagined could exist until you saw it face to face. I say to you, however, that if this face of perniciousness is allowed to overtake your outlook on people, then it has beaten you. If you distrust and dislike

and let cynicism be your road map, then evil has trumped you. And at that point, your ability to embrace the "wonderment" of diversity will be destroyed.

For I believe that our struggle to embrace diversity begins within each of us. Yes, we must look at the systemic issues – and they are there, there is no denying that. But all the programs and quotas in the world won't make one whit of difference unless we individually believe that we can make a difference and set about to do it.

Someone once defined cynics as people who "are only happy in making the world as barren for others as they have made it for themselves." I believe that the "wonderment" of diversity provides a chance for a tapestry with many colors bound by common threads. It was Anne Frank, that doe-eyed child who was wise beyond her years, who said: "We all live with the objective of being happy; our lives are all different, and yet the same." So I implore you to embrace the tapestry and reject the barrenness, and to keep doing the superb job that you have and will continue to do.

In closing, I say to you the words that are often uttered to a jury: do justice, do justice irrespective of a person's racial, social, ethnic or economic background. Be a cheerleader for fair and zealous advocacy, be a drum major for the "right thing," be a band leader for civility, integrity, respect and dignity. Lastly, always remember that: "the state's attorney is not only an officer of the court, like every other attorney, but is also a high public officer, representing the people of the State, who seek impartial justice for the guilty as much as for the innocent.... By

reason of his office, he usually exercises great influence upon jurors. His conduct and language in the trial of cases in which human life or liberty are at stake should be forceful, but fair, because he represents the public interest, which demands no victim and asks no conviction through the aid of passion, prejudice, or resentment." State v. Ferrone, 96 Conn. 160, 168-69 (1921).

Yes, my colleagues, society expects no more and you should demand no less.

Thank you.