

## MARGARET BRENT AWARD SPEECH

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Myrna Raeder

Thank you so much. This is just an overwhelming event for me. Family and friends have come from near and far to help me celebrate this truly wonderful occasion. My sister-in-law is here from San Francisco, my Dean from Los Angeles, my aunt and her family from New York. Non-law school friends have been arriving from the East Coast for several days. My husband and a dear friend managed to surprise me by having another friend of ours, who I haven't seen for ten years, come down from Nova Scotia. And the warm wishes of my Southwestern colleagues and members of Women Lawyers of Los Angeles—we're called WLALA—preceded me here.

The outpouring of affection of the Criminal Justice Section and National Association of Women Lawyers as well from the women judges and academic community have made me feel actually somewhat like Queen for a day; plucked out and put here and I don't know what I can do to deserve this honor.

Family and friends have always been important to me and I'd particularly like to recognize my husband, Terry Kelly, who has always encouraged me to reach for the stars and speak out on the causes that I hold dear. And my two—our two sons—[*Applause*] thank you. Our two sons, Tom and Mike, who have grown up thinking that lawyering is women's work. You stand up? Or, too embarrassed to do so? [*Applause*] Thank you. They're a large measure of why I'm here.

It is just humbling simply being at the same table as this grouping. And the fact that I'm also one of the recipients is something that is scarcely within my comprehension. I'm not a household name and what touches me about this the most—and truthfully, I'm hoping that I can keep this all with a straight face and not break down at some point—is that—the fact that people really think that I can help make a difference. And to me this has just been a wonderful revelation and one, as I say, that I hope that I can live up to.

I am passionate about topics concerning fairness—fighting discrimination, providing equal opportunity—those have all been core issues for me. And I have always believed that the raised voices of many who share the same interest, that’s the most effective way of obtaining change.

And that’s why I’ve devoted so much of my attention outside of teaching to basically three organizations that you’ve seen – WLALA, National Association of Women Lawyers, and the Criminal Justice Section. Each of these groups provided a way to further issues that I care deeply about.

On a local level, WLALA let me meet fabulous women at a point in time when, in fact, I was just having my children. They faced similar problems about juggling work and child rearing. Life-long friendships evolved from what we then called the Mother’s Support Group—now we’re more, it’s the Parent’s Support Group. But in fact at the time it was really mothers trying to figure out how to manage their lives. And we also, ironically—or maybe not so, but—managed to function as an informal job network for those who wanted more family-friendly hours in firms.

I turned to NAWL when I was concerned about gender bias and the status of women because their strong presence for more than one hundred years on these issues was not simply in the United States but also on a worldwide basis.

My concerns about creating a system that is fair to both women and children who are victims of crime as well as to criminal defendants led me to the Criminal Justice Section. And that section is known for tackling those tough policy issues of the day and crafting solutions that have significant import in the broader criminal justice debates.

My hope today is actually to enlist you in a cause that needs the support of the raised voices in this room. It’s the plight of non-violent women offenders and their children. As a practical matter, mainly when I talk about this subject, I talk to groups that are very small, and many of them are already committed to this issue. And yet what we need to happen in order to have anything productive on a national level as well as a local level is for the public to get involved, to know about this issue.

I listened to Dovey Roundtree several years ago—I come to all of these things, which is why it’s so incredible to me to be standing on the stage as opposed to sitting in the audience. She made a plea on behalf of saving girls

from becoming criminals, and I was very moved by that, but—and she was a truly inspirational speaker—but unfortunately today we’re still needlessly tossing away the lives of women offenders and their children. We’re incarcerating mothers and sometimes inflicting even harsher consequences on their children.

Why should we care? We’ve got nearly one hundred thousand women who are currently being imprisoned, a tenfold increase in the last twenty-five years. Racial disparities, which some attribute to the war on drugs, results in a disproportionate amount of these women being of color and their children being impacted. When the numbers of women in jail, on probation and parole are included in the mix, we’ve got more than a million women today who are under correctional supervision. I don’t think it’s an exaggeration to say that five million children have seen their mothers be—not necessarily personally seen—but have been impacted by their mother’s arrests in this country.

The skyrocketing offender population is not caused by women being more violent, but by society becoming more punitive. Nationally, more than sixty percent of the women we imprison are victims of sexual and physical abuse, and many have turned to drugs as a way to avoid dealing with the deeper traumas that have scarred them. We sentence these women based on male models of criminality and violence. We give them long sentences for non-violent drug and property offenses that ignore the disruption that children face when their sole or primary parent is incarcerated.

The federal system is particularly harsh in discounting family ties as a reason to lower sentences, basically ignoring the fact that many of these non-violent female offenders are single parents. Unlike the children of male offenders who overwhelmingly reside with their mothers, when you incarcerate a single mother that child’s life is completely disrupted. They’re typically shifted to other relatives, friends, or foster care, often resulting in siblings being separated and their living in unstable environments.

We’re one of the few countries that routinely separate mothers from infants when women are incarcerated. Most keep young children with women and provide alternatives to prison, intuitively recognizing that parental bonding is a necessary step in the development of a healthy child.

Even when women have served their sentences today, the myriad collateral consequences of incarceration threaten the reintegration of their families. The timeline now in the Adoption and Safe Families Act can result

in even an eighteen-month prison sentence being a death sentence for parental rights. In other words, sentencing women to a loss of parental rights in a totally collateral situation that condemns them to a lifetime without their children.

And what do we do? We assume that these children have a better place to be. Well, the numbers tell us there are not enough foster care parents or homes for adoption. Yet, we still sever parental bonds without checking to see if we're substituting anything in its place.

Even if a single mother avoids termination of parental rights, in a majority of states she'll be denied federal cash assistance and food stamps because of her drug-related felonies. She may be denied public housing. She may be denied educational benefits. The conditions of her release such as work and drug treatment typically take no account of her childcare responsibilities, which has actually resulted in more women being incarcerated because they're coming in not for new crimes but for violations of their conditions of parole and probation.

You may wonder: why am I telling you this? "Yes, I feel sympathetic, but isn't this somebody else's problem? I have my time committed." And I know that all of you have huge amounts of commitment on your time. But in fact, without the support of community and legal leaders nothing will happen on this issue.

Legislators are starting to recognize the harshness of our policy on non-violent women and their children and that it's actually counterproductive to public safety. But as long as something—doing something really takes courage and being potentially attacked for being soft on crime, the only way that we are going to see real movement on this issue is if more voices are heard, more people are seen to care.

You know, you don't have to spend very much time on this issue. All I would hope that people would do is to pick up the telephone. We are community leaders, let's face it. Everybody here has contacts within their—the ABA, the local bar associations, you know people, you are the movers and shakers in our society and as Eleanor Holmes Norton has said, there are obligations that go along with that.

Indeed, what can you do that is simple? Pick up the telephone. Contact state and federal legislators to support appropriate legislation for community

correctional facilities where mothers can reside with their children. Or, simply ask: why don't they exist? Demand to know why it is that Congress never funded legislation that passed ten years ago to build some of these alternatives for women and their children. Support recently proposed legislation aimed at providing services to children of incarcerated parents and protest the impact of our sentencing laws and civil disentanglements on these non-violent women and their children.

For those in the ABA House of Delegates: support the upcoming CJS policy resolution concerning sentencing, and take a look for future policy that's coming down the line related to these collateral consequences.

Many of you, as I've said, are active in your local bars or at least you know people who are. Well, women offenders and their kids are a great pro bono project. We're not talking litigation. What many simply need is a notarized power of attorney. Why? Because that's what's necessary to give to family members or friends in order to put the children in school or get medical treatment for them and keep them out of the dependency system.

They need information about civil questions. Women in the dependency system need somebody who can simply follow the status of their case and arrange for visitation. And visitation is often a problem since these women are usually going to be placed further from their homes than men, in part because there are fewer—obviously—women in the system even though their numbers are now burgeoning.

Women coming out need to navigate the social service system. What can a local bar association do? Create a brochure that talks about what services you've got in the community and how to access them. Work with interested people to set up a job fair. It's things as simple as clothing for women to interview. Tell women how to deal with a question about their former incarceration.

Judges, prosecutors, and defense counsel can visit facilities and ask questions. Often simply showing up sparks innovation and new programs and it says to correctional officials that the public cares. And not only the public cares but community leaders care.

The DA in Brooklyn, New York is creating a residential alternative for female drug offenders and their children. Ask your DA: what are you doing?

This isn't simply a judge problem; this goes to prevention, not simply punishment.

For the judges in the room: has your court used the curriculum developed by the National Association of Women Judges on sentencing women offenders? My guess is that many of you don't even know that it exists. Ask your presiding judge about it. Why aren't we using it? It's readily available.

Some communities have small but wonderful organizations. Donate to these. They do things as simple as giving toys in the visiting room, taking children by bus to visit their mothers. And this isn't simply something for lawyers. Suggest things to your local religious organizations as well.

We must prevent the creation of an army of children who grow up thinking that society has no use for them. If we don't, we shouldn't be surprised when they follow their mother's footsteps into the criminal justice system. As community leaders we need to demand that the voices of these children be heard. Our humanity, not just theirs, is at stake.

If even a few of you pick up the telephone, I will feel absolutely gratified on this issue because we all together can make a difference.

Thank you again for the great privilege of placing me at this table.

*[Applause]*