LETTER TO A PUBLIC INTEREST ATTORNEY

Beth Colgan

It is an honor to write to you today, though I provide the advice below with the understanding that in many ways you already know what I have to say. You have chosen to become a public interest attorney because you see courage in every day struggles, you have the desire to give voice to your clients' stories, and you know that to do the work you are embarking on, the greatest tools you have are your reputation and willingness to fight. So bear with me as I ask you to reflect upon such things and allow me to leave you with one more notion that public interest attorneys too often forget: the necessity of being kind to oneself.

Recognize courage. A few years ago, I picked up the phone and for the first time heard the voice of a woman who came to be known as Jane Doe, a class representative in a lawsuit regarding rampant sexual abuse of women in Washington state prisons. Jane was in great distress; after repeated sexual abuse, Jane had reported what she had been subjected to, but the prison had allowed the guards who had been assaulting her to return to duty.

In the weeks, months, and years that would follow, Jane—and the three other women who would serve as class representatives in the case—exhibited courage that humbled me every day of our representation. The risk they took by suing, and making public what was happening to women in Washington's prisons, were many. A prisoner who sues a prison is under the direct control of the opposing party. When and whether they eat, sleep, use the bathroom, see their families, and remain safe all become more precarious than before.

While those risks are perhaps amplified in a prison setting, any time a person takes a stand and seeks change, it is a courageous act. It is incumbent upon those who represent them to understand those risks, to guard against them to the extent we can, and to try to honor that courage with our work.

Listen. One of the ways we can best honor our clients' courage is to employ our most powerful tool: the ability to tell our clients' stories. An error attorneys often make is to walk into a case thinking they know what parts of a story count, what facts are relevant to a particular question of law. What I found in my practice is that listening—*really listening*—often revealed facts more valuable to a case than I could have imagined. While it is critically important to know the elements, factors, or principles to which the facts you gather will apply, it is just as important to allow your client the space to explain what they have experienced, how they feel harmed, and what they hope to achieve. In other words, don't just ask whether the light was red or green, ask your client what

happened. Use open-ended questions, give your client the room to answer, and let the story unfold.

Be a voracious reader. Of course, learning the story and telling the story are different matters entirely. There are two critical storytelling mistakes I hope you will avoid. Mistake one: applying the facts to the law in a cookie cutter fashion. Writing in a way that does not reveal our clients' unique experiences does them a disservice. Mistake two: engaging in melodrama. You are a public interest lawyer. What is happening to your client is dramatic enough. Embellishing those facts or resorting to hyperbole undermines your credibility and damages your client's case.

You've had training in law school on how to avoid those mistakes, but do not rest on what you have learned so far. Make great writers your teachers by surrounding yourself with their work. Ask yourself why a piece of writing causes you to catch your breath, makes the hair stand up on the back of your neck, makes you think about it again and again. Consider the lyricism that permeates Abraham Lincoln's Second Inaugural Address. Think about how even just the first four paragraphs of Truman Capote's *In Cold Blood* punch you in the gut. Contemplate the way in which, in his *Letter from a Birmingham Jail*, Dr. King uses grace and even-temper to highlight his opponent's lack of both qualities. Reflect on how Dana Priest and Ann Null, journalists for the Washington Post, were able to use simple, unembellished facts to convey the disgrace of Walter Reed Medical Center, including the experience of a "reconnaissance and land navigation expert" with severe head wounds who was left to "stumbl[e] around outside the hospital, sliding against walls and trying to keep himself upright…."[1] And lest you think that to reach such great heights is not possible in legal writing, spend some time with the dissents in *Korematsu v. United States*. Without an ounce of hyperbole, Justices Jackson and Murphy compel us to see that all people, whether in times of peace or war[2] and regardless of race, must "be treated at all time as the heirs of the American experiment, and as entitled to all the rights and freedoms guaranteed by the Constitution."[3]

Embrace disappointment. Note that I've recommended you read the *dissents* in *Korematsu*. Fred Korematsu, a prisoner in Japanese internment camps during World War II, fought his incarceration all the way to the United States Supreme Court. He lost. Just like Mr. Korematsu and his attorneys, you will be on the side of right and good and you will lose. Not always, hopefully not often, but it is part of the job. So is giving your client a voice, which in and of itself is a victory even in the face of likely defeat. Without Mr. Korematsu and his attorneys, there would be no dissents to read, and no recognition that the dissenters were right now, just as they were then. What is more, part of the job of being a public interest lawyer is to refuse cynicism after a defeat and instead to fight on

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[1] Dana Priest & Anne Hull, *Soldiers Face Neglect, Frustration At Army's Top Medical Facility*, WASH. POST, Feb. 18, 2007, http://www.washingtonpost.com/wp-dyn/content/article/2007/02/17/AR2007021701172.html.
[2] Korematsu v. United States, 323 U.S. 214, 244-45 (1944) (Jackson, J., dissenting).
[3] *Id.* at 242 (Murphy, J., dissenting).

anyway. Mr. Korematsu did just that; nearly four decades after his loss in the Supreme Court, he finally won the vacation of his conviction.[4]

Avoid tunnel vision. If you're lucky in this career, you'll find an area of practice that allows you to think about and fight for issues that fill you with passion. But no issue is an island unto itself. The foster child you are fighting for is the same child your colleague is trying to keep out of jail. The family struggling with homelessness in need of eviction representation is the same family that needs payday lending reform. The migrant farmworkers who need representation to address unfair wage and labor practices also need political advocacy for access to clean water. No one attorney can advocate on every front, but understanding how a web of issues impacts your clients' lives will put you in a better position to advocate for them even on a discreet issue. And every now and then that understanding can lead to collaborations and new methods of advocacy that you may never have otherwise tackled.

Jealously guard your reputation. One of the things that made me incredibly proud to be part of the Institutions Project at Columbia Legal Services, and what made our work so effective, was the reputation we garnered not just amongst our biggest supporters, but also our opponents. One aspect of our work involved suing jails and prisons, and holding the government to task for failures in that realm. At the same time our work involved legislative advocacy, often partnering with the Department of Corrections—the very entity we regularly sued—to seek policy changes on sentencing, reentry, and myriad other reforms. The Institutions Project could only do both because, though we aggressively litigated our cases, we always treated our opponents with respect. As a result, our clients were better served in both arenas.

Take care of yourself. When I was in your shoes, I closely followed the career of a man named Dick Cunningham. As someone who was lucky enough to be in Chicago in the heyday of the death penalty moratorium movement of the late 1990s, Mr. Cunningham's work stood out to me not just because he was tenacious in court, but also because of his ability to see the humanity in his clients, regardless of their crimes. I was stunned a few years later, to learn not just about Mr. Cunningham's tragic death, but also about the intimate details of his life. In hindsight it should not have come as a surprise that how deeply he embedded himself into his work would take a toll on his health, on his family, and even at times on the quality of the representation he provided.[5]

The reality is that none of us can give our clients the representation they deserve if we are too exhausted and overwhelmed by stress to do so. Stress can lead to fatigue, feeling overwhelmed, and mental health complications.[6] Lawyers who bear witness to the

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[4] Korematsu v. United States, 584 F. Supp. 1406 (1984).

[5] I highly recommend you review the excellent eight part series on Dick Cunningham's life: Ken Armstrong, *The Trials of Dick Cunningham*, CHI. TRIB. Dec. 11-20, 2002, http://www.chicagotribune.com/lifestyles/chi-cunningham-gallery-storygallery.html.

[6] *See, e.g.*, AMERICAN PSYCH. ASSOC., STRESS IN AMERICA (2012), http://www.apa.org/news/press/releases/stress/2012/full-report.pdf.

traumas their clients experience may in turn experience secondary trauma, a serious condition that can lead to depression.[7] I tell you these things not to frighten or worry you, but so that you can take seriously at the very beginning of your career—when we all set the boundaries for our professional lives—the need to show yourself the same compassion that you will your clients.

So take vacations. Pick up a hobby. Go for a run. Listen to Springsteen.[8] Most importantly, find time to laugh with your friends and family. In short, to do the most good for others, don't forget to be kind to yourself.

Sincerely,

Beth Colgan

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[7] Andrew P. Levin, M.D., *Secondary Trauma and Burnout in Attorneys: Effects of Work with Clients Who are Victims of Domestic Violence and Abuse*, American Bar Association (Winter 2008), http://www.americanbar.org/newsletter/publications/cdv_enewsletter_home/expertLevin.html.

[8] I am now the second writer in this series to recommend The Boss. *See* Alice Garfield, Letter to a Young Public Interest Attorney, 4 LA PUB. INT. LJ 93, 97 (2014) ("Listen to Springsteen a lot."). Like the writers I note above, Bruce Springsteen is a storyteller of epic talent, and worthy of your consideration. If you don't believe me or Ms. Garfield, see if Jon Stewart can convince you. *See, e.g.*, https://www.youtube.com/watch?v=3jqNXphenus.