

**Governor Deval L. Patrick
Boston Bar Association
Law Day Address
Boston Marriott Copley Place
May 3, 2007**

Thank you for inviting me to participate in your Law Day event.

Congratulations to my friends Chief Judge Mark Wolf, Judge Reg Lindsay, Judge Patti Saris and Chief Justice Robert Mulligan for their well-deserved honors, and a special thanks and congratulations to the many lawyers honored here this evening for representing Guantanamo Bay detainees.

In 1958, when President Eisenhower established Law Day, the Nation was gripped by fear. We were in the midst of the Cold War, in the shadow of what was called “the Communist Threat.” Thousands of missiles were pointed at us ready to launch at a moment’s notice. A few of us here remember being taught in school in the

event of a nuclear attack to take cover under our desks. I still remember the air raid siren that went off every weekday at 10:30 from the roof of the fire station across the street from where we lived. It was a mechanical test, of course; but it was also a daily reminder that we believed an atomic blast was a real and present danger.

Surrounded by fear, and perhaps in spite of it, President Eisenhower launched an annual day of recognition to celebrate the contributions of law to American freedom. Those contributions -- and the special contributions of American lawyers -- helped expand freedom for poor and Black people, for women and other minorities in the midst of a period of fear. America not only survived the Cold War, but won it -- because America remembered who she was.

Active citizenship is essential to successful democracy. By establishing a national Law Day, President Eisenhower in effect acknowledged the

special role that lawyers play in helping democracy succeed. One of my mentors used to describe this paradigm as the “citizen lawyer.” The charge of the citizen lawyer is not just to understand the technicalities of the laws, but to absorb the spirit of the law and the values embodied in our Constitution. Lawyers shape the case law, much of our legislation, and ultimately how we govern ourselves. So, we count on citizen lawyers to approach problems not just with passion, but with reason and courage; to bring the power of reason to bear, not just on the issues facing their individual clients, but on the issues we face as a community.

The role of citizen lawyer has deep roots in America.

John Adams, one of our founders and a son of Massachusetts, took up the unpopular defense of British soldiers in 1770 in the wake of the so-called “Boston Massacre.” Despite outraged fellow colonists

and the condemnation of such figures as Samuel Adams and Paul Revere, John Adams successfully argued that the soldiers had acted in self-defense, and won acquittals for all but two of them.

His son, John Quincy Adams, another great statesman and lawyer, took up the unpopular defense of the African captives aboard the slave ship Amistad in 1841, and won their freedom. We will never know whether what swayed the Supreme Court was the strength of his argument or its length – it lasted nine hours. The point is that here again is another early example of a lawyer tempering the passion of the time with reason and courage.

The willingness to face down passion and fear with reason and courage -- and to speak truth to power -- is the hallmark of the citizen lawyer. It represents a deep and honorable tradition in our profession.

Tonight we are honoring the invaluable, dedicated work of those lawyers of Massachusetts who, following that great tradition, have volunteered on behalf of detainees at Guantanamo Bay. It took real courage to take on those cases. Because fear – as a device to manipulate and even to govern – is at large again in our times.

The events of September 11, 2001 were horrific, of course. They disrupted individual families and our collective sense of security and well-being. It was a “wake-up” call to our own vulnerability. And it represents a catastrophic failure of human understanding. In its wake, I believe we have been governed by fear.

Fear drove us to round up people of Arab descent, many of them American citizens, and to hold hundreds without cause or charge.

Fear led us to turn our attention from a known enemy in Afghanistan and invade Iraq instead.

Fear justified what I believe to be the greatest assault on personal freedoms (in the Patriot Act) and the greatest aggregation of Presidential power in recent history.

Fear created the Guantanamo detention center.

Just a few months ago in a radio interview, a senior Pentagon official, Charles “Cully” Stimson, named some of the law firms providing pro bono representation to the Guantanamo detainees and suggested that corporate America make those law firms – and I quote – “choose between representing terrorists and representing reputable firms.” He attempted to mark these lawyers as enemies of society. There was no subtlety in his message.

Into this climate, citizen lawyers have again had to step forward and assume their responsibility to face down fear with reason and courage.

And I am happy to say that the American Bar Association, as well as 130 law school deans, immediately condemned the fear mongering.

Speaking about this post-9/11 phenomenon, former Vice President Al Gore observed that, “Fear drives out reason. Fear suppresses the politics of discourse and opens the door to the politics of destruction.” Quoting Justice Brandeis, Gore reminded us that, “Men feared witches and burnt women.”

The Vice President captured the spirit of the citizen lawyer in the heat of danger when he said, “The founders of our country faced dire threats. If they failed in their endeavors, they would have been hanged as traitors. The very existence of our country was at risk.

Yet, in the teeth of those dangers, they insisted on establishing the Bill of Rights.”

Like me, he wonders: “Is our Congress today in more danger than were their predecessors when the British army was marching on the Capitol?”

Fear is treacherous.

The politics of fear is by no means limited to the area of national security. It is increasingly the political weapon of choice to overcome a position that has reason and fairness on its side.

When the Supreme Judicial Court announced its decision in Goodridge four years ago, recognizing the right of gay men and women to marry, it simply reaffirmed the old principle that people come before their government as equals. Yet there was a groundswell of opposition drummed up by the fear that this private freedom represented a threat to everyone else’s marriage. Several years and many marriages

later, the institution of marriage has survived. But the fear-mongering persists and so have efforts to amend the state constitution in a manner that would, for the first time in history, take away civil rights. Never mind that these are the same threats to civilization that were leveled forty years ago when the Supreme Court struck down prohibitions to Blacks marrying whites.

In response to the surging number of shootings in Boston, we filed legislation to limit the purchase of guns in Massachusetts to one gun per month. Yet, even in the wake of the tragedy at Virginia Tech the gun lobby urges hunters and other law abiding citizens to resist such measures as a threat to sport. Never mind that no one uses a semi-automatic to hunt birds, and law abiding citizens rarely, if ever, buy guns in bulk.

Even on economic issues, impassioned pleas about dire consequences too often take the place of reasoned argument based on fact and fairness. For example, to

relieve the pressure on residential property taxes, we have proposed to end a 92-year-old law that exempts the phone company from paying the same property tax the rest of us have to pay. The phone company has mounted a campaign claiming that if they have to pay property taxes our phone rates will go up and the folks in Western Mass. will never get broadband service. Never mind that our phone rates have gone up 30% in the last few years while the phone company's total tax burden has gone down 46%. Never mind that the phone company has not delivered broadband service in Western Mass. even with decades of the benefit of this tax break, and has no plan to do so. Never mind that in other states that have already ended this exemption, business is booming and rates are lower.

Compared to the experiences of our founders or the lawyers who have stood up for Guantanamo detainees, perhaps these are all trivial examples. But my point is

that fear – raw, emotional and compelling – is the pervasive means today by which to ignore fact and to overlook our better values.

By training, by profession and by tradition, as the leaders in our legal community, you can and must assume your special role in our democracy and use the power of reason to overcome the politics of fear. Saying “never mind” to facts or fairness is not OK. Our job, as citizen lawyers, is to remind our community of this, to keep America true to who she is.

To each of the citizen lawyers in this room, I applaud the contributions you have and will continue to make. To each of the rest of us, who have not yet stepped up to our historic role and responsibility as citizens, get on with it. Democracy needs you.

Thank you.