



January 19, 2021

Dear Future Marquette Lawyer:

Some years ago the Law School needed to write a description of its work. Our draft included a sort of paean to the importance of law in preserving order in society. In then editing the document, we clarified that the law does only so much: A community's *culture* matters a good deal more. This basic truth has influenced much of my work as dean.

Consider, for just one example, the school's pro bono efforts. Ours thrive, in opportunities provided by the Law School but embraced by so many of you as students. To take only the winter break, now nearly concluded: Some 132 Marquette law students volunteered for pro bono work. Examples in the local profession may have helped inspire this: 111 lawyers volunteered. The Marquette Volunteer Legal Clinics have been very busy online, with as many as 33 clients having appointments during a single three-hour clinic.

Our students—many of you—do this work not because of some “law” mandating it. The Law School once considered such an approach, when, as a community, upon the death of Dean Howard B. Eisenberg, we sought to perpetuate his pro bono ethic. The faculty ultimately decided against a *requirement*. “No forced study abides in the soul,” one of my colleagues noted Plato to have related (the original Greek is available). The ensuing decade and a half have confirmed our approach, and the pertinent point is that our *culture*—influenced by the best traditions of our profession and by our being part of a Catholic, Jesuit university—especially drives (y)our great pro bono work.

We are a community, even as we are also parts of various other communities.* And we have a law school culture, to which we all contribute. It was easier to promote a shared culture in our pre-COVID days, when we were together, routinely, in Eckstein Hall—a building whose splendid design contributes to our community's development. Now we must all work harder at it. In that regard, I encourage you to take advantage of the opportunities that we present. The Public Interest Law Society auction is just one annual tradition that we will maintain, in a temporarily different form, to bring us together, as we also support important student summer fellowships. For our first-year students, the Academic Success Program sessions and study groups (which we can help arrange) offer a chance to develop both knowledge and relationships. We are planning a remote event unveiling the (nonremote) portraits of two emeritae faculty, Professors Carolyn M. Edwards and Phoebe Weaver Williams. I hope that you will be part of these and other occasions.

You may create your own community-building occasions, of course. Some of our student groups have embraced the opportunity to gather members and prospective members within our community. These affinity groups, as they are sometimes called, are especially important because we are a diverse community with diverse interests, as well as a single community that seeks to cohere.

* In this regard, while this letter differs from some of my past welcome-back correspondence, I wish to note the retirement last month of Debbie Moore, longtime administrative assistant to a number of our faculty. Debbie contributed to our community, including students in our clinical program, for many years, and I have expressed to her the gratitude of the entire school.

On this last point, early in my deanship, I addressed what seemed to me a development in our culture. It is not my ordinary style to quote myself, but I think it useful here to give the beginnings of those earlier remarks:

It is true that we have controversies about which some in the society feel almost as strongly as many did about slavery in the nineteenth century. Yet even the most prominent example has not generated the same widespread literal call to arms. There is overwhelming common ground in our society that the means whereby substantial questions should be settled is by resort to American institutions, such as the press (and the forum that it provides for debate), the legislature, and the courts.

This is an overwhelmingly positive aspect of American society, and we should be proud of it. To be sure, we should be humble about it as well, as no one of us can claim substantial credit for the matter: it is, again to use words from Lincoln's speech, "a legacy bequeathed us." But it is nonetheless the case that we and our forebears embraced and built upon that legacy.

Let me leave aside, for the moment, the point toward which I was building in those remarks: a remonstrance against the danger of the use by individuals of inapt institutions, which they control, in the pursuit of their individual interests (the full remarks are [available here](#)). For I must first express my hope that the *quoted* portion does not come off as archaic—that its description of our society's common ground is not hopelessly out of date.


Yet there is no question that our nation is in a worse place in some respects. On the one hand, judgments of courts are almost never flouted directly; on the other, we have now seen an attempt to displace our most basic democratic processes by illegal means. No *law* had been changed to permit the violent attack on the U.S. Capitol just as Congress was about to formalize the presidential election. Yet a fracture in our culture made it imaginable, with some individuals inviting—or, to state it better, fomenting—it.

I disclaim purchase on some grand solution, but I do seek to proceed by my own best lights. This includes regarding the institution that I have the privilege to help lead as a venue for legal study and civic education but not as a home for all of my pursuits in the law. For an example of the latter: In a lengthy, difficult pro bono case, in which for many years (and as recently as yesterday) another lawyer and I have worked for justice for a convicted Milwaukeean, the Law School has had no part. I mention it here only to demonstrate that I try to practice what I preach: Like my great predecessor, Howard Eisenberg, I conduct my pro bono work involving contested litigation not as dean but from my post office box.

So my focus has been, to borrow a slight phrase from a lesser-known Irish poet, on things "nearer." You will make your own choices. Some of you, I hope, will run for elected office or help lead institutions devoted to specific causes. Others will work for justice in smaller-scale yet equally significant ways—the more traditional work of lawyers, handling cases and matters one by one. Whatever is your path, my hope is that you will carry with you in your hearts the Marquette mission. You see it in the Aitken Reading Room, in its succinct statement, carved above the fireplace: Excellence, Faith, Leadership, Service. I expect that you also see it in some of your colleagues, even if doing so occasionally requires some generosity of spirit. In all events, I hope that you will allow this mission to help guide you on your journey in the law and the larger culture, in Eckstein Hall and down the road.

Please accept my heartfelt good wishes for the new semester.

Sincerely,



Joseph D. Kearney
Dean and Professor of Law