Speech by Juliet Brodie, Associate Dean of Clinical Education, the Mills Professor of Law, Director of the Mills Legal Clinic and Director of the Stanford Community Law Clinic

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Dean Magill, Trustee Alvarez, colleagues, parents, grandparents, other family and loved ones, and, most importantly, graduates. Congratulations to you on this wonderful and happy, happy day. It is such a joy to be with you as you celebrate your remarkable achievement. I wish you knew how many times we on the faculty say, even when none of you is around, that the students are the best thing about teaching at Stanford Law School—and let’s be honest, there are a lot of great things about teaching at Stanford Law School. But you are really what it’s all about, and today we celebrate you, our about-to-be-former students, as you commence your new lives as lawyers. Or at least people with law degrees! Congratulations, and well done. And well done, too, to the people in your lives who have made it possible. You know who they are, and make sure they know today how much you appreciate them.

I. REPRESENTATIVE CAPACITY (what is a “clinical” professor?)

I don’t know if I can really express how moved I was when Cathy Glaze called me to tell me that you had selected me for the Hurlbut Award. To say it was unexpected is an understatement. To be recognized with this honor was absolutely astonishing. I thank you, from the bottom of my heart, for it.

One of the reasons it was so astonishing is that those of us who teach using the clinical method do so, by design, to relatively small numbers of students. I was moved, therefore, not only personally, but because I recognized – or at least I think I recognized – that you were selecting me in somewhat of what we lawyers call a “representative capacity.” While I would love to think that the 30 or so of you who enrolled in the Community Law Clinic, because of your clearly superior judgment, were each given 10 votes, something tells me that didn't happen. Instead, I stand here today as a result of what I am pretty sure was collective action among the electorate to vote for someone who could represent the clinical faculty at SLS. That pleases me for two reasons. First, because strategic thinking and effective advocacy are among the lawyer's tools that we strive to teach you, I am happy to see you know how to run a campaign! Second, though, and more seriously, I am just thrilled that your experience in the clinical program inspired you to want to hear from one of us as you depart SLS and head out as lawyers. I believe that this is the first time a professor who teaches exclusively in the clinic has had this honor, and I thank you for that. PAUSE.

For those here who might not immediately recognize the term "clinical faculty," let me explain. When one hears the term "law professor," one probably still pictures a solemn, tweed-wearing person, standing at a lectern in the well of a large, auditorium-style classroom, with a hundred or so rapt young students before him, decidedly HIM, leading his students through Socratic inquiry, a là, "Mr. Hart, please rise and state the case of Pennoyer v. Neff...." Very few Stanford law professors probably fit that description (no one wears tweed—this is California!), but the clinical faculty definitely don't. We teach through an entirely different mode: through real practice with real clients in the real world--more like a medical school clinical rotation or residency.
Our students come to us having had the very best classroom legal education imaginable. It is our job to help students put that education in motion, by taking students out of the classroom and into the world, where they perform in role as a lawyer. In the clinics, students take the academic learning from the classroom, and start to use it. We clinical teachers are committed to the craft of lawyering, to the idea that, as my colleague Jay Mitchell says, “being smart is not enough: you have to know how to do stuff,” and do it well, and do it timely. Students in the clinics have their own clients, and do all the legal work – the research, the writing, the counseling, the negotiating, the appearing in court, etc. — necessary to represent them, be it in litigation, in nonprofit management, or in policymaking. Our students try cases, they write briefs and argue in appellate courts, they draft licensing agreements and contracts, they testify in Congress and in other government bodies, they write white papers on hugely significant public issues, all on behalf of their clinic clients. The clinical professor provides exactly the level of supervision you would expect of someone who was taking professional responsibility for every move a student makes using her law license. No phone call, no email, no meeting, no argument – nothing is put out into the world until it has been planned and researched, and mooted, and drafted, and re-drafted, and re-drafted, and all with what we hope is “constructive” criticism. We try to do all this with good humor and to remember that we were all newbies once, and that things that come naturally to an experienced lawyer, something as simple as picking up the phone and calling a government agency, let alone stating one’s appearance on the record, can be daunting for a novice.

But, we want to teach our students not only how to do the things that lawyers do. We also want to prompt them to reflect about what it means to be a lawyer, and about what kind of lawyer they want to be. Not whether they want to be a mergers and acquisition lawyer versus a real estate lawyer, but about what kind of a lawyer they want to be. What does it mean to them to join this uniquely public profession? What does it mean to behave ethically and with good judgment in this new context? What does it mean to have actual responsibility for the important affairs of someone else, to be trusted, and autonomous, and accountable for one’s own actions on behalf of another? What does it mean for each of them to meld his or her own personal identity into this new professional identity? To honor their prior commitments and experiences, and bring them to bear, while also becoming this new, lawyer version of themselves?

You can imagine it gets kind of intense. There are long hours, there are victories, there are losses, there are tears, there are lots of laughs, and we love every minute of it (I swear! Every minute!). At any rate, that is who the clinical faculty is, and it is not only on my own behalf but on behalf of all of us, that I thank you for the honor of addressing you today.

II. INTRO TO CONTENT

While I was very moved when I learned of this award. I was also more than a little anxious. I knew that the honor of the Hurlbut comes with the responsibility to speak at today's celebration and to send you off with some words—of wisdom, of advice, of comfort, perhaps—as you venture out from Stanford and into the somewhat less protected world. That’s a little intimidating. My predecessors in this task have quoted from Dante, from Yeats, from Chaucer. That’s not really my style. I’m more of a Breaking Bad kind of gal. But I don’t think Walter White or Jesse Pinkman would have much to add to this moment, except for the reminder that
sometimes you don’t need a criminal lawyer, but a criminal lawyer, yo. And I don’t think that’s really appropriate. So, without quotes to launch, where to begin?

I think that every class in choosing its Hurlbut speaker is not just recognizing a faculty member whose teaching they have appreciated, but is also choosing some vision of itself that they hope the speaker will convey. Accordingly, I assume you will not be surprised by the theme of my speech, because it is the one that you, basically, selected. Fundamentally, on this momentous occasion of your graduation from law school, you have asked a legal aid lawyer to address you today (admittedly the luckiest legal aid lawyer in the world…). What would you expect a legal aid lawyer to tell you? You would expect her to remind you of your duty to serve the poor. You would expect her to summon you to honor the highest calling of our profession, which, to my mind, embodies the highest calling of our democracy, and perhaps even of our humanity: to serve the least among us, and to measure our professional success not by what we earn or how important we are, but by how much good we have done on their behalf.

So, that’s what I’m going to do.

In so doing, I have some good news and some bad news. I’ll give you the bad news first, so we can end on a happy note.

III. THE BAD NEWS

It’s been a tough year, this 3L year of yours. I don’t want to be overly dramatic. I know that many of the 226 years that have passed since the U.S. Constitution came into force in 1789 have been rough. And disproportionately rough on some of us more than others. This past year may not rank among our nation’s worst ever (I don’t think it can compete with 1864 or 1933, for example), but I’d be lying if I said that things didn’t feel pretty rough right now, and perhaps roughest of all from the point of view of the rule of law.

Let me start with one obvious and compelling realm of bad news. It was in the academic year that we close with this celebration that all of us came to know a new roster of American names: Eric Garner, Tamir Rice, Michael Brown, Walter Scott, Freddie Gray. And, while we know that their stories weren’t really “news,” and that there are literally countless, and uncounted, and unknown, people like them—people whose lives we honored together in December, on the courtyard just—these names are the ones whose stories came at us this year, one after another, again and again, in what came to feel almost like a pulse that the universe was sending us to insist that we take notice in a new way.

No matter where you stand in this remarkably diverse country, whether your grandfather was a police officer or your great grandfather was a sharecropper, or both, this felt like bad, bad news. And it is acutely bad, personally bad, excruciatingly bad—for all of us in law. Because these incidents call into serious question the legitimacy of our systems of government accountability, and thus our rule of law itself, as well as our progress on what many, and certainly on what I, think is the foundational, unresolved issue of our nation.

And while these incidents were the most dramatic bad news in our republic during your time here at SLS, they are of course not the only evidence of enormous unfinished business in this country dedicated in principle to equal opportunity. During your time in law school, the US
The poverty rate has hovered around 15%. Over 46 ½ million people had incomes below the federal poverty level and were thus officially “poor.” Fifty years in to the War on Poverty, 20% of American children live in poverty; the statistics for children of color are distressingly higher. Here in the richest country in the world, almost 15% of Americans regularly don’t have enough to eat. No fewer than 50,000 of our nation’s veterans are homeless. And those are the veterans. And as for mobility, for moving out of poverty? Research this year by the Brookings Institution finds that a child born to poor parents is 10 times more likely to stay poor than to rise out of poverty, and that even though at the earliest ages there are no measurable differences in cognitive ability between children in poor and rich families, those children’s outcomes diverge dramatically and quickly, based on factors other than that ability.

Well, what about law? What news have we of the legal profession and the poor?

However you measure poor people’s access to lawyers, there’s pretty bad news. The public defender system guarantees a lawyer in criminal cases (though few would hold that system up as a model), but there is no such guarantee in civil cases, even where the stakes are arguably as high, such as eviction, or basic income maintenance. In the absence of a right to counsel, poor people rely on legal aid or voluntary pro bono services. The U.S. has one legal aid lawyer for every 6400 low-income people, compared to one private lawyer for every 429 people who are not poor. State court data tell us that at least 80% of poor people’s civil legal needs go un-met. In other words, the vast majority of poor people who go to court do so without a lawyer, even if they are going over something vital. And to be clear, this is not by choice, but because they can’t afford private lawyers, and there aren’t enough pro bono or legal aid lawyers to represent them.

Sometimes, of course, having a lawyer isn’t enough. Those of us who work in legal services can tell you that even where poor people have a lawyer things don’t always work out. For example, even the best, Stanford-trained lawyer in the world can’t save your housing when landlord evicting you hasn’t done anything illegal. Poor people’s access to affordable housing and private landlords’ rights to use their property as they see fit do not always go well together. Whether you have lived here for the three years you have been in law school, or are just visiting for the weekend, you can read in the local news about this problem. There is nothing illegal about landlords here in Silicon Valley, in East Palo Alto, Redwood City, and elsewhere, evicting their low-income tenants so they can invest in renovations and re-rent the apartments at higher rents to a different clientele. It’s happening around the Bay Area and around the nation as we recover from the Great Recession. There’s nothing illegal about it, and there are no easy answers. But it’s bad news for low-income tenants. And their lawyers.

In sum, while reasonable people of good faith can and do disagree, powerfully, about many important issues of public policy, I think we can all agree that our nation continues to face enormous challenges. I’ve used as examples today the ones that have the most personal resonance for me, a lawyer for poor people in East Palo Alto, a majority-minority city in Silicon Valley, but there are more—in the realms of privacy, security, the environment, etc. We may disagree mightily on the nature of, and therefore the solutions for, some of the most pressing and enduring of these challenges, but our democratic tradition is one committed to dealing with them with reasoned, if passionate, debate, instead of suppression or, even worse, violence.
Lawyers, on behalf of their clients, have always been and continue to be at the center of those debates. That’s where we get to the Good News.

IV. THE GOOD NEWS

There is good news today FOR you and OF you. First, you have chosen a profession that has service at its core, and equality and justice as its animating values, if not always its daily diet. I referred to law earlier as a uniquely public profession. By that I meant to refer to the fact that law and public life are inextricably bound together. Law, at its most basic, is the system by which we work out the tensions—sometimes dangerous tensions—invisible from collective life, the system by which we balance private gain and public benefit, private freedoms and public commitments, by which we, with the consent of the governed, regulate private behavior, and establish norms and parameters for peaceful pursuit of happiness.

And, more good news, at least from where I sit, you are joining the profession that has, however slowly, moved forward the rights and interests of the have-nots in powerful ways. The law gave us *Gideon v. Wainwright*, which guaranteed to every person charged with a crime the lawyer I mentioned a minute ago. And gave us *Brown v. Board*, which recognized that *de jure* segregation denies citizens equal protection of the law. Moreover, you are joining the profession that, even appreciating the diversity of its membership, asks each of us to serve the poor and to recognize that in a constitutional democracy, a legal system that is available only to those of means, is not a legal system worth defending.

So that’s the good news for you. At least I hope you think it’s good news. But, even better news for the world, is the good news OF you.

You are a remarkable bunch. Looking out at you I see the young lawyers who have already committed to those ideals. I see the young lawyers who have stayed many many extra hours in East Palo Alto, working into the night to perfect the brief they will submit on behalf of a homeless person with mental illness whose only shot at even a minimal income is in the hands of the judge before whom they will appear in the morning. I see the young lawyers who have stood up with kids seeking a decent education and with victims of horrible violence seeking asylum in the U.S. so they are not returned to their tormentors. I see the lawyers who have traveled across the globe to help those in developing democracies craft legal codes and constitutions to ensure equality and justice in former tyrannies or to document the human rights abuses still underway. I see the lawyers who have worked as apprentice prosecutors, bringing to that noble tradition the best possible values of humility, proportionality, and wisdom.

And I see the young lawyers who have wept with gratitude for the clients who have seen them as allies. The lawyers, in other words, who approach this work not in the spirit of charity but in the spirit of shared fate, who know that their own lives are at stake as much as their client’s.

Now, I said that while there is good news, it might not be as good as you’d once hoped. I assume that many of you came to law school for the same reasons I went to law school. Animated by your passion to advance justice for those who had too little of it, you came to law school, in the oft-used metaphor, to add a new tool to your toolkit. You felt that the tools you
had—the academic chops, the art history degrees—were not up to the job, and you came to get a bigger, better tool. The bigger, better tool.

But once you got here, you started to realize things were a little more complicated than maybe you’d hoped. Just as you developed your ability to craft a legal theory to bring justice where it is so desperately needed, you realized you had the ability to craft a pretty good argument on the other side. You came to realize that even the most brilliant, seemingly irrefutable argument was not enough to change the world once and for all. You came to realize that there isn’t a Brown or a Gideon around every corner, and that even if there were, it wouldn’t be enough. Indeed, you realized that many of the hideous injustices that persist—like poverty in the land of plenty, like unarmed teenagers being killed by police—do not persist because there are no lawyers trying to end them. They do not persist because of lack of creativity and passion, and hard work and dedication and sacrifice—by lawyers, and others. They persist despite those things.

So why do I still see cause for joy, for optimism? Where do I find this “good news”? Perhaps surprisingly, for those of you who know me even a little, it comes from the Mishnah, the Ethics of Our Ancestors, ancient Jewish ethical teachings. As all CLC students know, if only from the backs of our t-shirts, the Mishnah teaches that:

\[
\text{You are not required to complete the task of repairing the world.}\\
\text{But neither are you free to ignore it.}
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On this view, your obligation is not to solve the problems of the world. That’s great news! Given the recalcitrance of injustice, be glad that you are not required to complete the task. But don’t be fooled, because neither are you free to ignore it. And this may prove more difficult than you may think. The America that we live in today gives people of means the ability to ignore some of the problems I’ve mentioned today, and more. While new technologies have brought us together, at least from the vantage point of images and information, our material, daily world continues to be a radically segregated, silo’ed world, a world in which the poor can be almost literally invisible to the non-poor. But whether you take your advice from the Ethics of the Ancestors or from the ethics of the legal profession, you should not, you may not, accept that invitation to ignorance.

The even better news is that, as a lawyer, you have actual abilities (and a monopoly on some of them!) to do things. We your clinical teachers have seen you do them already! You are not just smart; you are trained—to solve problems, to collaborate, to read carefully, to ask clarifying questions, to write and speak persuasively and with precision. And you have role models and mentors and courts and agencies and commissions—all waiting for you to sign up and show up. Don’t believe people who say there are too many lawyers. Go to housing court, or immigration court, or family court, and see for yourself. I was there just Thursday. I overheard a volunteer attorney, whose fulltime job is in a private firm whose name you would all recognize, tell the tenant he was helping how great it felt to be able to actually help someone who needed legal advice. And how rarely he got that feeling from his regular job. That day, he was one of the 6400 lawyers for the poor. He signed up, and he showed up.
So, listen to the Ancestors: don’t be distracted (as I have been at times, I must admit) by anxiety that the things you are doing are not enough, or not quite the perfect things. Do not mourn your inability to repair the world. You are not required to complete the task. Instead, whether as your full-time calling, or simply every chance you get in what I know will be a full and demanding life, do your part. I can virtually guarantee you will never ever regret that you did. And your children will be as proud of you then as your parents are of you now.

One last piece of very good news, which is more specifically about your generation of lawyers: you guys have some awesome toys. While we may not like you staring at them during class, we 20th century dinosaurs must admit that the new technologies that your generation is bringing to market and into our hands have enormous, game-changing capacity, including in the realm of repairing the world. And no one could deny that the reason we now know the names with which I started these remarks is because of these tools and their power to capture and reveal what would otherwise have gone unseen by most of us. That pulse of the universe actually came through a smart phone.

One last piece of advice: don’t blink. Because before you know it, 25 years will have passed, and young people will be asking you “How did you decide to spend your career?” Get your answer ready now, and then go do it.

Finally, on the theme of my generation appreciating what yours will bring to our task, I want to close with the words of the great American sociologist and author, W.E.B. Du Bois:

*I have loved my work,*

*I have loved people and my play,*

*but always I have been uplifted by the thought that what I have done well will live long and justify my life, and*

*that what I have done ill or never finished can now be handed on to others for endless days to be finished, perhaps better than I could have done.*

So, here’s to next year, to the future! To the good news of you!

We will miss you very, very dearly.

Congratulations!