

LETTER TO A YOUNG PUBLIC INTEREST ATTORNEY

Niels Frenzen

Where to begin? I think some of my experiences as a student and a young lawyer might be of some interest and relevance to someone starting out today.

When I started law school I remember being very sure about what I did *not* want to do. I had no interest in working in a traditional mid-sized or large firm. I don't think I necessarily had any idea of what went on in these firms, but the idea just did not attract me in the least.

I went to law school with the idea of becoming a lawyer in order to do some "good" but beyond having that vague goal, I did not have a clear idea or plan in mind. I think I viewed law school as a way to acquire a tool which I hoped would allow me to do something "good."

I started law school in 1982. Ronald Reagan had been in office for just over a year and had begun to implement major changes to

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U.S. immigration practices. The most drastic change was a new policy to detain all Haitian boat people who at the time were fleeing Haiti and arriving on the shores of South Florida by the thousands. This discriminatory detention policy was implemented at a time when the U.S. did not routinely detain undocumented immigrants.

I was angered by this. Anger, at least for me, has always been a good motivator. I decided I wanted to go to Miami to try to assist in some capacity. I secured a \$500 National Lawyers Guild stipend and a summer job at the Haitian Refugee Center in Miami's Little Haiti. It was an eye opening experience for me. The Center was housed in a strip mall between a Haitian record store and a beauty parlor/notary public/income tax preparation service. The Center was run by Father Gerard Jean-Juste, an exiled radical Haitian priest. With a handful of exceptions, all of the staff members were Haitians. The main language in the office was Haitian Creole. Up to this point in time I had always considered myself quite liberal (the term progressive wasn't really used), but quickly discovered that most of my new Haitian colleagues were much further to the left. I got sucked into the struggle against Haiti's Duvalier dictatorship, at least as much as a white middle-class law student could.

After working the summer after my 1L year at the Haitian Refugee Center, I had no doubt that I wanted to practice law and knew I needed to do well in school and pass the bar. I ignored advice during my 2L year not to return to work a second summer at the Center. After my first summer I was fairly sure that I had found what I wanted to do. I am not suggesting that such a path would be right for everyone. There is something to be said for gaining a range of experiences by working different summer jobs and pursuing other types of volunteer or externship experiences during the academic year. But if you find something you love doing, why stop?

I learned a lot working as a student and then as a lawyer at the Haitian Refugee Center. I learned that it was virtually impossible for a Haitian refugee to be granted asylum in the U.S. The Center typically represented close to 1,000 clients a year and it was not unusual to go a full year without having a single Haitian asylum application granted. I personally won two asylum cases (I still remember the details of both cases) and I personally lost hundreds of cases. One client committed suicide in order to avoid being deported

to Haiti after being denied asylum. During one of my first trips to Haiti I inadvertently flew on the same flight as several clients who were being deported. It was sickening to watch them being arrested and marched off after landing in Port-au-Prince.

I learned that pursuing futile legal battles for years on end may on occasion lead to something good. In the case of the Haitians, growing national and international criticism of Reagan's discriminatory detention and asylum policies contributed to the inclusion of a special Haitian amnesty law when the general immigration amnesty law was finalized by Congress and implemented in 1987.

On the flip side, I also learned that successful legal work can sometimes have unintended consequences. One good example was the Haitian Refugee Center's challenge on Equal Protection and other grounds to Reagan's Haitian-only detention policy. The case went to the Supreme Court, we won, and thousands of Haitians were released from the detention camps.¹ The Government's response to the loss was a decision to begin detaining *all* immigrants. Today we have a massive immigration detention policy which locks up immigrants of all nationalities while they are undergoing removal proceedings. I don't think an alternative course of action could have been pursued. How could one not challenge the Haitian-only detention practice? But there were unintended consequences in the end.

I learned the value of protest. The Center organized many demonstrations against the discriminatory detention and asylum policies, against U.S. Coast Guard interdiction practices, against the Duvalier dictatorship in Haiti, in favor of an immigration amnesty, and on many other topics. The teenage son of one of our client's was shot to death by a Haitian soldier during a 1985 demonstration in Gonaives, Haiti. But his killing was one of the sparks that led to the national uprising that overthrew the Haitian dictatorship in February 1986. I learned the value of a good bullhorn. On my first trip to Haiti I successfully smuggled several bullhorns—and many spare batteries—into the country. My Haitian colleagues thought that a white lawyer's bags were less likely to be searched by the Haitian

1. *Jean v. Nelson*, 472 U.S. 846 (1985).

police on arrival in Port-au-Prince.

I learned to be a good litigator. I have heard many students and young lawyers explain a decision to go work for a traditional firm as necessary in order to gain adequate experience before pursuing a public interest job. Whatever type of initial job you pursue, you definitely do want to make sure that you will have an opportunity to continue to be trained and should think hard before accepting a position anywhere if that opportunity will not exist. But it is wrong to assume that you won't have an opportunity to gain tremendous experience as an entry-level public interest lawyer. In addition to representing hundreds of asylum seekers in immigration court during my first several years of practice, I was also litigating cases in U.S. District Court, putting on witnesses, doing depositions, and more. I argued my first U.S. Court of Appeals case within a year or so after graduation (I lost the case). I was co-counsel on several cases that went to the U.S. Supreme Court. If you are looking to develop certain types of lawyering skills, don't believe it when you're told that you can only develop good skills in a traditional firm practice.

I learned the value of having good mentors and the importance of having among them someone who is not a lawyer. Hard as you might try, if you only hang out with and work with lawyers, I think you will end up with a warped and narrow view of the world. I was lucky to have Father Jean-Juste as one of my first mentors. This is not to say there were not many times when he drove me crazy or when we argued, but he had a great impact on me and my views. He just died in May 2009. He would have lived a much longer life had he not spent time as a political prisoner in Haiti.

I left Miami in 1987. I came to Los Angeles and joined Public Counsel where I directed its Immigrants' Rights Project until 2000. Public Counsel was a world apart from the Haitian Refugee Center. Public Counsel today is a large law office with over 30 lawyers, but when I joined in 1987 there were only six or seven lawyers. I was the only immigration attorney. When I needed advice and guidance on immigration matters I had to look outside of the office. At the time the Legal Aid Foundation of Los Angeles (LAFLA) had an Immigrants' Rights Office which was not subject to the Legal Services Corporation restrictions on representing non-citizens that have now been in place since 1996. I was able to develop close

relationships with many of the LAFLA immigration attorneys as well as LAFLA's director of litigation at the time. It is possible to work in a smaller office without in-house mentoring opportunities, but you may have to be the one who looks for the opportunities. I left Public Counsel in 2000 and joined the USC faculty to start the Immigration Clinic. It was too good of an opportunity for me to pass up.

Looking back at my early career I know I have been very fortunate to have the opportunities that I have had. There is no standard path to a public interest career. Some of my success has come from good timing and luck, but one also has to be persistent and be creative as you start your career. Life is much too short to spend it in a job that you don't like. Good luck.

Sincerely,

Niels Frenzen