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**Metro Disability Commission Breaking Barrier Awards**  
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**Louisville, Kentucky**  
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I am very pleased to be here tonight. I was very honored by the invitation that was extended to me in June to be your keynote speaker, and throughout the summer I looked forward to the opportunity to share with you my thoughts about the status of the disability rights movement, and what the future holds for us.

Summer is now of course over, and regrettably the fall of 2001 has brought us to a future that would have seemed beyond imagining just a few short weeks ago. For my part, I now find myself faced with the formidable task, in a time of national sorrow and uncertainty, of speaking to a group of Americans about what tomorrow might bring.

Clearly that is a far easier challenge than those being addressed right now in New York and Washington, D.C.. Yet I confess to feeling unequal to it. All of the frames of reference, words or thoughts or analogies that I have to offer are at risk of sounding irrelevant or trivial or trite. But still the task presents itself.

The events of 11 September have brought home to the United States a fundamental truth: that we live in a world of immense vulnerabilities. The realities that define our days can change in an instant, and we are profoundly at the mercy of one

another. Until 11 September, many Americans had the luxury of living under the illusion that this was not so. But it is a truth that the disability community has always known.

As a community, we live day-to-day with the vulnerabilities of impairment and mortality, and, often much more significantly, at the mercies of other people's responses to them. And as a community, we know something else as well: that the truth of immense vulnerabilities can only diminish us if we make the mistake of replacing one illusion with another, the mistake of assuming that vulnerability equates to weakness and loss of dignity, independence and control.

Newly recognized vulnerabilities, especially, can actually be gifts of opportunity. For when we are cut from the moorings that have previously anchored us, and cast to the mercies of new currents, it is often easier for us to disentangle ourselves from the limitations of the past. The currents carry us, yes. But we ride them as we will, and if we ride them well they may ultimately carry us to places of better and stronger anchor.

I do not know where the fierce currents we are now traveling will ultimately take us, nor do I know what they portend for the future of disability rights. But I do have a view of the immediate past, of what has been happening to the disability and civil rights movements in recent years, and so that is where I will start in addressing the future.

What has been happening, I think, is a profound reevaluation, at the highest levels of government and in public debate, of the vision of federalism that has guided this country since the passage of the first major civil rights statutes of the 1960s. The vision upon which those laws relied was that of a fundamentally national community, whose

ideals were to be safeguarded through the broad, comprehensive and active involvement of the federal government in the protection of the rights of its citizens.

For much of the past four decades, that vision, once established in its mid-20th Century form, went virtually unquestioned. It was internalized by the federal actors with the power to make and interpret laws, and also, for the most part, by the national community to whom those laws were applied. Indeed, it was so fundamentally internalized that it became difficult, from the vantage of the late 20th Century, to view it as the truly revolutionary vision that it is.

Because this vision has been so internalized, there is a temptation to view its current reconsideration with a sense of surprise and dislocation, as if we face a challenge we have never faced before. But this also is illusion. For notwithstanding the quietudes of most of the past four decades, the challenges of and to federalism have always been the central challenges of American history.

The most critical junctures of our national life have been characterized by this repeating hallmark: by an intense and passionately engaging debate about the appropriate vision for a federated government that provides citizenship to those who are simultaneously the citizens of disparate, far-flung, sovereign states.

It was such a debate that resulted, in 1787, in the elegance of the United States Constitution. It was such a debate that resulted, between 1861 and 1865, in the bloodshed of the American Civil War. It was such a debate that resulted, in the 1960s, in

the passage of our modern federal civil rights statutes. And, I submit, it is a debate that is again at the forefront of American politics and law.

Historically, our eras of intense national debates about federalism have been painful, sometimes unbearably so. But for the most part the new realities that have emerged from them, as well the insights that we have gained about ourselves and each other in the process, have ultimately inured to the benefit of both individual Americans and our society as a whole.

What I have recalled, or in many instances learned, about Kentucky in preparation for my visit here tonight has demonstrated to me that the Bluegrass State and its citizens have historically played both exemplary and critical roles in these pivotal eras. All of the cross-cutting currents and complexities of American history have been enduringly present in your own. This is illustrated even in the state's name, which I understand derives from a Native American word that can be variously translated as "dark and bloody ground," "meadowland" or "land of tomorrow."

Like the rest of America, Kentucky appears to have been at various times, and often simultaneously, all of those things. It is, remarkably, the birthplace of both the American Civil War era presidents. And its equally remarkable official neutrality during that conflict, rather than evidencing detachment from the struggle, resulted from the passionate divisions within the state, which prevented either a Union or Confederate alliance.

Kentucky's history with respect to issues of human and civil rights is similarly divided, providing examples of both their compromise and their advancement. In 1850, almost one in four Kentuckians lived in slavery, and 20th Century state laws sanctioned racial segregation. But it is also true that Kentucky became, shortly after the U.S. Supreme Court's 1954 *Brown v. Board of Education* decision, the first border or southern state to move to integrate its public school system. And in 1966 Kentucky passed a civil rights law that Martin Luther King, Jr. hailed as "the strongest and most comprehensive civil rights bill passed by a southern state."

This 1966 nondiscrimination law, like the prior decade's school integration endeavors, was motivated in large part by reference to developments at the federal level. This pattern would be subsequently repeated with respect to disability, with Kentucky acting, shortly after the 1990 passage of the federal Americans with Disabilities Act, to incorporate the ADA's nondiscrimination provisions into its own laws.

But Kentucky citizens should not be left with the impression that their civil rights are thereby necessarily bounded by the limits of federal law protections. Gains won at the cost of much American blood over centuries have now established that the protections offered by our federal constitution and federal statutes provide the floor.

But a key aspect of our federated system is the freedom that is still left to the states to exceed that floor when they choose to do so. And Kentucky has done so in a number of ways across the spectrum of civil rights, as a result of the tireless efforts of local advocates and activists undoubtedly including some in this room.

As the current federalism debate continues to unfold, your vigilance, advocacy and activism is needed now more than ever, both at the national level and as to your own state laws. There are voices in this debate that are calling for the retrenchment of the hard-won federal civil rights gains of the past half century. Those voices are increasingly being heeded by federal policymakers and legislators. Even more significantly, they are being heeded by the federal judiciary, which is now steadily creating a body of federal constitutional precedent that will, if it continues to grow on its current track, dramatically check the power of the federal government to guarantee the rights of its citizens.

If you had asked me before 11 September how I thought this current debate would play out, I would have predicted that the long-assumed vision of a broad, comprehensive and active federalism was at great risk of being significantly curtailed, or even in some senses discarded. But that predication would have been based in large part on my perception of a sharply diminished regard for the concept of national community.

However, that one day, 11 September, defined by so much destruction, appears at the same time to have restored to us our sense of national community. But I am at a loss to tell you how this renewed commitment to America will ultimately affect the current federalism debate.

Clearly, though, it brings risks as well as rewards, particularly as it pertains to civil rights. Shared loss has reminded us of some fundamental commonalities, and it has made us in many senses more accessible to one another. But this loss has also engendered fear of a kind and magnitude with which most Americans are utterly unfamiliar. And human

history teaches that fear, especially unfamiliar fear, is a formidable and insidious threat to liberty.

What I do know with certainty is that our renewed sense of American community will not, in and of itself, guarantee us safe passage to a better future. The events of 11 September only added to the challenges that we had faced before then; they did not eradicate them. For the now 53 millions members of the U.S. disability community, those challenges were many. The painstakingly achieved gains of the disability rights movement are real. They have provided us with historically unprecedented levels of access to education, employment, housing, public accommodations, transportation, communication systems and civic life. The ADA in particular, in but one decade of life, permanently changed the architectural face of the country, and inspired a society-wide rethinking of the kinds of thoughtless assumptions and attitudes that are among the most significant barriers to full integration.

But the problems that remained yet unaddressed, and the threats to the gains that had been achieved, were also very real. U.S. Census Bureau statistics from 1997 documented that Americans with disabilities continued to be much less economically secure than most other Americans.

Seven years after the ADA's promise of equal opportunity, and decades after the non-discrimination entitlements conferred by the Rehabilitation Act and the Individuals with Disabilities Education Act, Americans with severe disabilities were experiencing a poverty rate that was three times that of the general U.S. rate.

And like the racial and gender civil rights movements before it, indeed like all other social justice movements that seek genuine change, the disability movement faced a backlash that was clearly evident by the end of the 1990s. Not only that, we were confronted with the added challenge of the renewed federalism debate, which threatens the constitutional foundations that have supported our victories.

And now, of course, we have the devastating events of 11 September to contend with. Those events will have many impacts. Some of the impacts will be practical, and they are already being felt. Funds, both governmental and private, that were previously earmarked for programs of key concern to the disability community are already being redirected, or a frozen pending decisions about how they should now be spent. The time and attention of private citizens, and especially of our governmental representatives, is being redirected as well. This is, of course, understandable, but that does not diminish the resulting implications.

There will also be less tangible, but equally significant, impacts. The current federalism debate will now play itself out in a new landscape characterized by a fiercely renewed sense of national community, overshadowed with fear.

It is too early to predict how these new contingencies and factors will affect the future of disability rights and our community. To my mind, the magnitude of the uncertainty mirrors the magnitude of the events that precipitated it. 11 September is not only a tragedy for individuals, or individual communities. Indeed, it is not only an American tragedy. It is a worldwide one.

Up to 40 percent of the people who lie silenced under the rubble of the World Trade Towers were the citizens of other countries spread out across the globe. Their diversity, like that of the American dead, is as remarkable as their numbers. Those we mourn spoke the many languages of the world, including Arabic, and they professed its many faiths, including Islam. And with their loss, our world is, and will be, changed.

In my home in California, where we are thousands of miles from the physical scenes of devastation and largely untouched by intimate losses, that change is being symbolized, as elsewhere coast to coast, by the flags that flutter everywhere. They move me beyond words, because like 280 million of my neighbors, in all our glorious diversity, I am American.

But I am equally moved by the thought that no flag is worth displaying, let alone defending, unless the ideals that it purports to represent are actually manifest in the words and deeds of those who stand under it.

The work of the disability rights movement has always been dedicated to the full realization of those ideals, the highest and best American ideals of liberty, nondiscrimination, equal opportunity, tolerance and full inclusion. The value of that work is evidenced by the accomplishments of those whom you honor here tonight. But, as those of you who have been in this struggle for so long know, you cannot rest upon them. You must, as we all must, continue with the work that lies ahead.

As we turn our attention to that work, I leave you with a story, perhaps apocryphal, about one of Kentucky's most famous sons. It is a story about Henry Clay,

who lived from 1777 to 1852, in a time of great change, and it tells of a ride that he took over a lonely Appalachian mountain path. Pausing at the great gateway to the western United States, Clay sat silently atop his horse at the Cumberland Gap.

To his back lay the thriving Eastern seaboard of a young nation. Facing him were the western lands of North America. Some looking at that view would have seen only the limiting illusion of a new landscape suddenly discovered, passively waiting to be claimed and shaped by the national vision of a new group of Americans. Others might have seen something closer to the truth, a landscape of immense vulnerabilities, the long-time home of multiple complex realities and histories.

We have no report about what Clay saw as he looked west that day, but we do know what he is reputed to have said. Asked why he had paused in the midst of what seemed to his companion to be a great emptiness, Clay replied, “I am listening to the tread of the coming millions.”

I don’t know precisely what wisdom, if any, either Clay or his companion gained from this experience. But the story yields for me a useful admonition, particularly in these uncertain days: an admonition that we should take the time to discern the true features of the landscapes in which we live, and then to be mindful, when study turns to action, of the future generations who will inherit them from us.

There are millions still to come. For ourselves and for them, let us continue to break down the illusions and the barriers that divide us from one another. And as we proceed together in this time of great change, let us choose well.