

Why Are You Whispering?

Her Honor: My Life on the Bench . . . What Works, What's Broken, and How to Change It

LaDoris Hazzard Cordell (Celadon Books 2021), 294 pages

Carolyn V. Williams, rev'r*

"I refuse to give up on our legal system, and I will *never* give up on our judiciary—hopefully neither will you."¹

I'm a sucker for a good story. *Her Honor* is full of them.

This book begins with an elucidating account illustrating the need for diversity in our judiciary. Judge Cordell, a Black woman, presided as a judge pro tem in a California municipal court where litigants represent themselves in small claims court. Her first case involved a hairdresser demanding payment for braiding cornrows in her Black client's hair. The client refused to pay because the cornrows were poor quality. Judge Cordell understood, and explains to the reader, the importance of hair to Black women and the hours and skill involved in braiding a Black woman's hair. Judge Cordell knew how to examine the braids and roots to determine the work's quality—the most important factor in ruling for one side or the other. If this case had been given to a White male judge, chances are he would know nothing of "roots, braids, cornrows, and matted hair."² Without saying diversity in the law matters, Judge Cordell shows the reader why it does. And this technique—showing versus telling—flows through the entire book.

Judge Cordell manages a perfect balance of deeply moving narratives, impersonal statistics, a little history, and suggestions for change. In *Her Honor*, Judge Cordell recounts almost twenty years of memories from her time on the bench as the first Black female judge in Northern California.

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¹ LADORIS HAZZARD CORDELL, *HER HONOR: MY LIFE ON THE BENCH . . . WHAT WORKS, WHAT'S BROKEN, AND HOW TO CHANGE IT* 294 (2021).

² *Id.* at xviii.

After beginning with her first experience as a judge pro tem, the book details her appointment by Governor Jerry Brown in 1982 as a judge of the Municipal Court of Santa Clara County and concludes with her pro bono work after she resigns as an elected judge from the Santa Clara County Superior Court.

The book is not strictly chronological. Instead, Judge Cordell groups her stories into four categories. First, she talks about the history and workings of juvenile court, sentencing juveniles, and the felony murder rule in juvenile court. Dotted amongst her story of a fifteen-year-old boy who killed his own brother are statistics regarding children of color in the juvenile system,³ statistics of adults executed for crimes they committed as children,⁴ and explorations of case law concerning life-without-parole sentences for juveniles.⁵ She recounts convicting a fifteen-year-old girl of felony murder without a jury because juries are not available in California juvenile court.⁶ Judge Cordell's meticulous recitation of her real-time analysis during the trial and sentencing of a girl who had not killed anyone, was not there when the killing occurred, and did not know her associates were planning on killing anyone, is a glimpse into the humanity of judges.

In the next section, Judge Cordell describes how she saw the law affecting families. She talks about performing marriages in various circumstances and revisits her violation of the law that banned her from presiding over same-sex marriages.⁷ She recounts instances that illustrate the dilemma judges face during divorces when determining what custodial arrangement is in "the best interest of the child" because "[n]o matter how diligently judges consider and apply the relevant best interest factors, and no matter how much evidence is thrown at them in embattled courtrooms, judges have only secondhand information to work with."⁸ She relays a heartbreaking story where the psychologist appointed to evaluate the parents recommended the father receive custody simply because the mother "didn't identify with her African-American heritage" based only on the White psychologist's feeling that the mother should have drawn a self-portrait with hair that was "more coarse and curly."⁹ Judge Cordell also describes when she ruled on contested wills,¹⁰ oversaw adoptions,¹¹ and granted name changes.¹² Each time she gives insight into little recognized

3 *Id.* at 3–4.

4 *Id.*

5 *Id.* at 4.

6 *Id.* at 19–34.

7 *Id.* at 44.

8 *Id.* at 51.

9 *Id.* at 55–56.

10 *Id.* at 65–77.

11 *Id.* at 78–99.

12 *Id.* at 100–05.

aspects of these cases, such as describing the importance of name changes to transgender people.

In the third section, Judge Cordell touches on jury duty¹³ and judicial misconduct.¹⁴ And in addition to documenting her own election to the Superior Court of California, she gives statistics regarding the problems that stem from special interest groups funding elections for judges who are supposed to rule impartially.¹⁵ She also describes how individuals who are disgruntled with judges' opinions often respond.¹⁶ Although she was never the subject of a recall election, Judge Cordell details the recall of a California judge who sentenced a defendant according to the sentencing guidelines and the probation officer's recommendation; because of the *California Code of Judicial Ethics*, the judge could not defend himself against those who "deliberately misconstrued and distorted" his sentencing track record.¹⁷ The circumstances of that judge's recall led to the revision of the *Code*.¹⁸ Judge Cordell also describes complaints about herself to the Commission on Judicial Performance.¹⁹ This section serves to highlight the need for judicial oversight and the problems with the way it occurs now.

In the fourth section, Judge Cordell focuses on stories that concern "hot-button issues." She recalls how the punishment of drunk drivers evolved in California. Specifically, she talks about her efforts to require those convicted of drunk driving to install ignition lock devices—devices individuals blow into to prove they have no alcohol in their system before their car will start.²⁰ In another chapter, Judge Cordell posits how unprepared judges are for cases involving involuntary commitments of patients who are mentally ill.²¹ Judge Cordell also tackles the issues surrounding judicial discretion²² and how plea bargaining sometimes results in incarceration of innocent people.²³

Rather than generally describe problems the judiciary and the legal system face, Judge Cordell's memories are specific, riveting examples. For example, in the chapter on jury duty, she describes a one-week trial, from jury selection through the jury's verdict.²⁴ Using this trial as the narrative framework, she addresses issues such as when juries are or should be required in a trial; the types of questions allowed during voir dire and who should ask them; the racist results of preemptory challenges and how

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13 *Id.* at 109–41.

14 *Id.* at 159–74.

15 *Id.* at 142–58.

16 *Id.* at 175–90.

17 *Id.* at 177.

18 *Id.*

19 *Id.* at 183–90.

20 *Id.* at 193–204.

21 *Id.* at 205–24.

22 *Id.* at 225–45.

23 *Id.* at 246–64.

24 *Id.* at 109–41.

attorneys can get away with it; the need for judges to check their facial expressions and body language so as not to influence juries; the pitiful compensation offered jurors around the country; jury instructions that are too complicated for the jury to understand; and the various ways a juror's misconduct can lead to a mistrial.²⁵

Judge Cordell also intersperses her memoir with a little legal history by explaining the origins of various practices within the legal community. These short divergences from her own story often highlight problems that have developed over time in the legal system. Take the chapter "Making a Murderer" that discusses the felony murder rule. She explains the evolution of pre-sentence probation reports, from its original 1880s purpose—examining a defendant's background to determine the defendant's potential for rehabilitation—to its current focus on mitigating and aggravating circumstances to justify the probation officer's recommended punishment.²⁶ This history highlights the problems with the informal partnership that has grown up between the probation officers and the prosecutors.

For the most part, Judge Cordell's stories in the first four sections raise the issues but leave the "fixes" for them until the end of the book. In this way, *Her Honor* keeps its narrative flow and memoir-feel by focusing on Judge Cordell's feelings and perspective during each event. The final section contains ten suggestions Judge Cordell has for reforming legal problems that she highlighted earlier in the book through her experiences.²⁷ She suggests actions that legal educators, legislators, judges, lawyers, and the general population can take to improve the legal system. One problem she highlights is the selection and retention of judges. The fix that she suggests is to replace judicial elections with independent nominating commissions. She sets out her plan for how these nominating commissions would work and rebuts counterarguments to her plan. In addition to the entertainment value of seeing into the mind of a judge and learning about the inner workings of the law, every reader finishes the book with a concrete way they can help improve it.

At its heart, *Her Honor* uses narrative to expose injustice and absurdity. In the concluding chapter, Judge Cordell relates a disagreement in a staff meeting between herself and a White male judge about including a statement encouraging cultural and gender diversity in the court's search for commissioners.²⁸ The other judges of color and the female judges did not voice their support in the meeting, but as they were dispersing afterward, one judge quietly encouraged Judge Cordell not to give up

25 *Id.*

27 *Id.* at 267–94.

26 *Id.* at 27–28.

28 *Id.* at 288.

on the fight.²⁹ “Why are you whispering?” she responded. In *Her Honor*, Judge Cordell does not whisper. After hearing her accounts of the state of the law in this country, the reader feels compelled to do something more than whisper, too.

²⁹ *Id.*