Tim Hollenhorst: Hi, dad.

Justice Hollenhorst: Hi, son.

Tim Hollenhorst: Well, today is January 19, 2017 and it's my honor and privilege to interview my father Justice Justice Hollenhorst for the Legacy Project for the California Courts. We're excited for the opportunity for you to share some of your stories and knowledge for future generations including your family. So, you tell the story often and you always start with "I was born in an early age". Why don't you tell us about where you're born and some things about your childhood?

Justice Hollenhorst: Okay. I was born at an early age in a little town about 70 miles west of Minneapolis. My family has lived there in this town, it was St. Cloud, Minnesota. My family has lived there for at least three generations. The town sprung up about 1842 and we have relatives who were part of that initial experience of migration from Indiana to Minnesota. My parents met and married during World War II. My mom was an army nurse, my dad was a medical administrator. When they got back from the war, they were a little slow on reproduction and they needed to start the process fairly quickly. So I think I was born about nine months and two days from the time that my parents returned from Europe after World War II.

Minnesota is the land of 10,000 lakes and I think by the time I was five or six years old, I had seen almost all of them. We always fished on Tuesday and Thursdays. I always thought that the fishing was fun and it was, but I later learned that we were fishing for food. And if we brought back no fish, there was no food. This was long before the time of the civil service employees had decent incomes. So, we were strapped for funds growing up. It was no silver spoon time. So, fishing became important, it was important. One because it was fun and we always caught something.

One thing that was really interesting about my dad, he had quite an allegiance to that community. When we were little, I mean like three, four, five years old, we would carry -- almost like a relay race back and forth to homes on our street where the father had passed away, and which was very common to those, the diet in that part of the country is terrible, a lot of greasy food. So I can remember carrying big bowls of fish fillets to people who had no access to fresh fish and my dad would tell us who we should take the fish to. And he usually kept up on who was sick, who was dying or who was dead. The people in the house got fish from people who were able to fish. So, it was always important to take care of the people who lived around you, not just your own family but other families too.

Mr. T. Hollenhorst: I remember you telling a story, your father used to spray the backyard with water or make an ice skating rink.

Justice Hollenhorst: Yeah. My dad and I were really close, really close. My dad was a hockey player. I think everybody in Minnesota is a hockey player. Ice skating rinks really were an oddity in those days, but just to let every town in it's on the lake, in the middle of town. We had like George, so we would go over there to skate. Well, that was quite a waste actually in the wintertime to get over to Lake George. So we would -- my dad would -- there was a swale, a hollow out area at the back lawn. And in the wintertime, he would let the hose run to trickle and it would pretty quick fill up and there would be a skating rink instantly because it was so cold out.

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So, after my dad passed away, it was pretty awful. He was loved by a lot of people including his kids. We have lived all over the country at that point, I mean literally all over the country because he's still working in -- doing civil service work and my mom had got back to nursing after we got a little bit older.

So I was at a conference in Kansas, at the University of Kansas and a fellow sitting next to me with his biographical stuff. So I was looking over his shoulder and saw that he was from Minnesota and had gone to the University of Minnesota. So I asked him what part of Minnesota he was from and he said "Well, you wouldn't know the town." I said, "Try me, I bet I do". And he's describing this little town, 70 miles from Minneapolis, west to Minneapolis. I said, "That's St. Cloud. Is this on the river?" He said, "Yeah." I said, "It's St. Cloud" and he says, "Why do you know St. Cloud?" I said, "I grew up there" and we were chatting about the town.

And I said "Well, tell me where you lived in St. Cloud?" "Oh, you would know it." I said, "Try me." I said, "Let me give you a couple of landmarks. How about the granite place where they actually did the grave markers" and he said, "Well, I lived about two blocks from there." I said, "Then you lived close to Gentlemen's hot houses, where they would grow vegetables in the wintertime. If you want fresh vegetables, you had to go there because that's the only place you could get them". He said, "Yeah." He said, "I know Gentlemen's. I lived next door to it" and he said, "Where did you live?" I said, "Three doors down from Gentlemen's. So what do you remember about the area?" He said, "One thing that always stood out in my mind was this guy that used to fill his backyard, flood it and that'd be skating for the kids and he was a really good skater. And he'd always have something you can use as a puck, never was a puck. It was usually a crashed can. But he always invited the kids over and give them skating lessons." He said, "That's

where I learned to skate." I said, "That's where I learned to skate too".

So, it turned out that he and I used to play hockey against each other when we were kids. I haven't seen him since we were probably five or six years old, but he's know a judge in Anchorage, went to University of Minnesota Law School. What are the chances, odds that two kids who went to the same elementary school together would end up outside of Minnesota and both of them would end up as judges by that little encounter in class? It's a little odd, but --

Mr. T. Hollenhorst: He also remembered your father.

Justice Hollenhorst: Yeah, yeah.

Tim Hollenhorst: I guess he organized the hockey games.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: How long did you live in Minnesota?

Justice Hollenhorst: Well, we went back. After the Korean War, we went back. My dad was in the reserves and went back during the Korean War got recalled. And so during the Korean War, we lived in a little town in Alabama, which was really little. And of course, we weren't used to that humidity, which was like unbelievable.

Tim Hollenhorst: How old were you when you lived in Alabama?

Justice Hollenhorst: Ages five through about seven or eight. We would go to the movie theaters at night when there was nothing else to do in this little town called Ozark, Alabama. Because it was so hot, you get a nickel and buy a Coke, but put the cold Coke bottle down your chest and it will keep you cool during the movie because you could gag in that place, it was so humid. I can remember racing to the Coke machine, get a Coke and it was already down my shirt by the time I got back to the seat.

Tim Hollenhorst: After Alabama, where'd you move?

Justice Hollenhorst: Back to Minnesota and then we went to Lincoln, Nebraska, then we went to Lexington, Kentucky, then we went to Washington, D.C, the central office.

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Then we went to -- where'd we go then? We went to Palo Alto. That was a good move because schools were really good in California and we were just starting high school. And we were there long enough to lay down some roots and --

Tim Hollenhorst: Let me ask you this before we get into your high school. You're particularly close with your grandparents also. They were big influences in your life, is that right?

Justice Hollenhorst: Yeah. Education was for my dad's generation and for my grandparents' generation was hugely different. Well, on my grandmother side, the first bank in town was started and overseen by my grandmother's brother, so it was in the family. My grandparents themselves had very little education, but starting with my dad's generation, the education level was through the roof. My uncle, Rob was a medical doctor, he got his medical degree at University of Minnesota but he did his residency at Mayo Clinic. Ended up going back to Mayo Clinic and he was chief of eye surgery for many, many years. I think close to 40 years. That was an interesting story that if you go to see an ophthalmologist, they'll always see your name and say, "That's a very famous name in medical history." And I said, "Let me attest, it's Hollenhorst plaque." He says, "Yeah, that's it." But he's an interesting story, he was obviously a really brilliant doctor, but his entry into medicine was really odd. There's a Liberal Arts College that everybody in family went to called Saint John's.

Tim Hollenhorst: In Minnesota?

Justice Hollenhorst: In Minnesota. They were Benedictines, catholic education all the way through. There also was a seminary there and we had people in the family that went to become priests there. So, Rob was in a long line for Ms, the Ms. I said, "What were you going to do to be that start with an M?" He said, "Well, music." He said, "I was playing the clarinet" and some guy behind him said, "What are you here for?" and he said, "It's like being in prison." "What are you here for?" He says "Well, I'm going to be a music major." So he pushed Rob and he said, "What's wrong with you?" He said, "How are you going to support a family as a music major?" He said, "That's a good point. I never thought of that." And Rob said, "What are some other degrees that start with M that I could make a living at? Math? I can make a living with math, I think. Probably not music. What else starts with M?" "I know, Medicine."

That literally is how he -- that quick decision led to an incredible career as a doctor. And it is interesting about how things in your life that you almost don't even think about but have an incredible influence for the rest of your life. It was an important lesson for me to hear that because sort of the same thing happened to me.

Tim Hollenhorst: So you're living in Palo Alto now at this point?

Justice Hollenhorst: Living close -- well, next town, over Sunnyvale.

Tim Hollenhorst: Which is San Jose area?

Justice Hollenhorst: Yeah, Santa Clara Valley.

Tim Hollenhorst: And you went to high school in that area?

Justice Hollenhorst: Went to public high school.

Tim Hollenhorst: Were you involved in sports? What kind of --

Justice Hollenhorst: Yeah, I played varsity football and varsity baseball and --

Tim Hollenhorst: Didn't you say somebody hit a home run off you, it was the longest homerun in the history of the school or something?

Justice Hollenhorst: Yeah. In fact, NASA is still looking for the ball. There was a guy named -- what's his name?

Tim Hollenhorst: Jim Plunkett or something?

Justice Hollenhorst: Jim Plunkett, it was Jim Plunkett. Jim Plunkett played on a high school team at the same time that I did. We're about the same age. Plunkett had a far more successful career than I did. The odd thing is that we're both left-handed.

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I was a pitcher of poor repute and the coach said, " If Plunkett comes out to bat where he can really harm the team," he said "I'm going to put in the pitch, Tom." Well, I was hoping that didn't happen, but it did. So, they're still looking for the ball. The game was played at the Buck Shaw Stadium at the University of Santa Clara and I still remember -- first of all, I haven't seen Plunkett up close, but he was a huge guy, he was really big and really talented. So, he swung up the first pitch and missed it probably because it was too slow. The next pitch, he hit it so hard that it sounded like a bomb going off. And as I said, they're still looking for the ball. The coach told me, "Don't ever pitch with that pitch again."

Tim Hollenhorst: And he went on to be a professional athlete?

Justice Hollenhorst: Well, he was a starting quarterback for Stanford University and played professional football for many years.

Tim Hollenhorst: You mentioned something about being left-handed and that was something you had in common. What was being left-handed like as a child for you?

Justice Hollenhorst: Boy, you know all the insides. It was awful and the reason being is that I went to parochial schools mostly in the early years. And the reason was as you can tell from my chronology of events that we moved around a lot. And the problem with that was is that you never really settled anywhere, you never

had a lot of friends. I have a brother who's 11 months younger than I am and it's the right combination of 11 months where I couldn't start school and he was not old enough yet. So I went all the way through school with him, so he's like my best buddy.

The story about being left-handed, I'm left-handed, he's right-handed. I never figured out why he -- they weren't yelling at him, the nuns weren't yelling at him because they're always yelling at me. And the problem was is that they thought that being left-handed was a choice, so they would whack you in the hand, left hand everytime they would catch you trying to write with your left hand because they thought it was a choice. Well, it wasn't a choice. I mean that was the way it was. My devious method of defeating the nuns was that I would open the desk part way and then right in the desk so she couldn't see which hand I was using. They had a way of seeing it though, you get busted anyway. The other thing that was odd was that I'm color-blind and I thought that I would probably like want to go on to the service like my dad and become a military pilot. Well, the problem is I was color-blind and you couldn't get into the service or pass the physical.

Tim Hollenhorst: When did you discover you're color-blind?

Justice Hollenhorst: During the last test for entrance into the Air Force and I thought you got to be kidding.

Tim Hollenhorst: Was that in high school?

Justice Hollenhorst: College. I was almost done with college and I still hadn't figured out what I was going to do for the rest of my life and getting a little panicky.

Tim Hollenhorst: Let's go back to high school first. What kind of student were you?

Justice Hollenhorst: I was probably somewhere in the middle of the pack. I think I was actually a pretty smart kid.

Tim Hollenhorst: Is there anything you excelled in, any particular subject you excelled in?

Justice Hollenhorst: Chasing girls.

Tim Hollenhorst: Did you ever catch them?

Justice Hollenhorst: No, they were always faster than me. Actually, that's an exaggeration. I was not a ladies' man. I was an athlete. There were a lot of athletes that were doing better with the girls than me. One because I didn't try that hard and secondly, make half way decent grades and do all that you needed to do to stay physically fit and to stay on the team.

Tim Hollenhorst: Do you remember what your goals were in high school?

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Justice Hollenhorst: Varsity letter and --

Tim Hollenhorst: That's as far as you could think?

Justice Hollenhorst: Yeah

Tim Hollenhorst: You're not thinking beyond that?

Justice Hollenhorst: Well, remember, my dad was a "jack of all trades" and you want your dad to be proud of you. It was never about academics. Actually, it was but he just never said much about it and it wasn't high on the list of things. As long as you stay in school and you didn't find yourself in academic or disciplinary trouble, he was happy and then after you score A's.

Tim Hollenhorst: Do they look at your report card?

Justice Hollenhorst: If they did, it was never big deal. Again, I didn't have any academic problems in school. I can't say that from my brothers

Tim Hollenhorst: Did that come easily or did you have to work at it?

Justice Hollenhorst: No, I think part because I'm a pretty competitive person. It came more easily for me than the rest of them and I always did better academically, probably the best of the family. That led to some problems though because my mom and dad booking from a medical background and my dad was a medical administrator and my mother was a nurse. So the idea was is that you're going to med school and there'll be no discussion about it, you're going to med school.

Tim Hollenhorst: Was that -- told you in high school or earlier?

Justice Hollenhorst: My first memory of a toy was a doctor set. That's all I ever got. I mean there were probably 10 doctor kits at home. That actually probably was a problem because I kind of felt like I didn't have any choice of what would happen to me. And I really wasn't that enamored with it. I mean it was an expectation. In fact, when my dad go out and play golf, I used to go with him and it was the doctors at the hospital he was working with were the golfing partners. It was not a question of, when are you going to med school or where are you going to med school, when you go to med school.

So, maybe it was too much medicine too early. So I probably rebelled a little bit and -- because I was in all sporting activities, the labs for the classes I was taking were in the afternoon. Well, guess what, that was a sure way to get out of

the lab and that was a big joke until you had to start competing with people who are going to do this for a living. And theoretically, I was going to do it for a living and I just wasn't prepared.

Tim Hollenhorst: Where did you go to undergrad?

Justice Hollenhorst: I went to San Jose State.

Tim Hollenhorst: And why?

Justice Hollenhorst: I wouldn't have to borrow any money to do it.

Tim Hollenhorst: Did your parents pay for it?

Justice Hollenhorst: No, I wouldn't ask them.

Tim Hollenhorst: How did you afford to go to school then?

Justice Hollenhorst: I worked two jobs and I graduated in three years, so it cut down the amount money that would take to do it

Tim Hollenhorst: What kind of jobs did you do?

Justice Hollenhorst: I had some fun jobs, actually. I was a skater at skating rink. I was a bouncer and having to learn how to take care of myself because I played football. And if somebody did something nasty to you, you do it back to them. So I wasn't afraid on the ice when somebody was going to take a shot at me. One because I was a better skater than them, typically. A lot of them swing away and they didn't -- and not me. I worked at a fruit cocktail factory along with my later to become roommate who was going to dental school. His desire was go to dental school. So he was my roommate in undergraduate and he got his admission to UC Dental School and I got my admission to University of California Law School the same day.

Tim Hollenhorst: Wow!

Justice Hollenhorst: Yeah.

Tim Hollenhorst: What prompted you to apply for law school?

Justice Hollenhorst: There was a guy who taught this feared class, called Constitutional Law. It was a two-semester class and people warned you, "If you take that class, it will bust your grade on average" because it's a hard class. There is no textbook, it's all case law.

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So, the professor asked me to stay after class and one time I thought I'm busted, something bad is going to happen. And he

said, "The reason I asked you to stay after class is that, out of the 30 people in this class, you're the only one that understands it. When I'm talking to the rest of the class, it's like going into a fish market. They're all laying on the side, on the ice when I poke up, but you're picking it up." He said, "You're really okay going to law school." He said, "Ever thought about that?" I said, "No." I said --

Tim Hollenhorst: Is that your senior year?

Justice Hollenhorst: Yeah. I had a couple of semester, a couple of months left. Now, what am I going to do? He told me -- his name is Bill Eaton and he's still -- I found him.

Tim Hollenhorst: Wow!

Justice Hollenhorst: Yeah, and he's close to 100. So I got a hold of him, I found him on the internet. He lives in Noe Valley area and he said, "I remember you." I said, "How would you remember me with all those kids?" He said, "Because you and I went through the same situation. You didn't know what you were going to do and stay in academics or you're going to have to do something else. So, you appeared to me to be the kind of kid that I could do some good for." And I said, "Well, you did." I said, "You told me which law school I'd go to. I get into law school by the Law School Admissions Test. The whole thing, you walked me through it and everything you told me came true."

Tim Hollenhorst: That was one professor in college?

Justice Hollenhorst: One professor asked me to stay after class and he changed my life.

Tim Hollenhorst: So, how did your parents take that when you told them you weren't going to be a doctor?

Justice Hollenhorst: It was the worst. I mean my grandparents who are Russian immigrants on my mom side, they refused to acknowledge that I wasn't going to medical school. They would always change the subject when talking about studying. And finally, I told my grandmother, "You know, I'm not going to medical school" and I thought she was going to faint. She's a little bitty woman, about that tall. And I said, "I'm going to go law school." She stop midstream and she used to always call me Tommy. "Tommy, answer me this." I said, "What?" She said, "You want to go to law school, how good can you lie?" I said, "What do you mean?" She said, "Well, lawyers are liars. They all are." And I said, "Well, the ones that I've met so far haven't been." She said, "Yup, you'll have to improve your lying skills" and they were serious.

My mother who changed the subject, she was so angry at me. Fast forward, about ten years and my wife and my mom were

sitting together at my enrollment when I got my first appointment. My mother turned to my wife and said, "You see, I couldn't have been that bad a mother if he turned out to be a judge. But the fact that he was not going to be a doctor, I don't know if I'll ever recover from that," but she did. But it was not until I became a judge that she accepted it.

Tim Hollenhorst: You've been a lawyer 10 years already?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Do you remember taking the Law School Admissions Test

Justice Hollenhorst: Yeah, but I didn't study for it. I mean in those days, this was long before internet, long before any of this electronic stuff. So it was all done by airmail, racing down to the post office, racing home to see that you got a place at University of Santa Clara Law School then take the LSAT. It all worked out. I mean I had like five days to get it all done. So I got it all done and -- in those days, LSAT was just becoming a player. And in my case, I did okay, I didn't set any records but I did well enough to get into Hastings and several other law schools.

Tim Hollenhorst: Was Hastings your dream school?

Justice Hollenhorst: No, it wasn't. I wanted to go Stanford in the worst way. I mean I've dreamt about being a student at Stanford. I thought my grades are probably good enough to get into Stanford.

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There was this old woman in the registrar's office and every time I was around the Stanford campus because I grew up around that area. "Any news on my application?" Finally one day, she said, "Well, wait a minute." She said, "Did you have a four point?" I said, "Actually pretty close." And she said, "If you didn't have a four point, you're not getting in." I thought, "Damn!" I was just crestfallen.

Tim Hollenhorst: This is the lady at Stanford?

Justice Hollenhorst: Yeah, she works on the registrar's office. So I'm thinking to myself, my fate is going to rest on this old bag, I don't know. It took me a long time to get over that. I mean it really bothered me. You worked so hard and not getting -- because that basically gotten me where I wanted to go.

Tim Hollenhorst: You're accepted at Duke, I know.

Justice Hollenhorst: I got into Duke and got into -- every placed that I applied, I got in.

Tim Hollenhorst: So why did you pick Hastings?

Justice Hollenhorst: Bill Eaton told me that, "You want to go to a law school that's big because they have a big alumni base. You want to go to a law school that's recognized. You want to go to a law school in an area that you'd be comfortable living." So I chose law school based on regions and areas that I was familiar with. And I was familiar with Hastings only because I have been around San Francisco and I ask local lawyers that I have met along the way where they went to school and a lot of them went to Hastings.

Tim Hollenhorst: When you started law school, did you know what kind of law you wanted to practice?

Justice Hollenhorst: One that paid bills. Not really. I knew that I wanted to be a trial lawyer and the reason being is that was my perception on what lawyers did

Tim Hollenhorst: You didn't know anything else?

Justice Hollenhorst: I didn't know anything else. If somebody asks me, why you want to be a lawyer? I think I'd be hard-pressed to answer that, except that Bill Eaton, my one and only mentor said that I would be a good lawyer.

Tim Hollenhorst: Describe what law school is like.

Justice Hollenhorst: It was hell. It was honest to God hell. The irony is that there's only one person that I still know that I've known longer than my wife, your mother. We were married when I was in law school. This guy I met the first day of law school at Hastings. Remember that Hastings first-year class was 550 students. I mean it was a cattle call. So it was Art McKinster and I now work with Art McKinster on the court --

Tim Hollenhorst: He'd been a colleague for decades.

Justice Hollenhorst: Colleague for almost 30 years, but I've known him a lot longer. I was in the DA's office in Riverside, he was in the DA's office in San Bernardino. We both left -- he left as the chief deputy, I left as assistant DA.

Tim Hollenhorst: Why was law school miserable?

Justice Hollenhorst: Well, it was cutthroat. They would say, "Look to your left, look to your right."

Tim Hollenhorst: This is what, '68, '69?

Justice Hollenhorst: I started in '68 and got out in '71. "Look to your left, look to your right. One of you is not going to be here, maybe two of you."

Tim Hollenhorst: Was that true?

Justice Hollenhorst: Was that ever. And you never knew, the only you would know is on the day that the grades came out, when they were mailed to you. If you got a thick envelope, it was a registration stuff for the next year. If you got a thin envelope, you're done, pack your bags.

Tim Hollenhorst: Is that all three years or is that just your first year?

Justice Hollenhorst: No, they were flunking people out in the third year. Not as many, but they would clean house.

Tim Hollenhorst: So that you'll feel that stress and anxiety.

Justice Hollenhorst: It was terrible. It was probably the worst thing I've ever been through.

Tim Hollenhorst: Did you regret your decision?

Justice Hollenhorst: I would have if I hadn't made it. But my family meant a lot to me too and I didn't want to let them down.

Tim Hollenhorst: Were you working while you went to law school?

Justice Hollenhorst: Of course, you weren't supposed to but --

Tim Hollenhorst: Did you pay your own way through law school?

Justice Hollenhorst: I didn't owe a dime when I got done.

Tim Hollenhorst: How did you -- other odd jobs?

Justice Hollenhorst: I was a bouncer again. I don't even know where bouncer came from, but I was a bouncer at the public library. Turned out that I was bouncing my future sister-in-law. She was a hell-raiser.

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Soon as I saw her, I kicked her out of the library. So, it was a colorful time. When your mom and I -- when I talked to her into marrying me, that was a tough one, she -- as soon she got back, she was school teacher, first year school teacher. I would have dinner ready, which was like sandwiches and then we drive down to San Mateo in my little Volkswagen and she would correct homework and I would patrol the hallways. And as soon I can kick -- the first 20 minutes, kick all the kids out that were causing some trouble, then I could study. That was my existence.

Tim Hollenhorst: You also teach swimming.

Justice Hollenhorst: Yeah, in the summer time, I taught swimming. This sport stuff, I don't think I ever got over that. And then we had -- in the wintertime, this guy that had the swimming pool, he has three or four of them. I started at as a swimming instructor and ended up running the place. And then he said, "Why don't you teach at my sports school?" "Okay." So I would drive down to Palo Alto early on Saturday mornings and leave and got home after dark on Saturday nights. It was an important lesson to me because up in the stands where the parents were -- these people were -- this was an expensive place. We don't get paid that much, but it paid the bills.

I learned a lot about life through bad examples. I'm not going to use the guy's name because I don't want to embarrass him. One of the kids had kind of a famous last name, and I looked up in the stands and there is dad who was an all-American, he was an NFL quarterback. I'm teaching this kid how to throw a football. And he looks up and then looks down. At that point, he's running an insurance agency. He's beat to hell, his hands and knuckles who were so bad from being beat up as a quarterback, it was terrible. But the thing that bothered me most about that picture was, this is your kid, this is your flesh and blood and I'm teaching him how to throw a football when you're an all-America, when you're all-pro and how come you're not doing this.

So, that really had an impact on me and the other thing that had big impact on me when I was in law school was that thick envelope, thin envelope. I was working on a Saturday and my dad came walking in with a thick envelope. I made it and it was -- I didn't know that I was going to make it or not, nobody did.

Tim Hollenhorst: What was that -- you passed?

Justice Hollenhorst: Yeah, I did better than pass. But you don't know because there's not midterms, there's no nothing, there's no feedback. You don't know how well you're doing. The only way you'll know is if they're beating you up when you stand and deliver. If you can do, it's probably an indication that you know how to do it.

Tim Hollenhorst: Did Hastings employ the Socratic Method?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: What was that like?

Justice Hollenhorst: Awful because some of these guys are really mean-spirited people. I mean really mean.

Tim Hollenhorst: Isn't true -- you've told stories. Isn't it true that some of these professors are 70s and 80s and 90s and --

Justice Hollenhorst: At the time I went to Hastings, it was the 65 club. You couldn't teach there unless you basically termed out where you're from. So most of the professors were from big schools elsewhere.

Tim Hollenhorst: You were taught by talk by Prosser.

Justice Hollenhorst: I had Prosser for torts.

Tim Hollenhorst: The King of Torts.

Justice Hollenhorst: The King of Torts.

Tim Hollenhorst: You told a story to me, I know it. Why don't you tell the story about asking him a question by the elevator?

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Justice Hollenhorst: Actually, that wasn't Prosser. There are other Prosser stories, but that was Ralphy Newman. Ralphy Newman was a terror. He started his first lecture to us by saying, "They call me the Grim Reaper because I will fail half this class." You look around and there's 175 people in this class, starts at the bottom of like an amphitheater. "One hundred and seventy-five people in this classroom, half of you will fail my class." And I thought, "My God! What have I gotten into?" And at the end of the day, he did back out about half of the class. He taught real property. It was pretty amazing. He was a tyrant, actually. You either knew or you didn't know it. That was is it.

Obviously, he's here to help you. That was a learning experience. He was really angry at the class for some reason, I mean furious. So he just packed all of his stuff and walked out and we were in a really hard area of the law. And then he said -- I raced up into the elevator and said, "I have a question." He said, "Well, ask me the question while I'm waiting for the elevator." "Okay." So I asked him the question, the elevator door opened, he walked in and he said, "I'm no longer waiting for the elevator."

Tim Hollenhorst: And that was it?

Justice Hollenhorst: Yeah. Well, so much for education. That's just who he was.

Tim Hollenhorst: Did you get help at school or a lot of the things that you learned, you did on your own study groups?

Justice Hollenhorst: There was a study group of five people and one of them didn't make it. That was really awful. He wasn't there in the fall. So I said to them, "What happened to him?" Grades were confidential, but one of the guys knew him. After school is over, knew that he got a thin envelope. His wife divorced him. It was just miserable.

Tim Hollenhorst: What was it like living in San Francisco while you're in law school? San Francisco is known for restaurants and social things and --

Justice Hollenhorst: Not for me, it wasn't. It was known for cars being broken into, it was -- you get in your apartments that are broken into. I worked really hard and saved as much money as I could and I bought a nice stereo. It was one that I really shouldn't have bought, it's expensive. Well, I came back, I went down to visit my mom and dad and drove back that night into San Francisco. This was my second year and the front door was open, of the apartment. "Oh, that's interesting". So I went in and the place had been ransacked and my stereo that I worked so hard for had been stolen. I'll never forget that.

Tim Hollenhorst: You said you were married in law school, what year was that?

Justice Hollenhorst: Last year.

Tim Hollenhorst: Your last year?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Not many people are married in law school, at least when I went. Is that true for your class?

Justice Hollenhorst: Yeah, no. Well, you have to remember the time. This was during the Vietnam War and I would say probably a third of my class had already been to Vietnam and they made it back and had the GI Bill so they're going to law school. So, a lot of them were older than I was. I mean I was really a kid. I raced through college and got through college in three years and went directly three days after my last class in college was over with, I started law school. So there was almost never a time that I wasn't in school.

Tim Hollenhorst: Was being married hard while you're in law school or was that helpful?

Justice Hollenhorst: I think it was more helpful for me and the reason being is that it gave you something to work for.

Tim Hollenhorst: And she was already working.

Justice Hollenhorst: Yeah, she was working as a school teacher and school teachers weren't making very much money in those days and I still had my jobs. I still do the sports school on weekends and kicking kids out of the library two days a week. So I was working basically four days a week.

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Tim Hollenhorst: So, you managed to make it through law school?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Take the bar exam?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: How would you describe that to us?

Justice Hollenhorst: The worst I've ever seen. It was miserable.

Tim Hollenhorst: Did you take it in San Francisco?

Justice Hollenhorst: Yeah. One of the things that was awful about that part of it was, is that you really couldn't work unless you've at least taken the bar. So, all things just seemed like a blur. You wanted to get to work. You wanted to find your way. Even in those days, jobs are hard to find, particularly if you wanted to stay in the Bay Area because there are so many law schools, there are five law school in the Bay Area.

Tim Hollenhorst: Did you anticipate staying in the Bay Area when you're done with school?

Justice Hollenhorst: Sort of, but that wasn't a deal breaker. One of the things that Bill Eaton told me was, "You have to be flexible. Your first choice might not be your best choice" and he was right. I was interviewed by a guy named Gary Schroeder when I was on the Hastings campus, my third year. Gary Schroeder could talk the birds out of the trees. I mean this guy was amazingly articulate and just a really good guy. So he was from the Indio branch of Riverside DA's office. And the more he talk about his experiences as a prosecutor, I'm like, "I think I would like this." And it came down to a choice between Riverside and Ventura, and I ended up choosing Riverside.

Tim Hollenhorst: Why?

Justice Hollenhorst: In part because of Gary. I met --

Tim Hollenhorst: Did he come to your school to interview you?

Justice Hollenhorst: He was a Hastings guy, much as -- Bill Eaton told me what would happen, he was right.

Tim Hollenhorst: Had you ever been to Riverside before?

Justice Hollenhorst: No, but during World War II my dad was stationed in Camp Haan, which is now closed but it was right outside of Marsh Air Force Base. I called my dad and said, "I've gotten an offer from Riverside." He said, "You'll love Riverside." He said, "There's an air-pollution problem in the winter time because of

the smudge pots, trying to keep the oranges so they don't freeze." But he said, "Other than" he said, "you'll really like that area."

Tim Hollenhorst: So you could have been a deputy DA in Ventura or Riverside and you picked Riverside.

Justice Hollenhorst: I thought I would have a better career in Riverside. From the people that I met there, there was a vibe about that office.

Tim Hollenhorst: About the Riverside office?

Justice Hollenhorst: Yeah. In fact, I wasn't supposed to go to Riverside but even that worked out because the guy that was going to go to Riverside, I ended up swapping places with him because he was from the desert.

Tim Hollenhorst: Are you originally supposed to go to the desert?

Justice Hollenhorst: Yeah. About the last 20 seconds before I actually reported, I got this letter saying, "We want you to report to Riverside". My bride at that point -- the idea of living in a place where the temperature's 120 was not good. First, let me tell you about that experience. I don't know if you heard the story. But when -- Beth was -- your mom was a Bay Area girl. She was born and raised in the San Francisco Bay Area. I had lived in a lot of places and moving to me was no big deal. I mean I've done that my whole life. And I said, "I think we're not going to be -- I think this offer is in Indio." That was the first fight we ever had. She said, "I don't want to live there" and I said, "Well, I think that might be where we're going to end up." And I said, "Let me see what happens, but that could happen." So she was steamed, she was really upset with the idea of having to live in the desert because it was not attractive.

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And then I came home from work about two days later and said, "Well, I think we're going to end up in Riverside, not in Indio." And she was relieved because of the heat. When we left San Francisco, it was 57 degrees. The seasons are inverted in the Bay Area and it was 57 degrees when we left San Francisco. It was 117 when we arrived in Riverside. So she looks at me, "What are we doing here? This place is Hades. This place is hotter than hell."

Tim Hollenhorst: That was hard for her to leave the Bay Area because of her parents.

Justice Hollenhorst: It was because of her parents and her mom was starting to get sick and you name it. She spent her whole life there, she had gone to UC Davis for her undergraduate and she got a teaching credential at San Francisco State.

Tim Hollenhorst: And you guys have made your home in Riverside and you've been here for what, 45 years?

Justice Hollenhorst: Almost 50, yeah.

Tim Hollenhorst: Tell us about being a deputy district attorney.

Justice Hollenhorst: Well, the office when I got there was close to a hell hole. There were some very good lawyers, but there were some really lazy people too. And I could never understand why it was that they were doing okay because it was obvious to anybody that was looking that there were people who were just basically taking up space, feeding the squirrels out in the park at lunch time. So, there was an assistant DA by the name of Howard Dabney. He was actually the chief deputy and he basically cleaned the office up when he became the chief, got rid of people that weren't producing anything, rewarding people that worked hard. And I thought, "This the place to work" now that Howard had become an administrator and I really had great respect for him and ended up working with him on the Court of Appeal.

Tim Hollenhorst: Who was the DA at the time?

Justice Hollenhorst: Barry Morton.

Tim Hollenhorst: And was he also a Hastings' guy?

Justice Hollenhorst: Of course.

Tim Hollenhorst: And what was your relationship like with him?

Justice Hollenhorst: He was like a second father to me. He knew how much I admired him. He was an honest guy.

Tim Hollenhorst: Open door?

Justice Hollenhorst: Yeah. He wasn't the greatest lawyer. I mean, he really wasn't a -- here's how it worked. There were three guys, there was an open spot for DA. There were three guys that ran. There was Byron who was basically a civil probate lawyer, never spent much time on the DA's office or doing criminal trials. There was Pat Malloy who's a very good trial lawyer and there was Roland Wilson who is about this tall, he was a jockey, literally was a jockey. And Roland wants to stick a dynamite, but sometimes didn't see the right and wrong of things.

There were several big cases that were retried over and over because of errors, and it was always Roland. So, the election went into a runoff. The guy who is the most qualified to be a DA was Pat Malloy who later became public defender. And Pat, when he lost the DA contest, he accepted an offer from the county to become the public defender. Public defender's office

was never stronger when Pat Malloy ran it. So it was a runoff between Byron and Roland Wilson, and Byron beat him. And Roland became a muni court judge and Byron became the DA.

Tim Hollenhorst: How was Roland as a judge?

Justice Hollenhorst: He was a little terrorist. Anybody that went into his courtroom was scared to death. They would go out feet first or in handcuffs. He was a tyrant and nobody voluntarily went into his courtroom.

Tim Hollenhorst: When you started on the DA's office, did you start doing prelims or how did it work?

Justice Hollenhorst: Yeah. You start it out by doing misdemeanor trials on Monday through Thursday and on Fridays, you do prelims.

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Tim Hollenhorst: What's the very first trial you ever did?

Justice Hollenhorst: Probably a DUI.

Tim Hollenhorst: Is that -- back in those days, did you have a long time to prepare or they hand you a file?

Justice Hollenhorst: Oh, no. In fact, I've told the story many times and it's a true story. I tried so many cases that if they saw you walking on the hallway without a file in your hand, you'd have one by the time you reach the end of the hallway.

Tim Hollenhorst: Did you tell a story once about doing a DUI and the actual file that you had in court was not the --

Justice Hollenhorst: They handed me the wrong file. Yeah, so they said, "There'd be a jury waiting for you when you get over to the courthouse and it's in front of Judge McFarland" who was a really nice guy. And I ended up replacing him after he passed away. So Bill McFarland said "Well, we'll pick a jury before lunch time. You'll have a pick before lunch time." That's the way judges operated. And he said, "You have any questions?" "No.". He said, "All right, let's call the jury in," and that's to prep. So I started -- made an opening statement when I thought the evidence will show. The cop was sitting next to me, he was rolling his eyes and I'm like, "What's that all about?" And then at the break, he said, "Look at the file." He said, "You got the right case?" So I made and opening statement on the case that wasn't mine. So there were a lot of odds to it.

Tim Hollenhorst: And it kept your job?

Justice Hollenhorst: Yeah. Well, I got a conviction.

Tim Hollenhorst: So, you trialed misdemeanor cases for how long? A year or two?

Justice Hollenhorst: Less than a year.

Tim Hollenhorst: And then where'd you go?

Justice Hollenhorst: Well, I tried a murder case.

Tim Hollenhorst: In the first year?

Justice Hollenhorst: Yeah, probably the first couple of months. What happened was is that the -- your mom and I lived in a little apartment that was for seniors, it was marked for seniors. We weren't that senior, but everybody else was. So the landlady's name was Helen Hogan, she was quite a character. Helen was -- she was a widow, just a nice, nice lady but very kind of busy body. So, we got a knock on the door, your mom and I did about 10 o'clock at night and opened the door and it's Helen. She's bawling, she's crying her eyes out. "So what's the problem, Helen?" We were just kids and she said, "What do you do when you think your best friend has been murdered?" I said, "Well, why do you think that?" and she says -- she goes through the story. I turned to your mom and I said, "I think she's probably right".

So, it turns out that the guy that she got -- what happened was, she was a widow and she had a card club, she played cards twice a week. And the guy that she got involved with -- this woman, she was a widow. This woman's family was very upset because they did not like the bad vibe, they did not like this guy. His name was Allan Alexander. And one night, she doesn't answer the phone when somebody called. One of her kids called her to say, "Good night, Mom." And he answers the phone and he's got a weird story about where Vera is.

The daughter really got worried so she calls the neighbor who was -- I think there's like 10 dentists in town at the time, it was really a small town. And he said, "You know what, that's strange because I saw him carrying boxes out to the car and then disappearing." And she said, "I got a weird vibe about this guy, too". Well, he disappears and her credit cards started incurring bills from all over the country. So, we never did find the body, but all of Helen's friends, Helen Hogan's friends, the landlady, started calling me on the phone and, "Oh, I just remembered this" or "I just remembered that." It's driving me crazy.

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Well, the guy that gets assigned to the case later becomes an assembly man in Riverside County, Wally Engles. Wally says, "You know this case better than anybody, even better than the

cops because you watched it put together." And he said, "I'll tell you what. I'll help you try the case." He says, "I'm not dealing with those old ladies," which I thought was very, very un-assembly man like, because he later ran for assembly and won. And when I got my first appointment to a muni court, it was Wally that called me and said, "Judge" he said, "You are now a judge." So, it's a phone call you'll always remember.

The next phone call I got was to a superior court and it was actually George Deukmejian on the phone. Yeah, yeah, right, right. And then the third one, you took, it was the appointment secretary. So, I -- your mom and I went grocery shopping. We got home from the grocery store and I said, "Anybody call?" And you said, "Yeah." You said, "Some guy name Baxter called." And I said, "What did he want." "He said he wants you to call him back." I said, "So, what's the number." " He said you probably would have it." Well, I didn't that's why I had to go scrounge it up, but that was the appointment to the Court of Appeal.

Tim Hollenhorst: How long were you -- I love these stories that's why I'm asking. I want to here some more stories about your time as a trial attorney and while you were at the district attorney's office.

Justice Hollenhorst: Okay. So, you want to know about the --

Tim Hollenhorst: Did you feel like you were in a comfortable place when you were a trial attorney? It's stressful, it's hard when you have a family, you got children at the time.

Justice Hollenhorst: Yeah, and you didn't want to lose.

Tim Hollenhorst: Right! You're competitive.

Justice Hollenhorst: I'm a very competitive person. I don't like to lose. I only remember cases that I lost. There was a case involving a guy that molested a young runaway, trappy kid. She ran away -- they found her in Monterey and brought her back down to Riverside County. She did not want to cooperate with us. So, I tried the case in front Judge John Neblett. Okay, fast forward. Neblett was an interesting guy. The Neblett family was a big part of Riverside County. There are three of them, two of them I knew. I think one of them was an architect, the other was a superior court judge and the other one was a dentist. So they a family with a lot of education.

I loved John Neblett, he was so smart and such a good judge but he brooked no fooling around. He'd always start court the same way. "Now, gentlemen --" they were always men. "Gentlemen, you can now take off you clown suits, you're in department seven." And he said, "I expect that you will act professionally." He started every case that way. I don't care if

you're the best trial lawyer in town or the worst. He's always, "Take off your clown suits." So, he put me onto a couple a good tricks. First of all, always have cold water at the counsel table, really cold

Tim Hollenhorst: Why is that?

Justice Hollenhorst: Because you want the lawyers to drink, you want them to drink all of it dry. And why do you want that? Because that will shorten the trial because you don't let them out of the court room after the bladders are full. Once they told me what he was doing, I just watched and I didn't drink anything. He was really a character, but he was a wonderful judge. Anyway, what I remember about that trial was I lost it. The kid was so bad, this girl was so bad. She was nasty, she wouldn't answer question, she was nasty person.

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The jurors hated her and I got -- it's a case with a confession, he admitted it. But what happened was, I couldn't understand why the public defender took the case to trial if I had a confession. He got the cop to admit that he offered the guy something for the confession and the bottom fell out of my case. That's another learning experience I guess, but I never forgot that case. What happened was, about 6 months later, one of the cop that was investigating the case called me and said, "Well, guess who just got shot to death." I said, "Who?" He said, "The defendant at that rape case."

Tim Hollenhorst: Wow!

Justice Hollenhorst: He was robbing a Carl's Jr. The cops got word that he was going to do it so they did a stakeout and he comes out of the place with "guns-a-blazing". The cop said, "I know I shot him. I know I got him." The place was down at Orange County and there was a pond next to the fast-food place and they couldn't find hide nor hair, of his body or him. They didn't know if they got him or not. About four days later, he came floating up and they got him. So, I got a mixed emotions about the thing. I told myself, if I'd have convicted him, he was probably there in prison and survived.

Tim Hollenhorst: You told me a story once about being in trial. You have some funny stories and there's a long-time public defender that you tried many cases with.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: And there's a story about somebody's being put into evidence.

Justice Hollenhorst: Yeah, that was James Linwood Kellam. He had quite a reputation around town. Not the best trial lawyer, just an odd

fellow. Around town, the explanation for his bizarre behavior was is that, he was a pilot during the war and flew without oxygen.

Tim Hollenhorst: Is that true?

Justice Hollenhorst: I don't know, but he was different. I mean he was really different. So this was a burglary case where the cop -- this guy was really bad. He was burglarizing hotel rooms on University Avenue and the word was getting out, it was on the TV, LA television. The town was not looking very good because this guy was tearing up the town. So, I got the case to try and the cop that was involved in it was kind of this good old boy, didn't have a very good vocabulary but just an old street cop.

So, he knew the kind of car the guy was driving and there was the car parked a block away. So he said, "I think this is him, he's in the neighborhood." So what he did, he went to this motel and he could hear footstep above where he was standing. So he just walk under this eave following the footsteps. So he heard the footsteps going down the stairs and waited for him at the bottom of the stairs with his pistol drawn and he got him. He didn't shoot or anything, probably would have, the guy didn't give him any trouble. But he yelled to the guy, "Put your hands up and don't make any sudden movements." And then he could hear from the room, "Come back here with that. Come back here with that. Come back here with those rings."

People were taking their jewelry off before they go to bed and he would find an open window and reach in and grab the jewelry. So, he got him red handed. And then when they went to his apartment, he was actually a student at UC Riverside, had a record as long as your arm. They recovered a whole lot of stolen property, so he had five priors too.

Tim Hollenhorst: So, how did the shoe come into play at trial?

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Justice Hollenhorst: Okay, the shoe. This was the shoe, (01:10:05). This lawyer was so bad that he wouldn't pay anybody to help. Maybe he didn't have -- the client didn't have the money. So this lady of ill repute was working for him, probably working off a beef. She was on the stand as his investigator and he said to her, "Now, Marjorie, how high was that nightstand from the top of the nightstand to the floor?" She said, "Four shoes." And he said, "Oh!" He said, "How wide was that nightstand?" She said, "Two shoes." The trial judge just kept shaking his head, who is Robby Duber. I saw the trial judge pass a note to his bailiff, Joe and Joe just cracks out. Later Joe showed me the note. "I told you this was going to get worse," the judge says to the bailiff. And he did --

He took a shoe off and he says, "I'll show you a shoe, do you recognize the shoe?" to this lady. And he says, "Do you recognize the shoe?" She says, "Yes, I do." And he says, "What is that?" She says, "It's your shoe." And the judge was rolling his eyes. So, he put the shoe back on I said, "Mr. Kellam, may I have your shoe, please?" So he takes his shoe off and I started laughing and I could not control myself. I mean I just said out loud, "Should I put his shoe in evidence?" Three jurors said yes all together, "Yes." So he's out in the hallway, the judge couldn't take it anymore, declares a recess.

Jim's walking around with one shoe on, one shoe off with a hole in his sock. Oh my God! So he comes back into court and the court reconvenes. I got a shoe in my hand and again I said, "Should I put this into evidence?" The juror yelled, "Yes." If I do that, this is go away on ineffective assistance to counsel. This is going to be a problem so I didn't do it. The jurors are waiting for the rest of the trial to have that shoe into evidence because they knew that was the next step. I didn't do it, but what a story that was. So for years, as you would walk down by the department two, people say, "Did you ever hear about the case where the lawyer almost had his shoe put into evidence?" I said, "Yeah, I heard about that case. That was some case. Well, I was the one who tried it."

Tim Hollenhorst: How many years were you trying cases at the DA's office?

Justice Hollenhorst: About five or six or seven, something like that. It kind of petered out. I was only doing the bigger cases and thank God, they wouldn't give you more than about three or four that were ready for trial. And if you walk down the hallway without a file in your hand, you're going to get one, so you learn pretty fast.

Tim Hollenhorst: Back in those days, early to mid '70s, how many lawyers were there in the DA's office?

Justice Hollenhorst: Seventy.

Tim Hollenhorst: Wow! So after five, six, seven years, you started transitioning in doing --

Justice Hollenhorst: Management.

Tim Hollenhorst: Management.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: So I imagine you probably leaped frog some people that have been there years and years.

Justice Hollenhorst: I did.

Tim Hollenhorst: Tell us about that.

Justice Hollenhorst: Well, it was awkward. People who have been there a lot longer that I had -- I very quickly became the number two guy in the office and I was still a kid.

Tim Hollenhorst: In you mid 30s early to mid 30s.

Justice Hollenhorst: I wasn't even 30 yet. Yeah, that caused some resentment. But the people got to pass it over. If they looked at their careers and what they had accomplished, they hadn't tried a lot of cases, they were finding ways out. That didn't do any good. So, I worked hard and that worked out for me.

01:15:00

Tim Hollenhorst: How did you like being a manager?

Justice Hollenhorst: I didn't particularly like it. What happened was is that one of the judges who I like of a lot, a guy named Bob Garst who was a really good lawyer, but he was one of these guys that could do everything. He did a lot of domestic cases, he did personal injury cases, he did criminal cases and was good at all of it. I mean who's like that? But he was and he said, "The governor is looking for some candidates for muni court appointment." He said, "Would you be interested if I put your name in it?"

Tim Hollenhorst: Is that the first time you thought about being a judge?

Justice Hollenhorst: Never even considered it.

Tim Hollenhorst: What was your goal when you start at the DA's office, to be a career DA?

Justice Hollenhorst: Yeah. And the boss had been so wonderful to me, he treated me more like a son as time went on because I was very loyal to him. He knew that if I lost a case, it wasn't because I hadn't prepared it, that I gave the best shot and let the chips fall. So it was a mutual experience that was beneficial for both of us. My life really changed with Bob Garst question because your mom -- I discussed this with your mom and she said, "You got to do it. You got to think about doing it." So I put my name in and I was appointed to the municipal court.

Tim Hollenhorst: And who appointed you?

Justice Hollenhorst: Jerry Brown.

Tim Hollenhorst: And so now you're a municipal court judge.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: What's your first calendar?

Justice Hollenhorst: Remember, I haven't been doing any deuces and stuff like that. I couldn't remember how to do it, even though I was doing it on my sleep. So this is a typical run of the mill stuff. There was one case that got some publicity. It was bring me the head of Doris Kent. Who was Doris Kent? Well, Doris Kent was an elderly woman who had a very weird son and even a weirder friend. They were into cryogenics. They were freezing people and then trying to bring them back to life. So the coroner ends up getting a dead body without a head. "Where's the head?" "Well, we couldn't afford to freeze the whole thing, so we just froze her head." So, the coroner became incredibly suspicious. "Well, how do we know she was dead when you froze her head? We need her head." "Well, you can't have it because we have to thaw it out and we're not doing that."

So we knew where the place was. Among other options was to get a search warrant for the head of Doris Kent, which would probably mean that it would have to be thawed out. So it was a Gordian knot and I ended up having to do that case. It got a lot of publicity, bring me the head of Doris Kent, a memorable case.

Tim Hollenhorst: Did you have any goals when you start out as a municipal court judge?

Justice Hollenhorst: I think that I was always interested in the law and the development of the law. And before you started practicing in this area, there was an appellate court judge who was actually an amazing writer. The guy can really write opinions. I love seeing his opinions. The problem is, he was somewhat caustic, and if you screw it up, he would take you to the woodshed. You knew that you had been to the woodshed. His name was Robert Gardner, Bob Gardner and he actually wrote a law review article or one that was written by him called "The Wisdom of Gardner." It was the anecdotes about Gardner's cases. He was so one of a kind. And after reading bunch of Gardner's opinions, I'm like, "I want to be like him growing up. When I grow up, I want to be just like him."

So, that was kind of interesting going to the Court of Appeal because of the writing. And when I first started on the Court of Appeal, I was writing things, opinions with funny stuff in them.

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The problem is that boot camp for appellate courts is at NYU, New York University at their School of Law. And they would insist that you'd not write anything funny because funny stuff often times becomes demeaning. And then there was a warning that you got to be careful because if you write humorous on somebody else's expense, people will think that you are not taking it seriously. So, there's that dilemma to keep the writing interesting, but you need be mindful that you

can get in trouble doing that. So, I really did stop doing it, writing funny things even though people used to write me the letter all the time saying, "We love your writing. Keep it up."

Tim Hollenhorst: You've said things and opinions like, "We're not in Kansas anymore.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Things like that.

Justice Hollenhorst: Yeah, that's when he went away to Kansas.

Tim Hollenhorst: Who were some of your mentors or influential people that you looked up to when you became a judge?

Justice Hollenhorst: Riverside had some really good judges. Scott Dales was one, he was really an interesting guy. His dad was the mayor of town. Jake Hughes was an interesting guy. He was a marine and he was a tank driver in the Marine Corp. So he always ran his courtroom like a tank driver. And if you weren't careful, you will be run over and that was true. Leo Deegan was also another interesting character. It was a learning experience. I didn't have any role models. This was not my plan to go to law school, but I kind of got tucked into it and what a wonderful opportunity. If I had to do it all over again, I would do it all over again exactly the same way.

Tim Hollenhorst: I'm going to ask you some more questions some more detailed questions about your careers in appellate justice. And I think A lot of these questions are going to be centered around both your professional career and also your sort of personal life because it seems to me, probably knowing you better than anybody except your wife. The two are intertwined with you.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: I've heard just talking to colleagues of yours and colleagues of mine, the common theme is you never took yourself too seriously. You never let yourself get to be more important than the job. What do you think about that?

Justice Hollenhorst: I think it's true. I think I am one lucky guy to have gotten this far as I've gotten in this business, to have the opportunity to do the things that I've done. I haven't talked about getting a master's degree at University of Virginia, have served on a bunch of different educational committees. Got a chance to really meet some interesting people and be mentored by some very, very good judges. I've never taken that for granted either. There've been just great opportunities. I think that I am somebody who is not afraid to try new things. Tentative opinions in the Court of Appeal, I was the one who started that.

Tim Hollenhorst: I think also along those same lines, living with you and I lived with you post bar exam. You and I used to go for walks every morning for an hour and a half. At five in the morning, you were talking about the law, you were talking about the cases that are currently working on. In our profession, it's very different than I think a lot of people where you clock out, it's just done, you go home. You never looked at being a lawyer, being a judge as a --

Justice Hollenhorst: Not with a time clock.

Tim Hollenhorst: -- sort of eight to five, job, right?

Justice Hollenhorst: No, it's never been that way for me.

Tim Hollenhorst: You and I go to ball games and we talk about the law.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: What would you like the legal community to remember about you and your work as a judge?

Justice Hollenhorst: He didn't take himself too seriously, yeah. I think I've been one lucky guy. I've worked really hard to get where I've gotten. Part of it was necessity because there wasn't a lot of money.

01:25:03

Maybe that's part of who I am. I've never taken anything for granted and I worked really hard for it.

Tim Hollenhorst: You probably won't remember this, maybe you will. But when I first became a DA, literally when I first became a DA, you pulled me aside one day, I was still living at your house. And you said to me, "Tim, what are your goals as an attorney at the DA's office? And remember, I said, "I want to make a good living. I want to make a good living and probably have a family one day." And you looked at me sort of with your head cocked a little bit and said, "You're wrong. You're goal should be to affect somebody positively every day and make an impact on the law." Do you still believe that?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Tell us about some notable cases since you've been on the Court of Appeal that you've worked on.

Justice Hollenhorst: God! There has been so many of them. First of all, I don't do cases because they're notable. There are odd fact patterns that stick with you like the head of Doris Kent. I'll never forget that case.

Tim Hollenhorst: Well, let me ask something real quick. Just in reviewing some materials for this interview today, I read many of your old opinions. I have copies of them and you have done everything from probation violation cases to whether or not the probation term was appropriate or not all the way up to workers' compensation, and school districts, and flood control, and HOA issues. You've done a little bit -- you've worked in every area of the law possible and that's not just the law, that's just life. How do you do that? I mean you're at criminal, you started as a criminal prosecutor. You're a criminal judge your entire time on the bench and now you're doing civil stuff.

Justice Hollenhorst: Well, because I've had a lot of really interesting jobs. We've owned home as an HOAs, so my experience in life maybe a little bit broader than the average bear just because of what I've been exposed to. My parents were both World War II veterans, so they had a very different life and I got exposed to some real hardships that they had endured.

Tim Hollenhorst: So you think your life experiences have contributed to your --?

Justice Hollenhorst: I know it is.

Tim Hollenhorst: -- the common sense that you bring to the bench?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Because I'll tell you this, I mean the common feeling amongst your colleagues, amongst your peers, amongst your subordinates is that you have a brilliant legal mind. I mean that's -- without putting too much into it, that's what they say. But you're different in the sense that you bring common sense also to the table. You don't just rest on the law books, you rest on what's right.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Is that fair?

Justice Hollenhorst: Yeah. I think part of it is this that, my upbringing, I spent a lot of time in parochial schools and I think it made a big difference in life because of accountability. You learn about accountability.

Tim Hollenhorst: You've been on the Court of Appeal since when?

Justice Hollenhorst: 1988.

Tim Hollenhorst: How was the court changed for better or for worse? Technology obviously has changed.

Justice Hollenhorst: Technology has changed. Without being super critical, I don't know that I agree with the direction that the court system is going.

Tim Hollenhorst: Is that the part of your participation in the alliance of judges?

Justice Hollenhorst: Yup.

Tim Hollenhorst: What is that?

Justice Hollenhorst: It's not -- we've been described as rebel rousers and I've never been a rebel rouser. If I see something that needs to be changed, I'll change it. If I had the power to do it, I'll do it. If I don't have the power to do it, I'll try to do it. And the reason is that we all only have a short time on this earth comparatively speaking. And at the end of the day, I think we all are accountable for how we spent that time. If you haven't improved things where you've been, you've wasted an opportunity.

Tim Hollenhorst: What direction do you see the court going and why do you think it's not a positive direction?

01:30:02

Justice Hollenhorst: I don't believe that the courts should be managed on a top-down basis. The reason being is that, every court system that I've been a part of has been very different. And we don't need to be mean-spirited about important changes that need to be made, but we should be unrelenting in our desire to make needed changes. If people like me don't get involved, then the changes won't be made and we'll be the poorer for it. I think I've done some imaginative things. I think tentative opinions in the appellate courts have been a real boom.

Tim Hollenhorst: Why don't you describe what that is because your court's unique?

Justice Hollenhorst: Yeah. We're the only ones in the country that do it.

Tim Hollenhorst: And what is it? What is a tentative opinion?

Justice Hollenhorst: What happens is, is that we actually release drafts of opinions prior to oral argument. No one else does that in this country.

Tim Hollenhorst: What's the purpose of it?

Justice Hollenhorst: To give the counsel an opportunity to see what the court's thinking is. And if we're wrong, we'll change it.

Tim Hollenhorst: Does it help streamline the oral argument?

Justice Hollenhorst: Yes.

Tim Hollenhorst: Because the lawyers are more focused?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Do you often change your tentatives after oral argument?

Justice Hollenhorst: Not often, and the reason being is that -- and this again one of this -- you must have to be there to understand it. If you write a tentative opinion that's wrong, which is wrong, the lawyers will basically wad it up and beat you with it. And it's a very unpleasant experience to really blow one and then have the lawyers beat you up with what you've done, because they'll do it. That's not saying anything derogatory about the lawyers. They got a job to do. They'll show you why you're wrong. And the more they show you, the more humiliating it is.

So, no one wants to put out something that's wrong. It will hold you accountable for what your name is on. I think in that regard, it's a step forward. It is interesting in the state where we've been doing this now for over 20 years. Some very, very good lawyers and very good judges have said some incredibly bad things about tentative opinions because they don't understand them.

Tim Hollenhorst: But lawyers love them.

Justice Hollenhorst: The lawyers love them. In fact, the truth of the matter is that if you really think about it, courts really do use tentative opinions. Because what they do is that they will give you a clue at the direction we are going, the court is going and then give you an opportunity to develop that. If you think about federal rule making in federal courts, part of the process is to give the lawyers an opportunity to comment on the rule and that's very common with the federal rule making. Yet, this is still very foreign and it won't be for much longer. I think you're going to start seeing more and more use of tentative graphs.

Tim Hollenhorst: What you expect from a lawyer who appears in front of you?

Justice Hollenhorst: That he or she will have taken the tentative and use it for the reason that we've given to them, to be familiar with the reasoning and to be familiar with the analysis and if we're wrong, why, tell me why. Often times, I open -- because I'm a senior guy here, I open oral argument with, "Counsel, have you read the tentative opinion?" "Yes." "Tell us why we're wrong?" It's very effective.

Tim Hollenhorst: What do you expect from your colleagues during an oral argument?

Justice Hollenhorst: That they will have become familiar with the reasoning of the draft and that they can participate in oral argument.

Tim Hollenhorst: In a survey of attorneys who regularly appear before you, they commonly say that you care about getting it right.

01:35:02

Justice Hollenhorst: Yeah.

Tim Hollenhorst: What does that mean to you?

Justice Hollenhorst: Well first of all, I don't like losing cases to the Supreme Court. If you lose one, you'll lose them pretty publically.

Tim Hollenhorst: Have you lost one at the Supreme Court?

Justice Hollenhorst: Oh, yeah. I'm not any kind of whiz kid. I mean I can blow just like anybody else can. But part of it is how you see the glass of water sometimes. If it's half empty or half full and part of it is how your opinion's been written up and put together. I think I've gone a long, long way for somebody who started out with his few tools as I started out with -- in fact I've been described as a tool. I think I worked really hard in my career to get to where I am. I'm 70 years old and I still have not established a date when I think I'm going to leave. Your mom would like me to leave, but I don't know that I'm ready to hang it up at this point.

I mean there is a point in time when there are fish to be caught and grandkids to be played with and things that are really important and nobody last forever. There are always things that you want to do, so you know it's the balancing act of getting out at the right time. Your mom keep saying, "You need to get out while you're on top." I've talked to a lot of people who had the same job that I do and say they wished they hadn't retired. It's not to say that I'm not going to retire because I will, but it's going to be when I'm ready.

Tim Hollenhorst: You still feel like you're contributing?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: I was asking about the survey and also during the survey, lawyers said that the questions that you ask during oral argument are tough but they're thoughtful questions. You will engage in an open dialogue. Where does that come from?

Justice Hollenhorst: It comes from judges that were wrong, that the analysis was wrong, that they shot from the hip before they had fully considered the merits of the discussion. There's nothing worse than an unprepared judge.

Tim Hollenhorst: Your career has not been without controversy. Is that fair to say?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: And I don't think any career really is. In my short career, I've had it already but you took on the administrative office of the courts and you and I have talked about this plenty of times. You had an opportunity to sit on the Supreme Court more than once.

Justice Hollenhorst: Four times.

Tim Hollenhorst: And I got to watch that, which is quite an honor and you think the administrative officers of the courts is top heavy.

Justice Hollenhorst: Yeah.

Tim Hollenhorst: And that's kind of what you talked about, it's sort of leading or administering from the top as opposed to from the ground level.

Justice Hollenhorst: Right.

Tim Hollenhorst: Has that been resolved in your mind at all or is that still a fight that's worth fighting.

Justice Hollenhorst: It's a fight worth fighting. Every day, it's a fight.

Tim Hollenhorst: Okay. Is that one of the reasons you're not ready to retire because you want to carry that torch also?

Justice Hollenhorst: Yeah. I don't know that in my lifetime that I'll see a difference that this top-down stuff will cease. But I will tell you that having worked with judges from all over the country, nobody else does it the way we do it.

Tim Hollenhorst: You think it's wasteful essentially?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: And in times of crisis, financial crisis in California --

Justice Hollenhorst: Well, worse than wasteful it's wasteful of people's skills and talents because there are some good ideas out there. And when you tell people how to think and how to behave and what to say and when, it is not good for the system. The system works best when the collective ideas are considered. Nowadays, we don't do that anymore.

Tim Hollenhorst: Is this alliance of judges which you are I think a founding member of, is that part of your purpose, is to let other judges know about what's going on with the administration of the courts and the issues there?

Justice Hollenhorst: Yup.

Tim Hollenhorst: Have you got any backlash because of that?

Justice Hollenhorst: Oh, yeah.

Tim Hollenhorst: Okay. You think there's been positions that you haven't been either promoted for or asked to speak at certain things or -- there have been some consequences in your career.

Justice Hollenhorst: Yes.

Tim Hollenhorst: But by and large, you've had a pretty successful and wonderful career and I think you would say that even in your humbleness.

01:40:01

Justice Hollenhorst: Even in my humbleness, yeah

Tim Hollenhorst: You went to school to get your master's 25 years after law school

Justice Hollenhorst: Yup.

Tim Hollenhorst: Why?

Justice Hollenhorst: It's sort of like climbing to the top of the mountain and looking to see what's on the other side. Sort of like climbing to the top of the mountain and looking to see what is in the other side, doing the LLM program was a personal goal. Everybody in that class, all 30 were justices from -- over half of the people on the class were on Stare Supreme Courts, some of them on a Federal Circuit. The rest of them were people who I knew or I've heard of on state intermediate appellate courts. So, you're around really good people, I mean really smart people. When you hang out with smart people, it makes you smarter, I think hopefully. And it was a chance to stretch my wings a little bit and fly with some people that know how to fly. That's always been part of my -- just try to make myself better.

Tim Hollenhorst: One of the things I've always admired about you, I think you know this. When I introduce you to people, colleagues, I'm friends with law enforcement obviously and just like you are, were more when you're DA. When they meet you, they have no idea that you're a judge. They have no idea the kind of significant position that you're holding in the community. In fact, some people who know you say you're an institution in the community. I think that's the way you want.

Justice Hollenhorst: I would say, actually be institutionalized.

Tim Hollenhorst: I think that's the way you want it though

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Why?

Justice Hollenhorst: I think that I have always been very grateful for a mind that works, sometimes, for the reputation that I've gotten as a judge. I'm grateful for the opportunities to do things like that and I've never taken it for granted. I remember when I was a kid starting out, in awe of some judges. When I was at Hastings, one of the judges that came from the Bay Area, a guy named Bray. He was on the Court of Appeal in first district. I always used to think, "My God! Can you believe that this guy is teaching us how much law he must know as an appellate court judge." Well, I'm an appellate court judge and I've not stopped learning the law. It happens every day and I'm so grateful for that opportunity to do it.

Tim Hollenhorst: Ever since I've been to law school and beyond, you've been a big advocate for having law clerks work with you.

Justice Hollenhorst: Right

Tim Hollenhorst: Maybe even before I went to law school, I can't remember back then. Why are law clerks important to you?

Justice Hollenhorst: Think of my background. I took advantage of being around some people who knew what they are doing and had something to share. Bill Eaton, I could never ever repay him. That's the guy when I was in college that asked me to stay after class. I thought he was going to kick my brains out because I've done something wrong and I hadn't. He thought I had some ability and he spent some time to try to cultivate it. If I can affect some kid that way that would be awesome.

Tim Hollenhorst: You and I have had the opportunity many times and it's been a couple a years since we've been invited back. But you and I have spoken together at University of California Riverside to pre-law students. I always laugh because you say the same thing every time we're there and then you start of your part of the, I guess, lecture, you start it off with, "Who's planning to go to law school?" And then raise your hands and you say, "Don't do it."

Justice Hollenhorst: Yeah.

Tim Hollenhorst: You say that in jest obviously, but you're a very -- a lot of people like you didn't have any direction when they were growing up.

Justice Hollenhorst: Well, I had misdirection.

01:45:00

Tim Hollenhorst: Do you think you have an important role in sort of talking to younger folks?

Justice Hollenhorst: Absolutely! I'm reminded every day that there are lot of people who have never met a judge, never talked to one. Their whole impression about what a judge is and does comes from me. And if I can give them a positive view of what I do and that I put my pants on one leg at a time just like everybody else does. But when it comes to living in the real world, that's where I live. I mean I know how to bait a fishing, a fishing hook, I know how to hunt birds, I know what it's like to train a dog and I live a complete life.

Tim Hollenhorst: That's an important thing that I think you instilled in me and that is having balance in your life. How important is that for you as a judge?

Justice Hollenhorst: Really important. My measure of how well I've done frankly is how well you're doing.

Tim Hollenhorst: I notice there's a thinking -- I'm a father now and I have child and it's busy. I go to work all day and I come home and we have practice. You never missed a practice.

Justice Hollenhorst: Never.

Tim Hollenhorst: Never missed a game.

Justice Hollenhorst: Never.

Tim Hollenhorst: I don't think a lot of dads can say that.

Justice Hollenhorst: Well, I didn't want to be the dad who said --

Tim Hollenhorst: What do you see some of the major challenges facing the courts today?

Justice Hollenhorst: Funding is a never-ending problem. A number of lawyers and judges have recently told me that they are disappointed with what's going on at the law school today.

Tim Hollenhorst: In terms of quality of students?

Justice Hollenhorst: Yeah.

Tim Hollenhorst: Why do you think that is?

Justice Hollenhorst: I don't know. It probably starts with undergraduate.

Tim Hollenhorst: They're just not prepared to be lawyers?

Justice Hollenhorst: I think people are going into for the wrong reason, it's all about money. And for me, it was never about money.

Tim Hollenhorst: What sort of impact do you think your judicial career has had in your family and your social life?

Justice Hollenhorst: In that regard, I hope that I've been a good role model for my kids. I say what I mean, I mean what I say. I wish more people would do that and would consider how important what you say is, what that means.

Tim Hollenhorst: You taught me this lesson and I hold it dear to this day and that is be kind. When I come down here, I'll see you chatting up with the security guards or the maintenance workers perhaps longer than you would with your own colleagues. You know when their birthdays are, you know what their family situation is like. Why do you do that?

Justice Hollenhorst: Well, again, I put my pants on one leg at a time like everybody else does. When I look back at my life and how lucky I've been -- my grandfather was a janitor and my other grandfather was a drunk. To have come as far as I've come with some issues in my family history, I'm actually proud of what I've accomplished. But it has been because I sat on my ass, it's because I worked for it.

Tim Hollenhorst: Would you do anything differently looking back?

Justice Hollenhorst: No.

Tim Hollenhorst: Nothing?

Justice Hollenhorst: No.

Tim Hollenhorst: Wow! As I mentioned earlier, I followed your footsteps. I'm deputy district attorney in Riverside County for 13 years almost. I followed your footsteps in the same office that you worked at and I still work there to this day. And in that sense, you've sort of created a legacy for our family. What does that mean to you?

Justice Hollenhorst: Well first of all, I think the work is important and you are in it for the right reason, not about the pay check, it's about justice. I've seen you dump some cases that you weren't sure that the guy did it. That makes me prouder of you than convicting somebody. It's not about statistics.

Tim Hollenhorst: One thing that I notice about you and then I think everybody would feel the same way, you're just a fantastic, wonderful storyteller. You can tell a story better than anybody most of us know. You just have a way with words. You have this ability to bring people together all at once. It's amazing. I don't know anybody like that. Where does that come from?

Justice Hollenhorst: I always try to find a good listener.

Tim Hollenhorst: That's wonderful. Thank you, dad.

Justice Hollenhorst: Okay.

Tim Hollenhorst: I love you.

Justice Hollenhorst: Thank you. I love you too.

01:50:31