
With 40 Years on the Bench, Judge Carol Brosnahan Leads RBG

BY MEGAN CASSIDY*

THREE WEEKS OR SO into her first semester at Harvard Law, Carol Brosnahan was something of a campus novelty. In 1956, she was one of just nine women in a class of 525, making the tiny cadre of women the subject of celebrity-like intrigue to male classmates and an occasional annoyance to professors.

The women were flattered though, when Dean Erwin Griswold invited them to an intimate dinner at his home. They dressed up for the occasion, in ensembles fit for the set of *The Marvelous Mrs. Maisel*.

But the female students' excitement was quickly tempered, as Griswold would make a declaration that Brosnahan relishes reciting some six decades later. You women, the dean told them, were taking the slot of a man "who would do something with the profession," recalled Brosnahan, who recently celebrated her 40th year on the Alameda County bench.

If the memory sounds familiar, that's because the dean's words also struck a chord with one of Brosnahan's classmates: U.S. Supreme Court Justice Ruth Bader Ginsburg. The scene was featured in the recent Ginsburg biopic *On the Basis of Sex*.

Brosnahan remembers the comments as striking, if not surprising.

"It was a different time. You just kind of took it," she told the *San Francisco Chronicle* recently. "You have to understand that we were odd to be there. We were objects of great interest among our classmates — confusion almost. 'Why was she here and not in the kitchen?'"

In April, after celebrating four decades on the Alameda County bench, Brosnahan received a note from her "notorious" former classmate.

"Cheers on 40 years of devoted service on the Alameda Superior Court," Ginsburg wrote in a handwritten letter. "In our law school days, who would believe that women would become judges in numbers? The huge changes we have seen make me optimistic about future progress."

Now 84, Brosnahan is an institution in Alameda County, particularly among those in the mental health field. For the past decade, she has operated the county's behavioral health court, which diverts defendants away from criminal proceedings and into individual treatment plans. If they're successful, charges are dropped.



PHOTO: PAUL KURODA/SAN FRANCISCO CHRONICLE.

With her white pageboy bob and slight frame, Brosnahan's grandmotherly demeanor belies a sharp wit and full calendar. She's earned a reputation as a compassionate judge who knows the homeless, mentally ill and addicted by name.

She meets defendants where they are, figuratively and literally, said public defender Peter VanOosting. A homeless client once refused to get out of his case worker's car, so Brosnahan held a hearing in the parking lot.

"If you're making effort, she's always going to bend over backwards for you," VanOosting said.

Perched on the bench on a recent day inside the Wiley M. Manuel Courthouse in Oakland, Brosnahan adopted the tone of a no-nonsense mother figure.

"You have to take your medicine to get out of jail. So, please do that," she told a defendant.

Brosnahan is quick to commend inmates for their accomplishments and offer alternatives, but she doesn't suffer fools. She's also quick with an anecdote on any topic, from rearing children to civil rights to manicures.

"They're not mine," she quipped after a compliment on her French tips.

The judge beams when recalling the defendants she's reached. There was the woman she ran into at the dollar store who introduced her like a star: "This is my judge!"

And then there was the man who drank to excess. Each year he sent her a Christmas card. "Judge Brosnahan, I love you," one of the cards read. "Nothing sexual."

"All you have to do is realize that they deserve as much respect as anybody else," she said.

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Brosnahan grew up in Queens, N.Y., attended Wellesley College and worked for a year on Wall Street before continuing her education. She met her husband and fellow Harvard Law alum, Jim Brosnahan, during their third semester, after she accepted a job to cook in his house for him and five male classmates. When she was hired, the men brokered a gentlemen's agreement to avoid drama: No one dates the cook.

The pact would not last.

Jim, of course, had known of Carol Simon — and the other women students — before that.

"We thought it was exotic beyond verbal description," he said in an interview at the couple's Berkeley home.

"We'd sit in the library and we'd have our books," he continued, miming the scene. "And as the women would walk by, we would look *just* over the edge of our books. And we would talk about them incessantly."

The couple officially met on Sept. 25, 1958, and the first thing Jim learned about his soon-to-be bride was that she knew all the words to all the Broadway musicals. He promptly violated the terms of his housemate agreement and proposed in three weeks. Three weeks after that, on Nov. 8, 1958, they were married.

Brosnahan's winnings from a TV game show called "Tic Tac Dough" funded her final year at Harvard, but the couple uprooted in 1959, skipping town before their graduation ceremony. He was a Catholic boy who married a Jewish girl, which was frowned upon at the time.

So, the two packed into Jim's black 1946 Ford and headed toward Phoenix. Both passed the Arizona Bar and began working on John F. Kennedy's presidential campaign, and Jim scored a job as an assistant U.S. attorney in Arizona after the election. But few legal positions were open to women, so Brosnahan worked as secretary to the Arizona Senate Judiciary Committee.

"When we were in Arizona, Jim was head of the young Democrats for Kennedy, and a fellow by the name of John O'Connor was the head of the young Republicans. And his wife couldn't get a job either," Brosnahan said, pausing for effect. "Sandra Day O'Connor, her name was."

The couple moved to Berkeley two weeks after their third child was born, in July 1964. The city's public school system was one of the first to begin integrating, and "we wanted our kids to grow up with some degree of diversity in their lives," she said.

Meanwhile, Jim's career continued to flourish. He had become a nationally renowned trial attorney, beginning at the U.S. Attorney's offices in Arizona and San Francisco, and then in private practice. His roster of clients have drawn international headlines, including "American Taliban" John Walker Lindh.

Taking a backseat to her husband's career for the first part of their marriage, Brosnahan said, was part of life in "a different generation."

"Jim was trying cases, [and] I was responsible for the household and the kids," she said. "He was a great dad, but that wasn't really his responsibility. I needed to be where the kids were."

Brosnahan passed the California Bar in 1965, while caring for three children under the age of 4. She started her California law career working as a fact-checker for the Continuing Education of the Bar, and in 1979 she was appointed to the Berkeley-Albany Municipal Court by Gov. Jerry Brown — "the first," Brosnahan joked, referencing Brown's two stints as governor.

Alameda County District Attorney Nancy O'Malley recently recalled working with Brosnahan as a young deputy district attorney in Berkeley, where the judge ran the drug court. Every morning when the prosecutor arrived at the courthouse, Brosnahan's car was already there, her bathing suit hanging to dry on the headrest.

"She just had this really amazingly full life and was a great judge on top of it," O'Malley said.

About a decade ago, after Brosnahan had moved up to the Alameda County Superior Court when the Municipal Court merged with it, the judge approached O'Malley about forming a behavioral health court to help break the cycle of recidivism.

"She seems to be driven by a real desire to make the world a better place," said Jeff Chorney, an Alameda County public defender who often represents mentally ill clients. "I think people in Alameda County might not know who she is, but a lot of people have felt the effect of what she has done."

Defense attorneys say the court once considered lightening Brosnahan's load and offered to transfer some of her cases to another judge.

"My understanding is that she threatened to retire," VanOosting said.

"If she ever does retire, it will truly be a big loss to Alameda County," Chorney said. "I think she is extremely compassionate, and she works really, really hard. She has kind of an old-school work ethic. She's willing to take on some jobs that maybe other judges wouldn't find as exciting."

Now heading into her 41st year on the bench, Brosnahan has no plans to hang up her robe. She'll continue to forge a legacy that few, including the dean of Harvard Law, would have predicted.

"I love what I do. I'm good at it," Brosnahan said. "Nobody wants me to retire." ★

EDITOR'S NOTE: On October 26, the California Lawyers Association announced Judge Brosnahan as the recipient of its 2019 Aranda Access to Justice Award, honoring a judge demonstrating a long-term, tireless commitment to improving, and promoting fairness and access to, the courts.