

Justice Kelli Evans: Compassion and Grace Under Pressure

BY TIELA CHALMERS AND DAVID A. LASH

IN RECENT YEARS, California governors have made a concerted effort to increase the number of women and people of color on the bench at all levels. Governor Gavin Newsom, in particular, has made this effort a focus of his administration, and thanks to him, the bench today bears a much closer resemblance to California's population. A majority of our Supreme Court justices are now people of color, and women, as well as being brilliant and thoughtful jurists. Nowhere is this shift more evident than in the governor's most recent appointment to the California Supreme Court: Justice Kelli Evans. The governor has shown great foresight in naming Kelli to the court, choosing a jurist whose background, experience, and sensibilities will bring invaluable compassion, intellect, and patience to the state's highest court. In becoming the newest justice, Kelli brings a lifetime of experience, superior achievement, and dedication to fairness and access to justice. She brings these vital judicial attributes to a platform where those values could not be more important. We applaud both the governor and the new justice.

As California lawyers long involved in public interest pursuits, we have known and admired the high court's newest member for many years. We first met Kelli when she was a staff attorney at the American Civil Liberties Union of Northern California in San Francisco during the late 1990s. Traveling in the same legal circles, working on similar issues, all focused on using the law to help those most in need, we quickly came to admire her heart and mind. After she moved on, our professional paths next met when, years later, she returned to the ACLU as its associate director, guiding its work on racial, reproductive, and criminal justice.

But it was during her years at the State Bar, as its senior director of the administration of justice, where we worked closely together and proudly became fast friends, collaborating on a variety of issues relating to the "justice gap."¹ Kelli assumed a leadership role in connecting the legal aid and pro bono communities with those whose hands control the purse strings, helping to bridge a challenging divide. In that position, facing issues so critical to low-income communities across the state, it seemed to us that Kelli's personal history infused her with a reality and passion that would touch the lives of vulnerable

1. The term "justice gap" refers to the chasm between those who need legal help and those who are able to obtain legal help. In some areas of law, 80 percent of people are unable to locate or afford legal assistance and are forced to try to navigate complex legal issues and procedures without any professional help.



Kelli Evans at her confirmation hearing, Nov. 10, 2022. Photos: California courts.

individuals and families in ways that would have a profound impact. Focusing her career on protecting and advancing justice and opportunity for those who need it most seems to be a part of her soul. But so is a strong work ethic and a calm demeanor that eases tense conversations and makes dialogue possible.

Kelli grew up in Colorado. She and her sister saw their mother struggle with addiction and mental illness, a trauma for any family member to experience, much less children. When Kelli was about 5, her mother took both her and her sister to live with their maternal grandmother, knowing this move would allow them to have better lives. Typical of Kelli's outlook on life, she seems to have only gratitude for her mother and the difficult, life-altering decision made to give up responsibility for the girls' upbringing in favor of her own mother. It meant that Kelli grew up with an attentive and devoted adult who guided her with an unwavering moral compass, support and encouragement, and a strong foundation.

Kelli speaks gratefully about the impact of legal aid on her early life. She remembers dressing for her first day of school and going with her grandmother to register at the local elementary school — excited at the prospect of reading and learning — only to be told that her grandmother did not have the legal authority to register her for school. Luckily for Kelli — and for us — Kelli's grandmother found her way to Legal Aid, where a staff attorney drafted a power of attorney, giving Kelli's grandmother the legal authority she would need to enroll the children in school, make medical decisions on their behalf, and generally serve as a life-stabilizing parental presence for these then-young girls.

To those of us who know her, it is no surprise that Kelli enjoyed school quite a lot and, of course, did very well. Although they became a strong unit, the family had few resources, living for years in public housing. Just as Kelli was entering high school, they were lucky



Above & page 19: Kelli Evans' confirmation hearing, Nov. 10, 2022. Photos: California courts.

She has that uncanny ability to listen carefully to whoever she is talking with, making them feel they have her full attention to the exclusion of all others, clearly working hard to understand both what they are saying and perhaps also what they are not saying.

enough to finally obtain a subsidized housing voucher that allowed them to live in market-rate housing at an affordable cost. As a result, they were able to move into a neighborhood that was in the catchment area of one of the best high schools in the state. There, Kelli was able to take AP classes and participate in great extracurricular activities. She graduated among the top students in her class from a top school, all the while working 20 hours a week to help support the family. She saw what hard work and intellectual effort could do, and she also saw

that without some of the advantages she had, things could have come out very differently.

Kelli went on to Stanford as a National Merit Scholar, earning a bachelor's degree in public policy, and then to UC Davis School of Law, where she was the recipient of the Martin Luther King Jr. Award for Public Service. Her experience in the immigration and prison law clinics there clearly informed her later work.

After law school, Kelli followed what was becoming a well-defined career path that paralleled her personal story and her personal passions. She accepted a year-long fellowship opportunity at Equal Rights Advocates, a nonprofit entity advocating for gender justice in employment and educa-

tion, working on employment rights cases, representing largely low-wage workers, protecting their rights and their livelihoods. Next, she moved on to the ACLU of Northern California, where she handled litigation and drafted

amicus briefs in several high-profile civil rights cases. Her devotion to civil rights causes eventually, and seemingly inevitably, drew her to Washington, D.C., first as a senior trial attorney at the Civil Rights Division of the U.S. Department of Justice, and then at a private law firm focused on police misconduct and other civil rights issues.

Her work on police misconduct matters brought her back to California to serve (for seven years) as a federal court monitor, overseeing compliance by the Oakland

Police Department with the consent decree entered into in the case frequently referred to as “the Riders.”² We are hard pressed to think of a position that calls for more grace under pressure than serving as a police department consent decree monitor. It requires an amalgam of skills rarely seen, including evaluating the constitutionality of police actions, an ability to listen to all sides, bringing calm and patience to a difficult situation, all while maintaining an unwavering commitment to justice. Kelli served in this role in multiple cities over the course of her career, a testament to the way so many disparate parties with differing values and convergent interests respected her fairness and dedication. In fact, she founded a company that provided that service to police departments and other consent decree parties over the course of several years.

Kelli returned to the ACLU in 2010 as its associate director, and then moved to the State Bar of California, where we both worked closely with her, spending a good deal of time together on a variety of issues relating to the justice gap. It was there that we saw her deal with delicate situations on a continual basis. The one constant in her performance was her motivation to do what was right, what was just, and what would best serve the interests of those who otherwise would be marginalized. We witnessed her belief-in-action that the law, lawyers, and government be guided by fairness and equality, no matter one's station in life. Her dedication to those principles is what drove her, inspired us, and resulted in policy and programs aimed at accomplishing those goals.

2. *Allen v. City of Oakland* was a federal civil rights lawsuit originally brought in 2000 in which plaintiffs alleged that a group of four longtime officers of the Oakland Police Department (known as “the Riders”) kidnapped, planted evidence on, and beat citizens. The suit also alleged that the department turned a blind eye to this misconduct. The case was settled in 2003 with a payment to the plaintiffs and the appointment of independent monitors. (N.D.Cal. 3:02-cv-04935, available on PACER, <https://pacer.login.uscourts.gov/csologin/login.jsf?pscCourtId=CANDC&appurl=https://ecf.cand.uscourts.gov/cgi-bin/liquery.pl>.)

The way Kelli talks makes it easy to trust her. She has that uncanny ability to listen carefully to whoever she is talking with, making them feel they have her full attention to the exclusion of all others, clearly working hard to understand both what they are saying and perhaps also what they are not saying. Using that remarkable skill, she helped to bring more resources to the table for those serving the underserved, while satisfying those concerned with efficiency that this issue, too, was being addressed.

Kelli left the State Bar for the California Department of Justice, where she served as a special assistant to Attorney General Xavier Becerra. Her portfolio of responsibilities unsurprisingly focused on her areas of expertise and passion, including policy issues ranging from police accountability to discrimination. From there she became the chief deputy legal affairs secretary to Gov. Newsom, working on a wide variety of legal issues in state and federal courts. Those responsibilities included oversight of the Board of Parole Hearings. Here is another example of Kelli's ability to see both sides and navigate difficult spaces. Her work on police misconduct issues showed her the challenges faced by those being stopped, arrested, or charged with a crime. At the same time, in her role with the parole board, she worked with victims of crime, hearing and balancing their concerns and issues with those of the people convicted. She worked hard to be fair to all, her signature calling. We saw her compassion for families who were hurting and her fairness to those seeking parole. A balancing act supreme, always driven by a sense of justice.

Kelli also played a lead role in crafting and implementing the governor's 2019 moratorium on the death penalty. In addition to halting executions in California, it repealed the state's lethal injection regulations and dismantled California's death chambers. When the governor faced a lawsuit over his actions, Kelli secured pro bono representation to defend the policy and oversaw the course of the litigation that successfully defeated all challenges. Kelli also represented the governor's office on a variety of other notable criminal justice issues, including modernizing California's laws related to the use of deadly force by law enforcement officers. Kelli's ability to work with both law enforcement and community advocacy groups on this issue is a perfect example of her leadership and vision, as well as her ability to listen, collaborate, and achieve a sometimes hard-to-imagine consensus. In commenting on Kelli's work in this area, a career law enforcement officer observed, "In all my years



working with law enforcement leadership and various advocates and organizations, never have I ever seen such a skillful handling of such a sensitive and controversial subject."

In 2021, Newsom appointed Kelli to the Alameda County Superior Court. As is the case for many new judges, Kelli spent her first year on that bench in a variety of assignments, including the Civil Harassment calendar, a court where poverty is an issue in most proceedings and where the daily calendar can be one of the most challenging in any trial court. Many of the litigants represent themselves, and there is no shortage of mental health challenges. Whether the parties are being physically threatened by a neighbor, or believe their roommate is spying for an extraterrestrial entity, this is the calendar of last resort. For the many representing themselves, this is their big chance to be heard — and they are often unwilling to adhere to guidelines and follow social cues. But Kelli's compassion and patience were legendary.

We had the occasion to sit through this calendar when Kelli was on the bench, and it was striking. She brought a unique combination of patience — apparently an endless reserve of it — with the ability to stop a long diatribe and be decisive. Those appearing had a strong sense that she cared about what they said and was listening carefully — but also that she was clear when she had heard enough. Her heart somehow never clashed with her ability to be judicially efficient. All were treated fairly; all knew that they had not been denied access to justice. This may be why the local trial lawyers association selected Kelli as Alameda County Judge of the Year after only her first year on the bench.

It is this same sense of respect that Kelli brings to the Supreme Court. The identity of the parties will matter not at all. Her character will ensure that fairness will prevail. As the first Black lesbian justice on the court, having grown up in poverty, experiencing the power of legal aid, understanding firsthand the life-saving impacts of access to justice, Kelli Evans brings a perspective to the court that surely will prove vital. ★

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