

Nancy Taylor Rosenberg

INTEREST OF JUSTICE



A DUTTON BOOK

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Published by the Penguin Group

Penguin Books USA Inc., 375 Hudson Street, New York, New York 10014, U.S.A.

Penguin Books Ltd, 27 Wrights Lane, London W8 5TZ, England

Penguin Books Australia Ltd, Ringwood, Victoria, Australia

Penguin Books Canada Ltd, 10 Alcorn Avenue, Toronto, Ontario, Canada M4V 3B2

Penguin Books (N.Z.) Ltd, 182-190 Wairau Road, Auckland 10, New Zealand

Penguin Books Ltd, Registered Offices:

Harmondsworth, Middlesex, England

First published by Dutton, an imprint of Dutton Signet,

a division of Penguin Books USA Inc.

Distributed in Canada by McClelland & Stewart Inc.

First Printing, October, 1993

1 3 5 7 9 10 8 6 4 2

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REGISTERED TRADEMARK—MARCA REGISTRADA

LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Rosenberg, Nancy Taylor.

Interest of justice : a novel / by Nancy Taylor Rosenberg.

p. cm.

ISBN 0-525-93680-7

1. Women judges—California—Orange County—Fiction. 2. Murder—
California—Orange County—Fiction. 3. Orange County (Calif.)—
Fiction. I Title.

PS3568.0787615 1993

813'.54—dc20

93-13005

CIP

Printed in the United States of America

Set in Gill Sans and Goudy

Designed by Steven N. Stathakis

PUBLISHER'S NOTE: This is a work of fiction. Names, characters, places, and incidents either are the products of the author's imagination or are used fictitiously, and any resemblance to actual persons, living or dead, events, or locales is entirely coincidental.

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INTEREST OF JUSTICE



Also by Nancy Taylor Rosenberg

Mitigating Circumstances

*To my mother, Laverne Taylor,
and in memory of my father,
William Hoyt Taylor, and to my
father- and mother-in-law, Hyman
and Doris Rosenberg.*



acknowledgments



I WOULD LIKE TO ACKNOWLEDGE ALL THE MANY PEOPLE WHO ASSISTED me in the development of this novel. First, I offer thanks to my wonderful agent and good friend, Peter Miller, of PMA Literary and Film Management, for his constant support and tireless efforts on my behalf; and to Jennifer Robinson, also of PMA, who assisted me greatly. I am particularly grateful to my editor, Michaela Hamilton at Dutton Signet, who offered her brilliance and insight. Without her this novel would not be what it is today. Elaine Koster, my publisher, has been wonderful, as well as the entire staff at Penguin USA.

Additionally, I would like to offer thanks to Dr. George Awad for his expert advice in the field of pathology. And last, I would like to thank my long-suffering and supportive husband, Jerry, and my wonderful children: Blake, Chessly, Hoyt, Amy, and Nancy for allowing their mother to become a writer and follow her dream, and for handling a lot of their problems without me. Nancy, I would particularly like to thank, since she sacrificed her summer vacation to assist me in editing this novel.

INTEREST OF JUSTICE



chapter |



JUDGE LARA SANDERSTONE HAD A RITUAL. WHEN SHE WAS PONDERING a complex legal matter or was about to make a judicial ruling, she would spin her high-backed leather chair toward the American flag on the left side of her mahogany desk. It seemed to give her inspiration. As for the California flag right next to it, well, she didn't put much stock in its ability to inspire her—or anyone else, for that matter, although she certainly wouldn't voice this opinion publicly.

Many of the judges didn't have flags in their chambers. She had inherited the flags, the furniture, her chambers, even her secretary from the judge she had replaced when she was appointed to the superior court bench two years prior after eleven years as a prosecutor. The weekend before her swearing-in ceremony, she had driven to the courthouse in her jeans and lovingly sanded down and refinished the marred surface of the once magnificent desk. There wasn't much she could do about the chair, however. The judge she had replaced was a heavy man, and the innersprings had collapsed with his weight. They had promised her a new chair, but it had never appeared. It was like sitting in a bucket.

She glanced at the clock. It was almost time to return to the courtroom. The matter on the afternoon calendar was a pretrial motion. These were generally routine and uneventful, carried out in an almost empty courtroom. But unfortunately, this particular motion could destroy the people's case completely, and it had carried over to a second day. The motion should have been heard at the preliminary hearing, but then the defendant had been represented by the public defender, a man sympathetic to the prosecution and buried in cases. Now the case had been taken over by Benjamin England, a Rhodes scholar, a man established enough to devote himself full-time to this case and none other.

The case involved the rape and murder of twenty-year-old Jessica Van Horn. She had left her home in Mission Viejo after a weekend visit en route to the UCLA campus in her 1989 Toyota Camry. The car was later found abandoned alongside the freeway with a flat tire. An exhaustive two-month search for the pretty blonde had culminated in tragedy. Her defiled and decomposed body had been found in a field near Oceanside, about forty miles from where her car was discovered. All those involved had hoped against reason that she was still alive. By the time the body was discovered, the officers, reporters, the entire community, had Jessica's image firmly implanted in their minds: the curly blond hair, the shy smile, the big blue eyes, even the white blouse trimmed in lace that she was wearing in the thousands and thousands of flyers they had distributed.

Judge Sanderstone was no longer facing the flag. She had her chair turned to the right side of her desk, where she had a large framed portrait of her great-grandfather, a tribal chief of the Cherokee nation. She took in the proud posture, the sculpted cheekbones, the penetrating eyes, the wisdom. This was where her eyes rested when she was looking for strength.

The courtroom was packed and noisy. Almost every seat was taken, and several reporters had been forced to bend on one knee in the aisles with their notebooks and pens ready. At least a dozen police officers were present, some in uniform, some plainclothes.

One of the clerks whispered something to the bailiff. The judge was on the way. Two additional bailiffs entered, escorting the defendant, a small, thin man in his thirties, to the counsel

table. He kept his head down, holding his cuffed wrists to his face, actually sucking on one finger. He took small steps, the shackles around his ankles jangling like an enormous charm bracelet. On the top of his head was a shiny bald spot glistening with perspiration from the overhead lights. His bright yellow jumpsuit had the words ORANGE COUNTY JAIL on the back.

"All rise," the bailiff said, stepping to the front of the bench once the defendant was deposited next to his attorney. "Remain standing. Superior Court of Orange County, Department Twenty-five, is now in session, the Honorable Lara Sanderstone presiding."

Lara entered the courtroom through the small door behind the bench and ascended the stairs in a swirl of black robes. People told her there was a deceptive delicacy to her face: pale, soft, unblemished skin, the kewpie doll mouth, the high protruding cheekbones, the long eyelashes that fluttered behind her glasses. Her black hair was held back in a fancy gold clip, her one attempt at femininity in what was traditionally a masculine role. Young for the bench at thirty-eight, she had to work to appear authoritative. Not too long ago, someone had commented that she looked like a member of a church choir instead of a judge.

The A.D.A., Russ Mitchell, bolted through the double doors. He was late and had jogged from another courtroom and another matter. Slightly out of breath, he rushed to the counsel table and slapped a thick file down, adjusting his tie and glancing up at the bench.

Lara's gaze was firm and her voice laced with annoyance as she reprimanded him. "I'm pleased that you were able to join us today, Mr. Mitchell, but we are already in session and you are late as usual. I'll give you a few minutes to collect yourself, and then we'll begin."

Her eyes found the victim's parents while Mitchell frantically shuffled papers. They were seated in the first row, side by side like two parrots on a perch, their faces somber. They held each other's hand, the man and woman, both in their early fifties. Whatever was going on around them they didn't see or hear. They stared straight ahead, waiting. What they were waiting for now was justice.

Seated next to them was a dark haired twenty-year-old boy, the victim's boyfriend. Lara recalled his face from the newspaper

articles. He was wearing a black suit, probably the one he had worn to her funeral. He had dated the victim for the past three years. This was their first year at UCLA, and they had been living together in a small apartment near the campus. He'd told reporters he had been saving to buy her an engagement ring.

Finally the district attorney looked up. He was ready.

"*People versus Henderson*," Lara said, immediately calling the case, accepting the file from the clerk's hand as the courtroom fell into silence, all eyes on the bench. "We will be continuing with the defense's motion to suppress evidence. Specifically, the defendant's confession. Mr. England, I understand you have another witness."

"Yes, Your Honor," England said, already on his feet. His dark hair was laced with gray, but at forty-three he was still a youthful, handsome man.

Once the witness was sworn in, he stepped up to the stand. He was in uniform. Yesterday they'd heard testimony from the arresting officers. Lara felt certain they'd perjured themselves. Today she could hear more of the same—more concocted lies. After the officer stated his name for the record and his position as a correctional officer assigned to the Orange County Jail, England stepped from behind the table and approached the witness box.

"Officer White, when did you first see the defendant on the night of June fifteenth?"

"I believe it was about three o'clock in the morning. I was due to get off at three. He was in a holding cell, on a bench."

"I see," England said slowly. "Was he alone in the cell?"

"Yes, he was."

"And what was the defendant doing when you entered the holding cell?"

"He was sleeping."

"Sleeping?" England said, cocking his head. Turning to face the spectators, he walked to the table and picked up something.

"I-I thought he was sleeping," the officer answered.

"Is it possible he was unconscious?" England's eyebrows went up. The witness's eyes were locked on the items in his hands, tracking them as England waved them around as he spoke.

"Probably," the officer replied. Then he scooted closer to the microphone. "I thought he was drunk."

"I see," England said. "So, you tried to rouse him?"

"Yes. When he didn't respond, I got another officer and we moved him to the cell."

"How did you move him?"

"We carried him under his arms."

"Did you look at his face during the time you were carrying him or dragging him to his cell?"

"Of course." The man scanned the faces in the audience, trying to find the arresting officers and possibly some of the correctional officers he worked with, grab some moral support.

"And you didn't notice the bruises on his face, his right eye swollen shut?"

"I don't remember."

The D.A. was squirming in his seat, tapping his pen annoyingly on the table.

England's momentum was building up like steam inside him. With the next question, Lara could almost hear the hiss. "You didn't possibly notice that his left arm was broken, did you?"

"No," the officer said, perspiration across his brow.

"Officer White, did you think for even one moment that the defendant was in urgent need of medical treatment, that he was in fact unconscious, that his arm was severely broken, so severely broken that it was flopping back and forth like a piece of rubber? Surely that's something you would notice?"

"No," the officer said. "I thought he had been in a bar fight or something. It's the booking officer's responsibility to see that a suspect gets medical treatment if he needs it. I'm just a jailer."

England spun around. "Officer White, did you beat the defendant, cause these injuries?"

He jumped in his seat. "No. I didn't lay a hand on him. I simply put him in the cell bunk and left."

"Well, that's very interesting. The arresting officers testified yesterday that he might have incurred, I quote, 'a few bruises' when they were placing him under arrest, but nothing more. I guess that means you broke his arm, right? I mean, if they didn't break his arm, you must have been the one who broke it."

The officer's face was bright red. He wasn't about to take the fall. "No way. His arm was broken when he was booked. I certainly didn't break it."

A flurry of commotion rang through the courtroom. The D.A. was ashen. England attacked. "You mean by the arresting officers? Right? Not during booking but prior to booking?"

The witness became silent. He dropped his eyes. "I guess so," he finally said.

"And you," England said, pointing a finger at him, "you left this man, this injured and unconscious man, in a cell where he could have died. Why? I'll tell you why. Because you were about to go off duty and you didn't want to be bothered. You didn't want to mess with the paperwork, the trip to the infirmary, all that time-consuming stuff. Isn't that right, Officer White?"

The officer's head dropped. He didn't answer.

"Objection," the D.A. spouted. "He's badgering the witness."

"Sustained," Lara said.

"No further questions, Your Honor," England said, taking his seat, his point clearly scored.

Lara looked at the D.A.; the tension in her neck was increasing, and she rolled her head around to relieve it. "Your witness, Mr. Mitchell."

The officer was gulping water from a glass placed in the witness stand. The two arresting officers were seated in the back row, their eyes black daggers. White had far more to fear now than Benjamin England, Lara thought. He had rolled over on his own. The future months wouldn't be easy.

The D.A. stood, adjusting his jacket, his voice low and soft. "Officer White, are you absolutely certain that the defendant didn't fall out of his bunk and break his arm? Your preliminary statements were that you didn't notice any injuries. Are you now recanting that testimony?"

This time the witness met the arresting officers' eyes. He was beyond all that now. He just wanted out, off the stand and out of the courtroom. As a correctional officer he didn't testify on a regular basis, and for him this was grueling. "Yes. I noticed his arm. His arm was broken when I went into the holding cell."

"And you're absolutely certain of this now? Your earlier statement was false?" Mitchell swiped the hair off his forehead, shaking his head. He knew it was bad. He didn't know it was this bad.

"Yes," he said, blinking rapidly, more perspiration appearing

on his forehead, his upper lip, little beads of it rolling down his cheeks.

"Isn't it possible, Officer White," the D.A. said, going for the last escape hatch, "that he could have fallen off the bench in the holding cell and incurred this injury before you arrived?"

White thought a moment. He apparently made a decision to come clean, spill his guts, make a feeble attempt to make amends in the eyes of the court and possibly his own conscience. "I guess he could have, but he didn't. Everyone knew he was roughed up before he was booked." He cleared his throat and continued. "He killed and raped a girl, you know?" With this last statement he looked confidently at the spectators, as if they would all understand, that if they had been given the opportunity, they too would have wanted to make this man suffer, to break some bones, draw a little blood.

The D.A. wasn't touching this one. Actually, he'd gone too far and there was no road back. England didn't bother to object to the speculation that the defendant was guilty. "No further questions, Your Honor," the D.A. said. He didn't simply take his seat, he fell into it.

Mitchell turned to the victim's parents and met their gaze. Lara felt the tightness move from her neck to her chest. The parents hadn't moved. They were still sitting ramrod straight, their shoulders touching, their hands tightly clasped. They looked like statues, bronze replicas of suffering. They had as yet to realize the magnitude of what had just occurred.

From the look on the face of the young man next to them, however, he had.

"Very well," Lara said, peering down at the witness. "You can step down," she told him. Then she turned to the courtroom. "We will recess for fifteen minutes before I deliver a ruling. Mr. Mitchell, I'll see you in chambers." She tapped the gavel one time lightly and slipped from the bench. As soon as she was through the door, she pressed her fingers down over her face, pulling her skin, wishing she could wipe the stench of this off her face and hands. It was poison—clear and simple.

She walked rapidly to her chambers. The D.A. was right behind her. She began speaking without looking back at him, and

she entered her outer office with only a nod at her secretary. "Are you going to file on Madriano and Curtis?" she said, referring to the arresting officers. Not only had they beaten the defendant within an inch of his life, they had obviously perjured themselves the day before.

The D.A. answered, "I assume. I haven't given it much thought." He appeared more concerned about his case, or what was left of it, than pressing charges against the officers.

They were in chambers now and Lara stepped behind her desk, taking her seat and tossing her glasses, swiveling her chair to face the young D.A. "These officers should be prosecuted, relieved of their positions on the force, and frankly, taken out and shot. I've never seen such a fucked-up case in my life." She was so angry that her hands were trembling as she fingered a piece of paper on her desk.

The D.A.'s chin jerked up in response, but he didn't speak. It was obvious that he'd like to do the honors himself as far as the officers went. Crestfallen, he finally said, "He's guilty, you know?"

Lara didn't respond to this statement. Her hands were tied. Even if she was to blatantly deny the defense's motion to exclude the confession, any conviction would be overturned in appeal. "A layman would have no trouble figuring this one out. You simply cannot beat a person and then garner a confession." She watched as the D.A. slid farther down in his seat.

"You rule to suppress this, we're dead meat," Mitchell said. "He knows it," he continued accusingly, referring to the defense attorney. "Our primary witness died last week. Without the confession . . . well, we're looking at dismissal."

None of this was news to Lara. They'd been agonizing over this for three weeks. In a slurred voice on tape, the defendant had admitted the crime. The tape had suddenly ended. Lara was certain the defendant had collapsed from the injuries inflicted by the arresting officers. They had worked the case all along, speaking daily with the family. They both were mature investigators with teenage daughters of their own.

They had simply lost it.

Without the eyewitness, and the absolutely vital confession, the prosecution had nothing. Lara had called Mitchell into cham-

bers only to allow both of them a few minutes to accept the inevitable, present a unified front. The D.A. would withdraw the charges and regroup. If they took a case as weak as this to trial and ended up in acquittal, it was finished. They were better off withdrawing now and praying for more evidence to construct a more concrete case. The biggest problem was the public outrage sure to follow and the fact that a dangerous killer would be walking the streets while they built a better case. Instead of the public venting its anger on the real culprits in this case, the police officers, it would all fly in Lara's face.

"Are you going to withdraw today?" She hoped not. That would be the worst: for her to suppress the evidence and the defendant to walk out of jail a few hours later a free man.

"I don't know. England's going to press for dismissal." He leaned forward in his seat. Then he slapped back, throwing his hands in the air. "We have no case. We have shit . . . nothing but dog shit."

Lara stood to return to the courtroom. Mitchell took her cue and stood as well. A few seconds later, he was following her down the corridor.

Once back in session, Lara addressed the court. "After careful consideration," she said, the weight of the words she was uttering causing her to compress in her seat so that only her head could be seen from below, "the defendant's motion to suppress is granted." She braced herself for the onslaught and continued, looking out over the courtroom, "From the evidence presented in this courtroom, the defendant was severely battered, the confession was issued under extreme duress and is therefore determined to be inadmissible."

England sprang to his feet. "We move for dismissal, Your Honor. Without this evidence the case against my client is non-existent."

The defendant looked up, a blank look in his eyes. Lara had read in the files that he was on psychotropic medication. The noise in the courtroom was getting louder with every second. The D.A. had turned around in his seat and was speaking with the victim's family. The woman was crying, the father holding her head against his shoulder. He was whispering to her, stroking her hair, making