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Episode 190: Day In, Day Out
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Phoebe Judge: This episode contains references to sexual assault. Please use discretion.

Laura Coates: There are those dogs that are the teeny tiny things that believe they're in a giant Great Dane's body. And in some respects, that does capture me, [laughs softly] that I tend to bite off a lot. But I am insistent on chewing and swallowing it down.

[as narrator]

Phoebe Judge: This is Laura Coates. She grew up in Saint Paul, Minnesota. When she was applying to college, she was asked what she liked to do for fun. And she said she

liked to write imaginary speeches about what she would have said at different moments in history if she had been in charge. After college, she decided to go to law school.

And then in 2008, she got a job with the Civil Rights Division at the Department of Justice. Much of her work involved investigating voter intimidation as part of the job. Laura traveled around the United States monitoring polling places.

Laura Coates: I went all across the country. And those cases that you traditionally think of as below the Southern states to those that are in the mid-Atlantic and the West Coast, wherever there were injustices regarding voting cases and my colleagues there were phenomenal. And the work they do continues to be phenomenal.

Phoebe Judge: But over time, Laura says it got frustrating. There was a lot of red tape — pushback from state election officials. And she felt like her cases weren't even getting off the ground. One of our colleagues in the civil rights division often told Laura stories about a six-month detail he'd done with the US Attorney's Office. She says he spoke about it so glowingly that Laura decided she wanted to get away from all the bureaucracy and get into the courtroom. And then in 2011, she was offered a job with the DC US Attorney's Office as a criminal prosecutor.

Laura Coates: And I went to my colleague expecting him to perhaps pat me on the back, to acknowledge the shared comradery in the experiences I was about to have. And the normally jovial, very charismatic character that he was totally changed.

Phoebe Judge: She told him it wasn't just for six months, like he'd done. It was a permanent job with a four-year commitment. She remembers that her colleague, who was Black, stood up and closed his office door.

Laura Coates: And he had this extraordinarily grave facial expression. And he was very, very concerned about the ability of anyone, let alone a Black woman, to be able to handle the stress of human misery that you would see day in, day out.

Phoebe Judge: She remembers he said, "I don't know how to describe it. It just keeps coming." [soft, atmospheric music]

Laura Coates: And I remember thinking, well, if there's one person in the justice system who could do something about human misery, surely it's the powerful prosecutor. Why wouldn't I use what I had, start where I was, and do what I could to do more about it?

Phoebe Judge: Laura took the job. Early on a fellow prosecutor offered to show her how to interrogate a witness. She remembers he said, “Let me show you how it's done. It's going to give you a high.” Laura followed him down to the basement and says he told her, “Watch how I maintain control. This a psychological warfare.” They were interrogating a Black teenager named Josiah. Her colleague asked Josiah for information about someone named “C”. Josiah said he didn't know anyone named C. They went around and around, and the interview ended abruptly. Laura didn't understand. But then her colleagues said the other inmates will know that he didn't go straight to the courthouse for a hearing like they did. You don't want to be a snitch in holding, trust me. Laura remembers being afraid that Josiah would get hurt. She asked her colleague, “Why would you do that? And why bring me along?”

She remembers another incident where she was preparing to prosecute a car thief. As part of her preparation, she had to run background checks on all her witnesses. She says it was customary to run background checks on everyone, even the victim—the man whose car had been stolen. During the victim's background check, she discovered that there was a warrant for his immediate deportation. He had a wife and family, a full-time job and a valid driver's license. He'd been in the country for 20 years. Laura found out about the deportation order two days before the trial. She knew that even though he was the victim in the case, her job required her to alert federal marshals. If she didn't, or if she warned the man ahead of time, she could lose her law license. She emailed her boss to see if they could dismiss the case. He said no. The morning of the trial, the man whose car had been stolen arrived early, prepared to testify about what had happened to him. Laura remembers he was dressed in a suit and had polished his shoes. He had no idea that he was about to be arrested. And when Laura greeted him, she could not tell him what was about to happen. ICE officials arrived and arrested the man and made him put his hands behind his back. He asked Laura to call his wife, his boss, and his pastor. Laura held the phone up to the man's ear so he could speak to his wife. When she got on the phone, he said, “I've been caught. I love you.” And then ICE took him away. [moody electric guitar music] Laura says she's often thought back to what her colleagues said to her about human misery back when she first accepted the job.

Laura Coates: In that moment, I failed to appreciate fully what those battles of allegiance would one day be. And it was that phrase of, the idea of not being able to do anything about the misery, that I didn't understand what he meant or what he could possibly believe what the role of the prosecutor could be, if not to have a solution or be able in some way to do something about the bombardment of human misery — to stop it, to prevent it. But there was real concern on his face that maybe looking back, he wasn't even fully comfortable of expressing all of the reasons why he thought of it as a personal risk. Looking back now that expression in his face is one that I now recognize

because it's one where it's very difficult to explain what it's like to be, particularly a Black or brown person, in the justice system in a position of power where the seat at the table and coming with your lived experiences and being questioned as to the audacity of you to be in the stance and in the position of where people think the stereotypical white man or the man ought to be.

Phoebe Judge: After four years, Laura Coates quit and start practicing law altogether. I'm Phoebe Judge. This is Criminal.

Before she left her job as an assistant United States attorney, Laura Coates worked on cases involving violent crimes, sexual offenses, drug related offenses, and domestic violence. She was involved in every step from an arrest all the way to sentencing.

Laura Coates: I think so many people have the impression—and we're all conditioned in some respects because of the generations of people who've been watching *Law and Order*—we all have this impression that a crime happens, and arrest is made, charges are brought, a trial happens, a conviction or acquittal ends within about 45 minutes, and they walk down those old stairs outside of the courthouse. And there you go. It's all sort of buttoned up in the end. And if there's a guest celebrity star, well, that's the one who did the crime as well. So things are very obvious to people of what happens. [chuckles softly] But in reality, the role of the prosecutor is not so reactive or just in the trial world.

[to Laura]

Phoebe Judge: I hadn't really understood what the prosecutor's role was in kind of even deciding which cases will be charged. Will you talk about the process of screening cases and take me through when you were up for that rotation, that duty, what you would have to do?

Laura Coates: What happens is when somebody is arrested for a crime, the police officers try to anticipate what the charge might be. They'll be able to have the person held, pending either an arraignment if you pursue charges. But before that happens, they bring the case to a prosecutor's office or the prosecutor to screen their arrest. Which means that these are the people who need to come before a judge in a timely fashion on this day through an arraignment so that we have the speedy trial type of rights protected. And the police officer will bring the case and say, "All right, here's what happened. Here's some paperwork I have." And you really have the moment of tell me what happened. And you're interviewing this officer to try to get a sense of what the crime may have been, what are the anticipated defenses that might be raised and the viability of this particular arrest. And is there more than one person that you can look to

whose actions cancel out the other. Sort of a crisscross, maybe it's a fight that broke out.

Is it clear who the initial aggressor is? [slow, upright-bass heavy music] How about is the victim cooperative? And this happens within less than a 30-minute conversation with the officers. All of this you're gathering and you're typing along, you're trying to decide what to happen, what to do, what charge, maybe one charge you'll arraign on with an eye towards a grand jury to develop additional charges. This is the moment when you have to gather all of the officer's notes and things that you know, are going to be fleeting. Where is the evidence? Where is the gun? Where is the knife? Where are the drugs? Where is my chain of custody? You're dotting i's and crossing t's. And these discussions, these moments happen within, like I said, moments. And so, did you paper a case, meaning you're going to go forward with it, or did you no paper, meaning forget it. This case is going nowhere, you can go ahead and release the person. There will be no arraignment today.

[as narrator]

Phoebe Judge: Laura says prosecutors without an active trial routinely rotated through different courtrooms covering hearings for cases assigned to their colleagues.

Laura Coates: So on this stack of things to do, one case came up and it was a man who came up who was professing his not only his innocence, but that the warrant squad had arrested the wrong person. He was not the person who should have been standing trial for a violent attack on a woman with whom that person had fathered a child. And he and his counsel, they were both Black men, were adamant that the police had gotten this wrong. And the judge had heard some version of "It wasn't me" throughout the course of her career, let alone that day — she was not having any of it. She turned to me as if to have immediate allegiance and comradery to ignore and move and march right along. Consequences be damned. And he kept saying, "It wasn't me. And I'm telling you it's this." And I thought to myself, just because of the way it was being said, and I thought, what could it be if I just looked into it for a second. He's already essentially in custody, let's just see.

Phoebe Judge: She stopped the proceedings and asked the judge for a recess to take a look at the man's claims. The judge gave her 20 minutes. Laura went downstairs to a basement office to look up the arrest warrant for the case.

Laura Coates: The photograph of the person they were seeking in the warrant database versus the person I was looking at, standing in the hallway, they were not the

same color complexion, they had varying heights, their physical appearance looked different. It was immediately apparent that this was not the right person. [soft atmospheric music]

Phoebe Judge: Laura told him, “I'm sorry that no one listened to you or took the time to reform even a cursory inspection of those photographs.” The man said, “That shouldn't have come from you.”

[to Laura]

Phoebe Judge: And that man was released that moment when it was clear that there had been a mistake?

Laura Coates: Yes.

[as narrator]

Phoebe Judge: In 2019, the ACLU issued a report that looked at arrest data between 2013 and 2017, which overlapped with Laura's time as a prosecutor. They found that 86% of people arrested by the DC police were Black, even though Black residents represented just 47% of the district's population. Laura has questioned her role as an, quote, “Agent of a system that disproportionately filled prisons with people who looked like me.” Law professor and legal scholar, Angela J. Davis argues that prosecutors are the most powerful officials in the criminal justice system. She's written that they exercise almost boundless discretion and that, quote, “It is very clear that prosecutors control the criminal justice system through their charging and plea-bargaining power. She says much of that work is done behind closed doors. And that prosecutors don't have to explain or justify their decisions to the public.” As Laura Coates puts it, “At times it wasn't clear which camp you were in. You compartmentalize. You wonder whether your presence in the system perpetuates injustice or disrupts it.”

[to Laura]

I was also struck by how many balls can get dropped in just the administrative and clerical and bureaucratic process that that goes from charging someone to taking them to trial, and how everything even begins with the prosecutor deciding let's paper this, let's go forward or not, for these people.

Laura Coates: There are so many instances where that phrase of people falling through the cracks is dangerously accurate and prevalent. [gentle, hopeful music] There is the expectation of perfection, and there is not the time nor the resources to achieve that. And if we think that for any reason that that mascot of the Department of Justice, I've always taken issue with—this blindfolded Lady Justice that essentially says as long as we don't see anything, everything will balance out in the end—that's just not the way life really works. And then you have to actually see life as it is to be able to correct and prevent and address.

[as narrator]

Phoebe Judge: Laura Coates says one of the strange things about working for the US Attorney's Office was that the attorneys were sort of interchangeable with one another. And all of them were lumped together as government, and that's what the judges called them too. Once while she was pregnant, Laura remembers a judge setting a date for a trial on her due date.

Laura Coates: I said, "Actually that date will not work. I'm due to give birth on that day." And the judge said, "Really? The entire government pregnant? The whole government is getting ready to have a baby? Wow, who's the father? How amazing. The whole government's unavailable." To underscore the point of, I didn't ask what your schedule was. I asked what the *government's* schedule was.

Phoebe Judge: She says she often sat in court and observed her colleagues' trials. It was common for the prosecutors to wait for breaks in one another's cases. During those breaks, their own cases could be called. She was present for one trial where a young girl was called as a witness and testified that she was sexually assaulted by her mother's boyfriend who was now on trial. The judge in this case was a woman.

Laura Coates: I remember sitting there while I watched the young girl who was a preteen. And I remember her walking down the aisle and watching the judge scan her with a level of derision and disgust it appeared at the length of her skirt, the fidgeting and shifting and nervous smile that she had on her face, which as somebody who has had an interview so many people who have been victims of crimes, let alone sexual offenses, let alone those who are young and youthful, I don't put a lot of weight into one's nervous ticks or expressions, or even laughter. [soft atmospheric music] But in watching this judge's face throughout the testimony, I immediately knew that this would end in an acquittal.

Phoebe Judge: Laura remembers that at one point, the prosecutor on the case asked the girl while she was laughing. The girl apologized and said, "I'm just really nervous. I'm sorry, I'm just not sure how to be."

Laura Coates: And then I approached the bench, 'cause my matter was being called on a break in their trial. And when I approached the bench I saw on her computer screen the judge did not even have the courtesy to minimize that she was shopping for shoes. I'll never forget. It was a wide calf cognac boot. And she had been looking at this screen during the young woman's testimony.

Phoebe Judge: The judge found the defendant not guilty. Laura remembers that the judge said, quote, "No one who had been raped, not even a young teenager would have skipped down the aisle of the courtroom dressed like that."

Laura Coates: Just the expression of the young girl who did not have the benefit of her mother support, even if I suspect the mother believed her, who in her own way was victimized by a different level of abuse by this man and who had gone on to marry this person. And this young girl realizing in that moment and hearing the way the judge spoke about her and what did I do wrong? And her confusion of what did I do? And looking at herself, the level of self-consciousness and knowing she had nowhere to go in the end.

Phoebe Judge: She says that when a judge leaves the courtroom, usually everyone stands up. But that day after that ruling, Laura says she couldn't bring herself to do it. Laura watched the witness' mother and stepfather leave together.

[to Laura]

That was the thing that struck me about this young girl is that she had nowhere to go because her mother was sticking by her perpetrator.

Laura Coates: I like everyone else was curious as to what this mother must've been thinking. And she was positioned behind the defendant in the gallery and the way that her expression was so stoic and steadfast, our judgmental selves would look upon her and say, she should have done, or shouldn't have felt, or should have acted or who she should have supported. There was something very sad about this mother and the circumstances that she and her daughter were now in. [slow, plucky music]

[as narrator]

Phoebe Judge: Laura says one of the most memorable times she was in court was when she witnessed two young men being sentenced. They'd been convicted of the homicide of another young man. The families of all three men were in the courtroom that day, both the co-defendants were given nearly lifetime sentences in prison.

Laura Coates: You heard these guttural cries and screams was from what I would think was from the family of those who were the now convicted defendants facing extreme sentences, but it came from the victim's families instead.

Phoebe Judge: Laura remembers the victim's father saying to the judge, "Please there's been enough loss already. We don't want this." One of the defendants collapsed after the judge handed down his ruling. A marshal helped the young man back up and then stood behind him so that people in the courtroom couldn't see him.

Laura Coates: And I remember that marshal never moving, holding him up seemingly. The families in the courtroom were saying and suggesting that this marshal was doing something wrong and was insensitive for not trying to get the person medical attention right away. And the betrayal that they saw of this person who was also a member of the Black community, who they thought, how dare you not protect or take on or at least do something of humanity in these moments.

Phoebe Judge: After the defendants left the court, the judge called the next case, Laura's case. She approached the bench and then she realized why the marshal was standing in front of the young man that way.

Laura Coates: When I approached the well of the courtroom, it became apparent this defendant who is now convicted and facing the sentence, had defecated in that moment, likely out of fear and realization of what was ahead of him. And the marshal who was being berated by the people in the courtroom had been trying to shield what he saw as an embarrassment for this young man, away from the view of everyone was trying to give some semblance of dignity and humanity to this man.

Phoebe Judge: After the judge set the date for the next part of Laura's case, he got up to leave.

Laura Coates: I remember him turning to us and just saying, "Please don't stand for me. Not today." And just how in the weight of what he was feeling in that moment of being in a position of power and not wanting it. [soft, acoustic guitar music]

Phoebe Judge: Laura left the courtroom and went to the bathroom. Inside was the mother of the murder victim from the sentencing she had just witnessed.

Laura Coates: And I remember her turning to me and touching my stomach, my very pregnant stomach and asking about what would I be having and having this expression of remembering how much she loved being a mother before leaving the bathroom. And it was a moment that will never, ever leave me, because I think sometimes when we think about justice, we assume we know what the victim's family desires. And we assume we know what humanity looks like and who will dole it out and to whom it is deserved. And it was one of the most eye-opening experiences. It almost became this Rorschach test in the justice system of the different roles that are being played and performed and everyone being not unscathed from this entire experience.

Phoebe Judge: In 2015 Laura Coates left the Department of Justice. She remembers when she decided to quit, she'd just won a trial. A jury had found a Black defendant guilty. Laura's boss, a white man, was there that day and congratulated her by shouting, "We got another one!" Laura thought about that incident for days. She says that for her for conscience, quote, "It was the proverbial final straw." Today, she's a legal analyst on CNN. She's written about her experiences in a book, *Just Pursuit: A Black Prosecutor's Fight for Fairness*. In it she writes, "As a prosecutor, I never had the luxury of wearing sociological blinders, and I never wanted to. Race prominently stands at every intersection in America. It shapes our legal policy, our charging decisions."

Laura Coates: I think there is power in people seeing themselves in moments that are real. And I think there's power and fertile soil based on that experience to be the nation we say we are on paper and to have our legal system really be that justice system. So I hope that people are able to experience it and read it. And there are moments of extraordinary triumph and extraordinary acts of humanity and beauty that, you know, makes you feel good. And there are moments that make you feel aware. And both are necessary for us to go into this eyes wide open and walking the walk and talking the talk of justice. [atmospheric music]

Phoebe Judge: Laura's book is dedicated to her two children today. They're seven and nine. She was pregnant with them during the year. She was trying cases at the US Attorney's Office. She says she wants her children to know what she was thinking while she was a prosecutor.

[to Laura]

Phoebe Judge: It sounds like this time working as a prosecutor that you saw the whole range of human emotions, of course, but also the depths of what one can handle and overcome. You saw it all.

Laura Coates: So, I can say that I've seen it all, or maybe I've seen enough. [laughs] And one of the reasons I left the prosecutor's office and my work in the Department of Justice was because there is a necessary muzzle one must have on in dealing with these matters. And as much as we would like to have transparency, it's not coming from the prosecutors. I remember thinking about when I decided to leave, and there were moments that sort of forced my hand in the sense of my conscience couldn't bear certain aspects as well, but also, I'm a mother. And I have a little son and a little daughter, and I oftentimes share the stories with them at time, because I want them to never go through these sorts of revelations. Because I want them to live in, if not today, if not right now, at least eventually in a world where the justice system is just that. Just.

Phoebe Judge: When you were in law school, did you think that this is what it was going to be like?

Laura Coates: No, not at all. In a way, I mean, I gotta tell you, I loved being a lawyer. I loved being in law school. And I conceptually, intellectually understood about socioeconomic disparities and sociologically disparate impact. And I understood injustice, but it wasn't until I think I became a criminal prosecutor that I really not only intellectually understood, but every fiber of my being was experiencing it. [slow, upright bass music] And I can only equate it really to locomotives. We know the power of a locomotive. We know the power of an engine. We know the power and the ferocity and the speed at which a train can travel. We intellectually know about all of these factors, but it's not until on a platform and this subway train whizzes by, not stopping at your station, not slowing to a halt for you to board, but whizzes by that the reverberations are felt. It takes your breath away. You are required to take a step back. And now there is that forever bridge and connective tissue between what you intellectually knew and what it felt like. No one forgets the power of that train.

Phoebe Judge: Criminal is created by Lauren Spohrer and me. Nadia Wilson is our senior producer. Katie Bishop is our supervising producer. Our producers are Susannah Roberson, Jackie Sojico, Samantha Brown and Libby Foster. Our technical director is Rob Byers. Engineering by Russ Henry.

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I'm Phoebe Judge. This is Criminal. [music fades out]

END OF EPISODE.