

S.F. cops and the death penalty – irresistible force vs. immovable public

BY PHIL TRACY

EVERY once in a while, an event occurs that briefly parts the curtain of civility normally cloaking the reporting of San Francisco's public life and shows things as they really are.

The killing of police Officer Isaac Espinoza and the decision by DA Kamala Harris not to seek the death penalty for suspect David Hill is one such occurrence. It demonstrates the almost implacable opposition between the voters of San Francisco and their police.

On the surface, it would appear to be a slam-dunk decision. Harris was elected district attorney in December, in part because of her public pledge to not ask for the death penalty. Bill Fazio lost to Terence Hallinan twice, in part by casting

himself as a staunch advocate of the death penalty, which Hallinan had always opposed. (For last year's election, Fazio switched sides on the issue but it did him no good; he came in third.)

Ironically, among the special interests supporting Harris' runoff against incumbent Hallinan. They did so less for their love of Harris than for their hatred of Hallinan. But they did so knowing that Harris also was opposed to the state putting people to death. She never once said she would make an exception for cop killers. So her decision in this case hardly qualified as a bolt out of the blue.

Yet the San Francisco Police Department acted as if the most heinous crime in the Espinoza case was committed by Harris. First they backed down POA President Gary Delanges, who initially characterized Harris' decision as "as much as we can expect in this town," and was seen as a liberal for his troubles. Then they circulated a petition against him as well as Harris, directing an assault against the DA's character. One of the petition drafters, Marquita Booth, a 12-year police veteran and former nun, told the Chronicle, "A police officer gets injured or died, and she is telling people it's OK."

At a public meeting of the POA, the now-contrite Delanges insisted that if Harris had a problem with the death penalty she should step aside and let the state attorney general try the case. When that idea went nowhere, the cops dragged out the Espinoza family, who claimed that criminals are deterred by potential penalties – a proposition undermined by dozens of criminal justice studies, and the murder of 10 Bayview-Hunters Point youth over the last seven months.

In the latest salvo, the FBI was said to be investigating Hill, hoping to build a case for the death penalty by applying racketeer-

ing and narcotics laws. This despite the fact that Hill has no record of drug dealing, or for that matter, no record at all. A now-bloodthirsty Delanges responded, "Our first choice is to see this guy get the death penalty, and whoever does it, we're behind."

U.S. Sens. Dianne Feinstein and Barbara Boxer have entered the fray, demanding the killer's head.

For her part, Harris has displayed a tactic unusual in American politics: namely, honoring a political pledge after the election. Writing in a Chronicle op-ed piece, Harris stated that the death penalty is deeply flawed, unevenly applied, not a deterrent and costs the state millions in appeal costs. "I gave my word to the people of San Francisco that I opposed the death penalty," Harris wrote. "There can be no exception to principle."

Like our new mayor, Harris has donned "principled" stripes, fooling many a hardened political observer in the process. She is also beating the stuffing out of the cops. To a great degree, this is because the electorate supports her.

San Franciscans are more than somewhat distrustful of their police – for good reason: periodic reports of police perjury, incidents of cops beating seemingly righteous citizens, and brutal behavior at political demonstrations. The cops have given citizens ample reason to question their role in the fairness of the judicial process.

Recently, it was reported that San Francisco juries have voted against the death penalty by a ratio of 70% to 30%. Since 1978, when the death penalty was reinstated, the *three felons who were awarded the death penalty here represent 0.5% of the statewide total. The last time a cop killer in San Francisco was charged with the death penalty, in 1978, he was convicted of manslaughter and wound up spending 2½ years in Atascadero state mental hospital, before he was let out.

One could go on with the statistics just as the police will go on with their futile campaign. In addition to its other reputations, the POA has an almost unswerving instinct for hopeless political agendas.

I recall how the POA once demanded that Mayor George Moscone reinstate Dan White to his supervisor's job, after he had rashly resigned in a snit. I can recall thinking how stupid of the POA to make such a ridiculous demand because Moscone would rather die than reappoint White.

If the death penalty was a deterrent, Officer Espinoza would be alive and death row would be empty. ■

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