



The Insider: A new death penalty study and the Bologna murder case

BAY AREA NEWS GROUP

Article Last Updated: 07/03/2008 10:37:17 PM PDT

There's been no word yet on whether San Francisco District Attorney Kamala Harris will break with her anti-capital punishment stance and seek the death penalty in the murder of Anthony Bologna, as the widow of the slain Draeger's night crew manager has requested.

But a report released this week by the California Commission on the Fair Administration of Justice won't do much to push her in that direction. The 145-page study concludes that the state's system of capital punishment is seriously flawed and "dysfunctional."

Bologna, who worked at the San Mateo market from the day it opened in 1997, was gunned down June 22 along with his sons Michael and Matthew near their home in San Francisco's Excelsior district. A resident of El Sobrante, 21-year-old Edwin Ramos, has been arrested and charged with three counts of homicide, including special circumstances that make him eligible for the death penalty under state law.

Though the district attorney's office has a committee that examines this type of case to determine whether prosecutors will pursue a capital conviction, Harris has never actually sought the death penalty.

The findings of the commission indicate that California's death penalty system is compromised in

several ways. Foremost among the problems is an overburdened administrative system that's created a huge and costly backlog of capital cases.

"The lapse of time from sentence of death to execution averages over two decades in California," the report found. "Just to keep cases moving at this snail's pace, we spend large amounts of taxpayers' money each year: by conservative estimates, well over \$100 million annually.

"The families of murder victims are cruelly deluded into believing that justice will be delivered with finality during their lifetimes," the report continued. "The strain placed by these cases on our justice system, in terms of the time and attention taken away from other business that the courts must conduct for our citizens, is heavy."

There were 670 death row prisoners in 2007 but only 20 executions, according to the report, creating a backlog "so severe that California would have to execute five prisoners per month for the next 12 years just to carry out the sentences of those currently on death row."

The commission did not focus on wrongful convictions, but it noted with concern that it "cannot conclude with confidence that the administration of the death penalty in California eliminates the risk that innocent persons might be convicted and sentenced to death."

Part of the problem is the reliance in some capital cases on eyewitness identifications and statements from in-custody informants, the report found. It also determined that too many defendants in murder cases are not equipped with qualified trial counsel.

It's impossible to say at this point whether the district attorney's office will take the report into account when deciding how to handle the Ramos

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case, just as it's hard to predict whether widespread criticism that Harris is "soft" as a prosecutor will influence her decision-making.

Donations to the Bologna family can be made to the Anthony Bologna Children's Fund at Washington Mutual Bank, 845 Laurel St., San Carlos CA 94070. Donation boxes are also available in the checkout lines at Draeger's of San Mateo. Store manager Keith Myers said the contributions so far have been substantial.

"The community has been just wonderful," Myers said. "They've been very generous and sympathetic."

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