

Kamala Harris’s Pro-Crime Policies

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KEY TAKEAWAYS

Kamala Harris’s record shows sympathy and support for many of the same policies that today’s so-called progressive prosecutors and other Left-leaning activists champion.

Harris says she wants to help our nation’s poor and minority communities, but the policies that she now champions will often harm those individuals the most.

Harris’s record in office does not match her rhetoric. She may now try to “talk the talk,” but she failed to “walk the walk” when given the chance to do so.

Introduction

The current Vice President of the United States, Kamala Harris, has proudly proclaimed her prosecutorial past.¹ But how she has portrayed her time as a prosecutor—either as tough on crime or as overtly progressive—has varied, depending on her audience and the direction in which the political winds happen to be blowing.² Make no mistake, though: Kamala Harris holds radical views about our criminal justice system.

Kamala Harris implemented some of the same policies that today’s rogue prosecutors implement—like not seeking the death penalty even in egregious cases—and has shown support for defunding the police and for radical bail policies that release back onto the streets violent criminals who pose a danger to others. She even served as an early advocate of the rogue prosecutor movement, co-chairing Kim Foxx’s

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transition committee before Foxx took office as Cook County’s (Chicago’s) top prosecutor. On top of that, she cast the tie-breaking vote in the United States Senate to confirm Rachael Rollins as United States Attorney—the chief federal law enforcement officer for the entire state of Massachusetts. Rollins later resigned in disgrace as a result of her own ethical lapses, and the Justice Department’s Inspector General even referred her for criminal prosecution, which the Biden–Harris Department of Justice predictably declined to pursue.

This paper is intended to cut through the noise, set the record straight, and propose policies that anyone—Republican, Democrat, or Independent—running for or holding elected office can and should adopt to keep our communities safe. Unfortunately, during her time serving as San Francisco’s District Attorney, California’s Attorney General, a U.S. Senator, and Vice President, Kamala Harris has shown little sympathy for these policies and instead has backed others that make communities less safe.

Early Legal Background

A native of the now very violent Oakland, California, Harris attended and graduated from law school at the University of California College of Law, San Francisco, then known as the U.C. Hastings College of Law.³ During law school, she interned with the Alameda County (Oakland) District Attorney’s Office and accepted a full-time position as a prosecutor with the office after passing the California Bar Exam on her second try.⁴

Harris spent eight years in the office from 1990 to 1998 as a deputy district attorney until she moved to become a deputy in the San Francisco District Attorney’s Office.⁵ Some have speculated that she made the move because “across the Bay Bridge, the path to power appeared easier.”⁶ The gamble paid off, because in 2002, Harris ran and won the race to become District Attorney of San Francisco.

Record as San Francisco District Attorney

Harris’s time serving as San Francisco District Attorney was and still is highly controversial. Those on the Left and Right criticized her policies—though the Left-leaning critics had little about which to complain. Many of their criticisms stem from her nominal enforcement of California’s marijuana laws and for her failure to turn over required evidence to defense attorneys (this latter complaint is clearly justified and was echoed by many on the Right as well).⁷

While in office, for several years afterward, and now to some extent again because she is running to become President of the United States, Harris has cast herself as San Francisco's and California's "top cop" who helped to maintain law and order in the city and state.⁸ She has touted her prosecutorial approach as being "smart on crime."⁹

Police contend that her approach proved to be anything but that. Instead, they allege that her "track record on crimes doesn't match her rhetoric," particularly when it comes to murder cases.¹⁰ Officers complained that Harris made charging decisions with an eye toward political considerations and charged cases—particularly murder cases—in a way that would make her conviction rate seem particularly high compared to the conviction rates of other California district attorneys.¹¹ Moreover, they allege, she cut "fire-sale deals" to resolve a backlog of homicide cases inherited from her predecessor¹² and refused to seek appropriate punishments even for those who committed unconscionable acts.

Refusal to Seek the Death Penalty. This proved to be particularly true with respect to cases involving the death penalty. Harris campaigned for district attorney on the promise not to seek the death penalty and, while district attorney, stayed true to that promise in several high-profile cases. Her decision not to seek the death penalty in one particular case proved to be so egregious that it even drew the ire of fellow liberal Democrats like then-Senators Dianne Feinstein and Barbara Boxer. When David Hill gunned down San Francisco police officers Isaac Espinoza and Barry Parker right before Easter in 2004, many in the community called for Harris to seek the death penalty—especially since Espinoza died and Parker suffered severe injuries.¹³ It particularly galled Espinoza's family that Harris announced that she would not seek the death penalty a mere two days after Hill's arrest,¹⁴ and it caused consternation when she announced inconsistent rationales for doing so. According to reporting, "Harris first said she was sticking to a campaign promise never to seek capital punishment when she decided to pursue life in prison without parole for David Hill in the April 2004 shooting. Later, she insisted that she had acted only after reviewing the facts and the law in the case."¹⁵

Harris also received criticism for not seeking the death penalty for Edwin Ramos, an illegal alien and MS-13 gang member from El Salvador who murdered a father and two sons who were driving home from a family picnic. Ramos mistook one of the sons for a rival gang member and opened fire. A third son survived the attack because he ducked when Ramos began shooting.¹⁶ Before that shooting, Ramos had a juvenile record for assaulting a public transit passenger and for attempting to rob a pregnant woman.¹⁷

The now-widowed mother of the two murdered sons asked Harris to seek the death penalty.¹⁸ Of course, Harris refused, and the widowed mother said she felt let down by Harris's decision.

Cutting Breaks to Illegal Aliens. Other victims of crimes also felt let down by Harris's lenient treatment of illegal aliens in San Francisco, especially Amanda Keifer.¹⁹ In July 2008, while Amanda was walking with friends to a restaurant in San Francisco's Pacific Heights neighborhood, a stranger snatched her purse and hopped into a waiting sport utility vehicle (SUV). What quickly followed was a horrifying series of events. Instead of simply driving off, the driver of the SUV accelerated and tried to run over Amanda. In a panic, she jumped onto the hood of the car, where she could see the driver and the man who stole her purse laughing. Before she could do much, the driver suddenly stopped, throwing her from the hood of the car and causing her to hit her head on the pavement and fracture her skull.²⁰

That is indeed upsetting, to say the least, but Amanda and other citizens of San Francisco received even more upsetting news when they found out that the purse snatcher and SUV passenger turned out to be an illegal alien named Alexander Izaguirre. As the *Los Angeles Times* reported, police told Amanda at the time that Izaguirre "was an illegal [alien] who had pleaded guilty four months earlier to a drug felony for selling cocaine in [San Francisco's] seedy Tenderloin area."²¹ But he was not in prison, because Kamala Harris's office had chosen him to be part of a select group to participate in her Back on Track program. Participants in this program would train for jobs, and if they completed the program, their felonies would be expunged from their criminal records. Practically speaking, however—as Izaguirre's participation showed—"Harris'[s] office had been allowing Izaguirre and other illegal immigrants to stay out of prison by training them for jobs they [could not] legally hold."²²

Until the issue came up during her campaign to be California's Attorney General, Harris "had never publicly acknowledged that [Back on Track] included illegal immigrants."²³ Then, in interviews right after reporters raised the issue, Harris "and her office offered inconsistent explanations."²⁴ Even though she eventually conceded that mistakes were made, it is clear that "Izaguirre had been selected for the program after two arrests within eight months; an alleged purse-snatching preceded his arrest for selling cocaine. [And b]ecause completion leads to the expunging of a felony conviction, the program has a waiting list of potential entrants [with s]elections...made solely by the district attorney's office."²⁵

Scandal for Harris's Office. It's undisputed that Kamala Harris dropped the ball when she was supposed to ensure that criminal defendants

and their defense lawyers had the information that the law required them to have. A crime laboratory employee had a criminal background, failed to show up to court when she was supposed to do so, and—most troublingly—stole cocaine from the lab “for personal use.”²⁶ Yet Harris failed to turn this exculpatory information over to defense attorneys as required by the U.S. Supreme Court’s 1963 *Brady v. Maryland* decision²⁷ even though a note attached to the lab technician’s file said “Brady implications.”²⁸ A judge who reviewed the issue “was incredulous” that Harris’s office “had no written procedure outlining how to handle *Brady* material that should be given to defense attorneys.”²⁹

Harris initially tried to pass the buck. She suggested that the judge reviewing the issue was biased because her husband practiced as a criminal defense attorney. Then she tried blaming the police. As the judge made clear, however, “It’s not the police department that has the affirmative obligation. It’s the district attorney. That’s who the courts look to. That’s who the community looks to, to make sure all of that information constitutionally required is provided to the defense....”³⁰ As *The Washington Post* reported, this incident “presents a portrait of Harris scrambling to manage a crisis that her staff saw coming but for which she was unprepared. It also shows how Harris, after six years as district attorney, had failed to put in place written guidelines for ensuring that defendants were informed about potentially tainted evidence and testimony that could lead to unfair convictions.”³¹ As a result, Harris had to dismiss anywhere from 600 to 1,000 drug-related convictions.³²

Record as California Attorney General

Defending Prosecutorial Misconduct. A review of Harris’s time as California’s “top cop” does not paint her in a much more flattering light. In two of her most notable—and infamous—cases as attorney general, her office defended egregious prosecutorial misconduct.

- In *The People v. Efrain Velasco-Palacios*, the prosecutor falsified portions of a confession transcript, adding two fabricated lines where the defendant essentially confessed to a more serious crime that carried the possibility of life imprisonment. This ultimately led the trial court to dismiss the indictment against the defendant because the prosecutor’s conduct was “egregious, outrageous, and...shocked the conscious.”³³ Harris objected to dismissal of the indictment because the prosecutor’s conduct did not involve physical brutality—in other

words, the police and prosecutor did not beat a confession out of the defendant; they just lied about what he had actually said to make him look more guilty and potentially to subject him to a higher penalty. The California appellate court rejected that contention and castigated Harris's office in the process.

- The blowback from the bench that Harris received in another case, *Baca v. Adams*, really made waves.³⁴ In this case, a prosecutor lied about whether the government provided a benefit to an informant for his testimony. California state courts upheld the conviction, but when federal courts engaged in post-conviction review, they had harsh words both for the prosecutor and for Harris's decision to defend the conviction. During oral arguments before the U.S. Court of Appeals for the Ninth Circuit, the lawyer from Harris's office faced tough questions from the judges. Then-Chief Judge Alex Kozinski asked why Harris's office had not pursued perjury charges against the prosecutor or taken any other actions "to show that California does not condone prosecutors getting on the stand and lying to the jury in a criminal case..."³⁵ The lawyer did not give a good answer. As one report summarized, Harris's next decision also did not reflect well on her judgment. "After the video of the [oral argument]—the courtroom equivalent of a snuff film—went viral in law circles, the California A.G.'s office filed a motion dropping its opposition to overturning the conviction, 'in the interest of justice.'"³⁶ Had something else happened in the interim too? "Harris had announced she was running for the U.S. Senate about two weeks earlier, and she was, after all, very concerned about justice."³⁷

"As a candidate for attorney general, [Harris] stressed that she had simultaneously pushed criminal justice reforms while being tough on violent crime."³⁸ But her policy decisions show that this statement is not true. Though she has tried to present her time as district attorney and attorney general differently based on the prevailing political winds, one public defender who looked at her record said that "[s]imply put, Harris was the most progressive prosecutor in the state [of California]."³⁹ Moreover, the same public defender made clear that hers was "not an anecdotal opinion" but one "based on facts."⁴⁰ That is undoubtedly true, but how Harris has presented those policies has changed over time as the political winds have shifted.

Positions as Vice President

In the wake of the racial unrest in the summer of 2020, the conversation around criminal justice policies—particularly among those on the Left—shifted in a dramatically more radical direction. Tough-on-crime talk fell out of vogue, and the needs of the offender and castigation of our supposedly systemically racist criminal justice system moved to the forefront of our national conversation. Against that backdrop, Harris began to message her time as a prosecutor differently and began to explicitly reject some policies for which she had once expressed support.⁴¹

“Evolved” Positions for Harris the Progressive Prosecutor. Harris’s change of heart has been especially pronounced with respect to marijuana decriminalization and the campaign to defund the police.

Marijuana. As *USA Today* has reported, “Harris’[s] position on weed has evolved over her years in public service, becoming more progressive as she ascended to federal office.”⁴² In particular, her “loosening opposition to marijuana appears to have begun when she was in the U.S. Senate, in the lead-up to her 2020 presidential bid.”⁴³ Of course, that change of heart reflects the shifting political winds as public support for the legalization of marijuana has increased. She recently has supported pardons for those who have been federally convicted for possession of marijuana and also has supported the rescheduling of marijuana under the Controlled Substances Act, which could make the drug more widely available. Given her recent change in positions, there is “even a strain of weed, Kamala Kush, named after her, which Jimmy Kimmel joked about during an interview” with her.⁴⁴ While she was a Senator, according to an employee of the Drug Policy Alliance, Harris “introduced legislation and supported legislation to reform our criminal justice system, marijuana being just one piece of that, and she always talked about it from a racial justice perspective....”⁴⁵

While Harris was serving as district attorney, her office did prosecute more than 1,900 people for marijuana-related offenses,⁴⁶ but an often overlooked aspect of this supposedly tough-on-crime position is that those who were convicted often benefited from massive reductions in charges. As one knowledgeable observer has described it:

Marijuana sales cases were routinely reduced to misdemeanors. And marijuana possession cases were not even on the court’s docket. They were simply not charged. Unless there was a large grow case, or a unique circumstance, this was the reform-minded approach then-DA Harris’[s] office took. The

accusations about marijuana prosecutions being harsh during her tenure are absurd. The reality was quite the opposite.⁴⁷

Toward the end of her time as district attorney, Harris “opposed a 2010 measure to legalize pot in California,”⁴⁸ but four years later, in 2014 when running for re-election as California Attorney General, Harris refused to comment on her opponent’s support for legalizing recreational marijuana.⁴⁹ Clearly, her public position today is further to the Left than her earlier public positions as district attorney or attorney general were.

Defunding the Police. In her 2009 book *Smart on Crime*, written while she served as district attorney, Harris observed that having more police on the streets helps public safety—an obviously correct statement:

[I]f we take a show of hands of those who would like to see more police officers on the streets, mine would shoot up. A more visible and strategic presence is a deterrent to crime, and it has a positive impact on a community. Virtually all law-abiding citizens feel safer when they see officers walking a beat. This is as true in economically poor neighborhoods as in wealthy ones. Police officers are a reassuring sign of a community’s commitment to order, calm, and safety. More beat cops means more rapid response to assaults, traffic crimes, and robberies and has a profound effect on reducing quality-of-life crimes by simple presence.⁵⁰

Of course, that happened before the summer of 2020 and defunding the police and minimizing their presence in communities became popular issues. Suddenly, Harris had a different view. In June 2020, only a few weeks after George Floyd’s death, Harris gave a series of interviews in which she decried the “militarization” of police forces and said that it was “old thinking” and “is outdated and is actually wrong and backward to think that more police officers will create more safety.”⁵¹ In a *Good Morning America* interview around that time, she praised then-Los Angeles Mayor Eric Garcetti for his plan to cut \$150 million from the Los Angeles Police Department’s budget: “I applaud Mayor Garcetti for doing what he’s done.”⁵² As crime spiked after these actions, Los Angeles and other cities reversed course—at least partially.⁵³

As one *New York Times* writer described it, “Ms. Harris’s repositioning could be read as opportunistic flip-flopping or, more charitably, as one person’s evolution.”⁵⁴ Given that her changes in policy and positioning shift with the political winds—compare her positions as district attorney and attorney general with her positions as a U.S. Senator and Vice President—it seems likely that the former is the better explanation.

Progenitor of Progressive Prosecution. When Kamala Harris served as San Francisco’s district attorney, the progressive prosecutor movement in its current form did not yet exist—and would not exist for several more years until around the time Harris was entering her second term as California Attorney General and eyeing a bid for the U.S. Senate.⁵⁵ But Harris quickly embraced it. In fact, when she became Senator-elect, she served as co-chair of Kim Foxx’s transition team. Foxx, who won election as Cook County’s (Chicago’s) top prosecutor in 2016, has the ignominious distinction of being the first big-city prosecutor supported by George Soros (and other supporters of the rogue prosecutor movement) to win election.

As many future rogue prosecutors would do, Foxx released a report outlining the priorities for her office. This “Transition Report” contained recommendations from the transition team that Harris co-chaired.⁵⁶ Though relatively short, it made a number of recommendations, many of which focused on racial justice issues and different ways to highlight the supposed racial inequalities in the criminal justice system. It included an emphasis on increasing the racial diversity of the employees in the prosecutor’s office and training existing employees on implicit bias and these supposed inequalities. One thing the report did *not* do was focus on Chicago’s violent crime or gang problems.

By the time Harris was running to be Vice President in 2020, her public views had shifted to align seamlessly with the so-called progressive prosecutor movement on a number of issues. She publicly proclaimed herself to be a progressive prosecutor.⁵⁷ According to a *New Yorker* profile of her at the time:

In recent years, Harris’s positions and rhetoric on [issues such as] mass incarceration have come to conform substantially with those of the growing movement of progressive prosecutors, who have been elected to lead district-attorney offices in major cities across the country, and who share a platform of reducing the societal harms of criminal justice.⁵⁸

As the progressive prosecutor movement and the policies its proponents have championed have become more controversial, Harris “is no longer calling herself a progressive prosecutor. Now, she is a ‘pragmatic prosecutor.’”⁵⁹ But there is nothing pragmatic about her approach, which ends up victimizing many people—particularly young minority men who disproportionately end up as shooting or murder victims.⁶⁰ Nor are other policies and people she has supported as Vice President pragmatic about how to keep communities safe.

Tie-Breaking Vote to Confirm Rachael Rollins. Harris cast the tie-breaking vote in the U.S. Senate to confirm Rachael Rollins to be U.S. Attorney—the chief federal prosecutor—for the entire state of Massachusetts. It is rare for a U.S. Attorney’s nomination to be so hotly contested and even rarer for the Vice President to cast a tie-breaking vote to confirm someone. But given Rollins’s tenure as Suffolk County (Boston) District Attorney, it is no wonder that her nomination and confirmation proved to be so controversial. While district attorney, Rollins published a list of 15 crimes that someone could commit within her jurisdiction without being prosecuted. This meant, for example, that:

[A] violent career felon [could] break into your home, be in possession of cocaine, plan to distribute the cocaine to others, and resist arrest after you call the police, and all the charges will be “outright dismissed,” so long as the reason he broke into your house—and terrified your family—was because he wanted to “sleep” or was “seeking refuge” from the cold.⁶¹

Additionally, many raised concerns about Rollins’s temperament to be the U.S. Attorney after a bizarre altercation in a store parking lot with another driver in which she threatened a reporter and news crew who later showed up to cover the story. As Senator Tom Cotton (R-AR) said at the time, “It’s...rare for the president to nominate a radical, pro-criminal prosecutor for a U.S. attorney position.”⁶² But he did, and Harris cast the deciding vote to confirm Rollins, who was sworn in on January 10, 2022.

Harris’s decision did not work out well. Fast forward to a little over a year later when Rachael Rollins resigned in disgrace from her position as U.S. Attorney. As a blistering Justice Department Inspector General (IG) report methodically laid out, Rollins committed a number of ethical violations.⁶³ More seriously, the Inspector General’s report also accused her of committing the criminal violation of lying to the investigators looking into her ethical violations. In fact, her lying proved to be so egregious that the IG’s office referred her for criminal prosecution to the Justice Department, which, unsurprisingly, declined to pursue any charges.

Support for Radical Bail Policies. Finally, there is Harris’s support for radical bail policies while Vice President. In the wake of the racial riots in the summer of 2020, Harris publicly supported and urged her supporters to contribute to the Minnesota Freedom Fund.⁶⁴ She posted on Twitter (now X) that they should “Chip in now to the @MNFreedomFund to help post bail for those protesting on the ground in Minnesota.”⁶⁵ Who did this fund bail out? Reports show people accused—and many eventually convicted—of

heinous crimes including sex crimes and felony assault charges. One man who was arrested on indecent exposure charges (and had multiple indecent exposure arrests—including indecent exposure to a minor) received bail from the Minnesota Freedom Fund and later murdered someone, receiving life in prison for that crime.⁶⁶ Nor was this a one-off fluke. This same fund “freed an alleged domestic abuser just weeks before police arrested him again for murder.”⁶⁷

Moreover, as subsequent reports have shown, “[j]ust a fraction of the bail money...was used to release protestors and rioters” in the following months.⁶⁸ Of the \$3.5 million the Minnesota Freedom Fund subsequently spent during those following months bailing people out of jail, “just \$210,000 went to those who participated in the riots.”⁶⁹ Instead, much of the money was used to free violent criminals like those previously mentioned and others like “Timothy Wayne Columbus, a 36-year-old man who allegedly penetrated an eight-year-old girl.”⁷⁰

Despite this, Harris has signaled her continuing support for the elimination of cash bail.⁷¹ Some states, such as New York, implemented very lax bail laws only to see an uptick in crime accompany those changes, which led eventually to a rollback of some of the most extreme aspects of those laws.⁷²

Conclusion

Despite the failures of soft-on-crime policies, Kamala Harris has embraced many of their worst aspects. But ever a chameleon when characterizing her views on criminal justice, she shifts her public stances to match the prevailing political winds.⁷³ While she can change her rhetoric, she cannot change her record, which undoubtedly demonstrates her sympathy and support for many of the same policies that today’s so-called progressive prosecutors and other Left-leaning activists champion.

Kamala Harris claims that she wants to help members of our nation’s poor and minority communities, but the sad irony is that the policies she now champions will often end up harming those individuals the most. Harris may now want to paint herself as a “pragmatic” prosecutor who was tough on crime when it was necessary, but her record in office doesn’t match this rhetoric. She may now try to “talk the talk,” but she failed to “walk the walk” when given the chance to do so.

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