
United States Attorney Cecil Poole

A PERSONAL REMEMBRANCE OF AN INSPIRATIONAL CALIFORNIA LAWYER

BY JIM J. BROSNAHAN*

CECIL POOLE WAS already a legend in 1963 when I started to work for him in the San Francisco United States Attorney's office.

What would it be like to work for a legend? I wondered that first morning. He was the first black U.S. attorney, born in Alabama on July 25, 1914. Cecil's mother, Eva, was not allowed to try on clothes in a Birmingham department store, according to his

biographer James Haskins. His father, William, could not hand cash directly to a white person behind the counter in a white-owned store.

Cecil graduated from Michigan Law School, then earned a graduate law degree from Harvard Law School. He joined the Air Force in the Second World War. During officer training at a Southern Air Force base, Cecil and five other black officer trainees were ordered to line up in the commanding officer's office and told to go to a swimming pool separate from that of the white trainees for swim training. Five agreed. Cecil refused.

"Why do you say no when the others are willing to obey my order?" the officer asked Cecil.

"They must do what they think is right," answered Cecil. "I must do what I think is right."

By disobeying a direct order, Cecil risked a dishonorable discharge. Instead, the commanding officer was so impressed with Cecil's courage and the way he expressed himself, he did not require the segregated swim training. He also made his car available to Cecil for a weekend leave in the local town.

Cecil was tough, and usually reasoned and logical. He was not an ideologue, and rarely discussed race. When he did confront a racial situation, he



Cecil Poole being sworn in as United States attorney for the Northern District of California, June 1961, with his wife Charlotte and daughters Patti and Gayle. Poole was the first black U.S. attorney in the continental United States.

sometimes adopted a bemused wonderment, as though he were viewing some strange conduct by aliens from space.

We knew he had to get his hair cut in a black-owned San Francisco barber shop. But he saw the legal world as a place where he belonged, and he was right. When viewing the many demonstrations in the 1960s, he would sometimes have that look of combined curiosity and

puzzlement, with a dash of sternness.

His obvious acumen trying serious criminal cases in the San Francisco district attorney's office, where he worked from 1949 to 1961, helped his decision making. Cecil's life values formed the basis of our respect for him. His strong, principled approach explains why we, his former assistants, "Cecil's guys," still meet for an annual holiday dinner 45 years later, telling and retelling Cecil stories.

He taught us to be managers. Always fight for your people, he advised. Get them the salaries they deserve. No one was allowed to excoriate his staff. *He* might do that if he thought it was necessary. Never be afraid, or don't show it; question authority each day, even when you are the authority; and try to have fun even in the most serious situations. Righteousness is not helpful when making prosecutorial decisions. Total integrity was assumed.

We heard rumors of fistfights between Cecil and a defense lawyer in the 1950s. The district attorney's office then was under the leadership of Edmund "Pat" Brown. When Brown later became California's governor he took Cecil with him to Sacramento where he served as Brown's clemency secretary during one of the state's most controversial executions.

Caryl Chessman was convicted of kidnappings and rapes in the Los Angeles area. He committed no murders. While on death row he wrote four books, including his life story, which became a movie. The question of his pending execution attracted worldwide attention.

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After he was executed, his case drove the anti-death penalty movement in California. As Governor Brown's clemency secretary, Cecil was right in the middle of the Chessman legal storm.

In 1960, he was a delegate to the Democratic convention and was influential in moving delegates to John F. Kennedy. Kennedy appointed Cecil U.S. Attorney and promised him a future judgeship. Cecil and the country lost a lot on November 22, 1963, in Dallas.

He seemed to take boundless energy from the excitement of the U.S. Attorney's office during this period of almost daily protests against racism and the Vietnam War. One late afternoon, Cecil popped his head into my office and said, "Come on." We drove to Oakland where University of California students were marching on the Oakland army base.

The scene was chaotic. A line of very large Oakland police officers stood near the base holding batons. About 15 Hell's Angels, holding metal chains, waited for the action to begin. Down the street marched 10,000 demonstrators.

Cecil told the officers that we were federal observers. He then positioned us between the police and the demonstrators, who were still a couple of blocks away.

A police megaphone blared at the students, "Stop and disperse in the name of the people of California!"

Ten thousand demonstrators roared back, "We *are* the people of California!" It was the 1960s.

One of the demonstrators, I learned years later, was then-law student Harold McElhinny, who became a leading intellectual property trial lawyer at Morrison & Foerster. We practiced together for almost 40 years.

Cecil remembered dragging me out of danger that night. I remember dragging Cecil to the curb. We might have been federal observers cloaked with federal gravitas, but we had no helmets.

From the start, I endeavored to learn as much as possible from Cecil but he was not always an easy person to work with. We knew not to approach him in the morning until he had had his coffee and got settled in his corner office.

However, his lawyering had a tough, seasoned integrity. At times a lawyer must be decisive; Cecil was decisive. Prosecutors make tough decisions every day. They want to be sure the boss will back them up; Cecil did that.

When I first got to San Francisco, I was assigned a brothel prosecution. The house, in the East Bay, was fairly out in the open and notorious. A deputy sheriff was in the habit of having Thanksgiving dinner there. As I prepared the case, I noticed checks written by one of the most well-known California state office holders.



Cecil F. Poole, special assistant to Governor Edmund G. "Pat" Brown, about 1960.

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I put a trial subpoena on him. He called Cecil, who called me in to hear the conversation. Here is what Cecil said: "You horse's ass, if you are dumb enough to pay with checks you *should* be subpoenaed!" That was it. The madame pleaded shortly after the call.

When a representative of the San Francisco Fire Department asked that one of his firefighters be charged with a misdemeanor instead of a felony offense, he made a mistake. He told Cecil, "If you give him a misdemeanor,

you will have the whole Department behind you." Cecil did not hesitate. "What I want from the Department is to come when my house is on fire. I think they will do that no matter what I do. It's a felony."

One day, I was sitting in his office while he telephoned an Army general, who was in charge of an East Bay military installation. When antiwar demonstrators sat down in front of the gate, the general threatened to roll tanks over them. At such times Cecil became quieter, more deliberate, and frighteningly clear.

He was in the habit of starting by acknowledging the other person's position. "General, good morning. Nice to talk to you. How's it going over there? I understand, yes, of course. General, I understand you have complete jurisdiction inside your fort. I respect your jurisdiction." Cecil's voice became even firmer, but not any louder. "But if your tanks go one inch outside that gate I'm going to arrest your ass under the Posse Comitatus Act." The tanks did not roll.

Quiet firmness was Cecil's way of dealing with tension. His intensity, which was often displayed, was balanced by his judgment. Cecil understood the uses of governmental power.

"We are not avenging angels," he instructed us. But there were days when we thought we saw his wings flapping. ★

EDITOR'S NOTE: Cecil Poole left the U.S. Attorney's office in 1970 and entered private practice, where he worked mainly in entertainment law, representing the rock musicians Jefferson Airplane, Janis Joplin, and the Doobie Brothers, among others. In 1976, President Gerald Ford nominated Poole to a seat on the Federal District Court where he became the first black federal judge in Northern California, and President Jimmy Carter elevated Poole to the Ninth Circuit Court of Appeals, making him the first black person to serve on that court where he served until 1996 and only the second in the country on any federal circuit bench. Poole died on November 12, 1997 at age 83.