

Grading changes considered

By TOM SELBACH

Foothill's current practice of giving NC (no-credit) grades and the current drop date of two weeks are both being questioned.

The Curriculum committee has asked all heads of academic divisions to meet with faculty members. The division chairmen will then give their recommendations.

Under Foothill's present grading policy, a student can't receive a grade of F in any class. However, if the course work is rated by the instructor to be below D (unsatisfactory), an NC will show on the grade report and transcripts.

Another way to get an NC is to drop a class after the drop date, which is the end of the second week in the quarter.

Dean of Instruction Harold Seger says that "the NC is under

fire because some students are finding difficulty matriculating in certain difficult-to-enter impacted programs, especially graduate programs. Since they have far more applicants than openings, they will look for any way to discriminate between applicants. One thing they look for is Fs, and some schools see an NC on the transcript as an F."

When Foothill adopted the policy of giving out NC grades instead of F grades for failures, the intent on the part of the college was to do the students a favor by giving them a grade that wouldn't hurt their grade-point average (GPA). "We think of the NC as a non-penalizing grade," said Seger. "An NC carries no negative grade-points, while Fs do."

(continued on page 2)

Olympian sprinter attends Foothill

By EZRA PRATT

The World Olympic games have been providing mankind with examples of excellence and achievement for centuries. Television has brought that drama into most of our homes. Now, thanks to Steve Chepkwony, Kenya-born 400 meter runner, Olympic quality competition has arrived at Foothill.

Chepkwony, 20, was in Montreal for the '76 Olympics as part of the Kenyan team. Due to the African boycott of the games, he didn't run.

In February of 1975, running in Melbourne, Australia, Chepkwony recorded his personal best time of 45.2 seconds in the 400 meter race. This was the thirteenth fastest time ever in the history of the race. This prompted track officials to rank him fifth among the world's quarter milers. Chepkwony maintained this racing throughout 1975 and 1976.

Hank Ketels, coach of Foothill's track team, was also at the Montreal Olympics. Ketels watched Chepkwony work out, but didn't single out the stand-out athlete. "I was impressed by everyone in general but at that particular time I had no idea that Steven would be attending Foothill," said Ketels.

University of Southern California (USC) played the part of intermediary. "I was interested in coming to the U.S. to further my education," explained Chepkwony. "Representatives from USC recommended Foothill as a possible selection."

In line with his track eminence, Chepkwony is a physical education major. Concerning his future employment, he remarked, "There may not be an opening in my old district,

but I would like to go back and teach P.E. in high school. However, I must go where there is work."

Both coach Ketels and Chepkwony felt last season could be improved upon. "Last year was nowhere near his best," Ketels said. Reporting late because of his aborted Olympic experience, Chepkwony had limited pre-season conditioning.

A look at his accomplishments shows the impressive results of a good season. In the league conference meet, the Northern California sectional meet and the state community college finals, Chepkwony came in first. Topping that, each first was a meet record.

After those remarkable performances, Chepkwony was invited to Europe this summer to participate in a series of open meets. Visiting places such as London, Paris, Helsinki, Frankfurt, and Rome, he fell far short of his Mercurian efforts achieved at Foothill.

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Steve Chepkwony



Foothill's hopes for a repeat championship have ended abruptly.

Soccer team bounced

By EZRA PRATT

What seemed a golden opportunity for Foothill's state championship soccer team to repeat last year's achievements vanished in an administrative decision concerning eligibility.

The Golden Gate Conference, (GGC), of which Foothill is a member, acting on information received from other league schools, mandated forfeiture of three of Foothill's conference victories.

The information, that Foothill used a professional player, automatically disqualified the team for a post season play-off berth. Something their original 16-5 overall and 9-4 conference record qualified them for.

The decision to disqualify Foothill was ironic since the conference commissioner is John Freemuth, who also works for Foothill.

Commissioner Freemuth indicated that investigation of the charges took weeks and involved numerous contacts with individuals around the country.

In talks with soccer coach George Avakian and Athletic Director Bill Abbey the particulars of the charges came out.

According to Avakian, the player in question, Rigerberto Alas, in 1973 signed a contract with the Rochester (New York) Lancers, of the North American Soccer League (NASL). Alas also participated in a Sunday

soccer league in San Francisco.

"After the allegations were made by De Anza and San Jose CC, we made all available efforts to check them out," stated Avakian. The way that the issue was revealed ranked the coach. "Everything was being hidden from us and they (De Anza and San Jose CC) were not sharing information with us," cited Avakian.

Coincidentally San Jose CC was Foothill's first conference win this year. DeAnza, Foothill's arch rival, advanced to the second round of state playoffs winning against the team that replaced Foothill. It appeared as if DeAnza was pushing the information and San Jose CC was asking for a forfeiture.

"It took me a week to prove that Alas' participation in the S F Sunday league wasn't a violation of GGC eligibility," said Avakian. This proof came in the form of a letter from El Salvador, the team Alas played with, that the player in no way received any financial pay for playing.

In a letter from the Rochester lancers, of the NASL, to Abbey that Lancers also denied any monies changing hand.

So where does the professionalism come in? According to Abbey, "A kid signs a paper saying he's a pro when he really isn't, but then becomes a pro based on his signature.... Does that make sense or is that a bunch of baloney?"

(Continued on page 2)

Instructor wounded by pellet gun

Jack Ford, Foothill drama instructor, suffered a pellet gun shot in the forehead Friday, November 18.

Ford was standing on the sidelines watching his sons' team, St. Francis, play Serra High School when he was shot by a small caliber pellet gun. Ford felt a sharp pain and dropped to his knees.

He later said "I saw nothing, I was dizzy and confused. I dropped to my knees to regain

my balance, but, other than that it was a good game. St. Francis won."

Ford was treated immediately by the St. Francis team doctor.

Before the game, players complained of stings on their arms and legs.

Police arrested juveniles armed with sling shots and pellet guns after Ford was struck.

There is no known motive for the attacks.

Soccer team bounced

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However, in later correspondence from the Lancers it was revealed that Alas had indeed signed an old contract and according to their records had participated in one tryout game. This information was received by commissioner Freemuth.

Where Avakian sees the confusion is in the multiple definition of amateurism held by the various governing sports bodies. Each faction, the National Collegiate Athletic Assn., Amateur Athletic Union, California Community and Jr. College Assn., etc., has its own interpretation.

Actually Alas had previously informed the coach that he believed he was a pro. However, after receiving denials from Rochester and El Salvador that Alas never got any money, both Abbey and Avakian felt him eligible.

"We want to establish our credibility, I imagine that a lot of people felt we did this intentionally," explained Abbey. "When the letter was received from the Lancers I was convinced about his (Alas') eligibility."

Avakian remarked, "I have nothing to gripe or complain about. If anyone is to take the blame it is me...We played the kid in good faith. If there is something we didn't know then we're guilty."

Ed Dry, returning letterman from last year's state championship team and this year's co-captain, put his feeling on the subject in this perspective: "You can't talk about individuals, it's a team sport....You can't blame anyone person because soccer is a joint effort."

He added, "I don't necessarily agree with the forfeitures, but that is the rule."

The forfeitures were even more galling because the ineligible player only played in about 20 minutes of game time and was never a factor in any goal scored or the final outcome of the games in question.

As far as anymore sanctions against Foothill commissioner Freemuth said that there wouldn't be any. "This isn't the first time that we (GGC) have had trouble in this area (player eligibility),

but this will be dealt with at the next conference meeting," explained Freemuth. "What this indicates to me is that coaches are going to have to check the conference eligibility sheets much more closely."

The conference eligibility sheets are the documents that each athlete must sign before he or she can participate in any sport conducted by the GGC

Olympian

(continued from page 1)

"I wasn't in shape, being over weight. I don't really know what happened," said Chepkwony. "It was horrible! I can't even talk about it." Needless to say, promoters were disappointed in his showing. Especially considering his previous trip to Europe, while he was in high school, when he won every race in which he was entered.

Relating his future plans, Chepkwony believes the Olympics are too far off to be aiming for. His immediate major goal is to be prepared for the upcoming British Commonwealth Games, to be held in Canada in July of 1978.

Grading changes considered

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Although the NC is not damaging to a student's GPA, presence of three or more of them on transcripts may hamper admission into some universities. Kevin Donovan, a former ASFC senator, completed a survey last spring of numerous two and four-year colleges asking them about their policies of admission, the results of which appeared in the May 13, 1977 issue of the SENTINEL. To the question of whether or not the admission of a student who has three or more NCs on their records is adversely affected, 32 percent of the colleges answered yes, and 60 percent said no. University of California at Davis, UC Riverside, Stanford University, California State Polytechnic at Pomona, and Santa Clara University were all among those who answered "yes."

The Curriculum committee does have a few suggestions to consider. One proposal is to have a separate grade for withdrawals in certain classes. Seger said that "sometimes an NC is unfair to students in, say, a tutoring class which may require 20 attendances. If a student only needs four hours of help, then he shouldn't

get an NC for not coming to any more sessions."

A student who withdrew from a class, if the proposal is approved would receive an R (removal).

Last year, ASFC and AGS (Alpha Gamma Sigma honor society) both supported Donovan's proposal that all NCs be erased from transcripts and that the drop date be moved to one week before the week of final exams.

Actually, the second part of that proposal would be impossible for Foothill or any other community college to implement because by law all schools on the quarter system must assign some grade to students in a class after six weeks of attendance.

According to Seger, Foothill chose to set the drop date at two weeks into the start of the quarter about ten years ago.

De Anza College gives students four weeks to drop without getting an NC.

Statistically, the difference of drop dates between Foothill and De Anza colleges has no significant effect upon the numbers of students who drop courses, or upon what time in the course of the quarter they do so. The pattern of enrollment and drop-outs is the same for both schools. Enrollment rises steadily during the first few weeks of school, and then tapers off slightly towards the end of the quarter.

Right now, there are understandable differences between different academic divisions in how they feel about changes in the Foothill grading policy. John Mortarotti, Chairman of the Fine Arts Division, says "I think we've devised a system which is fair in evaluating a student's work and efforts."

Although he sees the present system as being fair, Mortarotti does find some problems within the grading policy—problems that are unique to the Fine Arts Division. "A good measure of our grading is subjective," he says. "It's hard to measure talent and creativity. Math science, and business have more objective areas of judgment. Cooperation, enthusiasm, contribution and aesthetic understanding are all things that can't be measured on paper."

Mortarotti feels that, because there are no fine

lines drawn between A, B, or C grades in the fine arts, a pass-fail system would be the most satisfactory solution for his division.

In the P.E. division, things are different. Bill Abbey, chairman of the Physical Education and Athletics Division, said "I think that the policy we have now is the most liberal and fair system that the students could ask for. The students right now can't get a better deal."

The philosophy of grading in the P.E. Division is also different from that of the Fine Arts Division. "We encourage our athletes not to take NCs," Abbey explained. "Athletes who are going to transfer can't afford the luxury of the NC and still remain eligible for competition."

Another contrasting viewpoint comes from Stanley Cotter, chairman of the Mathematics and Physical Sciences division.

"In scientific studies, we haven't varied much over the years," Cotter said. "Our biggest problem is in making a distinction between As and Bs and not between NCs and F grades."

Cotter felt that the best idea would be to give students a "W", for withdrawals, instead of an NC.

Cotter felt that there should be a withdrawal grade because most of the NCs given out in science classes are for drop-outs and do not actually represent course failures. "We have a considerable number of drop-outs," Cotter noted. "As you reach the time of final exams in a typical remedial math course, the class may only have 50 percent of the originally enrolled students still in it. About half of those who dropped probably were not able to handle the course. Only about two or three percent of all the NCs given out represent F grades."

Cotter also added that there are very few NC grades given out in the advanced science classes due to tight competition for grades.

At present, there have been no definite decisions made regarding any revisions of the grading policy. Discussions between the division chairmen and other faculty members will be going on during December and into the winter quarter. Seger hopes to have a recommendation ready for Foothill President James Fitzgerald by February.

"It's hard to imagine anyone who will not, in the end, turn on to 'The Turning Point'."

—Richard Schickel, Time Magazine

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—Gene Shalit, NBC-TV



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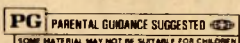
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The big "A" in focus.



Marion Patterson and Ansel Adams work out plans for the slide show.

Adams at Foothill

Photos by Dick Leevey, Story by Peter Bliss

Marion Patterson, Foothill photography instructor, approached the microphone Saturday, Nov. 19, to introduce the guest for the evening's festivities at the West Coast Photography Symposium. Before she could get a word out, a continuous applause started through the Foothill Theatre as noted photographer and lecturer, Ansel Adams, 75, walked up the steps to the stage to speak to the near capacity crowd.

Telling the audience that "what people really want is personal expression," Adams then ordered the house lights turned down and began to show the people some of his own "personal expression."

The lecture/slide show started with photos depicting Adams' early life in his native San Francisco during 1919. This was followed by some other early shots taken in the Sea Cliff area. The photographer also included in this presentation work he had done in Taos, New Mexico, Yosemite, and the Japanese relocation camp at Manzanar during the war.

Known for his belief that everything in a photograph should be in focus, Adams made it clear that this was his own bias, stating that a photograph, as other works of art, should "bring out from the individual his own characteristics." He added, "You can admire someone's work without liking it."

After the slide show, Adams fielded questions from the audience. He asked that no technical questions be asked because "You can get the answers to those from books."

When asked if he had a favorite photograph, Adams said, "I have no favorites. If each one didn't do something special to me I wouldn't have shown it."

Adams is usually identified with the 4 x 5 view camera, but stated that he has done some satisfying work with 35mm. In response to a question concerning the type of camera he now uses, the septagenarian stated, "usually the heaviest one I can carry."



The guest receives a gift from unknown admirer



Adam's receives a big hand to conclude his speech.



Adams demonstrates how he agitates for thirty seconds every minute.

Opinion

Carter vs. Congress

The war between Jimmy Carter and his Democratic Congress is all but over. And while next year's congressional session certainly won't be a love feast it is unlikely to be plagued by the cantankerous dissension that characterized Carter's first year.

For one thing, the president has learned that there are other ways of dealing with Congress than through direct confrontation previously thought at the beginning of his campaign.

Significantly, he is winning his point indirectly. Of such revised formulas of legislation is the controversial Humphrey-Hawkins full employment bill. For a change, tough negotiation on a bill can be accomplished before being lost like countless other pieces of legislation in the bureaucratic rhetoric of Congress.

The Carter-Congress relationship is also likely to be smoother because most of the big divisive issues have been settled, postponed, or defanged.

Many of the most poisonous issue: farm support, economic stimulus, voter registration, and of course energy have been dealt with, for better or worse. And several worrisome bills, notably labor reform and social security amendments, are passing through legislation with infinitely less hassle than anticipated.

It also appears that with the endorsement of his colleagues Carter will be able to defuse the powder keg of trade problems and a much needed tax reform bill.

Obviously not all will be smooth going. Carter and Congress must deal with several friction-oriented issues popularized through the Carter party platform.

In the first place, the Administration is expected to present a new arms limitation agreement to the Senate in hopes of reducing the massive defense budget. What's more, the Carter Administration must approach the Middle East situation with some sort of settlement.

In addition, Carter faces strong opposition from the Feds with the realization of his proposed 4 per cent inflation rate and a balanced budget at the same time. And lastly, attention must be directed to the social programs: national health insurance, additional aid to cities and schools; and a Federalized welfare program.

With a foundation established, Carter will be able to direct his energy toward the accomplishment of solving the many key issues he addressed in his campaign for the Presidency.

—Sean Corcoran

Equality for whom?

Speaking to the Los Altos Morning Forum earlier this month (Nov. 15), California Supreme Court Judge Stanley Mosk defined what may well be the central issue of our time:

"The question we have to answer today is whether society is based on individual rights or are people to be considered on categories . . . color . . . religion . . . etc?"

The United States and California constitutions speak about the rights, duties and responsibilities of citizens in terms of individuals, he said. "Equality is the key," he emphasized.

Throughout the history of the American societal experiment, one constant has stabilized the ship of state: the Constitution with its tenacious grasp on the concept of individual rights. This in spite of buffeting challenges from petitioning groups, political, governmental, religious and social.

In the main these challenges have issued from just and worthy goals—to protect the people from the evils of alcohol; to protect the people and the free enterprise system from the evils of communism; to protect some of the people from others of the people; to enhance the government's ability to do all of the above; sometimes to protect the government from the people themselves.

Ultimately the Constitution, when maintained as an instrument to enhance and protect the individual's rights, has conferred equality and justice upon society as a whole.

Citizens and legislatures should tread with caution when they move to shift the Constitutional ballast from the individual to the category—racial, religious or sexual—no matter how persuasive the prevailing social or political climate. Certainly the Supreme Court will exercise great restraint, and will look for other solutions to current societal dilemmas, before tampering with so formidable an instrument for equality under the law.

—Flo Pallakoff

On the Spot...

By JEFF KILINSKI and ED MRIZEK

Question: An AA degree is a ticket to the world. Assuming you want one, what will you do with your ticket?



Jeff (Southern) Comfort:
"Use it to get into college and that's as far as I'd go."

Tom Cochran:
"What's an AA? Oh, I got it. I'll go to Brigham Young and marry a rich morman."



Greg Sulger:
"I'd take my ticket and go to Maui and live in paradise."

Barbra Davidige:
"I'd do what I'm doing now, try and have as much fun out of life."



Susan Nordel:
"I want to go to 'Afghan' and trace my roots."

Sherman Swanson:
"Go get a better ticket."



KFJC-FM LOG FOR DECEMBER 3rd

SATURDAY
12:00 NOON:

HIGH NOON Representative from
Amnesty International

ALSO: Dr. Mason from
Creativity Growth Groups

ALSO: Dr. Gerald Gunther, Professor of
Constitutional Law at Stanford,
speaking on the Bakke issue.

MONDAY:
3:00 pm CHILD'S GARDEN OF HEALTH

TUESDAY:
6:00 pm KFJC DRUG REPORT

THURSDAY:
6:00 pm ONLY WOMEN

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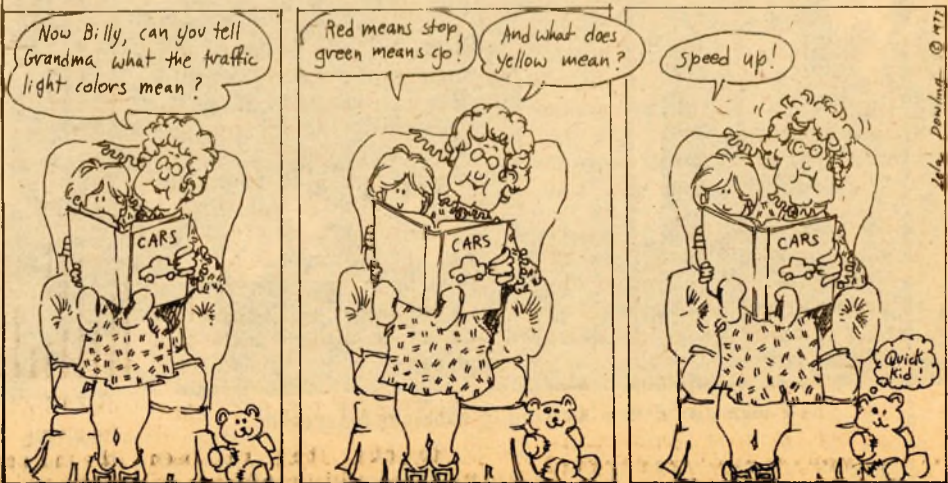
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Lela's Last Laugh

By LELA DOWLING



CRIME & JUSTICE

COURSES BY NEWSPAPER

Plea bargaining and sentencing

By ALAN M. DERSHOWITZ

Editor's Note: This is the 12th of 15 articles in a series exploring "Crime and Justice in America." In this article, Alan M. Dershowitz, Professor of Law at Harvard University, discusses the inequities in our sentencing system that result from the enormous discretionary power of our judges. This series was written for COURSES BY NEWSPAPER, a program developed by University Extension, University of California, San Diego, and funded by a grant from the National Endowment for the Humanities. Supplemental funding for this course was provided by the Center for Studies of Crime and Delinquency, National Institute of Mental Health.

"The imposition of sentence is probably the most critical point in our system of administering criminal justice," observed Marvin Frankel, a distinguished jurist, in 1973.

It may, literally, mean the difference between life and death, freedom or confinement, short- or long-term imprisonment.

The power of the sentencing judge, in many jurisdictions, is awesome. Without giving—or even having—reasons, a judge may decide to sentence one robber to probation and another, different in no relevant respect, to 20 years in prison. Nor can these sentences generally be reviewed by a higher court.

Despite the enormous power of the sentencing judge, the process of imposing sentence is essentially lawless. There are few guidelines and virtually no accountability.

Both observers of, and participants in, the American criminal justice system are almost unanimous in viewing the process of imposing sentences as a dismal failure by any standard.

Yet the imposition of sentence is "crucial" because, for many defendants, it may be the only point in the criminal justice system—other than bail determination—where a judicial decision is made. Despite popular fascination with the drama of the courtroom trial, the vast majority of criminal cases are disposed of without any trial.

The defendant agrees to plead guilty to a given crime, in exchange for some concession by the prosecutor—a reduced charge or a promise to recommend a reduced sentence.

In some jurisdictions, judges participate overtly in this bargaining. In most jurisdictions, however, judges remain aloof

from the negotiation. They retain the power—at least in theory—to accept or reject the prosecutor's recommendation and to impose any sentence within the statutory range.

GLARING DISPARITIES

The unfairness and uncertainty of this sentencing system has been amply documented.

In one recent study, 50 federal judges were given 20 identical files, drawn from actual cases, and asked to indicate the sentence they would impose on each defendant. In a case of possession of barbiturates with intent to distribute, one judge gave the defendant five years in prison, while another put him on probation. One judge sentenced a defendant convicted of securities fraud to two years imprisonment, while another fined him \$2,500.

This study, commissioned by a group of judges, concluded that there were "glaring disparities" in sentencing. Similarly, a recent study of sentences imposed during a two year period in Montgomery County, Ohio, disclosed that certain judges imprison defendants four times as often as other judges for the same offense.

Disparities of this kind cannot be explained by differences among criminals. They are—as one judge recently observed—a function "of the wide spectrum of character, bias, neurosis and daily vagary encountered among occupants of the trial bench."

There is also evidence that some of the disparity is a function of prejudice: social, economic, and cultural. An exhaustive study of state and federal sentences for larceny and assault disclosed that blacks have a one-and-a-half times greater chance of being imprisoned than whites with similar records. Other studies have shown that defendants appearing in low status dress are significantly more likely to receive prison sentences than comparable defendants wearing higher status clothing.

Two centuries ago, Blackstone, the great English legal commentator, observed that the sentences handed down by judges are not "their" sentences, but the sentences of the "law." Today, it is the judge—as an individual—who decides who shall be imprisoned; and it is the judge and the members of the parole board, not the "law" as an abstraction, who decide how long an imprisoned defendant shall serve.

CRITICS OF THE SYSTEM

Recently, there has been mounting criticism from the

left and right alike—of a sentencing system that makes so much depend on the idiosyncrasies of individual sentencing judges.

Liberal critics believe the sentencing system discriminates against poor and minority criminals and in favor of white-collar and privileged criminals. Conservative critics argue that current sentencing practices result in the early release of dangerous, violent people.

The specific focus of much of this criticism has been the so-called indeterminate sentence—a mechanism by which the amount of time a convicted criminal will actually serve is decided by the "parole board" or "adult authority" while the prisoner is serving his sentence. Both the legislature and the sentencing judge still play important roles; the legislature sets the outer limits of the permissible punishment for the type of crime, while the judge decides on the desirable range for the crime and criminal. But these limits are often broad, the parole agency thus becomes responsible for deciding what really counts: when the defendant will be released.

The indeterminate sentence is merely one manifestation of the existing disparity in sentencing. The underlying cause is the unchanneled discretion exercised by all the sentencing decision-makers—judges, prosecutors, parole boards, and adult authorities.

REFORM MEASURES

In an effort to impose some uniformity of sentencing, a num-

ber of legislatures—including Congress—are now considering significant reforms. Some of these reforms, however, address only a small part of the problem.

For example, mandatory minimum sentencing for certain offenses deals only with discretion at the low end of the sentencing spectrum. It "requires" judges to impose a certain minimum sentence (perhaps a year) upon everyone convicted of a specific offense (for example, illegal possession of a handgun, as in Massachusetts).

Flat-time sentencing retains "judicial" discretion by allowing the judge to select the "appropriate" sentence from a wide range of alternatives; but it eliminates "parole board" discretion by requiring the inmate to serve his entire term (minus "good time").

The approach that seems to be attracting the most attention is a compromise solution called "presumptive sentencing." Under that approach, or its many variants, the legislature decides not only on the minimum and maximum sentences for a given crime, as it does today, but also on the "presumptive" sentence for a "typical" first offender convicted of a "typical" instance of this crime.

The legislature might thus decide that the typical burglar—an unmarried, unemployed, uneducated male in his early twenties who broke into an inhabited house late at night without a weapon and took several hundred dollars worth of valuables—should generally serve one year. One year would thus become the presumptive sen-

tence for this crime.

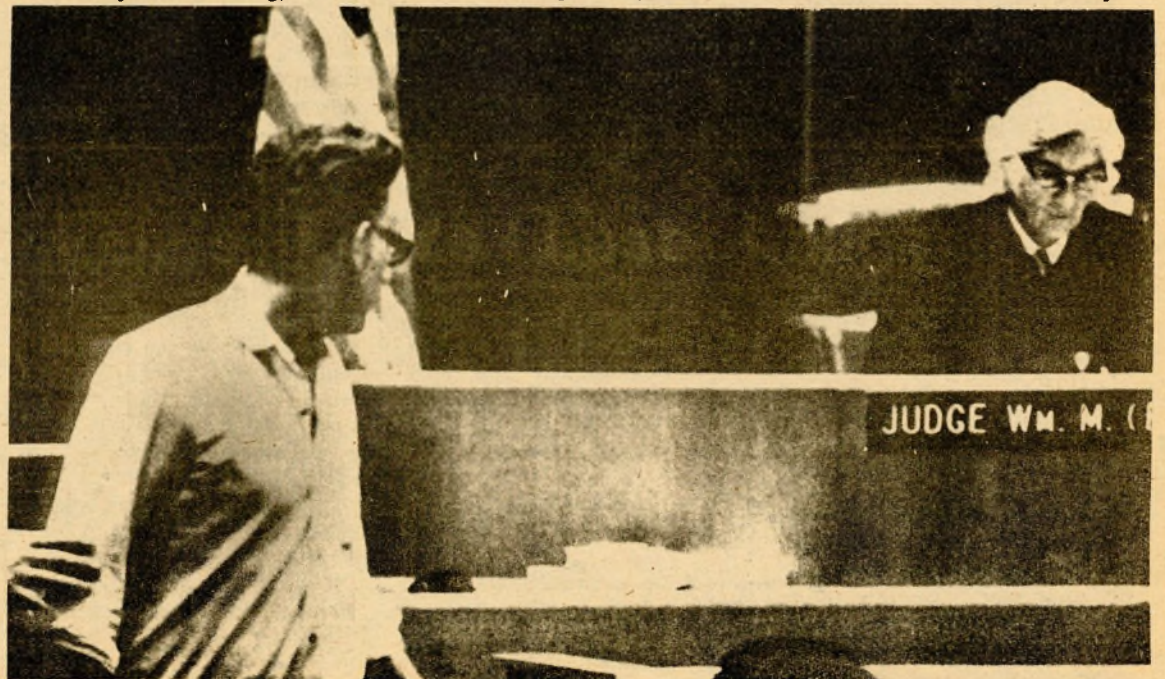
In the absence of legislatively specified aggravating or mitigating circumstances, the sentencing judge would be expected to impose that sentence on all first offenders convicted of that crime. If the judge departed from the presumptive sentence,

he would have to detail in writing the reasons for his decision. All sentences departing from the presumptive one by more than a specified percentage—for example, 25 per cent—would be automatically appealable. The sentence would be reversed unless the appellate court concluded that the judge's reasons had overcome the presumption in favor of uniformity.

Under this approach, the parole board would retain only limited power under unusual circumstances to release the inmate before the expiration of a statutorily fixed percentage of his sentence (for example, 75 per cent).

In the end, neither this nor any other proposed solution to the dilemma of sentencing will be a panacea. The elusive quest for the fitting punishment has occupied the collective wisdom of mankind since the beginning of recorded history.

The pendulum appears now to have swung in the direction of greater certainty and uniformity in sentencing. Undoubtedly some reform will be forthcoming, and we will see not the demise of individualization in sentencing, but its waning influence. Perhaps a decade from now a reaction will again set in and the pendulum will swing back in the direction of increased flexibility.



JUDICIAL DISCRETION. State district judge William M. Hatten of Houston hears an extradition case involving former mental health patient Addison Tayloy (in white), wanted in Seattle, Washington, for the murder of a young woman. The discretionary powers of judges like Hatten to determine the fate of the accused is often virtually unlimited.

Punishment: A Historical Perspective

**CRIME
& JUSTICE**
COURSES BY NEWSPAPER



PRISONS: USA—SING SING. Inmates of nineteenth and early twentieth century prisons were often forced to march in lock step and observe strict rules of silence.

By DAVID J. ROTHMAN

Editor's Note: This is the 13th in a series of 15 articles exploring "Crime and Justice in America." In this article, David J. Rothman, Professor of History at Columbia University, discusses the history of the penal system in America. This series was written for COURSES BY NEWSPAPER, a program developed by University Extension, University of California, San Diego, and funded by a grant from the National Endowment for the Humanities. Supplemental funding for this course was provided by the Center for Studies of Crime and Delinquency, National Institute of Mental Health.

PUNISHMENT: A HISTORICAL PERSPECTIVE

The sight of the monumental walls and high towers of an American state prison conveys such an impression of fixity and permanence that one easily forgets that incarceration is a comparatively modern practice.

Penitentiaries do have a history. They have not always been with us. A sensitivity to this history, an understanding of the causes for their creation and perpetuation can help to clarify for us what we can and cannot expect of these institutions.

Our colonial forefathers relied upon very different methods of punishment. Convinced that the threat of deviant behavior came mostly from outsiders, they guarded town boundaries with all the diligence we reserve for an international frontier. To

preserve their insularity, towns regularly banished or expelled suspicious characters and petty offenders. When neighbors committed minor offenses, the courts had recourse to fines or to the whip, or, more commonly, to shaming the offender by displaying him in the stocks. The local jails served only the purpose of detaining those charged with a crime until time of trial.

The colonists, as tough-minded Calvinists, did not anticipate the reformation of the criminal or the eradication of crime. And they understood, too, how limited their powers were: if a whipping did not deter the offender, there was little they could do, little, that is, except have recourse to the gallows. The result was an unbalanced system, vacillating between harsh and mild punishments.

Such procedures could not survive the growth of cities, or the rise in the number of immigrants, and the frequency of migrations westward in the early 19th Century. With the insularity of the community destroyed, and with Enlightenment and republican ideology making capital punishment seem a barbaric remnant of a cruder age, some kind of new sanctions would have to be created.

REFORM AND REHABILITATION

That the alternative became the penitentiary reflects the very special outlook of its founders, the Jacksonian reformers of the 1820s and 1830s. These innovators shared grandiose ambitions. They would not merely deter but eliminate crime; they would

not punish but reform the criminal. The Jacksonians were the first to announce the theme that would persist to our own day: prisons should be places of rehabilitation.

These reformers were at once optimistic about the perfectability of man and pessimistic about the ability of a democratic society to cohere. Criminal behavior, they reasoned, reflected the faulty organization of society. Judging their own cities by exaggerated notions of the stability of colonial towns, they saw the easy morals of the theaters and saloons replacing the authority of the family and the church.

To counter what they took to be this rampant disorder, they invented the penitentiary. It was to be a model, almost utopian community that would both inspire the society and, at the same time, instill habits of obedience and regularity in its inmates.

From these notions the penitentiary took its first form. To isolate the inmate from all contaminating influences, prisons were not only located at a distance from the cities, with visits and mail discouraged, but prisoners, living one to a cell, were under strict rules of silence. A bell-ringing punctuality prevailed. At the sound of a gong, inmates marched in lock step to work, then to eat, and then returned to their isolation.

As acute an observer as Alexis de Tocqueville concluded: "The regularity of a uniform life . . . produces a deep impression on his mind." If the inmate was not released an honest man, at the least "he has contracted honest habits."

FAILURE OF THE SYSTEM

It did not take long, however, for the good order of the prisons to degenerate. By the 1850s, even more clearly by the 1880s, the institutions became overcrowded, brutal, and corrupting places. State investigations uncovered countless examples of inhumane treatment—prisoners hung by their thumbs or stretched out on the rack. Clearly, incarceration was not reforming the deviant, let alone eradicating crime.

And yet, the system persisted. Part of the reason may reflect the seeming practicality of confinement; at least for a time the incapacitation of the offender protected society. Further, the prisons were filled with immigrants (first with Irish, later Eastern Europeans, still later the blacks). The confinement of a group that was both "alien" and "deviant" seemed appropriate, no matter how unsatisfactory prison conditions were.

NEW REFORMS

But such functional considerations were not as central to the continuing legitimacy of incarceration as the persistence of reformers' hopes that prisons could rehabilitate the offender. Each successive generation of well-intentioned citizens set out to upgrade the penitentiary. The problem was not with the idea of incarceration but with its implementation.

Thus, the Progressives in the period 1900-1920 tried to "normalize" the prison environment. They abolished the rules of silence, the lock step, and the striped uniform, and looked instead to freedom of the yard, prison orchestras, schools, and vocational education to rehabilitate the deviant.

In the 1920s and 1930s, psychologists urged the adoption of more sophisticated systems of classification so that prisoners could be counseled on an individual basis. New modes of therapy would readjust the deviant to his environment.

Both groups of reformers welcomed the indeterminate sentence and parole. Rather than have a judge pass a fixed sentence at time of trial, the offender should enter a prison as a patient would enter a hospital. When he was cured, not before and not later, he would be released.

Again and again, the translation of these programs into practice was disappointing. No matter how keen the effort, prisons could not become normal communities. Classification schemes were not well implemented; parole became a guessing game, anything but scientific or fair in its decisions.

Nevertheless, each time a prison riot occurred or another example of brutality was un-

covered, reformers insisted that the fault lay with the poor administration of the system, not with the system itself. Eager to do good, determined to rehabilitate the deviant, they continued to try to transform the prison into a place of reformation.

NEW GOALS

Beginning in the mid-1960s, a new generation of reformers began to question the very idea of incarceration. For the first time, well-intentioned observers began to wonder whether the basic concept of the prison was faulty. These reformers were frank about their inability to understand the roots of deviancy or to rehabilitate the deviant.

Armed with so few answers and suspicious of inherited truths, they contended that punishment should aim, not to do good, but to reduce harm; that a system of sanctions should abandon grandiose goals and try to avoid mischief. Perhaps fixed sentences of short duration to the avowed goal of punishing the criminal would create a more just and no less effective system.

Clearly this agenda is not a very exciting banner under which to march. Prior generations of reformers, after all, had promised to eliminate crime. And today's less idealistic outlook is particularly liable to misunderstanding; if we cannot reform the criminal, why not lock him up and throw away the key?

An historical analysis does not provide us with many clues as to how this latest reform effort will turn out. Indeed, an historical analysis does not offer answers as to how punishment should be metered out in our society. What it does offer, however, is a dynamic as opposed to a static perspective on incarceration. Penitentiaries were the response of one generation to its specific problems, and later generations experimented with their own solutions. If we now find inherited practices unsatisfactory, we are obligated to devise our own answers.

DAVID J. ROTHMAN is Professor of History and Director of the National Institute of Mental Health Training Program in Social History at Columbia University, where he joined the faculty in 1964. A Fellow of the Hastings Institute of Society, Ethics and the Life Sciences, he received the Albert J. Beveridge Prize from the American Historical Association for "The Discovery of the Asylum." He is also the author of "Politics and Power: The United States Senate, 1860-1901," and editor of "The World of the Adams Chronicles." He is currently completing a study of incarceration and its alternatives in 20th-Century America.

Frame by Frame

By DAVID HERN

Lillian Hellman's book "Pentimento" was published in 1973 and contained an incident detailing a profound, life-long friendship between Lillian and Julia, two young women who after drifting apart, were reunited by a tense and dangerous journey through Nazi Germany on the brink of World War II.

This story is now a motion picture entitled "Julia" a Richard Roth production of a Fred Zinnemann film starring Jane Fonda as Lillian and Vanessa Redgrave as Julia. Jason Robards co-stars as Dashiell Hammett, the American author, script-writer and 30 year friend/lover to Lillian.

Fred Zinnemann, through the years has proven himself as most adept at directing large scale productions with plot-lines that encompass the lives of a few central characters such as "From Here to Eternity" and "A Man For All Seasons". He began his career at the height of Hollywood's Golden Age and has since established himself as a major figure in modern films.

"Julia", though set in the 30's is a modern film made in 1977. At times it appears that Zinnemann tends to forget this. Director of photography Doug Slocumbe, under Zinnemann's direction, uses a number of glossing and filtering techniques giving the film an air reminiscent of "Murder on the Orient Express." Granted, "Julia" was written as a compilation of bittersweet memories, and memories are often romantically fuzzy. However, "Julia"

Julia

also deals with the coldest truths about the rise of Fascism in Europe. Somehow, Fascism and filters don't mix. One wishes for some harsher visuals to complete the picture.

Zinnemann's "Golden Age" also seeps through occasionally in a number of semi-cliche sequences, i.e., shots of Hammett looking rustic on the beach juxtaposed with scenes of Hellman pounding away at the typewriter.

These complaints would probably not even be raised if "Julia" was a poor film. It is not. It is in fact one of the finer films this year has produced. It is safe to say that all the acting in the film is superb. Jane Fonda gives her finest performance since "Klute" and Vanessa Redgrave exudes a warm graceful beauty few actresses have been able to capture. Her sensitive vulnerability brought me close to tears. I am certain that the Julia we see is the Julia of Lillian Hellman's memory. Both Fonda and Redgrave are sure to be nominated for Academy Awards next year.

Alvin Sargent's screenplay, though occasionally hokey, is rich, natural and true to the original work. "Julia" is a sensitive intriguing story that is very slow paced. The film will probably not gain a mass appeal and may come and go overnight. This is a shame. "Julia" reveals a great deal about terrorism and repression of history's darkest era. If this film were not diluted by Hollywood cliché and occasional loose-endedness, it might make a more noticeable mark.

Christmas concert scheduled

The annual Foothill Christmas Concerts, featuring the Concert Choir, Chorale, Fan Fairs, and the Orchestra will take place from Dec. 9-11 at 8 p.m. in the Foothill Campus Center.

According to the choir director Phil Mattson, the concert "is going to be special."

"It's more than just a concert," said Mattson. "There is as much narration as music. The audience sings carols, and we give them coffee and punch afterwards to get everybody feeling good."

Mattson states that there will also be a 70 foot wide mural covering the

back of the stage that depicts some of the themes of the concert.

The Foothill Orchestra, directed by John Mortarotti, will contribute to the concert by playing the "Christmas Oratorio."

"The concert is designed to make people happy and to make people get into the Christmas spirit," said Mattson. "It involves the efforts of a couple hundred people and a lot of work. We hope people will enjoy it."

Tickets for the Christmas concerts are on sale in the Foothill Box Office for \$3. The price for students with student body cards is \$1.50.

WEEK OF JAZZ ENDS IN CONCERT



Jim Pugh, trombonist with the Chick Corea Band, will conduct a clinic and appear in concert on Dec. 3 as part of Foothill Jazz Week.

By LAURY MASHER

The Foothill and De Anza jazz bands will combine efforts on December 6 to perform a jazz concert in the Foothill auditorium at 8 p.m.

The De Anza Symphonic Band, directed by Herb Patnoe, will begin the concert with selections such as "Caccia and Chorale," "Reflections on Paris," and "Shivaree." The second half of the program will feature the Foothill College Wind Ensemble directed by Terry Summa.

"At the end of the concert we're putting both

bands together," said Summa.

Summa has also arranged for Micha Levy, an outstanding french horn soloist and teacher from Southern California to be on campus December 6 for a day of clinics, horn ensemble playing, and appear as a guest soloist with the Foothill College Wind Ensemble that evening.

Summa further states that he has made arrangements with Herb Patnoe, director of the De Anza Symphonic Band, for the Foothill Wind Ensemble to

play at De Anza. "We're doing the same thing over there," said Summa. "We're playing over at his school on the 1st, without the french horn player—he's only here on the sixth, and then they're going to come over here and do a concert with us."

There will be no charge for the December 6 french horn clinics. Tickets for the 8 p.m. concert are on sale at the Foothill College Box Office for \$2 general admission, and \$1.50 for students.

The December 6 concert has been preceded by a "Week of Jazz" that began November 29 and will continue through December 3. The festival began on November 29 with "Bay Bones," a professional trombone choir.

On December 2, at 12:00 noon, a "Combo Concert" will be performed in A-41. The concert will feature Foothill's part time instructor Greg Yasisinitsky, and students Dave Hipshman, Steve Elliott, Mark Mendel, and Jeff Leeds. Greg Yasisinitsky, Dave Hipshman and Steve Elliott will be performing jazz combos. Mark Mendel and Jeff Leeds will perform strictly rock combos.

Also featured on December 2 will be Ashley Alexander, who is a teacher at Mt. San Antonio College in Walnut Creek. Alexander is a nationally acknowledged master of the "Superbone." "We had Ashley Alexander last year," said Summa. "He's really outstanding, everyone said let's get him back again." Ashley Alexander will hold an open rehearsal from 2:00-4:00 p.m. in A-41.

The grand finale for the "Week of Jazz" will be trombone player Jim Pugh. Pugh has been tagged "the most talked about trombone player of all of the rising young musicians." Pugh was a recently featured soloist with the Woody Herman Orchestra. Pugh will soon be going on a world wide tour with Chick Corea, whom Summa claims is a "very, very famous jazz piano player." "He (Pugh) is really outstanding too," said Summa.

Jim Pugh will hold a brass and improvisation clinic in room A-61 from 12:30-2:00 on Dec. 3.

"Pugh will be doing a clinic, and is also going to play that night," said Summa.

On December 3, at 8 p.m. in the Foothill College theater, "we're doing something that's never been done before," Summa states. The Foothill Jazz Ensemble will perform with both Ashley Alexander and Jim Pugh. After a short intermission, the concert will feature the Foothill Fan Fairs, directed by Phil Mattson.

The grand finale for the performance will include the Jazz Ensemble, the Foothill Fan Fairs, and the Foothill String Orchestra directed by John Mortarotti. The three groups will perform two numbers for the finale titled "I've Got You Under My Skin," and "It Was Just One of Those Things."

Tickets for the Dec. 3rd concert are on sale in the Foothill Box Office for \$3. The price for students and senior citizens is \$1.50.

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Women in continuing education Part 2

By FLO PALLAKOFF

Relatively few women who enroll in college end up in the Women's Studies major, according to Career Center counselor Ruth Morales. Those who do are "looking for affirmation of Woman's experience. They are looking for support, some kind of intellectual awareness of the place of women in history," she says.

There is a current enrollment of about 100 women in the various Women's Studies classes according to best estimates. These women are as young as 18 and span a wide age range, according to Peggy Moore, who directs the Women in College program within the Women's Studies major.

By way of contrast, 3,000 women, mostly middle-aged, enrolled in classes offered through Continuing Education for Women last year.

Moore concedes there are limited options for A.A. candidates in the Women's Studies field. Unless one plans to go into Sociology or Psychology specializing in women's problems, the student's future is to go on to some other field.

Is there a future for Women's Studies?

Ruth Morales gives a "who knows" shrug. "They need funds," she says.

According to Peggy Moore, Women's Studies classes are funded the same as any other classes—through administrative allocation to the department. Women's Studies is part of the Language Arts department.

With the exception of "New View," a program funded by NASA-Ames for re-entry women in technical fields (this grant enables women to work half-time, go to school



Two students chat between classes at Women's Study Center.

half-time), there are no special grants for women college students.

Georgia Meredith's Continuing Education for Women is not under a Foothill department heading. Money comes through the District from the National Organization for Continuing Education for Women.

This arrangement gives Meredith a good deal more flexibility in scheduling and hiring than is available to department heads.

"We do up-to-date programs," she says. "Departments have to plan up to a year ahead for academic subjects."

Meredith points with pride to the variety, high calibre and current topical appeal of classes and lecturers she is able to obtain through liaisons with community and national organizations. She can put together a course on the

water shortage and conservation techniques right now. "By next year there may not be a water shortage," she observes.

Meredith, who does not number herself among the proponents of Women's Studies, sees a phase out of feminist type programs in Continuing Education by 1980. By then, she thinks, the consciousness level of society will have risen to the point that demand and need for such programs will fade.

What about the two Women's Centers on campus, CEW's in 7a of the Administration building and Women's Studies in L7 of the Language Arts building? Don't these duplicate the function of the campus counselors

whose job it is, according to Ruth Morales, to help people pinpoint what they want and then direct them to it?

Meredith points out that the campus counseling offices deal with problems and solutions that can be found on campus. CEW's Women's Center, through contacts with the National Organization and other liaisons can offer "directional guidance" to

careers, colleges, political and other involvements in the outside community, she says.

"All of the jobs you might want, all the men you might want to marry, all the people you might want to meet and all the things you might want to

study are not in the same place. Part of the process (of growth) is to talk to a lot of people—search," Meredith says.

According to Peggy Moore, the Women's Studies Women's Center also maintains resource files for job and college opportunities and, in addition, hopes to offer support and guidance in the areas of emotional and legal counseling.

Both women bemoan the lack of money to hire full time counselors for the respective Women's Centers.

Does anyone see the need for a cohesive administrative umbrella over the whole range of women-oriented programs and services?

Ruth Morales, for one, is wistful about the counseling aspects of women's programs. She gazes through the window of the Counseling Office with a half-smile and says, "I'd put a Women's Center Building . . . right there. And hire ten counselors to staff it."

Meredith is not sure getting it all together under one roof is the answer.

She's leery of the tendency to provide women a place to go and commiserate, without providing real solutions. And she echoes an earlier Morales sentiment that it is not a real service to provide everything on a silver platter. (Morales had given someone on the phone a list of resources and then said, "No, I'm not going to do your research for you. Why don't you go to the library and look it up.")

Several close observers say that the two programs can't get it all together because they spring from divergent ideologies. While both programs are staffed by strong feminists, on-campus leaders of Women's Studies are, nationwide, more radical one source says.

Meanwhile at Foothill, whatever diverse ideologies are operating to respond to women's needs, it appears that—with a little shopping around—whatever women want, women will get.

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Kriegel to conduct ski seminar

Bob Kriegel, author of the book "Inner Game of Skiing," will conduct a seminar titled "Inner Skiing with Bob Kriegel" on December 4 from 10 a.m. to 5 p.m. in the Foothill Campus Center.

Kriegel is co-founder and director of the Esalen Sports Center. The theme of the seminar will entail "overcoming obstacles to a good ski performance." Such obstacles include life fear, self consciousness, and lapses in concentration.

According to Joan Green, Foothill's Public Information Director, Kriegel's instruction with "Inner Skiing" deals mainly with what goes on in your mind while on the slopes. "If your mind is working you are able to ski," said Green. "You've got to keep your mind off judging yourself."

There is a \$20.00 fee for the seminar which is payable in advance through the Foothill Box Office.

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