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1988-04-01

## University of San Diego News Print Media Coverage 1988.04

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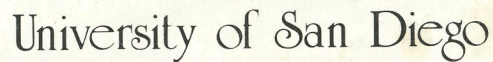
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## Public Relations

ROUTE SHEETS

Tim Willard, Director, Capital Campaign

Alcalá Park, San Diego, California 92110 619/260-4681



CABINET BOOK

APRIL 1988



San Diego, CA  
(San Diego Co.)  
San Diego Magazine  
(Cir. M. 20,324)

APR 1988

*Allen's* P. C. B Est. 1888

"Brigadoon"—USD Master of Fine Arts in  
Drama students present the musical about a town  
that wakes up once every 100 years, Apr. 21-23 at  
USD's Camino Theatre. Showtimes & tickets:  
260-4712 or 265-2347. 2955



La Jolla, CA  
(San Diego Co.)  
La Jolla Magazine  
(Cir. M.)

APR 1988

*Allen's* P. C. B Est. 1888

USD Summer Sports, Alcala Park, San Diego, 92110,  
260-4593. Program is offering resident & day camps  
starting June 21. Sports include basketball, volleyball,  
football & a hiking/adventure camp. 2955



San Diego, CA  
(San Diego Co.)  
San Diego Magazine  
(Cir. M. 20,324)

APR 1988

*Allen's* P. C. B Est. 1888

"Getting Married"—Craig Noel directs the George Bernard Shaw comedy for USD's Master of Fine Arts in Drama program, Apr. 6-9 at 8 at Sacred Heart Hall Performing Center. USD, Linda Vista Rd. Tickets: 260-4524. 295.5 ✓



San Diego, CA  
(San Diego Co.)  
The Calendar  
(Cir. M. 8,000)

APR 1988

*Allen's* P. C. B Est. 1888

SEA OTTER RELOCATION...is the  
subject of this month's FREE "San  
Diego & the Sea" seminar, 7 p.m.,  
April 20 at USD's Serra Hall Room  
204. Info: 237-1221. 2955



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

APR 1 1988

*Allen's* P. C. B Est. 1888

**USD**

2955

**"Getting Married,"** a play by George Bernard Shaw, will be performed by the University of San Diego/Globe graduate drama degree program April 6-9 in the Sacred Heart Hall Performing Arts Center. Tickets are \$4 general admission; \$3 for students and senior citizens. For ticket information call the USD box office, 260-8888, or the Globe box office, 239-2255.

**Business Update Seminars** will be offered by USD's School of Business Administration April 8, 15, 22 and 29. Continental breakfast is served at 7:30 a.m.; talks begin at 8 a.m. Cost is \$15 per session. Lynn Rinehart will speak on "How to Work with People You Don't Like" April 8. For further information, call Kathie Hare, 260-4585.

**"Jungian Insights for Spiritual Growth,"** a two-day Institute of Christian Ministries course by Sister Gjin O'Meara, RSCJ, will be held April 9, 9:30 a.m.-4 p.m., and April 10, 1-3 p.m., in Salomon Lecture Hall. For details, call 260-4784.

**A political refugees and asylum** conference will be held in the University Center April 9 from 9 a.m.-4 p.m. Sponsored by the USD Law School and Amnesty International. Cost is \$20. For information, call 565-6603.

**"Communication with Adolescents,"** a three-part Institute for Christian Ministries course by Dorothy Marron, will take place April 17, 24, and May 1 from 6:45-9:15 p.m., at the Lutheran Church of the Incarnation in Poway. For further information, call 260-4784.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 1 1988

Allen's P. C. B Est. 1888

"Getting Married" 95 Craig Noel, Old  
Globe Theatre's executive producer, directs  
USD Master of Fine Arts students in produc-

tion of George Bernard Shaw's comedy about  
a young bride-to-be who wants to call off the  
marriage after she gets a hold of a pamphlet  
that explains what legal rights she is giving up,  
8 p.m. April 6-9 Sacred Heart Hall Performing  
Arts Center, USD. Tickets: general, \$4; stu-  
dents and senior citizens, \$3. Information:  
260-8888.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 1 1988

Allen's P.C.B. Est. 1888

## UPCOMING HIGHLIGHTS

2955 TONIGHT/ 1	TOMORROW/ 2	SUNDAY/ 3	MONDAY/ 4	TUESDAY/ 5	WEDNESDAY/ 6	THURSDAY/ 7
<p>8 p.m. — Jimmie Rodgers, Maxene Andrews, the new Ink Spots and Harry Babbitt with Kay Kyser's Kollege of Musical Knowledge, East County Performing Arts Center, El Cajon.</p> <p>— Jazz pianist Harry Pickens, with bassist Gunnar Biggs, tribute to Bill Evans, Words and Music Book Gallery.</p> <p>— "The Hound of the Baskervilles," Scripps Ranch Community Theatre, Mira Mesa High School Auditorium (also April 2).</p> <p>— "The Nerd," Pine Hills Lodge Dinner Theater, Julian (opening night; dinner, 7 p.m.).</p> <p>— Kiss and Anthrax, San Diego Sports Arena April 1.</p> <p>9 p.m. — Bolero, fundraiser sponsored by Centro Aztlan, Centro Cultural de la Raza, Balboa Park.</p>	<p>10 a.m. — Cajon Speedway, racing season begins with Open House and practice, El Cajon.</p> <p>2 p.m. — "Tea," Cassius Carter Centre Stage, Simon Edison Center for the Performing Arts, Balboa Park (also 8 p.m.).</p> <p>8 p.m. — Haydn's "The Seasons," International Orchestra of USIU, East County Performing Arts Center, El Cajon.</p> <p>— Banjoist/Mandolinist Walt Richards, and guitarist/saxophonist Kristina Olson, Words and Music Book Gallery.</p> <p>— "A Couple White Chicks Sitting Around Talking," La Casa del Zorro Playhouse, Borrego Springs (last performance; dinner, 6:30 p.m.).</p> <p>— National Smooth Dancers, Ballroom dancing, Silvergate Masonic Temple.</p> <p>— Comedians Ronny Kenney, Jaz Kaner and Felicia Michaels, the Comedy Store, La Jolla (also 10:30 p.m.).</p>	<p>Noon — Easter Hat Parade, La Jolla.</p> <p>1 p.m. — "Omnithon," festival of Omnimax films, Reuben H. Fleet Space Theater and Science Center, Balboa Park (final day; also 4 and 7 p.m.).</p> <p>2 p.m. — "Salt-Water Moon," North Coast Repertory Theatre, Solana Beach (last performance).</p> <p>— "Suds," Old Globe Theatre, Simon Edison Center for the Performing Arts, Balboa Park (also 7 p.m.).</p> <p>3 p.m. — Haydn's "The Creation," Pacific Symphony Orchestra with Roger Wagner Chorale, Orange County Performing Arts Center, Costa Mesa.</p>	<p>11:40 a.m. — "Niagara: Miracles, Myths and Magic," Omnimax film, Reuben H. Fleet Space Theater and Science Center, Balboa Park (also 2, 3, 5 and 8 p.m.; presented daily).</p> <p>7 p.m. — Beginning Square Dancing, Lakeside Community Services Association, Lakeside Farms Elementary School, Lakeside.</p> <p>8 p.m. — Music from '50s, '60s and '70s, with Wanderers, Monk's.</p> <p>— Fourth annual San Diego Laff-off, the improvisation.</p> <p>9 p.m. — Ron Haywood and Stripes, Mick's P.B. Nightclub.</p> <p>9:15 p.m. — "Laserrockin'," laser light show, Reuben H. Fleet Space Theater and Science Center, Balboa Park (presented nightly).</p>	<p>7 p.m. — Niwa Consort of Japan, Mandeville Recital Hall, UCSD, La Jolla.</p> <p>— International Chamber Players of USIU, Green Hall, USIU.</p> <p>7:30 p.m. — "La Insurreccion (the Uprising)," part of "Ventana Latina (Latin Window)" film series, SDSU.</p> <p>— Poetry reading by William Pitt Root, part of "Living Writers Series," Scripps Cottage, SDSU.</p> <p>8 p.m. — Pianist Leonid Kuzmin, Orange County Philharmonic Society, Orange County Performing Arts Center, Costa Mesa.</p>	<p>3 p.m. — Judith Rowland speaks on "Illusions of Justice: Women as Victims of Crime," part of "New View of Women" lecture series, SDSU.</p> <p>7 p.m. — Pat Abbott and Tom Demere present "Faults, Fossils, and Geology," discussion on evolution of deserts, Natural History Museum, Balboa Park.</p> <p>7:30 p.m. — "The Seven Samurai," part of "Top 10 Movies of All Time" film series, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>8 p.m. — "Getting Married," USD Master of Fine Arts students, Sacred Heart Hall Performing Arts Center, USD (also April 7).</p> <p>— "The Little Foxes" Gaslamp Quarter Theatre Company, Hahn Cosmopolitan Theatre (opening night).</p>	<p>10 a.m. — Paper sculpture by Ellen Phillips, Art Scene Gallery.</p> <p>— Works by new artists Rene Gruau and Annie Retivat and new releases by Vasarely and Montesinos, Circle Gallery.</p> <p>7 p.m. — Terri Williams discusses sea otters, part of Marine mammal lecture series, Sea World.</p> <p>8 p.m. — Guitarist Angel Romero with San Diego Symphony, Symphony Hall.</p> <p>— Zeitgeist, contemporary music ensemble, Mandeville Recital Hall, UCSD, La Jolla.</p> <p>— "The Foreigner," Lamb's Players Theatre, National City.</p> <p>— Comedians J. J. Wall, Bob Worley and Chuck Martin, the improvisation (also 10 p.m.).</p>



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 2 1988

## FITNESS CALENDAR

**Tuesday:** Rose Kushner, winner of an American Cancer Society Courage Award presented by President Reagan last month, will discuss developments in medical and psychological management of cancer, 2:30 p.m., Green Hospital amphitheater, Scripps Clinic, La Jolla. Her one-hour talk to be followed by a question-and-answer period. For information, call 457-8533.

Lecture on "Compulsive-Addictive Processes in Abusive Families," 7:30 p.m., Alvarado Parkway Institute. Speakers are Nancy Goldstone and Betsy Gross of the San Diego County Child Sexual Abuse Treatment Program, sponsored by the institute's Woman's Program. For information or reservations, call 465-3942.

Talk on "Multiple Treatment Failures: How to Help the Hard to Help," 7:30 p.m., Alvarado Parkway Institute under auspices of Chemical Dependency Treatment Program. For reservations or information, call 465-3942.

**Wednesday:** Talk on "Co-Dependency and Mental Health: Help for the Families of the Alcoholic Mentally Ill," 8 p.m., Alvarado Parkway Institute under auspices of Chemical Dependency Treatment Program. For reservations or information, call 465-3942.

**Thursday:** The Food and Nutritional Services Department of Pomerado Hospital, Escondido, begins a six-week "Cholesterol Countdown" course from 10 a.m. to noon each Thursday. The course, which costs \$65, includes two comprehensive cho-

lesterol tests plus information on meal planning, taste tests, tips for dining out, reducing medications and basic nutritional principles. Call 485-4657 to register.

Don Newcombe, the former Dodger pitcher, will speak during "Athlete Awareness Day," at 3 p.m., University Center Forum, University of San Diego, under auspices of New Beginnings, the adult chemical dependency treatment program at San Diego Physicians and Surgeons Hospital. Call 239-6026 for information.

Scripps Clinic Torrey Pines to begin six-week "Stress Less" program from 6 to 8:30 p.m. each Thursday. The course costs \$175. For information or to register, call 455-8835.

Talk on "Dual Diagnosis: Treating Concurrent Alcoholism and Other Mental Disorders," 7:30 p.m., Alvarado Parkway Institute, under auspices of Chemical Dependency Treatment Program. For reservations or information, call 465-3942.

**Coming up:** Fallbrook Hospital to present fourth annual Health Fair from 8:30 a.m. to 2 p.m. at Fallbrook Union High School. Includes variety of screenings, blood chemistry study (at a handling fee of \$5; fasting from the midnight before advised for best results), with more than 50 health professionals available to answer questions. Second annual Health Day 10K and one-mile walk begin at school at 7:30 a.m. Runners and walkers will receive a T-shirt. To register or for information, call 728-1191.

(All events free unless otherwise noted. Please send notices at least two weeks in advance.)



San Luis Obispo, CA  
(San Luis Obispo Co.)  
Telegram-Tribune  
(Cir. 6xW. 26,163)

APR 2 - 1988

Allen's P. C. B Est. 1888

## Reagan's judge choice is another strikeout

President Reagan is about to suffer another rebuff on a court appointment, and once again he will have only himself to blame.

Despite the lessons of the Robert Bork and Douglas Ginsburg nominations to the Supreme Court, Reagan picked another predictable loser when he chose Bernard H. Siegan for a seat on the U.S. Court of Appeals for the Ninth Circuit in California.

With his nomination blocked for 14 months and no sign that he can be confirmed, Siegan should either withdraw on his own or ask Reagan to pull his name back.

Critics say that Siegan, a law professor at the University of San Diego, is to the right of Bork, and yet Attorney General Edwin Meese III saw fit to recommend his appointment.

"I haven't talked to one person who seriously thinks he can be confirmed," says Sen. Patrick J. Leahy, the Vermont Democrat who handled confirmations for the Judiciary Committee.

Siegan's case is the pivotal roadblock on no fewer than 25 pending nominations to federal judgeships. In addition, there are 25 judicial vacancies for which nominations have yet to be made.

If Reagan expects to get even a handful of these through the Senate, he'll have to improve the climate in the Senate dramatically. Cancelling out the Siegan appointment would be a good start.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 2 1988

Allen's P. C. B. Est. 1888

## Effort to bolster lawyer discipline wins key endorsement for State Bar

2955  
SAN FRANCISCO (AP) — The State Bar won a key endorsement yesterday for its efforts to strengthen its much-maligned lawyer discipline system.

A report issued by Robert Fellmeth, a University of San Diego law professor and appointee of Attorney General John Van de Kamp, praised the campaign and also said the bar leaders' attempt to win legislative approval for a costly dues in-

crease is critical. Experienced lawyers would pay \$470 a year in dues, the highest in the nation, under the proposal. Current maximum dues are \$276.

The report said the bar "has administratively reformed its operations to an extraordinary degree" and "has moved progressively and constructively toward remedy" of the remaining problems, but is hamstrung by lack of money.

"If the bar does not obtain additional monies ... early in 1988, the discipline system will become a shambles," Fellmeth said. While a backlog of pending investigations and prosecutions builds up, "hundreds of attorneys who should be disciplined, including a substantial number warranting disbarment, will continue to practice."

The dues money would pay for expansions of the investigating and prosecuting staffs and for the hiring of judges to replace the volunteer attorneys who hear most of the discipline cases and review appeals.

A bill endorsed by Fellmeth, SB1498 by Sen. Robert Presley, D-Riverside, faces an Assembly subcommittee hearing on Wednesday. It includes the dues increase and other provisions to strengthen the bar's suspension authority, give investigators more access to lawyers' records and increase requirements for malpractice cases to be reported to the bar.

Despite Fellmeth's recommendation, the proposed dues increase faces strong opposition from a number of local bar associations and minority lawyers' groups and from legislators who have been critical of the bar's performance.

Bar President P. Terry Anderlini of San Mateo said he was pleased with Fellmeth's report. "We're essentially in agreement with him as to what needs to be done," he said.

Anderlini said he expects tough scrutiny by the Legislature of the bar's budget proposal. "There may be some cuts," he said. "We'll be able to operate unless the cuts are severe."



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 2 1988

Allen's P.C.R. 5-10000



The San Diego Union/Charles Starr

**Jesus' path:** Among Good Friday services was Stations of the Cross, a re-enactment of Jesus' route to Calvary, at the Immacu-

lata at the University of San Diego. The resurrection of Christ will be celebrated tonight and tomorrow. More on Page B-9.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 2 1988

Allen's P.C.B. Est. 1888

## Mass to mark 50th year Leo Davis has been priest

The Rev. Leo Davis will celebrate the 50th anniversary of his ordination as a Roman Catholic priest at a celebrated Mass at 6 p.m. Friday at the San Diego Hilton Hotel. The Mass will be followed by music, dinner and entertainment.

He was one of three priests ordained by the then-new bishop of San Diego, Charles F. Buddy.

The Rev. Davis, 74, retired as director of the Cardijn Center in 1984. The center was founded by Davis and two other priests in Old Town in the 1950s to foster social justice in and out of the church. Its work continues at an East San Diego office.

In earlier years, Davis worked with the local labor movement officials and attempted to improve communication between labor and management.

• The Institute for Christian Ministries will offer two courses this month. Jungian Insights will be discussed from 9:30 a.m. to 4 p.m. next Saturday and from 1 to 3 p.m. April 10 at Salomon Lecture Hall on the University of San Diego campus.

• Communicating with Adolescents will be offered at 6:45 p.m. April 17 and 24 and May 1 at the Church of the Incarnation in Poway. Call the institute at 260-4784 for information.

• A seminar in Self Esteem and Self Confidence will be given from 9 a.m. to 3:30 p.m. next Saturday at Christ Church Unity. Call 262-9951 for information.

• The University of La Verne Chamber Singers will perform at 7:30 p.m. Wednesday at the First Church of the Brethren on Westgate Place. Call 262-1988 for information.

• Church Women United in San Diego will present a forum, Child Abuse and Neglect, at 9:30 a.m. Friday at Christ United Methodist Church on Meade Avenue. Call 582-9561 by Tuesday for reservations.

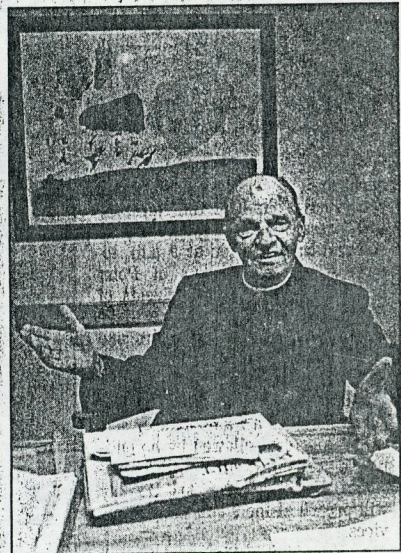
• Elizabeth Reinhardt will speak for North San Diego Women's Aglow Fellowship at 9:30 a.m. Tuesday at the Cafe on the Bay at Campland in Pacific Beach.

• Richard Madsen, a co-author of "Habits of the Heart," will discuss that book and another of his, "Morality and Power in a Chinese Village," at 7:30 p.m. Wednesday at D.G. Wills Books and Coffee House in La Jolla.

• A Christian Science lecture, Remnants of Humanity or God's Family? will be given at 8 p.m. Tuesday at Horace Mann Middle School, sponsored by the Fifth Church of Christ, Scientist.

### East

The Rev. Roberta Zito of the Teaching of the Inner Christ will teach a course in creative leadership at 7 p.m. Thursdays beginning next week, and at an all-day seminar May 14 at the church on Main Street, Lemon Grove. Classes in inner sensitivity training will begin at 7 p.m. Monday with Ann Meyer Makeeyer teaching. Call the church for information.



File Photo

**The Rev. Leo Davis**  
To celebrate anniversary

### North

The Seaside Church of Religious Science in Cardiff will begin a course on intuition at 7 p.m. Tuesday. Call 452-5101 for information.

• The Bat Harim Chapter of Hadassah will meet at 7:30 p.m. Monday in the sanctuary of Temple Adat Shalom in Poway. Sonia Fox and Jack Morgenstern will discuss the second generation of Holocaust survivors.

• Registration is being taken for Camp Gan Israel in Rancho Bernardo, a day camp for 3- to 6-year-old Jewish children that is operated by Chabad of Rancho Bernardo. Call 451-0455 for information.

### South

Nestor United Methodist Church will celebrate its 100th anniversary at 8:30 a.m. and 11 a.m. services tomorrow. Bishop Jack Tuell will confirm 10 new members.

• Greg and Chris Allsup will entertain from 7 to 9:30 p.m. Friday at Joshua & Co. in Imperial Beach.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
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(Cir. S. 341,840)

APR 3 1988

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**UNIVERSITY OF SAN DIEGO:** "Mission Vestments: Ecclesiastical Silks from the Mission San Luis Rey Museum," through April 11. Alcala Park, Founders Gallery, 260-4600, extension 4261. Monday through Friday, noon to 5 p.m.

2955



Los Angeles, CA  
(Los Angeles Co)  
Times  
(San Diego Ed.)  
(Cir. D 50,010)  
(Cir. S 55,573)

APR 3 1988

*Allen's* P. C. B Est. 1888

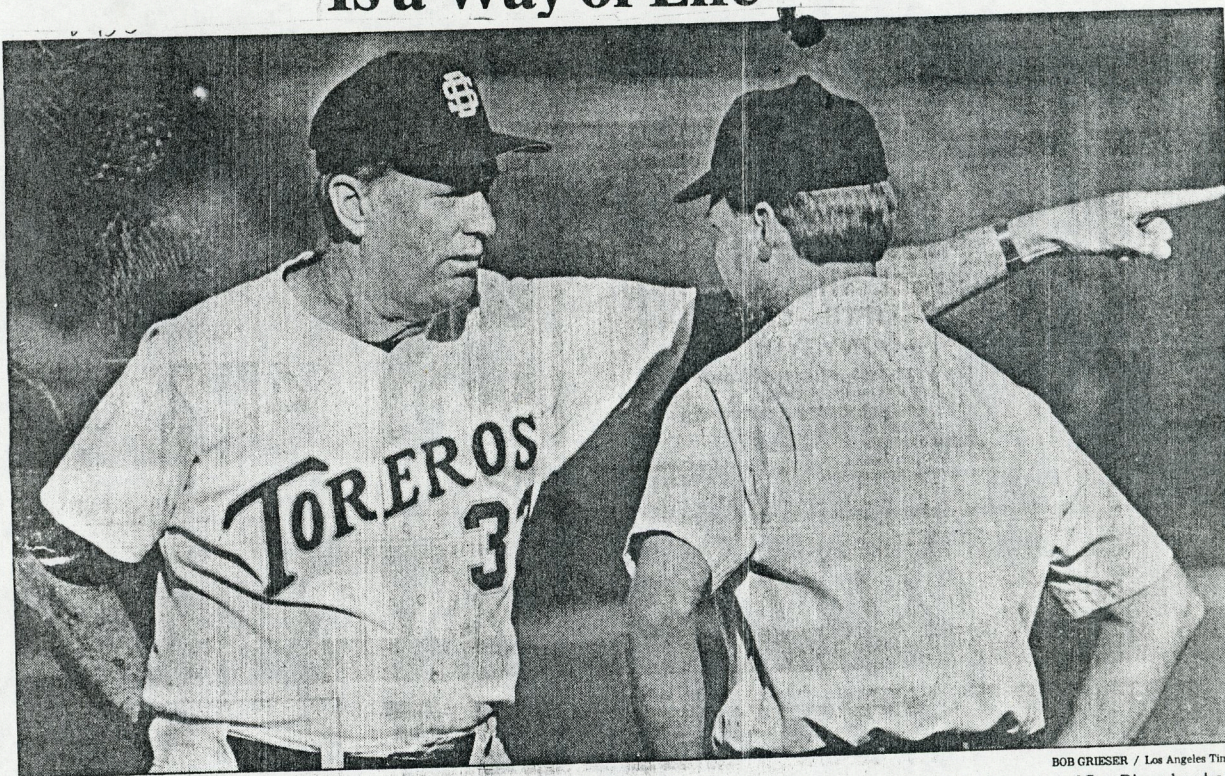
**Human Rights**—Paula Dobriansky, deputy secretary for human rights and humanitarian affairs at the State Department, will discuss human rights in a free lecture at 7:30 p.m. Thursday at the University of San Diego's law school.



APR 3 1988

Allen's P. C. B. Est. 1888

# For These Coaches, Going Extra Innings Is a Way of Life



BOB GRISSER / Los Angeles Times

John Cunningham, who took over in 1964, has compiled a 566-555-12 record as only the second baseball coach the University of San Diego has had.

## At USD, John Cunningham Earned Stadium Namesake With 25-Year Contribution

By CHRIS ELLLO

SAN DIEGO—As usual, John Cunningham had been working while a lot of other people were taking some time off.

Those closest to him, his wife Nancy and 13-year-old son Geoffrey, were spending a week at the family's time-share condo down by the beach. Those next closest to him, the players on his University of San Diego baseball team, were enjoying a vacation from school, courtesy of spring break.

Cunningham isn't much into breaks. Unless they're the kind that you make with hard work.

At one time or another during the past 25 years, Cunningham has been a college athletic director, an official scorer for a major league baseball team, an assistant college basketball coach, a teacher, a gardener, a college counselor and a bus driver.

And he has done all that while also serving as USD's baseball coach. In 25 years, he has built and groomed a baseball field and has built a solid baseball program, with good players to send onto it. He has taken USD to Division I and compiled a better-than-.500 record despite having the use of only two full-ride scholarships (and 10 tuition-only scholarships), compared with other Division I schools that have as many as 13 full scholarships to hand out.

He has done so much for the school that, in January, the university honored him with an elegant dinner party, invited 350 of his closest friends and then announced that it was renaming the baseball field John Cunningham Stadium.

"That proves that the people here think a lot of him," said Patrick Cahill, USD athletic director. "Because it's an unwritten law here that nobody can have anything named after them unless they die—or they donate a great deal of money."

Cunningham, on the other hand, has donated a great deal of time. And that's something nobody can put a price on.

His spring break started with a three-day recruiting trip to Las Vegas. He arrived back in San Diego Thursday night for one night's sleep at his home in Escondido. The next morning, he returned to the airport for a 9 a.m. flight to Fort Worth and another recruiting trip.

When he got off the plane in San Diego Thursday, he was talking with a couple of USD law students he had met on the plane. He had promised them a ride home.

Just then, somebody called his name. It was a reporter.

"You're so hard to get hold of," he was told. "I was wondering if you'd have some time to talk a little USD baseball."

John Cunningham didn't sigh, scream or run. Instead, he flashed a grin and said he had a few minutes. Cunningham will talk USD baseball with anybody, anytime.

"You know, one of the things I regret the most is that we don't get enough [media] coverage at USD," Cunningham said. "But I guess that's the way we like it. We can do our own thing, and nobody really bothers us."

"That's what I like about my job. It's my baseball program, and nobody is ever trying to tell me how to run it or tell me that they know more about my job than I do. I don't know if a lot of coaches can say that. But I can."

The conversation would last more than a few minutes. Most conversations with Cunningham do.

"He's had an awful lot of long, long postgame talks," Cahill said. "Sometimes he gets going on something, and there's no stopping him. He cares about people, and he wants them to know how he feels. It's a great trait to have. So many people just won't express their feelings. He will."

The law students would have to wait.

When Phil Woolpert, the former University of San Francisco basketball coaching great, died last May, he took a little bit of John Cunningham with him.

Of all the people he has met in his life, Cunningham

Please see CUNNINGHAM, Page 13C.

Continued from Page 13A

said, Woolpert had the most influence on him. The two first met as player and coach in 1955, just a few months after Woolpert's USF team, led by Bill Russell and K.C. Jones, won the first of two consecutive NCAA championships.

Cunningham never really knew his father. His parents had split when he was very young, and he grew up with three of his brothers in an orphanage in downtown San Diego. It was tough on him, he says, but he did the best he could with what was dealt him.

He eventually went to St. Augustine High School, where he discovered he was pretty good at basketball. By his senior season, in fact, he was leading the county in scoring.

He wrote a letter to USF, and Woolpert gave him a scholarship.

"That guy was as honest as the day is long," Cunningham said. "He was so unique for his time. He never used anybody to do anything for him. He helped people get the best out of themselves, and he helped me get the best out of myself."

Cunningham played for Woolpert for four years, and after his senior season, the team was invited to participate in a good-will tour of the Far East. One day in the Philippines, USF's group was attending an outdoor party on a patio when it started to rain.

Everybody rushed inside, but Woolpert slipped on the marble floor and broke his back. He wound up in a cast from his neck to his toes. He took a year off from USF, then decided to leave altogether.

He tried the business world but wasn't successful, and a year later



he wanted to get back into coaching. USF didn't want him anymore, so Woolpert migrated south and returned to coaching at USD.

"If it wasn't for him, I'd have stayed in San Francisco," Cunningham said. "But he invited me down to work with him after I finished graduate school. I couldn't pass up the chance."

Cunningham was a basketball assistant and also helped out with Mike Morrow's baseball team. Morrow stepped aside in 1964, and Cunningham took over as only the second baseball coach the school has had.

In 1969, Woolpert decided to step down as basketball coach and athletic director. Cunningham was AD for one week before he convinced Woolpert to come back and remain in that capacity.

"That's the thing about John," said Thomas Burke, USD's vice president in charge of student affairs and the man who organized Cunningham's 25th anniversary celebration. "He'll always do whatever it takes to help out."

□

Phil Woolpert isn't the only sports figure who has had an impact on Cunningham's life.

"All you have to do is mention Elgin Baylor to him," said Jim Brovelli, the former USD basketball coach who is now at USF. "And then run for your life."

Of course, that's not true. Cunningham is much too gentle that. But he does remember.

Cunningham joined USF before the 1955-56 season and, as it was for freshmen in those days, he couldn't play on the varsity. But he could practice against them. At 6-feet 5-inches, Cunningham played center in practice. The varsity center—Bill Russell.

"Phil used to say, 'Hey, John, just keep him off the boards,'" Cun-



—JOHN CUNNINGHAM

**'It's my baseball program, and nobody is ever trying to tell me how to run it or tell me that they know more about my job than I do. I don't know if a lot of coaches can say that. But I can.'**

ningham said. "And he said it like it shouldn't have been that difficult. Heck, I came to USF as the county's best scorer out of high school, and I was happy to get a shot off against him."

Russell led USF to the championship that year, and two years later, the Dons were strong again. They were ranked No. 1, in fact, when they met Seattle University in San Francisco's Cow Palace with a trip to the Final Four on the line.

Cunningham was Woolpert's first forward off the bench, and he was needed late in the second half when Seattle's Baylor twisted and turned and fouled out USF's starter, All-American Mike Farmer.

The game was tied with nine seconds left when Seattle inbounded the ball to Baylor, who was guarded by Cunningham.

"We all thought he was going to drive to the basket and score or get fouled," Cunningham said. "We knew we couldn't stop him. But he didn't drive. He just stood there at the top of the key, and I waited for him to drive. Then, with two seconds left, he dribbled a couple of times, took a step or two back and let it fly."

Seattle won.

"We always remind him of that play," said Ed Slevin, a teammate. "But, you know what? He had great position. There really wasn't anything anybody could have done."

□

"John is really the kind of person who represents what USD is all about," Burke says. "His kids behave, go to class and represent our school with dignity. Those are the things that are most important to John, and those are things that have always been most important to him."

But, as with any coach, winning

is also important. That's why Cunningham is disappointed with his team's 17-18 record this season.

What's toughest is that USD was 31-23 last year and returned most of its top players. A big year seemed to be in store. But injuries and some poor pitching have contributed to the sub-.500 record. Before spring break, USD lost four consecutive games to Pepperdine, three by blowing leads in the last two innings.

"It's hard sometimes when the team is going badly, but there are other things," Cunningham said. "I learned that a long time ago."

And that's why he keeps busy. When he's not grooming the baseball field ("Don't ever go jogging on his field," Brovelli warns) or coaching or recruiting, he's driving the bus for the basketball team.

Just last summer, he gave up his job as the official scorer at Padre games. He's still on call, though, for emergencies.

"Last summer was the first time I was off, with no real job, in 25 years," Cunningham said. "And I found out that it was pretty nice. I love my job, and I love working, but taking some time off isn't such a bad thing, either."

It just usually doesn't happen that way.

#### CUNNINGHAM AT USD

YEAR	W	L	T	PCT.
1964	12	19	0	.387
1965	17	21	0	.447
1966	20	26	0	.435
1967	14	26	0	.350
1968	13	24	0	.351
1969	22	17	0	.564
1970	21	16	0	.568
1971	34	12	0	.739
1972	20	19	1	.513
1973	19	22	0	.463
1974	23	15	0	.605
1975	19	20	1	.487
1976	26	16	0	.619
1977	24	19	0	.558
1978	33	22	0	.600
1979	32	19	1	.615
1980	30	25	1	.545
1981	30	25	1	.545
1982	29	24	1	.547
1983	17	27	1	.386
1984	20	36	2	.362
1985	17	39	1	.310
1986	26	25	2	.509
1987	31	23	1	.574
1988	17	18	0	.486
<b>Totals</b>	<b>566</b>	<b>555</b>	<b>12</b>	<b>.505</b>



Los Angeles, CA  
(Los Angeles Co.)  
Times  
(San Diego Ed.)  
(Cir. D 50,010)  
(Cir. S 55,573)

APR 3 1988

Allen's P.C.B. Est. 1888



2955  
A Navy rower grimaces after hearing his boat was disqualified in the Copley Cup varsity eight final.

BARBARA MARTIN / Los Angeles Times

## Bad Navigation by Navy Gives UCLA Victory

By SCOTT MILLER

Los Angel

SAN DIEGO—Before the Copley Cup varsity eight final Saturday in the 15th San Diego Lowenbrau Crew Classic, Rick Clothier, the Naval Academy coach, said his team had no goal except "racing good." He probably should have added a second goal: steering good.

Just 10 yards from the finish line, the Navy boat, which was in first place, crossed into second-place UCLA's lane, and the two boats locked oars. Tightly anchored to each other, the crews stopped rowing and the boats drifted across the finish line—Navy first, UCLA second.

Navy was immediately disqualified by referee Julian Wolf, and UCLA was declared the winner for the first time in the Crew Classic's history.

"As long as we win," said Jay Tint, the jubilant UCLA senior coxswain. "It feels great."

Please see CREW, Page 13D

TY



BARBARA MARTIN / Los Angeles Times

UCLA rower Marc Batchelder celebrates Navy's disqualification and Bruins' victory in the men's varsity eight final of the Crew Classic.

## CREW

Continued from Page 1

As an estimated 30,000 spectators saw the University of Washington win its second consecutive Whittier Cup—the women's equivalent to the Copley Cup—and fifth in the past eight years.

UC Davis won its first men's California Cup, which is awarded to the winner of a varsity eight race featuring California colleges and universities. UC Santa Barbara won its second consecutive women's California Cup, finishing just ahead of runner-up San Diego State.

But the big loser was Navy, which battled Washington much of the way before UCLA closed in toward the end of the 2,000-meter course.

"Navy had steered a very bad course throughout the entire race,"

Wolf said. "They were warned by us twice [for lane violations] before they got near the finish. When they approached the finish, they again started encroaching on UCLA's water. I warned them for a third time, and they continued to violate UCLA's water and finally locked oars."

Wolf disqualified Navy without even consulting other officials.

"I didn't have to confer," he said. "It was such a flagrant violation. It's unfortunate because Navy has a good crew. Navy was disappointed, but they accepted it."

Well, almost.

"Even though we locked oars and stopped, we were ahead of UCLA and stayed ahead," said Mike Wallis, Navy coxswain. "Maybe we shouldn't have been the winner, but we should have [been awarded] second place."

Wallis had no explanation for the difficulty Navy had in steering a

straight course.

"We had come over into their lane during the last 10 or 15 strokes during our sprint," he said. "Our boat just veered over. I don't know if there was a crosswind or what. I was doing everything I could. I had the rudder pulled all the way over to turn back to our starboard side. I was crossing my fingers that we would cross the line before we hit them."

They didn't. One member of Navy's crew got his oar tangled with the oar of UCLA's Greg Webster, who, as he pulled, had his oar come up and hit him in the temple. Webster was a little sore but not seriously hurt.

"I heard Jay [Tint] yell a couple of times for Navy to get back over," Webster said. "And then, I don't know what happened with my oar. I guess it got caught under one of their blades."

The Washington women won easily, defeating second-place

Wisconsin by a full seven seconds (7:02.38-7:09.58). It was the Huskies' first major victory under first-year coach Jan Harville, but you never would have known it when they crossed the line. Unlike other winners, the Washington crew showed little emotion.

"Washington is not big into celebrating," said Sarah Watson, one of the Washington rowers. "I think it's inconsiderate to the crews around you."

But UC Davis celebrated plenty when it won the California Cup. The Davis boat was clocked in 6:31.42. USC (6:34.33) finished second for the second consecutive year. The University of San Diego (6:46.17) was fifth.

In one of the most exciting races of the day, UCSB (7:38.90) came from behind to defeat SDSU (7:43.30) in the women's California Cup.

USD (8:00.91) finished sixth in the women's California Cup final.



Los Angeles, CA  
(Los Angeles Co)  
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(Cir. S 55,573)

APR 3 1988

Allen's P. C. B Est. 1888

GOLF

2955  
Phil Mickelson of University of San Diego High School and two other junior All-Americans fired 3-under-par 69s to share a two-shot lead in the first round of the American Junior Golf Association's Woodlands Junior Golf Classic.

Jim Furyk of Manheim, Pa., and John Sosa of El Paso, Tex., also shot 69.

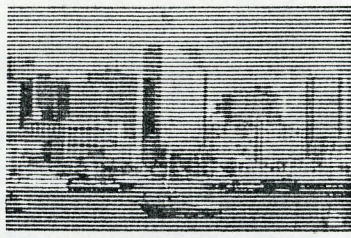
The 36-hole tournament, the first stop of 21 events on the AJGA tour, ends today.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 4 1988

*Allen's* P. C. B Est. 1888



### SCENE AHEAD

<sup>2955</sup>  
**THINK BEFORE YOU DRINK:**

This week, Alcohol Awareness Week, is a good time to learn more about alcoholism. Free events include a lecture by therapist Stephanie Covington at 7:30 p.m. tomorrow on "Women and Alcohol: Silent Saboteur" in the community room at Rachel's Women's Center, 753 Eighth Ave. Call 696-0873 for more information. Pathfinders invites you to learn more about its alcoholism treatment services for teens and their families at an open house of its new center from 2 to 6 p.m. Friday at 2041 El Cajon Blvd. Call 299-2661 to find out more. Alvarado Parkway Institute is offering three free lectures on alcoholism treatment and alcoholism and mental health. The lectures will be at 7:30 p.m. tomorrow, at 8 p.m. Wednesday, and at 7:30 p.m. Thursday. Speakers are staff of the institute's Chemical Treatment Program. Call 465-3942 to register. A free speech will also be given by former baseball star Don Newcombe from 3 to 5 p.m. Thursday at the University Center Forum at USD. Newcombe will talk about his recovery from alcohol addiction. The event is sponsored by New Beginnings, the adult chemical dependency treatment program at San Diego Physicians & Surgeons Hospital. Call 239-6026 to find out more.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 4 1988

*Allen's* P. C. B. Est. 1888

**UNIVERSITY OF SAN DIEGO** law professor Grant Morris has been named acting dean of the School of Law for the 1988-1989 academic year. A search committee was formed last month to find a replacement for Sheldon Krantz after he announced his plans to resign.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 4 1988

Allen's P. C. B. Est. 1888

295  
THE AIR FORCE Reserve Officers Training Corps unit in San Diego has been spared as 30 contingents throughout the country are being eliminated. The decision to do away with the AFROTC programs was prompted by a cut in the Air Force budget for fiscal 1989, said Capt. Frank Carbajal, public-affairs officer for the San Diego unit. It has headquarters at San Diego State University. "Fortunately, we are not affected by the cuts," Carbajal said. "Our funding is still intact." The unit has 125 cadets at SDSU, the University of California at San Diego, the University of San Diego and Point Loma Nazarene College.



San Diego, CA  
(San Diego Co.)  
San Diego Business  
Journal  
(Cir. W. 7,500)

APR 4 1988

*Allen's* P. C. B Est. 1888

**SEMINAR:** University of San Diego is sponsoring a business update breakfast seminar on "How To Work With People You Don't Like" by Dr. Lyn Rinehart, adjunct professor of management. The continental breakfast begins at 7:30 a.m. followed by the seminar at 8 a.m. at the Manchester Conference Center. Fee is \$15. For more information, call 260-4585. *2955*



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
(Cir. D. 7,415)

APR 4 1988

Allen's P. C. B Est. 1888

\* \* \*

San Diegan Maria Arroyo-  
Tabin has been appointed by  
Assembly Speaker Willie Brown to  
the Commission on Women Veter-  
ans. Arroyo-Tabin, 35, is chief  
counsel for the criminal complaint  
unit of the U.S. Attorney's office  
here. She also is a professor of trial  
practices at the USD law school.  
Arroyo-Tabin served in the Army's  
military intelligence unit from  
1973 to 1976, attaining the rank of  
lieutenant.

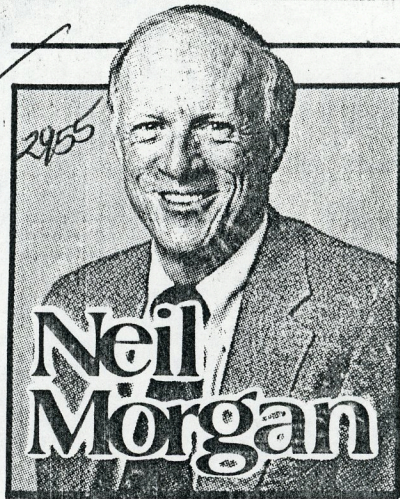
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San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 5 1988

Allen's P. C. B Est. 1888



**HANGING TOUGH:** That was indeed Sen. Alan Cranston jogging his way about La Jolla yesterday morning before a day of politicking. Among his stops: the University of San Diego. Cranston, who's opposing the judicial nomination of USD's Bernard Siegan, seemed apprehensive: "I don't guess there's any danger of his being in the welcoming committee." Cranston, who will be 78 when his term expires in 1992, said he may seek a fifth term; that would put him in a tie with the late Sen. Hiram Johnson for longevity.



Los Angeles, CA  
(Los Angeles Co.)  
Los Angeles Daily  
Journal  
(Cir. 5 x W. 21,287)

APR 5 1988

Allen's P.C.B. Est. 1888

## Reagan's Choices Even 9th Circuit's Ideological Split

1955

### Two Who Liberals Feared Now Seen as 'Pleasant Surprises'

### 'Who's Your Panel?'

By PHILIP CARRIZOSA

Tucked away in the chambers of Chief Judge James Browning is a simple, wooden drum, very much like those used in bingo games.

Inside are little wooden balls with the names of all 26 active judges of the 9th Circuit U.S. Court of Appeals glued onto a slightly flattened side of each ball.

Any time the court as a whole votes to reconsider a decision made by a three-judge panel of the court, the drum is brought out and Court Clerk Cathy Catterson or one of her aides reaches in and draws out the names of 10 judges from the drum, being careful to look away so the selection process is completely random.

The 10 judges — together with Chief Judge Browning — form the 11-member, limited en

• Second in a Series

banc panel that rehears the case and issue a new opinion that speaks for the entire court.

Since the "limited en banc" procedure began about a decade ago, the court has used the "bingo box" about a dozen times a year.

But as President Reagan nears the end of his eight years in office, the little "bingo balls" may well determine how the 9th Circuit decides some of its most important cases through the next decade. Through an ironic twist of fate, the court is now evenly divided, 13-13, between appointees of Democratic presidents and Republican presidents.

With the Senate's confirmation of Stephen Trott of Los Angeles two weeks ago, Reagan has now appointed 10 of the 9th Circuit's judges. Two appointees of President Nixon and one of President Ford still remain on the court.

Meanwhile, President Carter, who appointed 15 9th Circuit judges during his four years in office, still has 12 of his appointees on the court while President Kennedy still has one.

That leaves two vacancies on the 28-judge court. Reagan has nominated University of California, San Diego, law professor Bernard Siegan for one of those seats, but even Siegan's longtime friend, Attorney General Edwin Meese, concedes that Siegan's confirmation is probably doomed. No one has been nominated for the other seat, created when Reagan elevated Judge Anthony Kennedy of Sacramento to the U.S. Supreme Court.

#### 'Healthy Way to Leave It'

So, if Reagan does not get any more of his appointees confirmed by the Senate, the next President will get the power to tip the balance on the 9th Circuit.

"That's a healthy way to leave it," said Gerald Uelmen, Santa Clara University law school dean and former president of California Attorneys for Criminal Justice. "Now it's a balanced court."

The circuit is the largest of the nation's 13 federal appeals courts, handling federal appeals from the states of California, Alaska, Arizona, Hawaii, Idaho, Montana, Nevada, Oregon and Washington, plus the territories of Guam and the Northern Marianas. It gains much of its influence from the fact that only a handful of its decisions, less than 5 percent, are taken up by the U.S. Supreme Court.

Though the court was staunchly conservative until the late 1970s, it developed a reputation as one of the most liberal courts in the nation as the court was expanded from 13 to 23 judges and Carter filled those posts with many liberal judges. In 1984, the court was expanded to 28 judges and as Reagan made his appointments, the philosophical balance has slowly started to shift again.

#### Reagan's Appointees

Although Reagan has been president since 1980, he did not nominate his first judge to the 9th Circuit until March 1984 when he named Robert Beezer, a Seattle probate lawyer and local bar leader. Beezer was followed by Cynthia Holcomb Hall of Los Angeles, who had been a tax lawyer for 12 years, served on the U.S. Tax Court for nine years and was a U.S. District judge for three years after that.

They were followed by Charles Wiggins, a Republican congressman best known for staunchly defending Nixon during the Watergate scandal, but then urging Nixon to resign after hearing the "smoking gun" tape, and Mel Brunetti, a Nevada lawyer who was once a partner of Sen. Paul Laxalt, a Reagan confidante.

During his second term in office, Reagan has appointed Alex Kozinski, a brilliant, but very young Claims Court judge who once clerked for Chief Justice Warren Burger and Kennedy; David Thompson, a San Diego business lawyer whose brother is a district judge; John Noonan, a University of California at Berkeley law professor known for his strong anti-abortion views and scholarly writings; Diarmuid O'Scannlain, former chairman of the Oregon Republican Party and a Portland lawyer who specialized in regulatory law; Edward Leavy, a Eugene, Ore., district judge who also served on the state courts for nine years; and Trott, who moved up the ranks in the Los Angeles District Attorney's office before becoming U.S. Attorney in Los Angeles and then heading the

Continued from Page 1

Justice Department's criminal division in Washington, D.C.

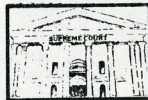
Now the Reagan appointees are starting to exert their influence on the San Francisco-based court. But since Reagan failed to fully remake the court, it is developing a split personality, many lawyers say, depending on which judges are chosen at random to sit on the three-judge panels that decide the vast majority of cases.

"A lot of times, attorneys are waiting for the week before arguments when they find out what panel they will have because that will largely determine the outcome of the case," said San Francisco attorney Marc Van der Hout, who specializes in immigration law.

"That's unfortunate because in theory the law is not supposed to be that way, but everyone realizes in practice that it's very much true. You often know the result once you know the panel," Van der Hout said.

Judy Clarke, head of Federal Public Defenders Inc. in San Diego agrees.

"The main thing with the 9th Circuit now is:



## REAGAN'S JUDGES

SECOND OF A SERIES

Who's your panel?" Clarke said. "Some cases will go one way no matter who's on the panel. But a substantial number depends on the panel. That's the impact of the Reagan judges."

"I think the general impression is that it's a game of roulette," said Uelmen.

Browning insists that there is no ideological split on his court and says the most important thing is that the new judges have come in and helped the court tremendously with its workload.

"Most cases don't depend on ideology anyway," Browning said, disputing the premise that the 9th Circuit was all that liberal anyway. But the conservative judges have had a telling effect on several key cases.

For example, just last month, a seven-member majority dominated by Reagan appointees upheld a death sentence for a Montana man convicted of murdering a 23-year-old school teacher in 1974. The majority, led by Kozinski, agreed that several errors had been made in the instructions given to the jury. But the court

excused those mistakes in *McKenzie v. Risley*, 88 Daily Journal D.A.R. 3217, saying, "even if the jury did rely on the improper instructions, the error was harmless."

The four-judge minority, composed entirely of Carter appointees, protested vigorously, complaining that the majority had stressed the "heinousness of the crimes" and weaved a "tortured path" through the instructions that the jury "might" have followed.

"(T)he instructions were so flawed that the defendant could not have had a fair trial," asserted Judge Betty Fletcher for the dissenters. "The instructions in this case are so bad that even the prosecution at trial objected to their use and requested that alternatives be read in their place."

And a year ago, a pair of Reagan judges joined forces to throw out test scores used to promote minority and female police officers in San Francisco because they "unnecessarily trampled" the rights of white male officers.

"This type of result-oriented scoring is offensive," wrote Wiggins in *S.F. Police Officers Assn. v. City and County of San Francisco*, 812 F.2d 1125 (1987). That decision stood until two weeks ago when the panel, over Wiggins' objections, decided it would be inequitable to oust the promoted officers from their jobs and declared the case to be moot.

Another affirmative action plan was also struck down by a panel of Reagan judges a year ago, when the court said a San Francisco ordinance giving preference to minorities and women for city construction contracts denied equal protection to white men. Citing the Federalist Papers, Kozinski said such programs can be adopted only to correct past wrongdoings, not simply to correct a general societal bias.

The court is still considering a petition to grant an en banc rehearing of the case, *Associated General Contractors v. City and County of San Francisco*, 813 F.2d 922 (1987).

#### High Court's Notice

And even when the Reagan judges have not been able to muster the numbers to override the Carter appointees, they have at times been successful in catching the ear of the conservative U.S. Supreme Court.

In *Pangilinan v. INS*, 809 F.2d 1449 (1987), a group of Reagan, Nixon and Ford appointees filed an usual dissent when the full court refused to reconsider a ruling made by a panel of three Carter judges. In that case, the Carter judges invoked its equity powers to grant citizenship to 16 Filipino nationals who fought for the United States during World War II, but failed to apply for citizenship before a Dec. 31, 1946, deadline.

"While the panel may have acted from the noblest of motives, its opinion disregards the clear teachings of the Supreme Court . . .," wrote Kozinski, going on at length to describe the dangers posed by the panel's decision.

Kozinski's apparent message worked, as the U.S. Supreme Court voted to hear the case last year and held arguments last Feb. 24, *INS v. Pangilinan*, 86-1992.

Conservatives praise the performance of Reagan's judges on the court.

"They do take a closer look at the law and

avoid the vicissitudes of social engineering that other judges sometimes unfortunately engage in," said John Findley, director of litigation for the business-oriented Pacific Legal Foundation.

"They tend to be much more strict constructionists than some earlier appointees," Findley said, adding that the Reagan judges appear to be exerting a "moderating influence across the board" on 9th Circuit rulings.

But there have been surprises from the Reagan judges, too, particularly from Kozinski and Noonan.

When he was nominated to the court in June

1985, Kozinski was attacked as too young at 35, lacking in judicial temperament and too conservative. The American Bar Association gave him a "split rating" with a majority calling him "qualified" for the job — the lowest ABA approval rating — and a minority saying he was "not qualified."

But in one of his first opinions, Kozinski wrote a scholarly and impassioned defense of homosexuals who were being sued by the U.S. Olympic Committee for using the term "Olympics" to promote San Francisco's Gay Games.

The gays "seek to create a more realistic image of homosexual men and women in all societies and to provide more alternatives for homosexual men and women to move into the mainstream," Kozinski wrote.

"The USOC is using its control of the term 'Olympic' to promote the very image of homosexuals that the (Gay Games) seek to combat. Thus, handicapped, juniors, police, Explorers, even dogs are allowed to carry the Olympic torch, but homosexuals are not," complained Kozinski in *Intl. Olympic Committee v. San Francisco Arts & Athletics*, 789 F.2d 1319 (1986).

In another case, Kozinski protested when a pair of fellow Reagan judges upheld the authority of Customs Service agents to secretly open luggage bound for flights to Latin America.

"My guess is that most passengers would be

shocked to learn that, as they are waiting to board the plane, faceless bureaucrats are breaking into their luggage and pawing through it at will," Kozinski wrote in *U.S. v. Nates*, 831 F.2d 860 (1987), arguing that the searches are "unreasonable."

#### Noonan Unpredictable

When Noonan was named to the court in October 1985, his strong anti-abortion views were feared by many liberals as being indicative of extreme conservatism. But Noonan is appearing to be just as unpredictable as Kozinski.

For example, in *Lazo-Majano v. INS*, 813 F.2d 1432 (1987), Noonan wrote that a woman who had been raped, beaten and dominated by a sergeant in the Salvadoran army could claim political persecution and get asylum in the United States. That unusual opinion drew a dissent from a Carter judge, Cecil Poole, who said Noonan had "outdone Lewis Carroll" in applying the term "political opinion."

Kozinski and Noonan are seen as pleasant surprises by liberals.

"Kozinski's no liberal, but at least he seems to be honest, direct in his writing and concerned about government misconduct and overreaching," Clarke said. "He doesn't hide when the government does something wrong, he doesn't try to sweep it under the rug and say that was harmless."

"He reminds of (retired California Supreme Court Justice Otto) Kaus at times," said North Hollywood lawyer Howard Gillingham. "He writes with a little flair."

Gillingham recounted a murder case where oral arguments with Kozinski went on for a hour. "I lost in an unpublished, per curiam opinion, but Kozinski understood what happened at trial."

"The 9th Circuit has long had a problem with

panels wandering off the reservation and what they need is a whistle-blowing mechanism for errant panels," said Stephen Barnett, a law professor at the University of California's Boalt School of Law. "Kozinski has helped to provide that."

"Noonan seems to have been appointed because of his stand on abortion, but he's been a staunch supporter of human and civil rights," said Van de Hout. "In immigration, he's been one of leading lights in advocacy of immigrant rights and refugee rights."

That is not to say, however, that Kozinski and Noonan do not adhere to conservative tenets.

In a case where a pregnant Army woman lost her child due to alleged medical malpractice, Noonan displayed his concern for pregnant women and fetuses as he criticized the doctrine of governmental immunity.

"A mother of a child is not merely an individual," Noonan wrote in *Atkinson v. United States*, 825 F.2d 207 (1987).

"The child she is carrying is not of course a portion of her body like a limb or an organ," he wrote. "With her new relationship she has a new status, which . . . could be the basis for acknowledging that, at least as to her, the sovereign's statutory waiver of immunity should hold."

#### Property Rights

In *Thomas v. Bowen*, 791 F.2d 730 (1986), Kozinski wrote an unusual concurrence to his own majority opinion in defense of private property rights. In the majority opinion, Kozinski agreed that the government could force a widow to return mistakenly given benefits without notice or a hearing. But in the concurrence, Kozinski said that government intrusion

"impermissibly blurs established principles of private property, rights fundamental to a free society."

Kozinski sought to protect property rights in another case involving rent control. Strongly hinting that Santa Barbara's rent control law infringes on the rights of landlords, Kozinski reinstated a suit challenging the law in *Hall v. City of Santa Barbara*, 797 F.2d 1493 (1986).

In a footnote, Kozinski cited economists who say rent control actually harms tenants because it reduces the quality of rental stock and

discourages investment in new rental property.

Southwestern University law professor Norman Karlin, who teaches land use and constitutional law, says Kozinski tends to take a "more principled look at how cases should be decided" than the Carter judges.

"He doesn't draw distinction between individual rights and property rights," Karlin said. "He thinks individuals have rights to life, liberty and property and if you take away property rights, that also affects life and liberty so you carefully scrutinize all those laws. The Carter appointees think you can separate property from life and liberty."

The other Reagan judges have not yet produced major opinions like Kozinski and Noonan, lawyers who practice before the Ninth Circuit say.



APR 5 1988

Allen's P. C. B Est. 1888

## USTA abandons 12-under national tournaments

**I**N A MOVE that had been expected, the U.S. Tennis Association has eliminated the national tournaments for boys and girls age 12 and under, starting in 1989. The Boys 12 event, held here at Morley Field in recent years, will breathe its last this summer.

Jean Kremm, who has coordinated the Boys 12s, as well as hundreds of junior tournaments here through the years, welcomed the move.

"There's just too much pressure on the younger kids, and most of it comes from the parents," said Kremm, executive director of the San Diego Tennis Patrons. "Maybe this will help. But I'm sure the better kids will play up (in age group) and subject themselves to the same kind of pressure."

Stan Smith, newly named national director of the USTA's program to revive U.S. tennis, was equally pleased with the move.

"Last week, I saw a couple of juniors (at Miami's Easter Bowl) who looked fairly jaded at age 16 or 17," said Smith, a former Wimbledon and U.S. Open champion who started playing the game at age 12. "They had been tops in their age group for four or five years but are now playing defensive tennis, just trying to win, not improving their games."

Easter Bowl director Seena Hamilton viewed the USTA's decision, made several weeks ago at its annual meeting, with mixed emotions.

"I can't see anything terribly bad or good about it," said Hamilton, who organized the nation's largest junior tournament, with more than 300 of the world's best junior players, including a handful from San Diego. "I don't think it's too relevant. You can't stop the children if they want to compete. The best ones will just play

up (in age group) and either win or lose.

"But maybe it'll make parents less crazy about their kids."

On other issues, Hamilton refuted the notion that a decline in U.S. tennis fortunes — object of so much doomsday talk in recent years — will take many years to correct.

"We've got the most exciting jun-



John  
Freeman

### Tennis

ior talent developing at this moment I've ever seen," she said. "I've seen quite a few children whose games outpace that of, say, Michael Chang, at a similar age. He hasn't got some of the weapons that these kids have already developed."

Who's next on the horizon?

Hamilton points first to Jennifer Capriati, a precocious 12-year-old from Lauderhill, Fla., who captured the Easter Bowl's Girls 16s last week.

"She is as talented as the three best children I've ever seen at a similar age — Chris Evert, Tracy Austin and Andrea Jaeger," said Hamilton, a former magazine editor. "She is the most attractive, gorgeous, charming, adorable child I've ever seen. She has the mark of destiny, so much so that it scares me to death."

When Austin was 4, she was featured on a Sports Illustrated cover. Capriati is only now stepping into the spotlight. ABC's "20/20" already has

taped a segment on her, according to Hamilton.

Among the boys, Hamilton was most impressed with 14-year-old Tommy Ho, of Winter Haven, Fla., who lost in the Easter Bowl finals to David DiLucia of Norristown, Pa.

"He's a very self-possessed youngster," said Hamilton. "(Coach and former pro) Brian Gottfried says he has all the weapons to make it big as a pro and I agree."

Given the glimmering futures of Ho and Capriati, what could possibly go wrong?

"It's all a question of honing and developing themselves as people, and not falling prey to the seduction of over-exposure and show biz limelight at an early age," said Hamilton. "That can make some people peak and lose their enthusiasm. I don't think that's going to happen, at least not to these two kids ... although they're all vulnerable."

■ ■ ■

**A LOSS FOR THE GAME** — Morley Field regulars are mourning the recent death of Dr. Elbert "Doc" Singleton, a kindly physician who spent much of his free time playing tennis and working with younger players, many of them from under-privileged backgrounds.

Singleton, who was 72 and had lived here for 42 years, was recalled fondly by Walter Redondo, a former national junior champion who's now a teaching pro in Rancho Santa Fe.

"He was an amazing man," said Redondo. "He touched a lot of people's lives, especially mine. He left us with so much. If you met him once, you were touched by how special he was."

Walter Lapinski, founder of the San Diego Tennis & Racquet Club,

said of Singleton: "He was a wonderful man, my doctor and one of my best friends. When I had my heart attack in 1975 and my stroke in '79, he treated me both times. He kept me alive. Such a prince of a man."

■ ■ ■

**THE SHORT REPORT** — The Men's Tennis Council recently gave its stamp of approval to those popular shorts made by Nike that appear to be blue jean cutoffs, but aren't. Traditionists, like MTC chairman Marshall Happer, found them unsavory.

At last month's Newsweek Champions Cup in Indian Wells, Andre Agassi and Mikael Pernfors both wore the shorts, originally designed for John McEnroe.

Remember Johnny Mac? It now has been six months since he last competed in a Grand Prix event. He's been sidelined by nagging back injuries and, the suspicion goes, a lack of interest in competitive tennis.

Next week, McEnroe is scheduled to compete in the Tokyo Suntory Cup. On April 25, he meets Stefan Edberg in an exhibition, the Michelin Challenge at The Forum.

■ ■ ■

**DROP SHOTS** — Tracy Austin will be the focal point of a charity clinic Saturday at the Rancho Bernardo Inn. Tickets are \$25. For information, call Paul Navratil at 487-2413.

■ **USD coach** Ed Collins offers his annual all-day clinics this weekend at the school. Fee is \$50, for juniors and adults. To enroll, call Collins at 260-4803.

(John Freeman's Tennis column appears the first Tuesday of each month in The Tribune.)



Oceanside, CA  
(San Diego Co.)  
North County  
Blade Tribune  
(Cir. D. 29,089)  
(Cir. S. 30,498)

APR 7 1988

*Allen's* P. C. B Est. 1888

*2915*  
"GETTING MARRIED" By George Bernard Shaw is  
presented April 6-9 in the Sacred Heart Hall Perform-  
ing Arts Center, University of San Diego. Information:  
260-4682 or 231-1941.

Mission Valley, CA  
(San Diego Co.)  
San Diego Weekly News  
(Cir. 2 x M. 20,000)

APR 6 1988

*Allen's* P. C. B Est. 1888

Getting Married in USD's Sacred Heart Hall  
Performing Arts Center April 6 through 9.  
Info.: 260-8888 or 239-2255 *2955*



Sunnymead, CA  
(Riverside Co.)  
Butterfield Express  
& Valley Times  
(Cir. W. 7,000)

APR 7 1988

ALL AM'S P.C.B. Est. 1888

## 2955 Stalled nomination: Shabby politics

For nearly 14 months, the Senate Judiciary Committee has stalled the nomination of University of San Diego law professor Bernard H. Siegan to the U.S. Court of Appeals for the Ninth Circuit. Now the Justice Department, yielding to political reality, has let Siegan know it is time to fall on his own sword and clear the way for a less controversial nominee who stands a chance of being confirmed before Ronald Reagan leaves the White House.

In the customary and sometimes shabby ways of Washington, the Justice Department delivered the bitter news to Siegan through a leaked story to the *Washington Post*.

Attorney General Edwin Meese, who sponsored Siegan's nomination, had informed him by phone that he was doomed, according to Justice Department sources quoted by the *Post*.

The administration's public abandonment leaves Siegan no real choice. But his fate was sealed for good by Sen. Patrick J. Leahy, D-Vt., who declared to the *New York Times* that the conservative nominee would be "badly defeated" if he did not withdraw from consideration.

Siegan's nomination actually was cast on the rocks last October, when the Senate derailed Robert H. Bork's appointment to the Supreme Court.

Judge Bork was the victim of an unparalleled campaign of distortion by liberal special-interest groups. After sabotaging his nomination, many of the same organizations transferred their attack to Siegan.

The glaring politicization of the Judiciary Committee's review of judicial appointments is increasingly apparent as the Reagan administration enters its

final 10 months.

Partisan Democrats, such as committee chairman Joseph Biden of Delaware, are engaging in an array of dilatory maneuvers designed to bottle up confirmation votes on as many Reagan appointees as possible until a new president takes office.

Such politically motivated delays are not unheard of in election years, but the current Judiciary Committee backlog is unprecedented for its size.

Some 25 nominations to appeals courts and district courts are now pending; many have been in limbo for several months.

By comparison, only two nominations were pending at this stage in Jimmy Carter's final year in office.

The judiciary panel's Democratic majority insists it has acted in a timely fashion on all "noncontroversial" nominees, which is to say those who satisfy Democratic standards.

Others, such as Siegan, a self-styled libertarian, are simply left dangling.

Attorney General Edwin Meese, embroiled up to his neck in his own mounting legal and political problems, is in no shape to fight the administration's battle on Capitol Hill.

Moreover, there are 23 additional judicial vacancies for which the administration has yet to make nominations, in part because of Meese's obvious preoccupation with his personal legal challenges.

The Justice Department's paralysis, coupled with the Judiciary Committee's partisan foot-dragging, is certain to limit Ronald Reagan's legacy to the federal bench — and provide the next occupant of the Oval Office a bonanza in judicial vacancies.



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(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 7 1988

Allen's P. C. B. Est. 1888



Tribune photo by Stan Honda

JUDGE READY FOR SECOND HEARING OF PEYER CASE  
Superior Court Judge Richard Huffman, at office desk, discusses his thoughts on the law

## Huffman in spotlight again

*Former prosecutor carves a niche as judge*

By Anne Krueger  
Tribune Staff Writer

**I**N HIS LAST TRIAL as a prosecutor, Richard Huffman felt the frustration of a hung jury when jurors deadlocked 11-1 in favor of convicting then-Mayor Roger Hedgecock of conspiracy and perjury.

Shortly thereafter, Huffman was appointed to the Superior Court bench and, in his first high-profile criminal case, saw a jury deadlock 7-5 in favor of convicting former Highway Patrolman Craig Peyer of murder in the slaying of Cara Knott.

Although Huffman, in a recent interview, noted wryly that some might say he's developed an area of legal specialization, he said he wasn't frustrated.

"It's not anything personal to me," he said.

The man who has spent his career in the public eye will once again be in the spotlight as he prepares to preside over Peyer's retrial, scheduled to begin April 18.

After almost 20 years as a prosecutor — in which he handled cases ranging from the conspiracy trial of mobster Aladena "Jimmy the Weasel" Fratianno to the Hedgecock trial — Huffman said he is enjoying the change as a judge for the past three years.

"After 20 years of carrying the sword, it's nice to put it down," he said. "I enjoy the neutral position much more. At this stage of my life, it's much more

intellectually stimulating to try to deal with the law as a subject than battling out a particular case."

Huffman's career may be destined for greater heights. He is considered a top contender to fill a vacancy on the 4th District Court of Appeal created by the retirement in February of Justice Ed Butler.

Tom Beermann, assistant press secretary for Gov. Deukmejian, said an announcement on Butler's replacement isn't expected for several months.

Even though the law has been Huffman's career, his decision to become a lawyer came during casual talk with a friend while he was attending school at California State College in Long Beach.

At that point, he said, the idea of doing anything other than working at the grocery store where he had been employed since high school sounded attractive.

"It was a dream kindled. I thought that it would be wonderful, but I didn't think I'd be able to do it because I had to work to get through school," he said. "I was married and had virtually no money at all. I didn't even know a lawyer."

He attended law school at the University of Southern California, graduating in 1965. After passing the bar in 1966, his best offer came from the state attorney general's office, so Huffman started his career as a prosecutor.

Please see HUFFMAN: B-5, Col. 1



# ★Huffman

Continued From B-1

Within two years, he was named chief of the office's organized-crime unit for Southern California. When then-U.S. Attorney Ed Miller obtained a federal indictment of Fratianno on conspiracy charges, Huffman was named a special assistant to help prosecute the Imperial Valley case. Fratianno was convicted and sentenced to three years in prison.

When Miller was elected San Diego County district attorney in 1970, he asked Huffman to serve as chief deputy district attorney, the third-ranking job in the office.

In that position, Huffman was often in the spotlight, prosecuting high-profile defendants such as Robert Alton Harris, who was convicted and sentenced to death for the 1978 murders of two Mira Mesa teen-age boys. After murdering the boys, Harris ate the hamburgers they had purchased from a fast-food restaurant. Authorities say Harris may become the first person executed in California since 1967.

Huffman also prosecuted cult deprogrammer Ted Patrick. And in another case, he was the first prosecutor in state history to win a murder conviction even though the victim's body hadn't been found. The body did turn up, two years after the trial.

When William Kennedy, second in command under Miller, was appointed U.S. attorney in 1981, Huffman was named assistant district attorney.

Perhaps the biggest disappointment of his career came in February 1985, when jurors hung 11-1 in favor of convicting Hedgecock. Hedgecock had accused Miller of political motivation in prosecuting the popular mayor, and Huffman was at the center of the intense public scrutiny of the case.

The sole holdout against convicting Hedgecock was Leon Crowder, a city sanitation worker. Huffman, asked after the trial if he had erred in allowing Crowder on the jury, replied, "You betcha."

Huffman was appointed a Superior Court judge three months after the trial ended, and Hedgecock's retrial was taken over by Charles Wickersham, who had assisted Huffman in

the first trial. In his second trial, Hedgecock was convicted of 13 felony charges and sentenced to a year in jail and three years' probation. Hedgecock has been free on bail since his conviction, and a decision on his appeal of that conviction is due soon.

Wickersham, who later joined Huffman as a Superior Court judge, described Huffman as "probably one of the best judges on the bench."

"His intelligence is his biggest strength. He's very articulate, so he can express himself very accurately and efficiently," Wickersham said. "I have nothing but respect for his abilities."

Ironically, Huffman had been considered for the bench in 1978, but was passed over because defense attorneys complained he was too aggressive a prosecutor.

Several attorneys say those earlier concerns about Huffman have not been borne out.

Ned Huntington, president of the San Diego Bar Association, said he's heard no complaints from defense attorneys about Huffman.

"When he changed out of a prosecutor's garment into a black robe, he made a complete transition. He's not a prosecutor in robes," Huntington said.

"He's an excellent judge. He works hard at it," Huntington added. "He's good-humored, he's easy to get along with, he does his homework. You'd better be prepared in front of him, because he can be a little cantankerous if you're not prepared."

Defense attorney Peter Hughes said Huffman has a reputation as a judge fair to both sides.

"He has the ability to put cases in a perspective of a wide breadth of experience," Hughes said. "He's a judge that I would take almost any case in front of. I know he would be a skilled trial judge and I know he would give me a fair shake."

In his tenure as a judge, Huffman has heard family-law cases, ruled on as many as 40 motions a day in civil cases, given sentences in criminal cases, filled in at the Court of Appeal and presided over civil and criminal trials.

But he said the change from advocate to judge has been pretty easy.

"The biggest problem you have is

the confinement," he said. "It's like being in trial all the time. That's probably the hardest part. Learning new areas of law has been the most rewarding part of it. I didn't have too much trouble learning to keep my mouth shut."

Huffman teaches criminal law at the University of San Diego, where he's been a part-time professor for 16 years. He also is a founding director of San Diego Inn of Court and a senior member of American Inn of Court, a lawyer training program, and has taught at numerous seminars and other programs, including programs in Guadalajara, Mexico, and at Oxford University in England.

"He's one of the ablest lawyers I've ever met," said Sheldon Krantz, dean of the USD law school and a good friend of Huffman's. "What most impresses me is his willingness to devote enormous amounts of time outside his activities as a judge."

Krantz said Huffman's class is one of the most popular at the law school.

Huffman also ran the Center for Criminal Justice Policy and Management at USD until it ran out of money last year. The center was started by Edwin Meese, now U.S. attorney general.

Huffman and his wife, Caroline, an interior decorator, live in Point Loma. Their son, Richard, is a senior at the USD law school.

Huffman, who describes himself as a moderate Republican, wouldn't speculate on his ambitions, other than a joking quote from Mr. Spock of "Star Trek": "To live well, grow old and prosper."

He said he will wait and see what the future brings.

"You base your ambitions in a sense on what seems to be a reasonable opportunity," Huffman said. "I've obviously been in public law long enough that I apparently don't have ambition to become wealthy, much to the chagrin of my family."



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 7 1988

Allen's P. C. B Est. 1888

☐ The Associated Students of the University of San Diego will present a lecture titled "Overcoming Cocaine Addiction" by actor Richard Dreyfuss at 8 p.m. April 14, in the Camino Theater on campus. Cost is \$5. For information, call 260-4715.

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La Jolla, CA  
(San Diego Co.)  
La Jolla Light  
(Cir. W. 9,040)

APR 7 1988

*Allen's* P. C. B Est. 1888

Stanley C. Pace, chairman of the board and chief executive officer of General Dynamics Corp., will be guest speaker at the sixth annual USD Corporate Associates recognition luncheon in the University Center on April 18 at 11:30 a.m.

Pace has been General Dynamics CEO and board chairman since 1986, after serving as vice chairman for six months.

Before joining the firm, he was president and chief operating officer with TRW for eight years.

\* \* \*



La Jolla, CA  
(San Diego Co.)  
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(Cir. W. 9,040)

APR 7 1988

Allen's P. C. B Est. 1888

## Fischer-Campbell

2955

Mr. Albert Fischer, Mercer Island, Wash., announces the engagement of his daughter, Sarah Jane, to Lawrence Weaver Campbell, son of Mrs. William D. Campbell, Los Angeles, and the late Mr. Campbell. Fischer is also the daughter of the late Mrs. Fischer.

A former resident of San Diego and Fullerton, Fischer now lives in Escondido. While in Fullerton, she was presented at the 1970 Las Campanas Debutante Ball. A graduate of CS-Fullerton, she now works in medical education and marketing. Campbell, La Jolla, received his preparatory education at The Harvard School, and obtained his undergraduate degree from UC-Berkeley. He earned a law degree from University of Southern California, and Master of law degree from the University of San Diego. He practices as a corporate attorney for a manufacturing firm in San Diego. A June wedding is planned.



La Jolla, CA  
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APR 7 1988

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"Getting Married," George Bernard Shaw's comedy about a young bride-to-be who wants to call off the wedding after she finds a pamphlet that explains what legal rights she is giving up, will be staged through April 9 by USD graduate students in the Sacred Heart Hall Performing Arts Center of USD. Craig Noel, The Old Globe Theatre's executive producer and architect of the

USD/Globe graduate drama degree program, will direct.

"The Foreigner," by Larry Shue, a play about a group of devious characters dealing with a stranger who (they think) knows no English, runs through April 17 at Lamb's Players Theatre.

The production is directed by Kerry Cederberg, a director, actor and playwright for Lamb's Players resident stage. The cast includes resident company actors Deborah Gilmour Smyth, David Cochran Heath and Rick Meads, along with associate guest artists Tom Stephenson, Kenneth Wagner and Darlene Trent.

Curtain time is 8 p.m. Tuesday through Saturday, with Saturday and Sunday matinees at 2 p.m. For more information, call 474-4542.



## Talks Focus On San Diego's Ocean Issues

<sup>2955</sup>  
SAN DIEGO—A series of seminars focusing on "San Diego and the Sea" is scheduled for this spring at the University of San Diego.

The series, co-sponsored by the San Diego Oceans Foundation and USD's Marine Studies program and Ocean Club, will target ocean issues directly affecting local residents. All seminars will begin at 7 p.m. in room 204 of Serra Hall on the USD campus. Admission is free.

On April 20, Bill Maxwell of the state Department of Fish and Game and Carl Benz of the U.S. Fish and Wildlife Service will discuss the recent California sea otter relocation project. The two will talk about the legal and political reasons for the relocation of the otters to San Nicolas Island, the methods used to capture and transport the animals, and how Southern California fisheries will

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San Diego, CA  
(San Diego Co.)  
San Diego Log  
(Cir. W. 40,000)

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from P-19 2955

be protected from the otters.

Albacore migration patterns will be the topic of the final seminar, scheduled for May 18. Michael Laurs of the National Marine Fisheries Service will outline available information about the annual albacore migration to San Diego. According to series organizers, Laurs' albacore predictions "are as much a part of San Diego's spring as the blooming of flowers in the nearby desert."

For more information, contact the San Diego Oceans Foundation at (619) 237-1221.





San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 8 1988

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~~USD~~ — Fr. Lawrence Jenco, taken hos-  
tage by Shiite Moslems in Beirut for 19  
months, will speak, 7 p.m. April 13, University  
Center Forum. Admission is free. Information:  
260-4715. Richard Dreyfuss speaks on over-  
coming his cocaine addiction, 8 p.m. April 14,  
Camino Theatre. Admission: \$5. Information:  
260-8888.

2955



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

**APR 8 1988**

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### **Liturgical drama to be scheduled at USD**

ALCALA PARK — "The Pilgrim," a liturgical drama set to music, will be performed April 29-30 at 8 p.m. in Founder's Chapel on the campus of the University of San Diego. 2955

The story deals with the resurrection of Christ. It was written by Richard Proulx, director of music for the Archdiocese of Chicago.

Cost is \$7, \$5 for senior citizens and \$4 for students.



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

**APR 8 1988**

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**Chairperson selected  
for USD Deans' Ball**

ALCALA PARK — Helen Anne Bunn  
has been selected as this year's chairperson  
for the University of San Diego Dean's Ball  
set for May 13 at the San Diego Marriot  
Hotel.

2955  
For further information, call 260-4682



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

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## USD

2955

**Business Update Seminars** will be offered by USD's School of Business Administration April 15, 22 and 29. Continental breakfast is served at 7:30 a.m.; talks begin at 8 a.m. Cost is \$15 per session. For further information, call Kathie Hare, 260-4585.

**"Jungian Insights for Spiritual Growth,"** a two-day Institute of Christian Ministries course by Sister Gin O'Meara, RSCJ, will be held April 9, 9:30 a.m.-4 p.m., and April 10, 1-3 p.m., in Salomon Lecture Hall. For details, call 260-4784.

**A political refugees and asylum** conference will be held in the University Center April 9 from 9 a.m.-4 p.m. Sponsored by the USD Law School and Amnesty International. Cost is \$20. For information, call 565-6603.

**Former hostage** of the Shiite Moslems in Beirut, Father Lawrence Jenco, will speak at the University Center Forum April 13 at 6:30 p.m. Sponsored by Associated Students. Call 260-4715 for details.

**"Overcoming Cocaine Addiction,"** a public lecture with guest speaker Richard Dreyfuss, will be held April 14 at 8 p.m. in Camino Theater. Cost is \$5. Sponsored by Associated Students. Call 260-4715.

**"Closer Ties to Mexico: What's In It for San Diego,"** an Invisible University lecture, will feature

Francisco Herrera, director of Binational Affairs April 14, 7 p.m., in the Coronado library, 640 Orange Ave. No admittance fee. For more, call 260-4681.

**"Getting Married,"** a play by George Bernard Shaw, will be performed by the University of San Diego/Globe graduate drama degree program April 9 in the Sacred Heart Hall Performing Arts Center. Tickets are \$4 general admission; \$3 for students and senior citizens. For ticket information call the USD box office, 260-8888, or the Globe box office, 239-2255.



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(Cir. W. 27,500)

**APR 8 1988**

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### **USD School of Law names acting dean**

ALCALA PARK — Grant H. Morris, a University of San Diego law professor since 1973, has been named acting dean of the School of Law beginning Aug 12<sup>29/55</sup>

USD President Author E. Hughes has formed a dean's search committee expected to convene in April for the first time.

Plans are to have a new law dean appointed by July 1989, according to a USD news release.



Solana Beach, CA  
(San Diego Co.)  
The Citizen  
(Cir. 2 x W. 20,000)

APR 8 1988

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2755 /



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

**APR 8 1988**

*Allen's* P. C. B Est. 1888

**USD, county bar  
sign five-year pact**

ALCALA PARK — <sup>2485</sup>The University of San Diego and the San Diego County Bar Association have signed a five-year pact that continues joint operation of the San Diego Law Center created in 1981.

Under the agreement the county bar will provide \$20,000 for 1988 and \$25,000 for each of the following four years.

This marks the first such agreement signed by both organizations.

— Compiled by Maureen Nuesca  
from submitted information



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 8 1988

*Allen's* P. C. B Est. 1888

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## UPCOMING HIGHLIGHTS

2955 TONIGHT/8	TOMORROW/9	SUNDAY/10	MONDAY/11	TUESDAY/12	WEDNESDAY/13	THURSDAY/14
<p>8 p.m. — "The Beatles: Rare Tapes," Sherwood Auditorium, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>— Guitarist <b>Angel Romero</b> with <b>San Diego Symphony</b>, part of Ovation Concert series, Symphony Hall.</p> <p>— <b>Trevor Pinnock</b>, harpsichord recital, <b>San Diego Early Music Society</b>, St. James-by-the-Sea Episcopal Church, La Jolla.</p> <p>— SDSU "<b>Layers Plus</b>," Pamela Turnree, Cate Bell and Maj Xander, dance performance, Studio Theater, SDSU (also April 9).</p> <p>— <b>International Orchestra</b> of USIU, "Mozart Plus" concert, with violinist <b>Alyze Dreiling</b>, College Avenue Baptist Church.</p> <p>— "The '60s Show of the Year," Make-a-Wish Foundation benefit, with <b>Ravells</b>, <b>Hitmen</b>, <b>Coolrays</b> and <b>California Girls</b>, California Performing Art Centre's Palisades Theatre.</p> <p>— "Equus," Little Boots productions, Lyceum Stage, Horton Plaza (opening night).</p>	<p>1 p.m. — <b>Friends of the Famosa Slough Bird walk</b>, begins at Famosa and West Point Loma boulevards.</p> <p>1:30 p.m. — "Folk Tales From Far Away Places," Young Conservatory Players, South Coast Repertory, Founders Hall, Costa Mesa (also 4:30 p.m.).</p> <p>2 p.m. — "Suds," Old Globe Theatre, Simon Edison Center for the Performing Arts, Balboa Park (also 7 p.m.).</p> <p>7:30 p.m. — "Aladdin and the Wonderful Lamp," Patio Playhouse Youth Theatre, Escondido.</p> <p>8 p.m. — <b>David Ogden Stiers</b> conducts <b>San Diego Symphony</b> in <b>Pension Fund Concert</b>, Symphony Hall.</p> <p>— <b>Takacs String Quartet</b> of Budapest, Mandeville Center Auditorium, UCSD.</p> <p>— "Exchange," San Francisco Art Institute, Sushi.</p> <p>— "A Thousand Clowns," Coronado Playhouse, Coronado.</p>	<p>1 p.m. — "Talent Showcase '88" dance recital, San Diego Dance Centre, East County Performing Arts Center.</p> <p>2 p.m. — <b>Los Angeles Chamber Orchestra</b>, with soprano <b>Christine Archer</b> and baritone <b>William Parker</b>, Orange County Performing Arts Center, Costa Mesa.</p> <p>— "April Affaire," folk singer <b>Sam Hinton</b> and jazz guitarist <b>Rick Leighton</b>, National University.</p> <p>3 p.m. — <b>Gennaro Trio</b>, Silver Gate Concerts, Mississippi Room of Lafayette Hotel.</p> <p>4 p.m. — <b>Stauffer Wind Quintet</b>, opening concert for SDSU's Windfest '88, College Park Presbyterian Church.</p> <p>7:30 p.m. — <b>10K For MDA</b>, annual Muscular Dystrophy Association 10K run, Del Mar Race Track, Del Mar.</p> <p>8 p.m. — <b>San Diego Dance Designs</b>, ballet choreography by <b>Laure Lowry</b>, <b>Judith Sharp</b> and <b>Erling Sunde</b>, Studio Theater, SDSU.</p>	<p>7 p.m. — <b>San Diego Brass Consort</b>, Smith Recital Hall, SDSU.</p> <p>— Steve Fagin's "The Amazing Voyage of Gustave Flaubert and Raymond Roussel," screened as part of UCSD Video Arts Department faculty exhibit, Mandeville Auditorium, UCSD.</p> <p>7:30 p.m. — "Pratt's Fall," play reading, Cassius Carter Centre Stage, Simon Edison Center for the Performing Arts, Balboa Park.</p> <p>— "Toby Tyler" California Performing Arts Centre, Palisades Theatre.</p> <p>— Spring "Living Writers Series" continues with poetry reading by <b>William Stafford</b>, Scripps Cottage, SDSU.</p> <p>8 p.m. — <b>Andrei Tarkovsky's "Nostalgia"</b>, part of "International Style" film series, Mandeville Auditorium, UCSD.</p> <p>— Fourth annual <b>San Diego Laif-off</b> competition continues, the Improvisation (also 10 p.m.).</p>	<p>7:30 p.m. — <b>Prudence Carlson</b> speaks on "The Postmodern Chimera, The Weight of History, and a New Symbolism," part of "Art Historicism: Nine Perspectives" lecture series, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>8 p.m. — "Tea," Cassius Carter Centre Stage, Simon Edison Center for the Performing Arts, Balboa Park.</p> <p>— "We Won't Pay! We Won't Pay!" Don Powell Theatre, SDSU.</p> <p>— Comedians <b>Rick Rockwell</b>, <b>Dan Chopin</b> and <b>Matt Riedy</b>, The Improvisation.</p> <p>9 p.m. — <b>League Zero</b>, Top 40 and rhythm 'n' blues, Monk's.</p>	<p>3 p.m. — <b>Deborah Fleming</b> speaks on "A Woman's Right to Privacy: Latest Developments in San Diego," part of "New View of Women" lecture series, Hepner Hall, SDSU.</p> <p>7 p.m. — <b>Father Lawrence Jenco</b> speaks on his experiences as a hostage of Shiite Moslems in Beirut, <b>USD University Center</b> Forum.</p> <p>7:30 p.m. — "A Product of Japan — Assembled in America," organist <b>Jerry Nagano</b>, Theatre Organ Society of San Diego, California Theater.</p> <p>— Jean Renoir's "Rules of the Game," part of "Top 10 Movies of All Time" film series, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>8 p.m. — <b>Toni Tennille</b>, benefit concert for Imagination Celebration, Orange County Performing Arts Center, Costa Mesa.</p>	<p>7 p.m. — "Stage Door," O'Farrell School of Creative and Performing Arts, SCPA Theatre.</p> <p>— "How Limited Edition Pieces Are Made and How to Identify Forgeries," Silver Cloud Gallery.</p> <p>8 p.m. — <b>Twyla Tharp Dance</b>, San Diego Performances, Civic Theatre.</p> <p>— "The Little Foxes," Hahn Cosmopolitan Theatre.</p> <p>— "Nite Club Confidential," Gaslamp Quarter Theatre.</p> <p>— "Six Women With Brain Death, or Expiring Minds Want to Know," San Diego Repertory Theatre, Lyceum Space, Horton Plaza.</p> <p>— "The Foreigner," Lamb's Players Theatre, National City.</p> <p>— <b>Richard Dreyfuss</b> speaks on overcoming his cocaine addiction, Camino Theatre, USD.</p>



APR 10 1988

Allen P. C. B. Est. 1888

# Mediators help unclog backed-up court system

## Out-of-court arbitration the 'wave of the future'

*"The notion that people want black-robed judges, well-dressed lawyers and fine-paneled courtrooms as the setting to resolve their disputes is not correct. People with problems, like people with pains, want relief and they want it as quickly and inexpensively as possible" — Justice Warren Burger of the U.S. Supreme Court.*

By PAT STEIN

Staff Writer

ENCINITAS — Earlier in human history, conflicts between individuals were resolved simply: Disputants would pick up their dueling pistols, stride 20 paces apart, turn and fire.

Now we're more civilized and instead of a staging a shootout to settle disagreements, people take each other to court. As a result, the court system is clogged with an array of civil complaints it wasn't designed to handle.

"Many things have gotten into the courts that simply don't belong there. Very few people really need their day in court. Most people just want to be heard and then they're willing to come to agreement," says Liz Underrell, director of the Com-

munity Mediation Program.

Underrell and her group offer free service to help neighbors, friends, consumers, merchants, employers, employees, landlords, tenants, developers, families and even street gangs resolve disputes without going to court.

Initiated by the University of San Diego law center in 1983 as a pilot program, Community Mediation claims a 90 percent agreement rate, according to Underrell, and an 86 percent compliance rate. She estimates this is much higher than the court system.

"People are much more committed to what they've agreed to when they've had a part in the process," observes Dr. Olivia Ruel, an Encinitas psychologist and member of the Academy of Family Mediators.

Ruel and Encinitas attorney Elizabeth Allen created the North County Mediation and Arbitration Center.

Even though she is a member of the profession that stands to gain the most when people use the courts to settle disputes, Allen is committed to mediation and arbitration as means of resolving conflicts.

"I've seen people spend thousands of dollars in legal fees and end up with their issues still

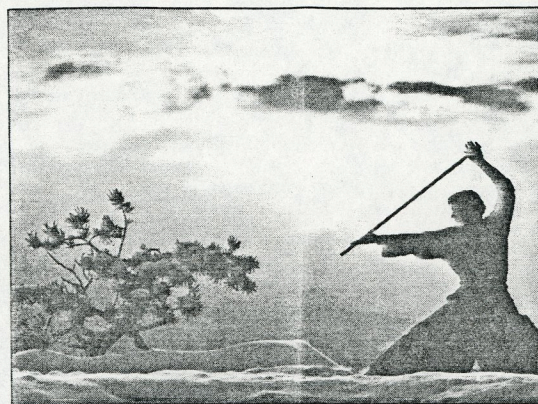


Photo / DOUGLAS R. CHILD

Thomas Crum encourages the use of the martial arts principle of non-resistance to solve conflicts.

## Conflict provides energy for positive change, author says

SAN DIEGO — The conflict that appears to be all around us is an opportunity for growth and positive change, in Thomas Crum's view.

An educator, philosopher, martial arts expert, businessman and author of a book on "The Magic of Conflict," Crum takes the approach that conflict is not negative nor a contest, but is simply energy.

"We have a choice to fight, flee or flow with this energy. Fight and flee don't work, so we have to flow with it — be willing to acknowledge it and dance with it," Crum explains

in workshops he conducts across the country.

Crum said he gives people the tools they need to "transform the experience of conflict from fear, frustration and resistance to harmony and opportunity."

The martial arts principle of non-resistance is at the heart of his approach for understanding and dealing with conflict.

"People who attack you usually have sized up that the attack will work for them. If you fight back, you become

► See Conflict, Page C-2

unresolved after months or years of court battles. The court system just isn't designed to handle things like disputes between neighbors over common fences, hedges, parking, barking dogs, noise encroachment or any of the other things people find to disagree about today," said Allen.

Mediation is a voluntary process in which disputing parties meet with a professional mediator to negotiate the terms of their own settlement, Allen explained.

"Without taking sides, the me-

diator listens to both parties and acts as a catalyst in helping them to reach agreement," said Ruel.

If disputants are unable to reach agreement in mediation, they can move into arbitration.

"Arbitration is a process in which each side presents its case at a hearing before a person who isn't a judge but who functions as a judge, listening to the evidence and making a ruling," explained Allen, an associate member of the Society of Professionals in Dispute Resolution who frequently serves as an arbitrator in a wide array of controversies.

An arbitration hearing is less formal than a courtroom hearing and while there is a certain decorum, there aren't all the rules of evidence and technicalities that prevail in a courtroom so individuals may feel more comfortable presenting their own cases without an attorney.

In arbitration, the burden of proof is not on one side more than the other, according to the American Arbitration Association.

Arbitration can be binding or non-binding, depending on what

the disputing parties have agreed upon before the hearing. Allen recommends choosing binding arbitration.

"Otherwise, why bother? What you want when you go into arbitration is a chance to present your case and get a ruling so you can put the dispute behind you and get on with your life," she said, adding that in her experience "the rulings I've heard from arbitrators have been at least as competent as the ones I've heard in courtrooms."

In binding arbitration, the ar-  
► See Mediation, Page C-2



# Mediation

► From Page C-1

2955  
bitrator's decision has just as much clout as if it had been rendered by a judge. The determination is usually delivered in 10 days and takes the form of a brief statement giving specific directions to one or both parties.

Agreements reached in mediation are not legally binding, according to Underell, but the Center for Dispute Resolution in Boulder, Colo., reports that agreements reached through mediation are much more likely to be honored because both parties have participated in making the decision.

Many people have said the beauty of alternative dispute resolution procedures is that they are quick, fair and inexpensive.

When called upon to help settle a dispute, the Community Mediation Program will contact the third party (whom they refer to as a respondent) and encourage participation in mediation.

"Most respondents are open to mediation. Very few people want to wallow in conflict except those who would rather be right than have a conflict resolved," Underell says.

The program's volunteer mediators schedule an appointment that is convenient to both parties, during the day, evening or weekend in a private setting.

"A trained volunteer mediator listens to both sides of the dispute and asks what the parties want from each other. The mediator will assist the parties in reaching their own solutions," Underell explained.

When agreement is reached, it is written down by the mediator and signed by both parties.

Mediation is "completely confidential" and will not result in police or court records. Ruel notes that one of the big advantages of mediation is that "you have control over your own destiny."

Allen points out that mediation usually take more than one meeting but that arbitration can usually be concluded in one session "although there is no time limit and both parties have a chance to fully present their cases."

Allen sees alternative dispute resolution (ADR) as "the wave of the future in dealing with conflicts on a personal and corporate level."

"Of course, the first step should be direct negotiation between the parties but when that doesn't work, ADR is certainly preferable to a long, expensive legal battle," she said.

Already many industries have embraced ADR to speed up resolutions and control litigation costs. In 1983, the American Arbitration Association prepared a pilot program of dispute resolution procedures to provide the insurance industry with a "simple, inexpensive and expeditious way to resolve claims."

AAA reports that the program has shown that 42 percent of the cases concluded in settlement, that mediation is the preferred means of settling claims, that there was a savings of about \$2,000 in legal expenses per case, compared to the expected cost of a trial. It was also found that claims were processed in an average of 90 days (much less time than a litigated settlement, which could take years) and that the average claim was for about \$10,000.

The Better Business Bureau has had a National Consumer Arbitration Program in place since 1972 to arbitrate all kinds of marketplace disputes.

"Thousands of marketplace disputes are being arbitrated every year. Business recognizes the worth of alternative dispute resolution and so does government," said a San Diego BBB spokesman.

Increasingly, the BBB reports, "the Federal Trade Commission, state attorney general as well as local district attorneys and judges, are writing BBB arbitration into consent orders or are



Photo / DON MOHR

**Psychologist Olivia Ruel and attorney Elizabeth Allen are the founders of the North County Mediation and Arbitration Center.**

referring disputes on a case-by-case basis to the BBB."

For people who feel more comfortable having a judge making the ruling, there's the "rent-a-judge" program of Judicial Arbitration and Mediation Services, Inc. in San Diego. Staffed by retired judges, JAMS will schedule mediations, binding and non-binding arbitration, settlement conferences, trials and hearings on motions in their San

Diego offices on one day's notice.

Allen has compiled a directory of mediation and arbitration services that are available in San Diego County and these can be obtained for a \$2 postage and handling fee by writing the North Coast Mediation and Arbitration Center at 4401 Manchester Ave., suite 202, or calling 436-8392. The Community Mediation Program can be reached at 238-1022.



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## TENNIS

# NCAA event ahead for USD's Larking

<sup>2955</sup>  
Jennifer Larking doesn't want to discuss it. She's afraid she'll jinx her chances.

What she's reluctant to say is that 1988 might be her year — finally.

In two previous seasons as the top women's tennis player at the University of San Diego, she failed to receive an invitation to the NCAA Division I individual championships.

This season should be different.

Barring injury or upset in USD's last three matches, the senior from Poway should be one of 64 singles players at UCLA on May 15 for the first round of the nationals.

"It really means a lot to go, just because it's my last year," said Larking, who is 58th in the latest Volvo national collegiate rankings. "The last two years I've had good wins, but it was hard because USD really had no name. They don't just pick anybody and put them on the computer. They put on people they think should be ranked because of reputation. They see UCLA and they say, 'Oh yeah.'"

USD (10-8) toughened its schedule this season, and Larking is 14-4 in singles with wins over SMU's Jennifer Santrock (No. 9) and California's Karen Shin (No. 32).

"She definitely should make it unless something crazy happens," said USD coach Sherri Stephens. "I've been fighting for her for a couple years. I'm on the NCAA selection committee, and regionally she's ranked very high — in the top 20. Last year, they took 26 from our region. She's really had only one bad loss."

That was last month to Pepperdine's Carrie Crissell (ranked 62nd). Larking's only other losses came against Pepperdine's Ginger Helgeson (No. 10), North Carolina's Ann Stephenson (No. 44) and Shin.

"I think Larking has had a great year," said U.S. International coach Dave Trebisky. It's not her first.

As a senior at Poway, Larking won the girls' CIF-San Diego Section singles title and led the Titans to their first team championship. She graduated in 1984 and accepted a scholarship at the University of Oklahoma but stayed just one school year.

"It was fun because it was such a big sports school, but I didn't like the coach, so I quit the team and just attended classes after the first semester," Larking said. "There was a lot of dissension on the team — half the players hated him (the coach) and half loved him."

She came home to Poway in the summer of 1985 and accepted a half-scholarship offer from USD, whose team had won just four matches the previous season.

## LOCAL TENNIS

### CHRIS CLAREY

"She was very unhappy and looking for a place in Southern California," said Stephens, who took over the program in 1984. "It didn't take a lot to convince her. I think she realized she'd get a pretty good education. I also think she realized I'd keep my promise to improve USD tennis and make the schedule tougher."

There were some adjustments to be made, however.

"It was totally, completely different from Oklahoma," Larking said. "At Oklahoma, if you're an athlete, you get the royal treatment. You don't have to wait in line for books or worry about classes. The athletic department secretary punches you into the computer weeks before everybody else. At USD, the school's so much smaller. Plus, they don't take athletics anywhere near as seriously. Academics are a big deal. Athletes wait in lines here."

Larking played No. 2 singles for the first half of her sophomore year, then moved up to No. 1, where she's been ever since.

Her powerful, consistent play from the baseline has been a major factor in USD's rise to respectability. The team was 14-10 last year and could finish 13-8 this year by sweeping its final matches this week against Long Beach State, UC Irvine and University of Pacific (although an NCAA bid is unlikely).

Larking, who will graduate next month with a degree in business administration, has no regrets.

"I'm really happy, because I love San Diego and I love the school and I just love the coach and all the girls on the team," she said. "I couldn't have picked a better place to be."

Except UCLA on May 15.

**College update** — The field for the men's and women's Division I team tournaments has been expanded from 16 to 20. Despite the increase, it appears unlikely any San Diego-area teams will be included. USIU's women (12-9) may have the best chance. They were ranked 24th with five matches remaining, including two against second-ranked Stanford. USIU's Kefi Binyamini, a native of Israel, is ranked 48th. UCSD's men's and women's teams should receive bids to the NCAA Division III championships next month. Both are 7-0 against Division III opponents. The women are 12-4 overall and ranked second by the Intercollegiate Tennis Coaches Association. The men are 16-8 and ranked seventh.



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## COLLEGE BASEBALL

### <sup>2955</sup>UCSD sweeps Whittier; Nowak strikes out 18

UCSD junior Rick Nowak struck out 18 in the second game to help the fourth-ranked Tritons sweep Whittier, 4-3 and 15-2, in a Division III double-header yesterday at UCSD.

The Tritons are 20-9.

Henry Jimenez' seventh-inning triple drove in Brian Crawford with the winning run in the first game. Winner Dave Adamson (4-1) pitched a complete game.

Right-hander Nowak (6-3) allowed four hits and struck out the side in the third, seventh and ninth innings to win the second game. Jim Martinez had four RBI, including a three-run homer in the third. Whittier is 9-18.

**USD** — Mark Graffiti had both game-winning RBI in Loyola Marymount's sweep of the host Toreros, 6-5 and 5-4, in a Western Coast Athletic Conference double-header. Graffiti doubled in three runs off reliever Lou Skertich in the seventh for Loyola in the first game. His two-run single beat Skertich (2-6) in the seventh of the second. Reliever Darryl Scott (7-2) won twice. USD (17-22, 2-9) and the Lions (34-9, 7-0) play again today at 1.

**Pacific Coast Conference** — Mira Mesa High alum Essex Burton's fourth-inning triple drove in two runs as host San Diego Mesa (21-

5, 12-2) defeated Grossmont, 5-2. Winner Paul Anderson (6-1) pitched 6½ innings ... Ron Howard had four of Palomar's 19 hits in the Comets' 14-0 rout of host San Diego City. Tino Lozano hit a two-run homer and Fallbrook High alum Mark Ringkamp (7-4) pitched a five-hitter. The Comets are 19-8 and 13-1; the Knights are 6-20 and 4-10.

**San Diego State** — Snow canceled a Western Athletic Conference double-header with Air Force in Colorado Springs. The teams will try to play two games today.



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## Nowak Strikes Out 18 as UCSD Sweeps a Doubleheader From Whittier

<sup>2955</sup>  
Rick Nowak struck out a season-high 18 batters in the second game Saturday as No. 4-ranked UC San Diego swept an NCAA Division III doubleheader from Whittier, 4-3 and 15-2.

Nowak (6-3) struck out the side in the third, seventh and ninth innings and scattered four hits.

Catcher Jim Martinez, who was 2 for 3 with 4 runs batted in, broke the game open with a 3-run home run in the third. Lico Kauleinamoru (2-4) was the loser.

In the first game, UCSD scored three runs in the bottom of the seventh and final inning to earn the victory. Henry Jiminez tripled home the winning run with none out.

Brian Crawford, who singled home the tying run and scored the winning run, was 2 for 3. Dave Adamson (4-1) was the winner and Tom Murphy (3-3) took the loss.

UCSD is 20-9; Whittier is 9-18.

□  
The nightmare continues for the University of San Diego as visiting and No. 4-ranked Loyola Marymount swept a West Coast Athletic Conference doubleheader, 6-5 and 5-4, winning both seven-inning games in the final inning.

USD (7-22, 2-9) has now lost eight consecutive games, seven of those during the opposition's final turn at bat.

Both games came down to Loyola's Mark Grafitti batting against USD reliever Louis Skertich.

### San Diego Sports Et Cetera

In the first game, trailing 5-3 with the bases loaded, Grafitti laced a pitch into left field that was misjudged by USD's Chuck Graham. The ball went all the way to the fence, clearing the bases.

□  
In the second game, after USD had come from behind with three sixth-inning runs to take a 4-3 lead, Grafitti came through with a two-run single to lead Loyola (34-9, 7-0).

Darryl Scott (7-2) won both games in relief for Loyola. James Ferguson (3-2) lost the first game for USD, and Skertich (2-6) was the loser in the second game.

□  
Brian Tema, John Danis and Brad Hardan each had two RBIs as visiting Point Loma Nazarene College defeated Southern California College in the first game of a Golden State Athletic Conference doubleheader, 7-4. But Point Loma

Nazarene managed just two hits in the second game and lost, 2-0.

Hardan's third inning two-run home run highlighted the first game. Larry Johnson (4-8) picked up the win.

A.J. Napier collected both of Point Loma Nazarene's hits in the second game.

Point Loma Nazarene is 11-22 and 4-8.

### WOMEN'S TRACK

The Point Loma Nazarene women's track team won the 57th Fresno Relays behind the stellar performances of relay team Stacy Arthur, Shawndal Reddic, Connie Navarro and Suzanne Johansson.

The quartet won the 1,600-meter relay in 3 minutes 58.67 seconds. Navarro also won the 100 meters in 12:67.2.



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**JUST SAY NO:** Actor Richard Dreyfuss finally did, after battling cocaine addiction and winning. The actor has revived his career and he will talk about the struggle at 8 p.m. Thursday in the Camino Theatre at the University of San Diego. Dreyfuss will speak for an hour and then answer questions from the audience. Cost is \$5. Call 260-8888 for ticket information. 2955



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## LOCAL BRIEFS

# <sup>2955</sup> Aztecs sweep Falcons, 9-0 and 17-8

Rob Brown pitched a five-hitter in the opener, and San Diego State swept a Western Athletic Conference double-header from Air Force, 9-0 and 17-8, at Runyon Field, in Pueblo, Colo.

The games were rescheduled after being snowed out Saturday. The site was changed from Colorado Springs early yesterday because of heavy snow.

Brown (5-3) struck out 10 and walked four, and Brian Lutes hit a three-run homer for SDSU (26-13-1, 8-2). Scott Oss (3-6) lost.

The Aztecs hit four homers in the second game, and freshman Erik Plantenberg (5-0) went five innings. Rusty Filter got his third save. Harry Henderson, Jeff Champ, Jeff Barry and Kasey McKeon all hit two-run homers.

The Aztecs and Falcons (15-15, 0-6) play a double-header today, tentatively scheduled for the Air Force Academy.

**More baseball** — Mark Trafton had three hits, but host USD (17-23, 2-10) lost to fourth-ranked Loyola Marymount, 6-4, in West Coast Athletic Conference play. Mike McNary won for the Lions (35-9, 8-0).

**Crew** — San Diego State men's team lost all six events to UC Santa Barbara in a dual meet at Lake Ca-

chuma ... UC Davis defeated UCSD, 617-630, in varsity eight action at Port Sacramento.

**Soccer** — The San Diego Nomads beat the California Kickers, 3-0, in the Western Athletic Alliance season opener at Southwestern College. Mario Gonzalez scored twice and Lucas Martin once. The Nomads host the Los Angeles Heat Saturday night at 7:30.

**Bowling** — You could say Scott Baxter of Escondido backed into the Amateur Bowlers Tour Spring Championship title and \$1,500 yester-

day at Clairemont Bowl, but only because the right-hander throws a back-up ball from the left side of the lane.

Baxter was the top seed in the stepladder finals after leading the semifinal scoring. He bowled (181 plus 11) 192 to defeat Tim Call of El Cajon, who had 170 (156-14), in the championship match. Call earned \$750 for second place. San Diegans Tom Willis (\$350) and Gale Williams (\$250) were third and fourth, respectively, and Chris Montes (\$150) of Chula Vista was fifth.



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*Neil Morgan is on assignment.*

**THE NAMES:** A pair of out-of-towners won SDSU's annual piano competition during the weekend: Xiang Dong from Shanghai and Julia I from Taiwan. ... Fr. Lawrence Jenco, who was held hostage in Lebanon, talks at USD tomorrow night. ... Linda Smith's MEND is going international with a chapter in India.



APR 13 1988

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# Mediators help to unclog backed-up court system

2955  
"The notion that people want black-robed judges, well-dressed lawyers and fine-paneled courtrooms as the setting to resolve their disputes is not correct. People with problems, like people with pains, want relief and they want it as quickly and inexpensively as possible" — Justice Warren Burger of the U.S. Supreme Court.

By Pat Stein  
Staff Writer

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Even though she is a member of the profession that stands to gain the most when people use the courts to settle disputes, Allen is committed to mediation and arbitration as means of resolving conflicts.

"I've seen people spend thousands of dollars in legal fees and end up with their issues still unresolved after months or years of court battles. The court system just isn't designed to handle things like disputes between neighbors over common fences, hedges, parking, barking dogs, noise encroachment or any of the other things people find to disagree about today," said Allen.

Mediation is a voluntary process in which disputing parties

## Out-of-court arbitration said to be the 'wave of the future'

meet with a professional mediator to negotiate the terms of their own settlement, Allen explained.

"Without taking sides, the mediator listens to both parties and acts as a catalyst in helping them to reach agreement," said Ruel.

If disputants are unable to reach agreement in mediation, they can move into arbitration.

"Arbitration is a process in which each side presents its case at a hearing before a person who isn't a judge but who functions as a judge, listening to the evidence and making a ruling," explained Allen, an associate member of the Society of Professionals in Dispute Resolution who frequently serves as an arbitrator in a wide array of controversies.

An arbitration hearing is less formal than a courtroom hearing and while there is a certain decorum, there aren't all the rules of evidence and technicalities that prevail in a courtroom so individuals may feel more comfortable presenting their own cases without an attorney, Allen says.

In arbitration, the burden of proof is not on one side more than the other, according to the American Arbitration Association.

Arbitration can be binding or

non-binding, depending on what the disputing parties have agreed upon before the hearing. Allen recommends choosing binding arbitration.

"Otherwise, why bother? What you want when you go into arbitration is a chance to present your case and get a ruling so you can put the dispute behind you and get on with your life," she said, adding that in her experience "the rulings I've heard from arbitrators have been at least as competent as the ones I've heard in courtrooms."

In binding arbitration, the arbitrator's decision has just as much clout as if it had been rendered by a judge. The determination is usually delivered in 10 days and takes the form of a brief statement giving specific directions to one or both parties.

Agreements reached in mediation are not legally binding, according to Underell, but the Center for Dispute Resolution in Boulder, Colo., reports that agreements reached through mediation are much more likely to be honored because both parties have participated in making the decision.

Many people have said the beauty of alternative dispute resolution procedures is that they are quick, fair and inexpen-

sive.

When called upon to help settle a dispute, the Community Mediation Program will contact the third party (whom they refer to as a respondent) and encourage participation in mediation.

"Most respondents are open to mediation. Very few people want to wallow in conflict except those who would rather be right than have a conflict resolved," Underell says.

The program's volunteer mediators schedule an appointment that is convenient to both parties, during the day, evening or weekend in a private setting.

"A trained volunteer mediator listens to both sides of the dispute and asks what the parties want from each other. The mediator will assist the parties in reaching their own solutions," Underell explained.

When agreement is reached, it is written down by the mediator and signed by both parties.

Mediation is "completely confidential" and will not result in police or court records. Ruel notes that one of the big advantages of mediation is that "you have control over your own destiny."

Allen points out that mediation usually take more than one meeting but that arbitration can usually be concluded in one session "although there is no time limit and both parties have a chance to fully present their cases."

Allen sees alternative dispute resolution (ADR) as "the wave of the future in dealing with conflicts on a personal and corporate level."

"Of course, the first step should be direct negotiation between the parties but when that doesn't work, ADR is certainly preferable to a long, expensive legal battle," she said.

Already many industries have embraced ADR to speed up resolutions and control litigation costs. In 1983, the American Arbitration Association prepared a pilot program of dispute resolution procedures to provide the insurance industry with a "simple, inexpensive and expeditious way to resolve claims."

AAA reports that the program has shown that 42 percent of the cases concluded in settlement, that mediation is the preferred means of settling claims, that there was a savings of about \$2,000 in legal expenses per case, compared to the expected cost of a trial. It was also found that claims were processed in an average of 90 days.

Allen has compiled a directory of mediation and arbitration services that are available in San Diego County and these can be obtained for a \$2 postage and handling fee by writing the North Coast Mediation and Arbitration Center at 4401 Manchester Ave., Suite 202, or calling 436-8392. The Community Mediation Program can be reached at 238-1022.



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APR 14 1988

Allen's P. C. B Est. 1888

## Chargers Sign Free-Agent Linebacker Keith Browner

2955  
The Chargers have signed free-agent linebacker Keith Browner, a former second-round pick of the Tampa Bay Buccaneers. Browner, who played at USC, is a 6-foot 6-inch, 260-pound linebacker whom the Chargers say they also will use as a defensive lineman.

Three of Browner's brothers, Ross (Bengals), Joey (Vikings) and Jim (Bengals), have played in the NFL. Keith Browner also has played for the 49ers and Raiders.

### POINT LOMA NAZARENE

Carroll Land, Point Loma Naza-

### San Diego Sports et Cetera

rene College athletic director, will be on sabbatical for part of next year, the school announced.

Ben Foster will be the acting director in his place. Ted Anderson, varsity basketball assistant for past two years, will take over Foster's duties as head basketball coach for next season.

The school also announced that Mike Farrand, a former assistant coach, will be the head soccer coach next season, replacing Mark Helpert, who resigned.

### FOOTBALL

Two San Dieguito High School football players have made decisions on where they will attend college.

Guard Mike McCune said he will play football at Dartmouth. He also was recruited by Air Force, Army, Cornell and Penn.

Offensive tackle Russ Roth has committed to UC Davis.

### COLLEGE BASEBALL

Dave Rolls hit his 11th home run and Chuck Graham and Mark Traf-ton each had three hits Wednesday as the University of San Diego snapped a 10-game losing streak with an 11-3 nonconference college baseball victory over UC San Diego at Cunningham Stadium.

Tony Battilega (4-4), James Ferguson and Mike Newby combined on a seven-hitter for USD (18-24) UCSD, ranked No. 8 in NCAA Division III, fell to 20-11.



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APR 14 1988

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# Some Players Can't Make the Grade

## Academic Standards Keep Several Quality Athletes From Signing

By DENNIS BROWN

SAN DIEGO—The spring period for signing national letters of intent opened Wednesday, but only one county high school boys' basketball player committed to a Division I college.

Willie Davis of Morse signed with United States International University.

Several quality players who could have signed Wednesday didn't because of academic reasons, according to local high school and college coaches.

"To be honest, a lot of the kids in the San Diego area aren't paying attention to what they have to do to get into school as far as academics go," said Kevin McLeod, an assistant at San Diego State.

Six of the county's best seniors—Jeff Alexander, Jeff Harper and Andre Mitchell of Madison, Carl Gaines of Lincoln, Lamont Grove of Crawford and Lee Cobb of El Camino—fell short of meeting National Collegiate Athletic Assn. academic standards, their coaches said.

To meet NCAA guidelines, high school players must have a 2.0 (C) grade-point average in 11 core courses and score at least a 700 on the Scholastic Aptitude Test or 15 on the American College Test. The core course requirements are three years of English, two years each of math, science and social science and two more years in those three subjects or in computer science, philosophy, language or religious studies.

But those are only the minimum standards. Most colleges have tougher entrance requirements.

McLeod, USIU Coach Gary Zarecky and USD Coach Hank Egan believe that several of those in poor academic standing are good enough to play on the Division I level and should attend junior college to improve their grades.

The high school coaches for Alexander, Harper, Mitchell, Gaines and Grove said the players are considering attending community colleges to improve their academic standings. Cobb, according to Coach Ray Johnson of El Camino, is considering junior college or Southeastern Oklahoma State University, a National Assn. of Intercollegiate Athletics school.

Poor grades weren't the only reason for the dearth of signings.

Several of the better local players—such 6-foot 2-inch Scott Oatsvall of El Camino, 6-1 Dave Delaney of Poway and 6-1 Tim Barry of Santana—were considered "tweeners," not quite quick enough to play guard and not quite big enough to play forward.

Johnson said Oatsvall also is considering Southeastern Oklahoma. Delaney probably will end up at a Division II school, according to Poway Coach Neville Saner. Barry was recruited lightly in basketball, according to Santana Coach John Bobof, but might receive a scholarship offer in baseball.

"It's hard to take risks," said Egan. "If you're going to take a risk, it has to be with a big guy."

One of those big guys, 7-foot

center Neal Pollard from Torrey Pines, said he is undecided about his plans.

"San Diego State has been talking to me," said Pollard, who also is being considered by Boise State. "They want me to come as a walk-on, then go on scholarship later."

Next year should be different, college coaches said. Seniors-to-be Courtie Miller and Kevin Flanagan of Torrey Pines and Robby Robinson of Madison are expected to attract considerable interest.

Davis, a 6-foot point guard, is one of only two local high school players to sign with Division I schools. In the early signing period in November, forward Randy Robinson of Kearny signed with Colorado.

Davis averaged 16.5 points, 11 assists and 6 steals last season.

"We're excited about Willie because he's a leader," said Zarecky. "He can run, jump and is a great three-point shooter."

"It's a good school and it's close to home," Davis said. "I feel com-

fortable."

□

Wednesday was the signing date for all college sports except football and women's volleyball, which sign in February. There was an early signing period for basketball in the fall.

Among the other local athletes who have signed, or who plan to in the next few days:

### GIRLS' BASKETBALL

Julie Doria, a 5-7 guard from San Pasqual High School, committed two months ago to the University of San Diego.

Lynda Jones, a 6-2 center from Mt. Carmel, also will attend USD.

Leslie Ellis of Santana will attend Eastern Montana College, a Division II school in Billings.

Kristy Patterson of Helix signed in November with Northern Arizona University.

### BASEBALL

After being contacted by more than 20 schools, Sean Rees of Mission Bay decided Tuesday on Arizona State.

Rees, a left-handed pitcher who also plays first base and is a solid hitter, turned down offers from Oklahoma, Illinois, Brigham Young and California, among others.

### TRACK

Charles Huff of La Jolla said he will sign with Washington State. Huff, a long jumper, triple jumper and sprinter, also was recruited by Washington, Oregon and Oregon State.

Distance runner Goshu Tadese of Crawford plans to attend Point Loma Nazarene.

### TENNIS

Andy Potter and Scott Hulse of San Pasqual have committed to Kentucky. Potter, who considered Arizona, USD, Colorado, Utah and Alabama, finished 12th last week in the Easter Bowl tournament in Miami.

University City's Mimi Burgos will attend Clemson. She is rated 58th in 18-and-under singles.

Sue Hawke of Patrick Henry, a member of The Times' All-County girls' basketball team, plans to attend San Diego State and play tennis.

### GOLF

Christy Erb of Bonita Vista said she has decided on UCLA after being contacted by 10 to 15 schools.

The top two junior boys in the area, Phil Mickelson of University of San Diego High School and Harry Rudolph of La Jolla, made their decisions long ago. Mickelson is headed for Arizona State, and Rudolph will attend Oklahoma State.

### SWIMMING

Allison Maxwell of University City, who has qualified for the U.S. Olympic trials, is signing with Clemson.

Contributing to this story were Steve Beatty, Chris Ello and Scott Miller.



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## In an Unpleasant Surprise, Aztecs Lose Forward Recruit

2953  
By CURT HOLBREICH and CHRIS ELLO, *Times Staff Writers*

SAN DIEGO—It was the case of the one that got away for San Diego State basketball coach Jim Brandenburg as the spring signing period opened Wednesday morning with Brandenburg in Tennessee expecting to land a much-traveled community college forward.

But when Brandenburg showed up to sign Ray Richardson, a 6-foot 6-inch forward at Hiwassee College in Madisonville, Tenn., he learned that Richardson already had signed with Nebraska.

"We were all shocked," said Kevin McLeod, SDSU assistant coach.

While the Aztecs were caught off-guard at the last moment, University of San Diego Coach Hank Egan improved his backcourt by signing two guards to letters of intent.

The school announced that Gylan Dottin (6-5, 200 pounds) from Saddleback High School in Santa Ana, and Wayman Strickland (5-11, 175) from Riordon High School in San Francisco, have signed letters to attend USD this fall.

U.S. International also helped itself with the signing of five players, including Morse High School guard Willie Davis, Coach Gary Zarecky said.

Wednesday was the first day since November that high school and community college basketball players were able to sign letters of intent for next season.

SDSU had expected to bolster a weakness at small forward with the signing of Richardson. But his change of heart even surprised Hiwassee Coach Hugh Durham.

"He has been saying all along he was going to San Diego State," Durham said. "I'm as upset about this as anyone."

Durham said Nebraska Coach Danny Nee was waiting at his office when he arrived Wednesday morning with Brandenburg and told him that Richardson had signed with him. Richardson averaged 19 points, 7 rebounds and 6 assists at Hiwassee.

Brandenburg, Nee and Richardson were not available for comment.

The loss of Richardson leaves the Aztecs with four scholarships available. One of those is expected to be awarded to Rodney Jones, a 6-1 guard from Panola Junior College in Carthage, Tex. Jones said Tuesday he has made an oral commitment to attend SDSU. Jones averaged 11.7 points and 6 assists a game at Panola.

SDSU previously signed two players—guard Kevin Rembert of Mater Dei High School in Santa Ana and forward Alex Sund of Golden (Colo.) High School—in November. The Aztecs also have three transfer players—guard Michael Best from Clemson, guard Chris Singleton from Delgado Vocational Technical Junior College in New Orleans and guard Shawn Bell from Chicago State and Morse High School—who will be eligible next season.

Dottin, USD's latest recruit, averaged 19.6 points, 10.3 rebounds and 7.2 assists while leading Saddleback to the Sea View League championship. He was a Times All-Orange County player. Strickland, who averaged 19 points a game, helped lead Riordon to the semifinals of the Central Coast Section Playoffs.

USD had received November commitments from forwards Kelvin Woods of Damien High School in Pomona, Carlos Carrillo of Bosco Tech High School and Al Lewis of Fullerton High School. USD also signed guard Anthony Thomas, a 6-3 transfer from Mesa (Ariz.) College, in November.

USIU announced that it had signed Aljenoid Banks of Los Angeles Crenshaw High School, Greg Howard from Athens, Ga., and Palomar Community College's Gary Williams and Jake Hodges. Banks, Howard and Williams are forwards, and Davis and Hodges are point guards.



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**Basketball signings** — Morse's Willie Davis was among five basketball players signing letters of intent yesterday to attend USIU. USD signed two out-of-town high school men and two local women.

Davis, a 6-foot-2 guard who led Morse to the CIF-San Diego Section Division I championship game, signed with the Gulls.

Yesterday, USD signed 6-5 guard Gylan Dottin of Saddleback High in Santa Ana and 5-11 guard Wayman Strickland of Riordon High in San Francisco.

The Toreros also signed two All-

CIF San Diego girls: 5-7 forward Pasqual High

Jones of Mt. Carmel

In addition to

6-5 forward Gary

guard Jake Hodge

lege, 6-4 guard

Banks of Crenshaw

geles and 6-6 forward

of Clarke Central



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## An 'E-4' for Madison's June Andrews is a rare occasion



WARHAWKS' JUNE ANDREWS  
Defensive gems are routine

By Bud Maloney  
Tribune Sportswriter

When Madison High's softball team was playing Simi Valley in the semifinals of the Canyon Tournament of Champions in Anaheim three weeks ago, June Andrews, the Warhawks second baseman, bobbled a relatively routine grounder for an error.

"That's June's error for the year," commented Madison coach Steve Miner.

One wasn't sure whether Miner was serious, but everyone who follows the Warhawks knows that the diminutive Andrews doesn't make many.

Miner, however, wasn't kidding. That was indeed Andrews' first error of the season and she has made one since for the 15-1 Warhawks.

"The ball kind of came up on me," Andrews says. "I should have

charged it more than I did."

Furthermore, Andrews, in her third season as Madison's starting second baseman, made only one error when she was a sophomore and just three last year as a junior.

To further emphasize that the misplay against Simi Valley was a shocker, consider that last Saturday, Andrews was named the best defensive player in the 32-team Canyon tournament, which the Warhawks won by beating Fountain Valley 4-0 in the championship game.

Canyon High coach Lance Eddy, who made the awards presentation, said in essence that he and his committee had expected making a defensive choice would be tough, but after watching Andrews play in the championship game, it was no contest.

Andrews, a senior who turned 18 on April 2, made three defensive plays against Fountain Valley that had the

spectators buzzing. In the second inning, she made a diving stop of a ball headed for center field and got the force at second with a quick toss to shortstop Wendy Choisser.

In the fifth, she retreated diagonally toward the right-field foul line to make a diving catch of a ball that would have fallen safely. She went skidding across the line after making the catch and then received the largest ovation of the evening as she trotted off the field.

In the sixth, she again went back, this time straight back, to easily get to a blooper that appeared to be a base hit all the way — until you saw how Andrews was playing it. By that time, the crowd was taking it all in stride.

Andrews' award came in a category that is usually ignored. But this tournament committee was a little sharper than most, and then she

made it easy for them.

Andrews, who stands 5-foot-2, bats ninth this season after leading off or hitting second a year ago.

"I batted ninth when I was a sophomore, and it doesn't bother me. It's fun being on base when those big hitters are coming up. I know something will happen."

Miner has her down there because he feels the first, second and ninth hitters fit the same mold, and he coaches that way from personal experience.

"I hit first or second for years and then one year we had two burners on the team," he says. "I dropped all the way down to ninth and learned to appreciate the value of a No. 9 hitter."

When Andrews steps up to the plate, she presents the appearance of the little girl at the end of the order, the one needed to fill out the roster.

On the contrary, she rarely strikes out, and with a runner on third, can be depended upon to put the ball in play. She's also an adept bunter and very selective.

When Madison beat Thousand Oaks 1-0 in the Canyon tournament, it was Andrews who drove in the winning run with a bases-loaded single. When Debbie Corbett broke up the Fountain Valley game with a two-run homer, it was Andrews who started the rally by drawing a base on balls.

Andrews, who plays basketball and tennis at Madison, will enroll at the University of San Diego next fall, but not on scholarship. She hasn't been offered anything for basketball and USD does not have softball scholarships.

"I'm not sure whether I'll play basketball or softball," she says, "but as a walk-on, I'll be able to do whatever I want."



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(San Diego Co.)  
Evening Tribune  
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**IT OTTER BE GOOD** — The translocation of sea otters will be the topic when the highly successful San Diego and the Sea seminar series resumes ~~Wednesday~~ at USD. The free public seminar will ~~get under~~ way at 7 p.m. in Room 204 of Serra Hall. For information, call 237-1221.



# Former Justices Debate Judge-Picking Process

2955  
By JOE NABBEFELD

San Diego Daily Transcript Staff Writer

Two former state Supreme Court justices of opposing views will debate the impacts of the Robert Bork and Douglas Ginsburg episodes tomorrow night in a free public lecture at UC San Diego.

Former justices Joseph Grodin and Frank Richardson, a liberal and a conservative, respectively, will speak at 8 p.m. in Peterson Hall on "Judging Judges: How Should We Choose Our State and Federal Judges?"

Grodin joined the court in 1982 as a Jerry Brown appointee and was ousted last year along with Rose Bird after heavy campaigning against Bird. Richardson, considered a moderate Republican, served from 1974 to 1983.

The two will also act as senators this afternoon in a mock U.S. Senate Judiciary Committee hearing over the confirmation of a U.S. Supreme Court nominee. Betty Wheeler, legal director for the San Diego chapter of the American Civil Liberties Union, and Gary Krep, executive director of the U.S. Justice Foundation in Escondido, will also act as senators.

UCSD constitutional law Pro-

fessor Michael Parrish will be the nominee.

The events are part of UCSD's ninth annual Earl Warren Symposium today and tomorrow.

Honeybear Warren-Brien, former U.S. Supreme Court Justice Earl Warren's daughter, will open the symposium. Then between 9 a.m. and noon, some 400 local high school students will listen to a legal panel discuss "Should Bork and/or Ginsburg have been confirmed?"

The panel will consist of Richardson, Professor Harry Hirsch, Fourth District Court of Appeals Judge Patricia Benke, Professor Abraham Blumberg, San Diego Municipal Court candidate Mary Franklin, attorney Alex Landon of Community Defenders, and University of San Diego Law School Dean Sheldon Krantz.

"What's important about this is you've had these extraordinary events in the past few years. Has the judiciary been put up for grabs? Has it become more politicized, or has it always been so?" said the event's organizer, Robert Horwitz, a UCSD communications professor and this year's director of UCSD's law and society program.

"We've seen Rose Bird ousted, Bork rejected and Ginsburg remove his nomination with the

(Continued on Page 3A)

San Diego, CA  
(San Diego Co.)  
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Judges—

(Continued from Page 1A)

likelihood that he would have run into other troubles."

Another local nomination that may someday fit right into that cast: USD law professor Bernie Siegan's nomination to the Ninth Circuit Court of Appeals has drawn formidable criticism from the Alliance for Justice and the Center for Law in the Public Interest. They charge Siegan advocates a "far-rightist judicial activism" and "constitutional revisionism."

"This year's topic is particularly timely," said David Wong, provost of UCSD's Warren College.



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
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Allen's P. C. B Est. 1888  
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Graduate degree programs in marine science and ocean studies were launched by USD yesterday with the help of a \$10,000 contribution from the San Diego Oceans Foundation. The donation will consist of proceeds from the foundation's June 24 fundraiser, called San Diego Oceans '88, planned at the downtown Marriott. Roger Revelle, who put the Scripps Institution of Oceanography on the map, is honorary event chairman. Tickets to the dinner, dance and auction are \$125 each. The foundation is challenging local businesses to match its contribution, said Frank Powell, the organization's executive v.p. and chairman of Oceans '88, with the goal being \$100,000. 2955

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San Diego, CA  
(San Diego Co.)  
Daily Transcript  
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APR 14 1988

Allen's P. C. B Est. 1888

A major expansion of the USD marine studies curriculum will be announced this morning by USD and San Diego Oceans Foundation officials. The details are being kept hushed and a host of local who's-whos in the ocean business are expected to attend the 10:15 event at Sea World's "A Place To Meet," formerly the Atlantis Restaurant.

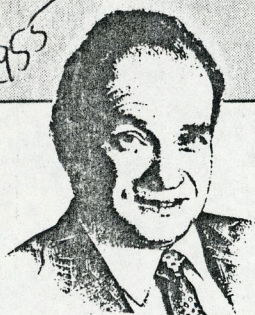
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**Don  
Bauder**

**S**tanley C. Pace is a great chief executive. It's too bad he can't go out proselytizing.

If American business would have heard Pace's message years ago, it would not find its highly leveraged head in a very threatening guillotine right now.

In 1985, Pace became chief executive officer of General Dynamics, which was almost entirely involved in the defense/aerospace business, then beginning to soften.

Outside directors asked if General Dynamics, which had a good balance sheet, might be wise to diversify by acquisition. Aided by a management consulting firm, Pace came up with a most intelligent answer: "We concluded we should not diversify. History shows that about one in five acquisitions has been deemed successful. And the people who benefit are the shareholders of the company being sold, not the shareholders of the company doing the buying."

As a result, General Dynamics not only remained in the defense/aerospace business, but sold off the handful of its non-defense/aerospace businesses, such as San Diego's Datagraphix.

Much of American business over the last three decades has done just the reverse: It has been on a highly speculative acquisition binge that has destroyed companies, ballooned corporate debt, clobbered balance sheets, impaired U.S. productivity and competitiveness and handed Jesse Jackson — no friend of capitalism — a very powerful and valid campaign issue, "economic violence."

However, the non-diversified General Dynamics has a problem: the aerospace/defense cycle. It's not doing so well now, following a tremendous worldwide buildup in this decade.

Pace, who was in town yesterday to talk with the University of San Diego's Corporate Associates, said he thinks U.S. defense spending in the next couple of years will be "flat" in real (inflation-adjusted) terms. That will affect his company with a lag. But GD's immediate outlook is also for "flat" sales and earnings.

That's not reassuring to Wall Street. General Dynamics stock sells for a woeful five times earnings. Wall Street sees the possibility of the United States and U.S.S.R. trimming defense expenditures. "Wall Street does not like uncertainty," said Pace.

He *didn't* say, but I will say, that Wall Street also does not like companies that mind their knitting — which refuse to play the acquisition game. That's because Wall Street makes enormous sums of money on finders' fees, arbitrage, hostile takeover rumors, takeover-related insider trading and such, and also knows that a company playing the acquisition game can more easily use all kinds of accounting gimmickry to conceal its weaknesses. So Wall Street loves companies that churn their operations the way Wall Street brokers churn your account. Wall Street loves companies that spend all their resources on acquisitions and divestitures (that is, on Wall Street) and nothing on research &

See Pace on Page D-2



**Stanley C. Pace**  
Bucks trend

## *Pace: GenDyn consolidates*

Continued from D-1

development or capital expansion. Remember, I said it. Pace didn't.

But because Pace's General Dynamics is going to spend 100 percent of its money and effort in a flat (or worse) industry, and because the Pentagon is demanding more fixed-rate contracts as a result of earlier scandals (greatly involving General Dynamics), the company will have to be sharper in bidding with its competitors — one reason Pace is happy that his executives spend 100 percent of their effort in one industry. The company will have to ride herd on costs — and "there could be some employment declines," Pace said.

That doesn't mean there will be layoffs at any of the three San Diego operations — Convair, Electronics and Space Systems — Pace said, but it does mean that everybody must pay attention to the tasks before them. That's what management will be doing.



San Diego, Calif.  
Southern Cross  
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**USD** 2955

**College visiting day** for prospective USD students will be held April 16 from noon to 4 p.m. Call the Admissions Office at 260-4506 for further information.

**"Communicating with Adolescents,"** a workshop directed by Dorothy Marron is set for April 17, 24 and May 1 from 6:45-9:15 p.m. at the Lutheran Church of the Incarnation in Poway. Sponsored by the Institute for Christian Studies. For more, call 260-4784.

**"What Have I Learned from the Bicentennial of the Constitution?"**, a bicentennial lecture series, will be held April 18 at 7 p.m. in the Manchester Conference Center. Murney Gerlach will be the guest speaker. Call 260-4682 for information.

**"Brigadoon,"** a Lerner and Loewe musical, will be presented by the USD Theatre Arts April 21-24 in Camino Theater. Show begins 8 p.m. Thursday, Friday and Saturday, 2 p.m. Sunday. Admission will be charged. For more, call 260-4712.

**Business Update Seminars** will be offered by USD's School of Business Administration April 22 and 29. Continental breakfast is

served at 7:30 a.m.; talks begin at 8 a.m. Cost is \$15 per session. For further information, call Kathie Hare, 260-4585.

**"An Evening of Early American Choral Music and Spirituals,"** a University Community Choir spring concert, is scheduled for April 22, 8 p.m., at the Immaculata. Donation asked. For further information, call 260-4600, ext. 4456.

**"The Pilgrim,"** a USD opera workshop directed by William Eichorn will be held April 29-30, 8 p.m., in Founder's chapel. The story deals with the resurrection of Christ. Requested donation is \$7, \$5 for senior citizens and \$4 for students. For more, call 260-4600.



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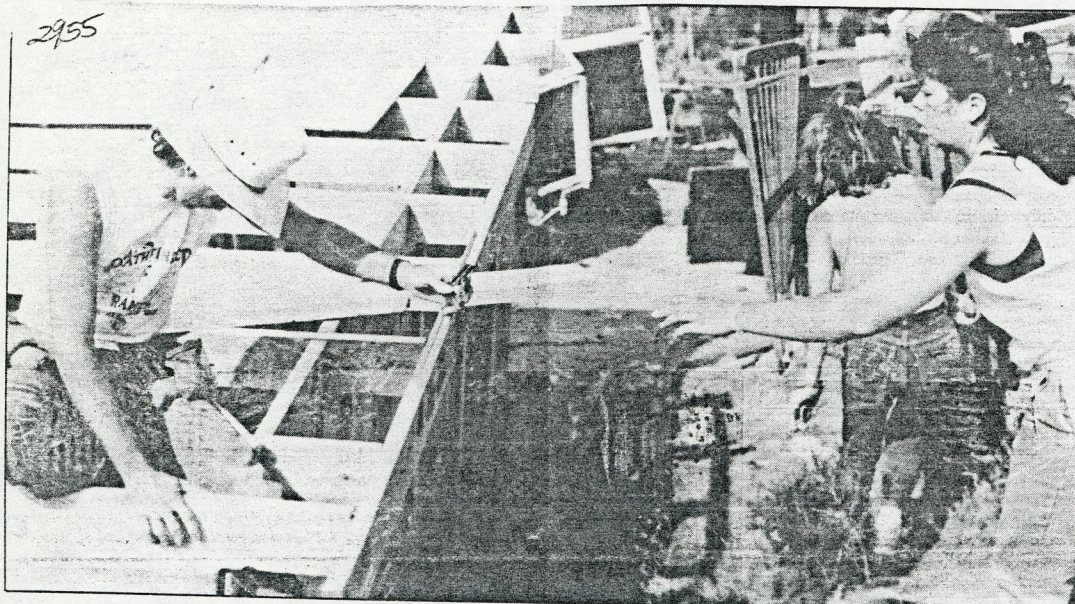
**Young adult conference  
scheduled at USD**

ALCALA PARK — The Office of  
Youth and Young Adult Ministries is  
sponsoring a young adult conference April  
23, 10 a.m.-5 p.m., at the University of  
San Diego.

2955  
Entitled "Connections," the day will  
consist of speakers, workshops and a  
liturgy. Bishop Leo T. Maher will be the  
main celebrant at the 3:45 p.m. Mass.

The cost is \$12. For reservations and  
information call 574-6303.





**HOUSE BUILDERS** — Ken Stonecipher, associate director of the Office of Youth and Young Adult Ministry, and Marianna Gamboa, a University of San Diego student, construct the roof of one of three houses built last weekend for families in the

Loma Bonita district of Tijuana. Food and clothing were also distributed. This marked the first time USD volunteers and young adults from throughout the diocese joined forces to build shelters for poor families living in Tijuana.

Photo by Maureen Nuesca

## Teamwork builds houses in Tijuana

By Maureen Nuesca  
Southern Cross

**TIJUANA**— The joint efforts of 45 University of San Diego students and young adults from local parishes resulted in three new houses for Tijuana families.

Although the project is an annual event for USD, the April 9-10 task was the first time both groups combined muscle and money.

Ken Stonecipher, associate director for

the diocesan young adult ministry, said, "I think it was good for the USD students to see young adults out of college getting involved."

"It's been something that has brought us together," said Greg Cabana, head of the young adult group at The Immaculata.

Located in the border city's Loma Bonita district, a former garbage dump, the 20-foot-square structures with

concrete floors and glass windows were constructed in two days. Because the group completed the job so quickly, they painted the dwellings and attached 10-foot bunk beds to the walls.

The families had been living in shacks made of lumber scraps and tires. One family of six shared a tent.

Through private donations, the young adults collected \$1,300, the cost of one

Please turn to page 3

San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

APR 15 1988

Allen's P. C. B Est. 1888

## USD students, adults get education in poverty

Continued from page 1  
house, said Stonecipher.

USD students raised over \$3,600 through carwashes and Lenten Sunday collections at Founder's Chapel, explained Dan Geiger, USD student project coordinator.

Last year members of Esperanza recruited USD students through the university's Campus Ministry office to participate in the project. Esperanza is an ecumenical organization which "seeks to match up resources in the U.S. with the needs of the poor in Tijuana," explained Peter Godefroy, an Esperanza member.

Jose Gonzalez, a Mexican lay missionary who works with Esperanza and the Tijuana community, purchases the materials for each residence. He also selects the house recipients who cannot resell the building and must maintain it, explained Mary Ellen Pitard, program coordinator for USD's Campus Ministry office.

Esperanza focuses on enabling people to help themselves and at the same time remains sensitive to their dignity, Godefroy said, adding most recipient families are matriarchal.

"It feels good to know you've done something for someone else. A home of their own gives the people a sense of self-

esteem. They are so happy and overjoyed," said USD student Lucy Kanjer. It (the housing project) was probably one of the best things I could have done. The feeling is indescribable," she added.

The outreach also included distributing food and clothing to all Loma Bonita residents. These goods were given to Virginia Miranda, coordinator of the area's Catholic community and last year's house recipient, Pitard said.

The Loma Bonita community immediately benefits from the experience, but Godefroy said the USD and young adult group also benefited. "This may be the first time many in the group were exposed to the conditions in Mexico," he said.

Geiger agreed, adding, "I think it is important for USD students because so often you get caught up in the social and academic atmosphere, you forget what is really going on in the world around you."

Stonecipher said the young adult leaders were anxious to bring parish youth groups to Tijuana to participate in similar housing projects.

Pitard said the Campus Ministry office will continue to work with the Loma Bonita colonia because of a "budding relationship" between the two cultures.



Oceanside, CA  
(San Diego Co.)  
Oceanside Breeze  
(Cir. 2 x W.)

APR 15 1988

Allen's P. C. B Est. 1888

Rancho Santa Fe, CA  
(San Diego Co.)  
Ranch Santa Fe Times  
(Cir. W. 500)

APR 15 1988

Allen's P. C. B Est. 1888

Solana Beach, CA  
(San Diego Co.)  
Solana Beach Surfcomber  
(Cir. 2 x W.)

APR 15 1988

Allen's P. C. B Est. 1888

Encinitas, CA  
(San Diego Co.)  
Coast Dispatch  
(Cir. 2 x W. 30,846)

APR 15 1988

Allen's P. C. B Est. 1888

Carlsbad, CA  
(San Diego Co.)  
Carlsbad Journal  
(Cir. 2XW. 16,049)

APR 15 1988

Allen's P. C. B Est. 1888

CD,DM,RSF,CJ,OB Friday, ..

## Presenters announced for Entertainer awards

**M**ichael Damian, a home-grown singer and actor who went on to the big time as an actor on "The Young and the Restless," will be a "presenter" at Monday night's North County Entertainer Awards. Also presenting awards will be former Charger Ed White, and disc jockeys Jim McInnis and Sue Delaney (KGB) and Billy Bones (91-X). The Mar Dels, Bolton-Dallas, Notice to Appear and New Country will play live at the ceremony which starts at 7 p.m. at the La Paloma Theater in Encinitas. Tickets are \$10, and all of the proceeds benefit the Mary Lou Clack Center for handicapped children in Vista. For more information, call 942-1901.

□  
**Rain Parade**, the Los Angeles band rooted in the pre- and post-psychedelic '60s, appears at the Belly Up Tavern Sunday night with **Food For Feet**. Everybody with a college I.D. is admitted for half price.

Also at the Belly Up Tavern this week, **The Mar Dels** relive those oldies but goodies on Friday and again on Wednesday. **Talk Back** (rock and reggae) return on Saturday, **Soul Patrol** (soul oldies) on Monday, and **Fo Mo** (rock and reggae) on Tuesday. **Jack Mack and the Heart Attack** return on Thursday.

For more information call 481-8140.

□  
A **University of San Diego** fraternity is hosting what must be the raddest live music show of the season, this Friday at the El Cortez Hotel in downtown San Diego.

It's "Big Wednesday" night in honor of the surf movie of the same name. **Dick Dale**, the "King of the Surf Guitar," and **The Slo Ponies**, the local neo-surf music band, will both perform. Dale, known for his blistering guitar work with "Miserlou," "The Wedge" and "Let's Go Trippin'," was the Big Kahuna when instrumental surf music flourished in the early '60s. The Slo Ponies, reviewed here a few weeks ago, are creating their own version of modern surf music, defined by their wild frat party stage show.

The "Big Wednesday" surf stomp is being produced by the Sigma Chi fraternity. Tickets are available only at the campuses of USD or SDSU.



Jack Mack and the Heart Attack, a blues rock group that also backs up TV star Bruce Willis, is set to play the Belly Up on Thursday. Another local singer who has gone big time is Michael Damian. Damian, whose father lives in Encinitas, stars in the soap "The Young and the Restless." He will be one of the presenters at the North County Entertainer Awards Monday night.



**Coast Sounds**  
Ken Leighton



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 15 1988

Allen's P. C. B Est. 1888

## USD launches graduate program in marine science, ocean studies

2955  
By Joseph Thesken  
*Tribune Education Writer*

The University of San Diego announced yesterday that it has established new graduate degree programs in marine science and ocean studies.

The master's programs are designed to complement the university's undergraduate program in marine studies, USD President Author Hughes said at a news conference at Sea World.

"San Diego is a major national oceanographic and marine research and business center and is fast becoming an international center,"

Hughes said. "We fully expect that our graduate and undergraduate degree programs will help the region continue to flourish in these areas."

The San Diego Oceans Foundation will contribute \$10,000 to USD as seed money to inaugurate a graduate scholarship fund, said the foundation's president, F. Seth Brown.

The foundation also will donate to USD a part of the proceeds from its annual fund-raiser June 24 in the San Diego Marriott Hotel, Brown said.

He praised the USD program for stressing interaction with the San Diego community "in a new and unique way."



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 15 1988

Allen's P. C. B Est. 1888

## Impact of politics in selecting judges discussed

By Lorie Hearn  
Staff Writer

2955

The national debate over the politics of judging judges came to life in San Diego yesterday as hundreds of high school students listened to the experts do some Monday morning quarterbacking over Robert H. Bork, Douglas M. Ginsburg and the historic 1986 election defeat of three state Supreme Court justices.

Among the experts at the UCSD symposium were three people in positions to know about how politics are injected into the judiciary: a retired California Supreme Court justice, a judge sitting on the Court of Appeal and a candidate for Municipal Court.

Predictably, their opinions conflicted — and when pressed, retired Supreme Court Justice Frank K. Richardson, appointed by former

Gov. Ronald Reagan, declined to express his views about the state Supreme Court election or the nominations of Bork and Ginsburg to the U.S. Supreme Court.

In an interview after the panel discussion, however, Richardson said that generally he did not believe state high court justices should be subjected to frequent retention elections, and that he worried about the ethical dilemma of judges who must raise funds to fight well-financed opposition.

"I can say I feel the people ... have the right to do what they did" in the 1986 judicial election, Richardson said, adding the qualifier: "Leave it to the people to decide whether what they did was right."

Patricia Benke, a justice of 4th District Court of Appeal who was considered for a place on the state

Supreme Court, did not talk about a need for changing the system.

"It is a political process, and I think that has to be accepted from the outset," she said, expressing confidence in the public's ability to choose and in the prospect that the recent furors over judicial candidates are unusual.

Benke wouldn't criticize the Senate's rejection of Bork for a U.S. Supreme Court seat. It was clear, she said, that "he was totally out of step with current jurisprudence."

Of Ginsburg, who withdrew his name for the same seat after his use of marijuana was publicized, she said: "We should not have a person on that court who has admitted — involuntarily — that he has violated the law."

Confining her comments to the national scene, attorney Mary Frank-

lin, who is a Municipal Court candidate in the June election, summed up her opposition to Bork simply: "I am black and I am a woman."

And although she said Ginsburg's past use of marijuana could raise a moral question, Franklin said she not believe it "would have interfered with his ability to interpret the Constitution."

Sheldon Krantz, dean of the University of San Diego law school, and defense attorney Alex Landon indicated that Ginsburg's use of marijuana should not alone have disqualified him.

Krantz and Landon also indicated they were disturbed with the role politics played in the confirmation and retention processes, a subject to be discussed by Richardson and former state Supreme Court Justice Joseph Grodin at UCSD tonight at 8.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 15 1988

Allen's P. C. B Est. 1888

## New ocean programs starting

By Pauline Repard  
Staff Writer

2955  
Two new graduate programs in marine science and ocean studies will open next year at the University of San Diego, school officials announced yesterday.

USD President Author E. Hughes said the master's degree programs are being created "in recognition that San Diego is a major oceanographic and business center and fast becoming an international center."

Starting in the fall of 1989, students will be able to enroll in either the ocean studies or marine science programs in a double major with other disciplines such as business, communications, chemistry or biology. The new curriculum is designed to complement the school's three-year-old Marine Studies undergraduate program of 40 students.

The San Diego Oceans Foundation, which promotes research and management of ocean resources, has promised a \$10,000 donation toward a scholarship fund for the new USD program. A fund-raising benefit has been set for June 24 at the San Diego Marriott Hotel and Marina.

"If we combine the foundation's involvement in university programs with these other activities, the community cannot help but become more aware of the ocean's importance to our economy and to our quality of life," Hughes said at a press conference outside Sea World's "A Place to Meet," formerly the Atlantis Restaurant.

Richard Casey, director of the USD Marine Studies Department, said he hopes to bring about 20 students into the graduate program.

"It will be mainly research-oriented," Casey said. "We want to do

things that are helpful to San Diego, such as monitoring local bay pollution levels or changes, studying the offshore regions."

He said the program is unlike those available at UCSD or San Diego State University in combining science with non-science studies and drawing heavily on local oceanographic and marine industries experts for teachers and arranging student internships.

"We are supporting this project because none other like it exists," said F. Seth Brown, Oceans Foundation president.

Hughes said students with the master's degree would be prepared for management-level positions within various marine industries such as fisheries or aquaculture (harvesting of aquatic plants and animals), as well as paleoceanography, maritime history or marine management.



San Diego, Calif.  
S.W. Jewish Press  
Heritage  
(Cir. W 3,810)

APR 15 1988

*Allen's* P. C. B. Est. 1888

## Judaic lecture series continues at SDSU

<sup>2955</sup>  
**A** wide range of social, historical, religious and political issues will be discussed by distinguished speakers this spring in the concluding half of the Judaic Studies Lecture Series at San Diego State University.

The weekly lectures, which are open to the public without charge, are from 4 to 5 p.m. Wednesdays in room 221 of Hepner Hall, SDSU. They are sponsored by SDSU's Lipinsky Institute for Judaic Studies in the College of Arts and Letters.

Following is the schedule for the second half of the series:

**April 13** — "Ethical Aspects of Innovations in Reproductive Technology," Rabbi Eliezer Breitowitz, director, Kollel of San Diego.

**April 20** — "Who Read the Bible? A Comparative Perspective," Prof.

Tamar Frankiel, Department of Religious Studies, UC Berkeley.

**April 27** — "Canadian and American Jews — Some Historical Comparisons," Prof. Michael Brown, University of Toronto and UCSD.

**May 4** — "Glasnost, Human Rights, and Soviet Jewry: The Road from Here," David Waksberg, executive director, Bay Area Council for Soviet Jews.

**May 11** — "Jews in New Religious Movements," Prof. Susan Garfin-Bettelheim, Department of Sociology, Sonoma State University.

**May 18** — "The Legal Profession in Israel," Dr. Yosef Edry, Faculty of Law and Business School, Tel Aviv University, visiting professor, USD Law School.

For more information, call Paula Tschetter at 265-5262,



Del Mar, CA  
(San Diego Co.)  
Del Mar Surfrider

APR 15 1988

□  
A University of San Diego fraternity is hosting what must be the raddest live music show of the season, this Friday at the El Cortez Hotel in downtown San Diego.

It's "Big Wednesday" night in honor of the surf movie of the same name. **Dick Dale**, the "King of the Surf Guitar," and **The Slo Ponies**, the local neo-surf music band, will both perform. Dale, known for his blistering guitar work with "Miserlou," "The Wedge" and "Let's Go Trippin'," was the Big Kahuna when instrumental surf music flourished in the early '60s. The Slo Ponies, reviewed here a few weeks ago, are creating their own version of modern surf music, defined by their wild frat party stage show.

The "Big Wednesday" surf stomp is being produced by the Sigma Chi fraternity. Tickets are available only at the campuses of USD or SDSU.



APR 16 1988

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# Proposed euthanasia act to be discussed

By Rita Gillmon  
Staff Writer

2955  
Religious leaders will discuss the proposed Humane and Dignified Death Act at a meeting of the Hemlock Society at 2:30 p.m. tomorrow at the First Unitarian Church on Front Street.

If it were implemented, the act would make California the first place in the United States where physicians could legally help a terminally ill person die. The initiative requires the signatures of 450,000 registered voters in California by May 9 to qualify for the November 1988 ballot.

Lethal injections can be given to terminally ill patients on request in Holland, but this practice has evolved out of legal decisions, not from legislation.

The act, which is being promoted by the Hemlock Society through Americans Against Human Suffering, is opposed by the Roman Catholic Church and the California Medical Association. The Hemlock Society said that many physicians support the measure and favor private arrangements to help patients gain release from unnecessary suffering.

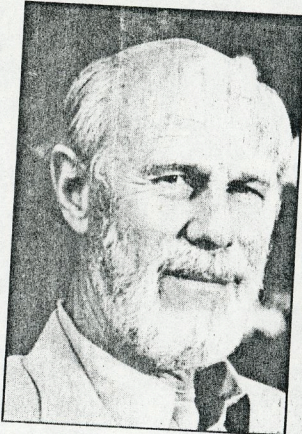
## Religion News

... in brief

The Rev. John Pridonoff, chair of the Religious Advisory Committee at Grossmont Hospital, will moderate a panel of religious leaders representing a variety of faiths, including Christian, Jewish and Buddhist.

● Rabbi David Saperstein, co-director of the Religious Action Center in Washington, D.C., will be a guest scholar at Temple Emanu-El's 6th Annual Scholar in Residence Weekend. The theme will be "The Jewish Roots of Social Justice, 1988 and Beyond."

Sessions will begin at 8:15 p.m. Friday with a free talk on the contemporary Mideast. Reservations must be made for talks at 7:30 p.m. next Saturday, "The Jewish Stake in the 1988 Elections," and 11 a.m. April 24, "The Church-State Dilemma." For more information or reservations call 286-2555 by Monday.



**Dave Hunt**  
Author to appear at banquet

Diego and pastor of Mission San Diego de Alcala. He is also a member of the board of trustees at the University of San Diego, team chaplain for the San Diego Chargers and a national trustee for the National Conference of Christians and Jews.

● The Rev. James C. Kniseley, pastor of Ascension Lutheran Church since 1979, has accepted a call to be president of Lutheran Outdoor Ministries of Southern California.

The organization manages two retreat facilities, Camp Yoliwja at Oak Glen and Lofthus Retreat at Julian. A new \$700,000 retreat facility is under construction at Yoliwja.

Pastor Kniseley will preach his farewell sermon at a 10 a.m. service tomorrow and he will be honored for his years of ministry. A potluck luncheon will follow the service.

● Author Dave Hunt will lead a discussion titled "The Church in the Light of Apostasy, Apathy and Appearing" at 7 p.m. Friday for the Annual Spring Banquet of the San Diego Christian Servicemen's Center at the College Avenue Baptist Family Center. Jonathan Young will provide special music. Call 239-8275 for reservations.

● The Christian Church (Disciples of Christ) will hold a district banquet at 6 p.m. next Saturday at Torrey Pines Christian Church. The program will be followed by dancing.

● The Young Couples Connection



**Rabbi David Saperstein**  
Temple's guest scholar

a.m. service tomorrow for needy newborn babies in a group baby shower. The gifts will be distributed through the Clairemont Christian Service Agency.

● A seminar on leading evangelistic home Bible studies will be led by Billie Hanks Jr. next weekend at First Baptist Church, Pacific Beach. He will speak at 7 p.m. Friday and at 9 a.m. next Saturday. The program is sponsored by the San Diego Southern Baptist Association.

● Organist Janice Stewart will give a recital at 4 p.m. tomorrow at La Jolla Presbyterian Church where she has been associate organist for seven years. Her program will include works of Vienne, Bach, Saint-Saens, Dupre, Tournemire and Messiaen.

● The Chancel Choir of Pioneer United Church of Christ will present Schubert's "Mass in G" at 7:30 p.m. tomorrow at the church.

● The Lutheran Expression of Marriage Encounter has openings for the weekend session of May 13 to 15. Married couples of any faith or non-church members are welcome to attend. Call Ron or Emily Hubbard at 270-4975 for information.

● College Avenue Baptist Church will present "A Family Affair," with J. Allan Petersen, author and speaker on marriage and family matters, April 24 to 26. Call the church for information.

meets on Mesa Rim Road in Mira Mesa.

● The Church of the Good Samaritan will hold a parking lot sale from 7:30 a.m. to 2 p.m. next Saturday. Proceeds will go to the building fund.

● Tom Johnson of the West Valley church of Religious Science will present a class on healing through spiritual mind treatment from 7 to 9 p.m. Thursday at the San Diego Church of Religious Science on Georgia Street. Call 291-6132 for information.

## South

Bishop Robert Miller will preach at the 9 a.m. worship service tomorrow at Victory Lutheran Church, which will be officially received into Pacifica Synod of the Evangelical Lutheran Church in America by the bishop.

The 120 member mission congregation meets at Bonita Vista Senior High School at Otay Lakes Road and H Street in Chula Vista, and the Rev. Larry Rehlander is the pastor.

A festival will follow the service and a noon potluck will be held at El Rancho del Rey Park.

The Pacifica Synod is one of 65 synods in the 5.3 million-member ELCA, the largest Lutheran body in the United States.

## East

First United Methodist Church of El Cajon will present the cantata "Living Witnesses" at 7 p.m. today and tomorrow at the church.

● Christian dramatist Curt Cloninger will perform at the 9:30 a.m. service tomorrow for Community Covenant Church. He also will discuss the role of drama in worship at the following Sunday School hour. The congregation meets in the Seventh-day Adventist Church on Lake Jennings Park Road, Lakeside.

● Lemon Grove United Methodist Church women will hold a rummage sale at 8 a.m. today in the church fellowship hall.

## North

The Rev. G. Woodin Garvin has accepted a call to be the pastor of Ran-



San Diego, CA  
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(Cir. S. 341,840)

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## LOCAL BRIEFS

# Toreros stop Broncos after losing to no-hitter

<sup>29-55</sup>  
Santa Clara's Greg Gohr walked eight and hit a batter but managed a no-hitter against the visiting University of San Diego to win the first game of a West Coast Athletic Conference double-header, 10-1, yesterday.

USD won the second game, 8-0.

In the first game, Broncos freshman Drew Miller doubled home three runs in the fourth inning to overcome a 1-0 Toreros lead. Miller added two more doubles in the game. The Toreros got their run when Rick Doane's grounder scored Sean Baron from third. Gohr (4-2) struck out five.

In the second game, Parris Soriano drove in four runs with a home run and a double for USD (19-26). Andy Roberts went 2-for-4 for the Toreros, and Mark Trafton had a bases-empty homer in the third.

Jim Westlund (3-1) went the distance to win; Victor Cole (8-3) lost for the Broncos (27-14).

**Running record** — Steve Myhro of the Chart House team completed the Fontana 5K course in 15 minutes, seven seconds, to set an American record in the 42-and-over division and win the masters competition in Fontana, Calif. Chart House teammate Ozzie Osgood, who placed second, ran 15:40, also bettering the old record of 15:43.

**Track record** — Jackie Anderson of Mesa College set a national junior-college women's record with a 42-foot, 4-inch triple jump in a track and field meet at Bakersfield College. The old mark of 42-1 was set by El Camino College's Renita Robinson in 1986. Anderson also won the long jump with a leap of 17-8.

**PLNC track** — Shawndel Reddic and Connie Navarro broke school

records to help the Lady Crusaders (101 points) win a five-team meet, defeating UCSD (69), Christ College (22), Biola (11) and the Master's College (5). Reddic cleared 5 feet, 9 inches to win the high jump, and Navarro won the 100 meters in 12.34 seconds. In the men's meet, Inar Cronstedt won the javelin (175-4¼) and the pole vault (14-5) to help the men's team beat UCSD, 127-83.

**PLNC baseball** — Second baseman Javier Murillo had five RBI, including a two-run homer in the second game, to help 13th-ranked Azusa Pacific (29-8, 11-4) sweep host Point Loma Nazarene, 11-2 and 8-3, in an NAIA double-header. Third baseman Tony Nobinsky homered with none on in the first inning of the second game for the Crusaders (11-25, 4-12).

**USIU baseball** — Pitcher Wally Trice struck out nine to earn his 11th victory, and the host Gulls beat UC Riverside, 11-6. Ray Plantier and Alberto Rodriguez homered for USIU (16-22-1).

**PCC baseball** — First baseman Mike Thomas had a two-run homer in the seventh and drove in five runs as Mesa (15-2) beat host Palomar, 17-4, to take over first place in the conference. Catcher Mark Robert hit a grand slam in the fifth and shortstop Geoff Martinez hit a two-run homer in the sixth for the Olympians. Paul Anderson (5-0) won in relief.

**PLNC tennis** — Shannon Anderson won both her singles matches to help Point Loma Nazarene take second place, with 28 points, in the Golden State Athletic Conference tournament at Cal Lutheran in Thousand Oaks. Westmont College of Santa Barbara won the team competition with 35 points.



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Ed Brien

## Volunteering becomes another part of his life

By Ruth Lepper  
Lifestyles Editor

Volunteering is nothing new to Ed Brien. It's become part of his life.

And for his efforts, he is one of several persons being honored by United Way at a luncheon this week in recognition of National Volunteer Week.

Brien serves on the board of directors as vice president of San Diego Service Center for the Blind. In this position, he does not work directly with clients but serves in an advisory capacity for the managers of the rehabilitation center for visually impaired adults.

Holding down two part-time jobs, Brien is the itinerant teacher for visually impaired students in South Bay and he is an attorney. His law office is in Santee.

Working out of Chula Vista City School District, Brien travels to pre-school classes through high school classes at schools in all five local districts — Sweetwater Union High, Chula Vista City, South Bay Union, San Ysidro and National school districts — and schools in Coronado. His students range in age from 4 to 18.

He has been teaching in special education since 1963. He said he chose this field after meeting a student in San Francisco. Brien was in the Army at the time, but he says "a seed was planted" to pursue a teaching career in special education.

After he left the military, he returned to the Bay Area to work towards his goal. He said there are only two schools of higher education in the state — in San Francisco and Long Beach — that offer degrees in teaching visually impaired, with about 10 teachers earning the degree each year.

In his role as attorney, Brien volunteers in a program that matches the lawyers with young parolees; a type of 'big brother' program for the parolees to learn how to adjust after being released from honor camp. It does not include legal services but concentrates more on counseling. For his involvement with this program, Brien was named attorney volunteer of the year.

Brien was teaching for 15 years before he decided to become a lawyer. He attended night classes at University of San Diego and passed the bar in 1970. He juggles his two careers and time schedules and comes out on top with having the best of both worlds, using one as a buffer pad for the other in a way to keep from taking his work home with him.

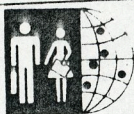
A quiet man he seems to be more at ease talking about his students and their successes than the work he does as a volunteer. While he doesn't talk much about the good he has done for others, his work has not gone without notice.



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
(Cir. D. 7,415)

APR 18 1988

*Allen's* P. C. B Est. 1888



## ***Business Matters***

by Robert Scally

\* \* \*

Social networking in client management will be discussed at 8 a.m. this Friday at the **University of San Diego's Manchester Conference Center**. The hour-long seminar will be preceded by a 7:30 a.m. continental breakfast. Cost is \$15.

\* \* \*



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## Padres controller Bob Wells to go to bat for glamour of sports accounting

### Around Town ... in business

Accounting is generally acknowledged to be a good, solid and often lucrative career. But the work of the "number-lovers" generally is not associated with Hollywood-type glamour.

Not so with sports accounting.

"Sports accounting is comparable to the theater in that we are producing something, and we are paying talent. We are a service-oriented entertainment, so we will have to deal with receipts for the night and concessionaires," said Bob Wells, controller for the San Diego Padres.

Wells will speak about sports accounting at a dinner seminar Thursday, sponsored by the National Association of Accountants.

"It is helpful to have an understanding and interest in baseball, but the basic accounting rules are the same," said Wells, 33, himself a former ballplayer at the high school and college levels. "If you can handle the production of screwdrivers, you can handle accounting in baseball; it isn't as sophisticated as manufacturing something. With a general accounting education you can step into it."

Wells added: "Two of the basic rules to be followed are reconciliation of games (game receipts) and the movement of players from team to team, but I also stress cash management, fundamentals of accounting, financial analysis and a general knowledge of baseball."

A very important aspect of sports accounting, says Wells, is player contracts. To that add dealing with major league contracts, bonuses, salaries, deferred compensation, and determining the value of the contract today.

Another aspect is game operations.

"You can hire a contractor or do the hiring and payroll in-house," Wells said. "The Padres hire the events staff, which includes ticket sellers, ushers and security. But we use the contractor Service America

for our food vendors. The city owns the stadium, and the Padres are only a tenant, so the city maintains the stadium, including grounds crew and clean-up after games."

Still another aspect is promotions. The Padres have a promotions department but it's up to someone like Wells to determine whether the event or giveaway has been profitable.

These topics and sports accounting in general will be discussed Thursday at the Gentlemen's Choice Restaurant, 1511 E. Valley Parkway, Escondido. A social hour begins at 5:30 p.m., dinner at 6:30 p.m. and the speaker will be introduced at 7:30 p.m. Cost of the dinner and lecture, open to the public, is \$15.

#### Seminars and Miscellaneous:

"Financial Planning for Retired and Working Investors," class, tomorrow, 7 p.m., Room 123, Patrick Henry High School, 6696 Wandermere Drive, San Diego. Sponsor: San Diego Community College District.

Fee: \$15.

"Growth and Development vs. Conservation of San Diego's Non-Renewable Resources," luncheon meeting of the Society for Marketing Professional Services, Wednesday, noon, the Atlantis Restaurant, 2595 Ingraham. Reservations at 231-5738. Cost: \$18 members, \$23 non-members.

"The Times Mirror Co." lunch presentation, with its vice president of finance and director of investor relations, Wednesday, noon-2 p.m., 10th floor, California First Bank Building, Sala Granda Room, 530 B St. Sponsor: Financial Analysts Society of San Diego. Reservations required by noon tomorrow: Michael Whitehurst, 239-3034. Complimentary lunch.

"The Role of the U.S. Department of Labor Employment Standards and Federal Contract Compliance Programs in the Enforcement of Affirmative Action and EEO Requirements Regarding Federal Government Contracts," luncheon meeting of the North County Personnel Association, Wednesday, 11:30 a.m.-1 p.m., Pea Soup Andersen's, I-5 and Palomar Airport Road, Carlsbad. Cost: \$12, non-members; \$10, members.

"Interpersonal Communication Skills," lunch program, Thursday,

11:30 a.m., Ramada Inn, 2435 Jefferson St., Old Town. Sponsor: International Association of Business Communicators. Reservations requested: 232-2888. Cost: \$12 members, \$15 non-members.

"How to Lessen Your Tax Burden," free seminar, Thursday, 2-3 p.m., or Saturday, 9:30-10:30 a.m., Prudential-Bache Securities, 16536 Bernardo Center Drive, Rancho Bernardo. Reservations requested: 485-8400.

"Effective Facility Management for Office Facility Managers," Wednesday, noon lunch seminar; "Effective Office Environments and Facility Planning for Architects and Designers," Wednesday, 6 p.m. with wine-and-cheese reception, and "Effective Office Environments for Law Firms and Other Professionals,"

Thursday, noon lunch seminar; free at Office Pavilion, 9220 Trade Place, Miramar area. Reservations required: Debi Moore, 566-1834.

"Social Networking in Client Management," breakfast/lecture, Friday, 7:30 a.m., USD, Manchester Conference Center, Alcala Park. Registration: 260-4585. Fee: \$15, includes continental breakfast.

"Condominium Owners and Their Rights and Responsibilities Under the Law," \$30 seminar on community association law, Saturday, 9 a.m.-noon; also on Saturday, "The Positively Organized Office," \$40 seminar, 9:30 a.m.-12:30 p.m., SDSU, College of Extended Studies Classrooms. Registration: 265-5152.

"Coping with Tax Reforms: The IRS Perspective," luncheon lecture with Lawrence B. Gibbs, commis-

sioner of the IRS, April 25, 11:30 a.m.-2:30 p.m., U.S. Grant Hotel ballroom, 326 Broadway. Sponsor: American Cancer Society and J.H. Cohn and Co. Reservations required: 299-4200. Fee: \$35.

Women in Sales meeting, April 26, 5:30-8:30 p.m., Tom Ham's Light-house, 2150 Harbor Drive, Harbor Island. Meeting to be a 'Table-Top' session where members and non-members may reserve a table for \$25 to display their goods and/or services. Meeting cost only: \$8 members, \$15 non-members.

C'est Creatif Design and Marketing has moved to a new office located in the Design Center at 4010 Morena Blvd., Suite 232, San Diego.

—Compiled by Melanie Ross-Smith

High Rate



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 18 1988

Allen's P. C. B Est. 1888

## LOCAL BRIEFS

# <sup>2955</sup>Crisp sets course record in La Jolla half marathon

Laurie Crisp of El Cajon was the overall women's winner with a course-record 1:17:06 in the La Jolla Half-Marathon yesterday.

The former women's record, 1:19:16, was held by Canadian Sylvinae Puntous.

Sean Evans was the men's winner with a time of 1:09:12 over the 13.1-mile course. Edward Cordova was second overall in 1:09:42. Triathlete Scott Tinley was third at 1:10:52.

Sandra Mitchell had a 1:33:01 and Tom Daly a 1:22:36 to win the 40-49

division. Jose Palos, at 1:32:57, and Lila Steinberg, at 1:52:43, were the winners in the 60-and-over division.

**USD tennis** — Jennifer Larking beat Kristi Kern 6-4, 7-5 to win at No. 1 doubles, and the host Toreros beat University of the Pacific, 5-4. Aby Brayton defeated Leslie Powell 6-4, 6-0 to win a singles match for USD (12-9).

The men's team lost to top-ranked Pepperdine, 6-3, in Malibu. John Mattered and David Edwards won their

singles matches, and Dave Stewart and Scott Patridge teamed to win in doubles. The Toreros are 15-11.

**UCSD tennis** — Hunter Gallaway defeated Gordon Hammond 6-4, 6-3 at No. 1 singles as the sixth-ranked Tritons beat Brigham Young-Hawaii, 5-4, in Honolulu.

Bob Hampton beat Sig Huber 6-2, 6-3 in No. 2 singles. Hammond and Hampton beat Gallaway and Huber

in doubles.

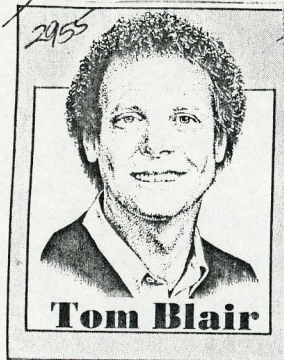
**Crew** — The USD men's varsity eight came in first at 5:08 in the San Diego City Championships at Tecolote Shores. SDSU was second in 5:13 and UCSD finished one second later. The SDSU women's varsity eight won, followed by UCSD and USD. The USD freshmen eight were first in 4:59, followed by SDSU (5:04) and UCSD (5:09).



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 19 1988

Allen's P. C. B. Est. 1888



**D**eified: Monsignor I. Brent Eagen went up against some top-notch performers at the big dinner salute to Steve Garvey at the downtown Marriott. And the Monsignor more than held his own. "I'm always a bit worried when I give the invocation at a Steve Garvey event," said Eagen. "I'm never sure whether I should pray for Steve or to him."

**Back to school:** Atty. Mike Aguirre, who's taken one stab at elective office and missed, is going to try to sharpen his political skills. He starts a one-year study course in July at Harvard's John F. Kennedy School of Government. Aguirre, who's handling the hot U.S. Grant Hotel investors suit, says he'll continue to work the case from the East, while co-counsel Terry Knoepp and Jim Krause work it here. Aguirre, who applied to Harvard right after losing his City Council bid last year, regards it as a "gigantic course in constructive criticism." And the \$11,000 tuition? "When you look at how much of my own money (\$245,000) I threw out on my council campaign," he says, "this is a big savings."

**Entre news:** Among the candidates to succeed retiring El Cajon Police Chief Darwin Sinclair: former SDPD Deputy Chief Ken O'Brien, who's quit as head of the State Bar's investigations office and is looking to get back to police work. ... Rock singer and sometime actor ("Purple Rain") Morris Day will have his day in court here today. He's scheduled for a personal appearance in Family Court in a paternity case involving a 2-year-old boy. The mother, a 24-year-old San Diegan, says Day fathered the boy when they lived together in L.A. Day, who had requested a jury trial in the matter, reportedly has decided not to contest paternity. ... Former Councilman Fred Schnaubelt was back in City Council chambers yesterday for a cameo appearance. He and his Russian bride, Irina Antonova, led the assemblage in the Pledge of Allegiance to the flag. ... Channel 10 has chosen former Channel 39 anchorwoman Laura Buxton as co-host with Bill Griffith of its new midday news/talk show, "Inside San Diego," starting June 20.

**The dumps:** The unsuspecting jogger who stopped to relieve himself the other morning in a beachfront porta-potty was none other than Judge J. Morgan Lester, who has a new definition of rotten luck. While the judge was inside, a forklift swung into action, picked up the porta-potty and began hauling it down the beach. The judge's screams and banging finally got the attention of the driver and saved Lester from cruel and unusual punishment.

**Life in the city:** The Nelson Riddle Orchestra, led by his son Christopher, will play the downtown Marriott May 13 when USD holds its annual Deans' Ball. It's a local gig for young Christopher, who took over the band when his father died in 1985, and moved to Carlsbad last year. ... Jim Milligan, who made his fortune in Oklahoma crude, last night quietly closed his Bird Rock restaurant, Milligan's, after 17 months. "I'm a man with lots of experience in the oil business," he says. "When you've got a dry hole, you plug it." ... Fred Mort, flying home to San Diego from Dallas over the weekend, found himself across the aisle from a fellow seated next to an outsized silver-colored box in the first-class section. The fellow, it turned out, was Jack Keith, the former G-man who heads security for the America's Cup. And inside the box, he explained to Mort, was the America's Cup — which always flies first-class on a fully paid ticket.

**Bottom line:** At SD Magazine, associate editor Virginia Butterfield received the envelope from "Californians Against Waste." It came bearing appropriate postage and the group's non-profit stamp. And it came empty.



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
(Cir. D. 7,415)

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*Allen's* P. C. B Est. 1888

Relocation of sea otters to San Nicholas Island will be discussed by two government experts 7 p.m. tomorrow in USD's Room 204 of Serra Hall. Bob Hardy, project manager for the seat otter research program of the state Dept. of Fish and Game, and Carl Benz, his counterpart at the U.S. Fish and Wildlife Service, will discuss the political and legal reasons for the relocation. It's part of "San Diego and the Sea" seminar series co-sponsored by USD and the San Diego Oceans Foundation. And it's free.

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Mission Valley, CA  
(San Diego Co.)  
San Diego Weekly News  
(Cir. 2 x M. 20,000)

APR 20 1988

Allen's P. C. B Est. 1888

April 22 The USD Community Concert  
Choir presents "A Sacred Concert of Early  
American Music". in the Immaculata Parish  
Church on the campus of the University of  
San Diego Info.: 260-4682.

2955



APR 20 1988

Allen's P. C. B. Est. 1888

## State news

# Faster probes of complaints against lawyers urged

By Ron Roach <sup>2955</sup>  
Tribune Sacramento Bureau Chief

SACRAMENTO — Saying that half of the 1,500 complaints pending against California lawyers seem to have merit, the state's lawyer-discipline watchdog is urging passage of a bill to speed investigations of those complaints.

"Close to 1,000 attorneys who may deserve disbarment or substantial discipline ... remain in unfettered practice," said Robert Fellmeth, a University of San Diego law professor who is the State Bar discipline monitor.

Fellmeth appeared at a news conference yesterday with Sen. Robert Presley, D-Riverside, at which they urged the passage of a Presley bill that would raise State Bar dues by \$145 a year to pay for an expanded system of dealing with complaints about lawyer misconduct.

Presley's bill was scheduled for a hearing today in the Assembly Judiciary Committee.

Both Presley and Fellmeth praised the current administration of the State Bar, particularly its president, Terry Anderlini, for promoting the proposed changes and the dues increase for the 110,000 attorneys in the state. The proposals have the backing of a majority of local Bar associations in the state.

As a result, Presley said that even though the State Bar hasn't met the requirements of a bill that set up the three-year monitoring program two years ago, he was willing to "work within the system" instead of pushing

a bill to take all lawyer disciplinary responsibility away from the lawyer-run Bar.

Presley said the attitude of the Bar's Board of Governors, which once opposed creation of the discipline monitor post and any dues increase, has changed greatly. Because of that opposition, Presley and other legislators had threatened to take away the Bar's disciplinary authority altogether.

Lawyers are required to join the State Bar and pay dues to practice their profession in California. Dues increases require approval of the Legislature.

In March 1986, the State Bar's backlog of cases under investigation had reached a high of 3,919, a figure that has been reduced to 1,500 by handling the easiest cases first, Fellmeth said.

The Bar failed to meet the Legislature's edict of an 80 percent reduction by last Dec. 31. Nor did the Bar comply with the law's requirement that complaints be dealt with in six months through admonition, dismissal or filing of a formal charge, although Fellmeth said such a time frame was not always realistic.

Fellmeth said he and Bar officials were surprised at the estimate that more than 50 percent of pending complaints appear meritorious, because the normal rate of cases that bring formal accusations has been 10 percent.

Because some attorneys are involved in more than one complaint, Fellmeth said 300 to 400 lawyers

"are deserving of a formal accusation," yet they continue to practice law because the State Bar "just doesn't have the resources to draft" the show-cause orders.

Until charges are formally filed, the matters are "under investigation" and are not public. Only 10 lawyers last year were placed under "interim suspension" Fellmeth said, because "the resources which must be allocated to achieve the effective interim suspension of an attorney are immense."

Presley was startled at the news

conference when one of the introduced as supporting the bill "continues to shut public and leave lawyers in

Ronnie Brown, a spokesman for the group HALT — an acronym for Help Abolish Legal Tyranny — the bill represented a step in the right direction but should include several amendments, including that would make Fellmeth's permanent with expanded powers instead of lasting three years.

HALT's proposed amendments. Please see **LAWYERS: A-11.**

## ★Lawyers

Continued From A-9 <sup>2955</sup>  
could kill the bill, Presley said.

Presley's bill would also add \$20 a year to a lawyer's dues for the Client Security Fund, bringing the total to \$165 above what Assembly Speaker Willie Brown, D-San Francisco, is proposing in separate legislation for the State Bar's normal operations.

Brown said he was proposing a \$30 to \$35 dues increase and would not support Presley's three-year discipline fund surcharge unless the State Bar persuades him that every dollar is necessary.

Combined, the Presley and Brown bills would increase annual membership dues to about \$470 for lawyers with more than three years of practice; \$402 for those with one to three years, and \$371 for those in their first year. Presley said that is in line with what doctors, nurses and other professions or labor unions charge in annual dues.

Presley said his bill would replace the current system of more than 450 volunteer attorney judges who consider cases and replace them with as many as 10 professional hearing judges appointed by the California Supreme Court.



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APR 20 1988

Allen's P. C. B Est. 1888

## Awardshonor spirit of entrepreneurship

2955  
Nominations for San Diego's "Entrepreneur of the Year" awards will close Monday, according to Harry Casari, a partner in the local office of Arthur Young, the accounting and consulting firm that is co-sponsoring the awards program with Venture magazine.

Founders of San Diego-area companies that are privately held or have recently gone public, along with individuals who have actively supported entrepreneurship are eligible for awards in six categories. Winners will be recognized at a June 6 awards luncheon featuring keynote remarks by

Tom C. Stickel, chairman and chief executive officer of TCS Enterprises Inc.

Winners will be selected by an independent panel of judges selected for their leadership in the fields of business, academia, government and the media.

They are: Myron Eichen, chairman, Brooktree Corp.; Ron Fowler, president, Liquid Investments Inc.; Lee Grissom, president, Greater San Diego Chamber of Commerce; Dr. Author

Hughes, president, University of San Diego; Tawfig Khoury, chairman, Pacific Scene Inc.; Assemblywoman Lucy Killea; Martin Kruming, editor, San Diego Daily Transcript; William Otterson, director, Connect program at UCSD; and Kenneth Thygerson, president, Imperial Corp. of America.

Those wishing to offer nominations or receive more information about the program can call 238-1144.



Encinitas, CA  
(San Diego Co.)  
Coast Dispatch  
(Cir. 2 x W. 30,846)

APR 20 1988

Allen's P. C. B Est. 1888

Del Mar, CA  
(San Diego Co.)  
Del Mar Surfer

APR 20 1988

Solana Beach, CA  
(San Diego Co.)  
Solana Beach Surfer  
(Cir. 2 x W.)

APR 20 1988

Allen's P. C. B Est. 1888

# Awards honor spirit of entrepreneurship

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APR 21 1989

711... P C R Est. 1888

## Critic takes softer stand in opposing Siegan's federal court confirmation

By Ann Levin  
Tribune Education Writer

In another twist in Professor Bernard Siegan's long-running battle to win confirmation to a federal court, a Harvard law professor this week retreated from an unflattering characterization of Siegan as an extreme right-winger.

Laurence H. Tribe, an outspoken liberal professor at Harvard University Law School who has been mentioned as a possible nominee to the U.S. Supreme Court under a Democratic administration, wrote a letter two days ago to the Senate Judiciary Committee moderating a previously harsh assessment of Siegan dated May 28, 1987.

"Although my ultimate recommendation continues to be negative," Tribe wrote, "the additional thought I have given the matter ... has led me to conclude that my May 28 letter put my negative views more strongly than the record warranted."

Siegan said Tribe's turnaround is "interesting," but declined to comment on whether he has made up his mind to stick out the confirmation battle or withdraw his name.

"It's something," the 63-year-old law professor said about the lukewarm letter of praise, adding, "What I can't understand is why he still opposes me. He has his opinions. I have my opinions. Who's right?"

Siegan's nomination to the 9th U.S. Circuit Court of Appeals has been stalled in committee for 14 months, in part because Tribe and other scholars have said that Siegan's judicial philosophy is outside the mainstream of American jurisprudence.

The University of San Diego professor's chances of winning confirmation were considered almost nil last month after it was learned that U.S. Attorney General Edwin Meese called him on March 24 to discuss the nomination.

Siegan denied published reports that Meese urged him to withdraw his name, saying that his former colleague told him to make up his own mind.

Siegan has yet to say if he has made up his mind. But it is clear from the care with which he has put together a list of supporters — the number was 42 yesterday — that he hopes to sway the committee with testimonials from lawyers and professors.

In the three weeks since Siegan's conversation with Meese, he has called the attorney general's office twice, but said the phone calls were about several matters.

Siegan, who plans to be in Wash-

ington, D.C., next week for an executive meeting of the Commission on the Bicentennial of the U.S. Constitution, did not rule out the possibility that he will meet with senators to assess his chances of confirmation.

Siegan's nomination is vehemently opposed by some women's and civil-rights groups because of a libertarian philosophy that stresses economic over civil rights.

Last year, Tribe told The Tribune that Siegan's views are crankish, farther to the right than those of Chief Justice William Rehnquist and "have been repudiated by every serious student of the Constitution for half a century."

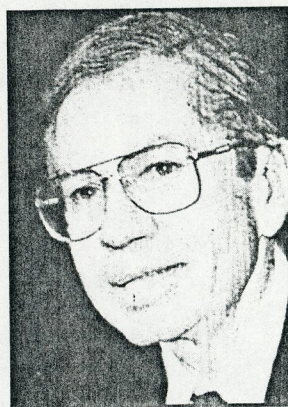
He expressed similar views to the judiciary committee last spring, but has since retreated from that position.

Tribe said this week that Siegan's views on economic liberty, while sharply different from his own and from those of the Supreme Court, "are not quite as extreme as they seemed to me ... and create less danger than I initially supposed."

Last year, Tribe said that Siegan's analysis of court-mandated school desegregation is "so bizarre and strained" as to question the law professor's competence and sincerity.

While Tribe continues to find Siegan's analysis of the landmark civil-rights case, *Brown vs. Board of Education*, "peculiar and unconvincing," he now says, "It seems to me excessive to describe the Siegan analysis as so strange that either his basic competence or his good faith should be questioned."

Siegan drew fire from civil-rights



BERNARD SIEGAN  
Appointment stalled

groups when he said there is no fundamental constitutional right to an integrated education.

In a letter addressed to judiciary committee Chairman Joseph R. Biden Jr., D-Del., Tribe said that while he continues to find Siegan's judicial philosophy "most troubling," he regrets the "stark" nature of his earlier statement that Siegan is "unfit to serve as a federal judge."

In legal hairsplitting that Siegan says is baffling even to him, Tribe said that he now believes that "there is much to be said in support of Siegan as an individual" and that if he were deliberating with the committee he would "come to a more measured view than the one I originally voiced, even though my bottom line would still be a negative one."



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La Jolla Light  
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APR 21 1988

Allen's P. C. B. Est. 1888

# Scholars discuss judicial system's problems

## Did Supreme Court nominees get fair deal?

By BRAD GRAVES

Light Staff Writer

The debate over Supreme Court nominees Robert Bork and Douglas Ginsburg was resurrected last week as attorneys, judges and legal scholars gathered at UCSD for the Earl Warren Memorial Symposium.

Bork was the Supreme Court nominee whose conservative views on subjects such as abortion and civil rights drew the ire of liberals and the praise of President Reagan's right-wing supporters.

Most of the symposium participants praised Bork's intellectual ability and scholarship, but lambasted his personal ideas. Abraham Blumberg, a visiting professor of political science at UCSD, called Bork "a rigid, dogmatic, insensitive, angry human being," who was "so clinical" in his approach that he treated people like "experimental laboratory animals."

Local appellate Judge Patricia Benke was more charitable when she said Bork was "totally out of step with current jurisprudence."

Even while most participants were personally opposed to Bork, they said they were uncomfortable about the political campaign waged against him.

University of San Diego Law School Dean Sheldon Krantz said he was "very disturbed last fall about the Senate process and the potential implications of those few months for the future."

In the future, he said, there may be too much emphasis on single issues, and nominees may have to pass a "majoritarian litmus test." As a result, he said, there may be a "chilling effect" among people who aspire to be a judge: They will have to watch

protect unpopular views...are going to be at risk," he said.

Krantz said that if he had been on the Senate Judiciary Committee, he would have "swallowed hard" and voted for Bork.

While former California Supreme Court Justice Joseph Grodin said he was ideologically opposed to Bork, he added that he objected to the way the campaign against Bork was carried out.

Grodin complained of a 30-second television commercial that mounted a "simplistic attack" against Bork's views, "an attack to which no rational response is readily available."

Grodin said that Bork's opponents viewed his record in terms of statistics, not in terms of individual cases. The reasoning that accompanied Bork's rulings was also not brought up, he said.

Grodin praised the confirmation process for the U.S. Supreme Court, calling the Senate a place "where some rational discourse can take place." "The candidate can confront questions and explain his views," he said.

Panelists also debated the case of Douglas Ginsburg, who was nominated for the Supreme Court position after Robert Bork, then withdrew his name after he admitted to smoking marijuana during the 1960s and '70s.

A number of symposium participants said that smoking marijuana during the '60s and '70s was not enough to prevent someone from sitting on the U.S. Supreme Court.

"I equate marijuana with use of any other intoxicant which is used widely by some very

How many justices would be sitting if there was a stigma attached to getting drunk, asked Alex Landon, a supervising attorney with the Community Defenders of San Diego.

"Simply from a role model standpoint you can't have a person on the court who has admitted involuntarily that he has violated the law," Benke said.

Krantz added he didn't think Ginsburg's credentials would have been good enough for the Senate anyway.

The Warren Symposium usually includes a moot court session, but this year's program featured a mock Supreme Court confirmation hearing.

UCSD history professor Michael Parrish played the nominee. He brought with him a fabricated life history that was packed with controversy (among other things, he was a charter member of Students for Democratic Society, was arrested during civil rights marches in the South and represented Hustler magazine in a lawsuit recently brought by Jerry Falwell).

After initial pleasantries, members of the Senate Judiciary Committee started asking pointed questions of Parrish. Soon each was bobbing and weaving around the other's line of reasoning.

## Panelists suggest improvements to system

Participants at last week's Earl Warren Symposium at UCSD critiqued the process of selecting state and federal judges.

They also spoke about how they would do it better.

Abraham Blumberg, a visiting professor of political science at UCSD, questioned lifetime appointments on the federal courts.

Life terms free a judge from political pressure. But terms of 10 to 14 years, he said, would do the same thing. They would also accommodate social change more readily, Blumberg said, and "protect the electorate" by having the judge step down at a particular time.

Former California Supreme Court Justice Frank Richard-



Joseph R. Grodin

son listed some technical adjustments to the terms of state judges. He added that he would like to put a cap on judicial

campaign contributions.

Joseph Grodin, also a former California Supreme Court Justice, said he would prefer a system of lifetime appointments, at least at the appellate bench (but not at the trial bench).

Still, Grodin questioned the efficacy of reform.

The situation, he said, could be likened to the story about the lady at the funeral who kept suggesting that the deceased be given some chicken soup.

After putting up with her suggestions, the rabbi finally told the lady that chicken soup wouldn't help. "It wouldn't hurt," the lady replied.

"I feel a bit like the lady at the funeral," Grodin said.



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## UCSD panelists ask: Who should judge judges?

By BRAD GRAVES  
Light Staff Writer

Which is worse: having judges running for election (and financing a campaign) before a public that is largely unschooled in legal matters and susceptible to emotional appeals or having a legislature or another government body select the judges for the public?

That and a number of other issues related to selecting judges were batted around last week at the ninth annual Earl Warren Memorial Symposium, a two-day seminar held at UCSD.

Seventeen local judges, attorneys and legal scholars joined in the debates along with two former California Supreme

Court Justices — Frank Richardson and Joseph Grodin.

Grodin was one of the two justices to be voted out of office in 1986 along with Chief Justice Rose Bird. Critics complained that the three justices opposed the death penalty and were generally soft on criminals.

There are many good reasons

for judges not to be elected by popular vote, seminar participants said. Richardson gave a few.

For one thing, campaigning distracts judges from the work at hand. A judge may feel pressure to tailor his positions to public opinion, and perhaps even change his rulings during an elec-

tion year. And judges have to collect money for their campaigns.

The latter task, Richardson said, is "distasteful" and gives "appearances of impropriety."

The problem was recently illustrated in Texas, Grodin said, when Pennzoil sued Texaco. Both companies contributed

Please see JUDGES, A

### JUDGES

Continued from A1

large amounts to the campaigns of incumbent judges.

Richardson added that one California judicial campaign took in \$11 million worth of contributions. "It's almost an obscenity," he said.

Many of the symposium participants agreed that judges should be selected by the public, not by a government committee or a legislative body. Richardson added that elections allow a "more representative court" by bringing in judges of different nationalities and religions.

Still, Richardson said, the public is ill-equipped to judge a judge.

"It should be an informed public and that there is the riddle," he said.

Richardson and many of the other speakers said that campaign advertisements are more hype than information. Sheldon Krantz, dean of the University of San Diego Law School, said "clever" ad campaigns financed by special interest groups are not letting people make informed choices.

In the case of Rose Bird, Richardson said that voters were "easily swayed by emotional appeals."

Richardson said there is a "danger" in drawing conclusions about a judge's competence based on his stand on a particular issue.

Grodin elaborated by saying that a judge does not vote the same way as a legislator. The judge's job, he said, is to interpret statutes based on the spirit of the law, not according to his own emotions. A judge may be expected to hand down a ruling that he personally disagrees with, Grodin said.

Patricia Benke, a local appellate judge, countered that she still has faith in the system, ad-

ding that her views are "possibly naive." Benke said she believes you can fool some of the people some of the time, but not all of the people all of the time.

"If you insist on complete answers you will make the proper decision," Benke said.

When one audience member asked Richardson how the public can become more informed about judicial elections, Richardson replied that "you have to educate yourself."

He also called on organizations such as the League of Women Voters, bar associations, service clubs and the media to "present the pros and cons in a fair and balanced way." He said the same organizations should also inform the public on subjects such as concepts of the law.

Richardson added a "little known sequel" to the Rose Bird story, one that may validate the public's choice in voting her out of office.

He cited a poll taken by the Los Angeles Times after the election, asking California judges for their opinions on the recall. Among the judges who responded, 64 percent said that they personally voted against one or more of the judges.



San Diego, CA  
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## 1988 Independence Awards Dinner/Ball Slated

2955  
The Community Service Center for the Disabled (CSCD) announces the annual Independence Awards Dinner/Ball, an important event at which CSCD presents Independence Awards to those individuals and organizations that help promote true independence for people with disabilities.

Meg Winchester, Omni Hotel's catering sales director, is chairperson of this year's fund raising event to be held in the La Jolla Marriott Ballroom on May 7. The funds raised at the Independence Awards Dinner/Ball support CSCD's programs such as the Spoke Shop, housing, benefits counseling, employment and personal assistance services, as well as the construction of CSCD's long-awaited new facility that is already partially funded.

The Independence Award nominees for this year include presidential candidate Senator Robert Dole, Rolf Benirschke, former place kicker for the San Diego Chargers, T.V. news reporter, Lena Nozizwe and International Business Machines. Some of the previous recipients of this prestigious award are news broadcasters Bree Walker and Hal Clement, Hewlett Packard Corporation, Community Activist and USD law professor Robert Simmons, Cyndi Jones of Mainstream magazine, and Channel 39.

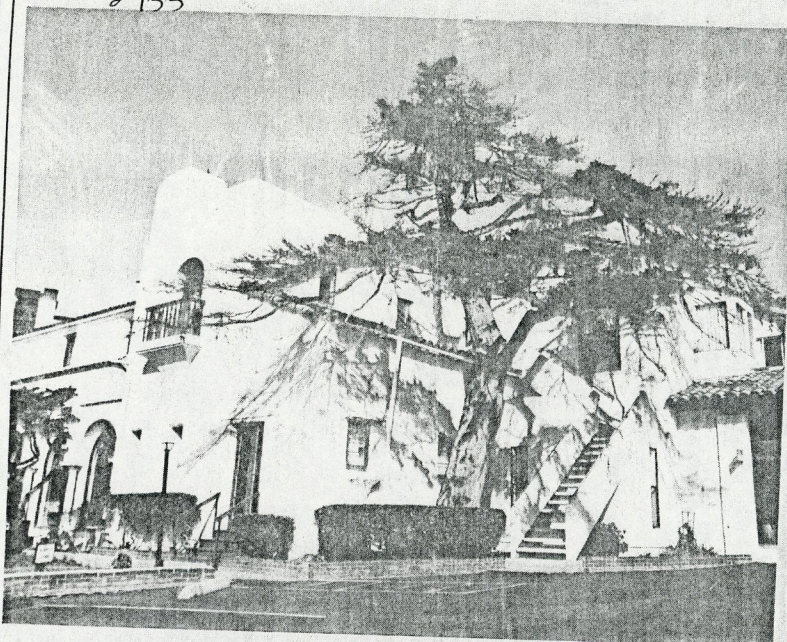
Following the dinner and awards presentation, there will be dancing to the Big Band sound of Gus Reinhold and his Orchestra. Individual tickets to this exciting event are available for \$75.00. Opportunities for corporate hosts, patrons, sponsors and table sponsors are also available.



APR 21 1988

Allen's P. C. B. Est. 1888

## Architect's grand touch also works on a small scale



The legacy of Edgar Ullrich lives on in La Jolla. While the Designer Showcase House may or may not be one of his creations, it is certain that the magnificent La Casa de Manana,

located near the Children's Pool, is an original Ullrich. Along with the large productions, the architect also designed some smaller buildings in the area.

Staff photo by CAROL SONSTEIN

By JEANNE BEACH EIGNER  
Light Staff Writer

Although architect Edgar Ullrich gained fame with his designs for the luxurious La Casa de Manana and the palatial Estate, his expertise on a smaller scale is appreciated, too.

"We love this house, it's very cozy. And we're into cozy," says Joe Marrone of his Ullrich-designed home on Monte Vista in the Barber Tract.

The Tudor-influenced house is not huge, but has all the and graceful lines of Ullrich's bigger houses, churches, and hotels. Brick and adobe, clean, clear spaces and lots make the home inviting. In the garden a 50-year-old fig spreads a cloud of pink blossoms in the spring and green in the summer.

The house has been maintained in, predominantly, its state. There have been no changes to its basic structure kinder than what befell some of Ullrich's other buildings, La Casa de Manana.

Edgar Vaughn Ullrich, a popular and successful architect native Colorado, came to La Jolla at the behest of Isabel Morrison, a divorcee from Colorado Springs. Legend has Hopkins used her alimony money to build the La Casa de Manana resort hotel on four and a half acres across from one of the swimming coves in La Jolla.

Ullrich designed the house in the Spanish hacienda style, a blend of Iberian rural simplicity and Spanish glamour. He stayed on to become one of the busiest California architects.

With developer Harold Muir, he laid out the underground electrical wiring for the Muirlands and built the first house there. Muir family atop the hill. With two living rooms, a study, fireplaces, numerous bedrooms and servants' quarters, the California palace.

Though Ullrich built many homes in the Spanish style, he was also fond of the Tudor and Normandy modes popular during the 1920s. His own home on Monte Vista was a three-story Norman structure, incorporating cone-shaped towers, sharp angled roof and, over the front entrance, a design of monkeys holding the roof.

Please see ULLRICH

## ULLRICH

Continued from D1

Ullrich family crest.

The rage for romantic, fanciful architecture came not from the influence of Californian or Mexican indigenous buildings, but was fueled by the motion picture industry, said Ray Brandes, dean of graduate and continuing education and a history professor at the University of San Diego.

In the 1910s and '20s, said Brandes, studio heads often sent

architects and designers to Toledo, Madrid and even the Taj Mahal to copy buildings for set designs. Soon stars and movie moguls began to build their homes in the style of the Iberian castle. The Normandy, French provincial look, familiar from swashbuckling epics, also found favor.

"And there's no question Ullrich copied some of this stuff, but he was good, very good. Ullrich unquestionably was an extraordinarily gifted architect," said Brandes.

On the USD campus, Ullrich designed at least five buildings within the strict architectural codes demanded by founders. The More Hall, School of Law, the Immaculate Heart Seminary, the Hall of Science and others were modeled on specific buildings in Spain.

Brandes cringes at the modern pseudo-Spanish stuccoed horrors that afflict San Diego, and the inappropriate remodeling or restructuring of good architecture. He is, he said, responsible for more listings of local buildings on the national and local registers of historic places

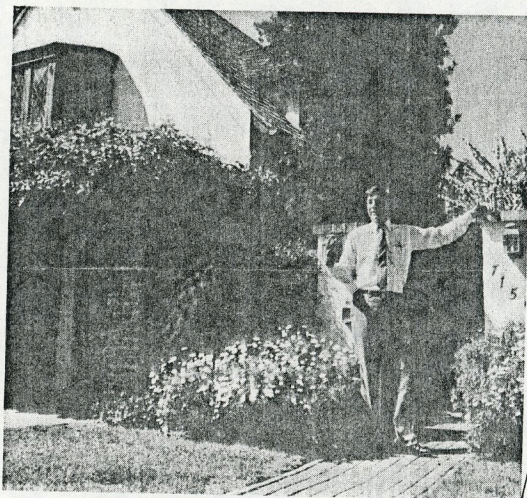
than probably any other historian or architect in town.

While Ullrich designed many homes, churches and buildings in the palmy days of the 1920s, hard times came during the Depression.

"Money got pretty scarce around '31," recalled Bob Wilson, a draftsman who worked off and on for Ullrich in the '20s and '30s.

During the '30s, said Wilson, Ullrich drew the delineations for other area architects.

Ullrich died in 1958, leaving unfinished the chapel he was designing at USD.



Joe Marrone is proud of his Ullrich-designed home.



La Jolla, CA  
(San Diego Co.)  
La Jolla Light  
(Cir. W. 9,040)

APR 21 1988

*Allen's* P. C. B Est. 1888

**Jesse Jackson supporters:** Supporters in the 41st Congressional District, which includes La Jolla, will hold a delegate selection caucus May 1 at USD's University Forum A-B to elect candidates for delegates to the Democratic National Convention in Atlanta.

Registration begins at 2 p.m. and no person will be registered after 3. Proof of residency may be required. Five delegates and two alternates have been assigned. Official allocation will be determined by the popular vote in the California primary election June 7, with delegates being taken from lists elected in the May 1 caucuses.

For more information, call caucus convener Daniel Thomas at 587-3698.

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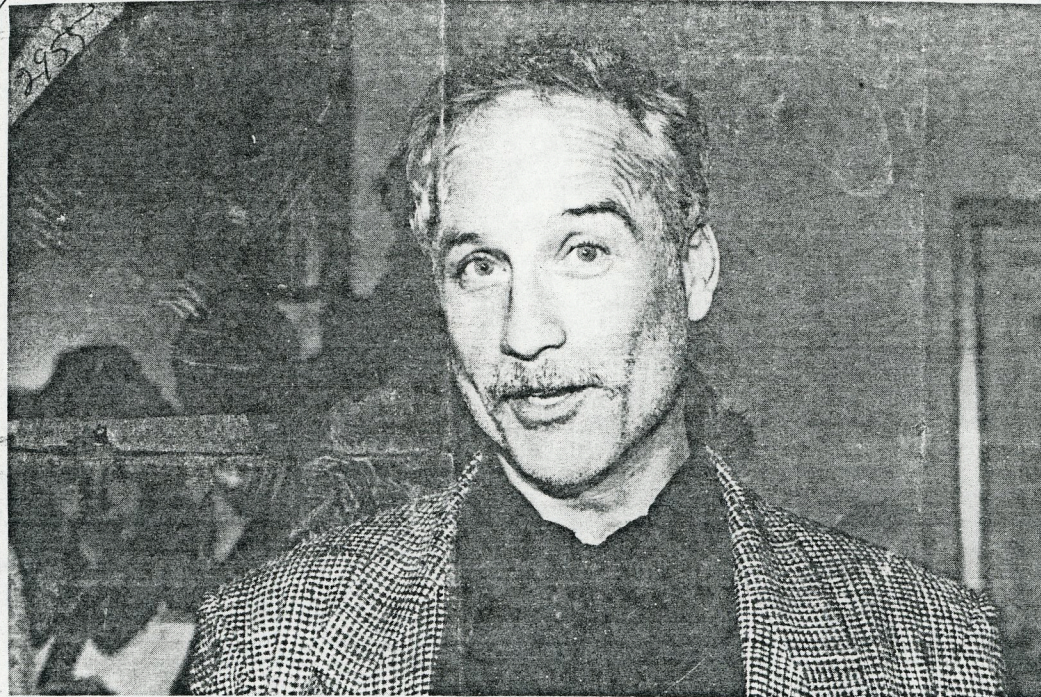


La Jolla, CA  
(San Diego Co.)  
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APR 21 1988

La Jolla, CA  
(San Diego Co.)  
University City Light  
(Cir. W.)

APR 21 1988

Allen's P.C.B. Est. 1888



'I didn't have to take drugs to be a good actor. I had to take drugs for the rest of my life. The one security I had was acting. It was women. I was afraid of women. I was totally unable to relate to women in a normal manner. I could never just talk to a girl. If I wasn't on the ceiling from drugs, I was criminally shy, unable to speak at all. So I discovered these drugs to help me through the experience. And in fact they did.'

— Richard Dreyfuss,

Staff photo by CAROL SONSTEIN

## Actor tells of long road to recovery

By DEBRA ROSEN  
Light Staff Writer

Actor Richard Dreyfuss gave the best performance of his career last week to a packed house at the University of San Diego's *Camino* Theater in a role he had been waiting 41 years to play.

He played himself.

Appearing healthy and slim after losing 26 pounds, Dreyfuss was there to talk about drugs, specifically his long drug ad-

diction to cocaine, alcohol and percodan (a narcotic pain-killer).

"Uppers, downers. Uppers, downers. Anyone wanna talk drugs?" he asked, thus beginning a two-hour look inside the private life of the real Richard Dreyfuss, a "good Jewish boy," an Academy Award winner, a critically acclaimed film and stage actor... and a drug addict.

His, however, is not the story of an in-

secure actor who turns to drugs after being overwhelmed by the pressures of the movie industry and its overindulgences, only to watch his career plummet into obscurity. Nor is it the sanctimonious garbage of yet another celebrity spared from a drug-induced death who has now embarked on a conscience-soothing crusade to save all of mankind from a similar fate.

Dreyfuss is too cool to hand out that

kind of Hollywood tripe.

"I have very little faith in the possibilities of an evening like this," he said. "What I mean is, that when I was taking drugs no amount of talking or persuasion or cajoling or love or worry or grief or articulate concern could get through to me."

Please see ACTOR, C6



## ACTOR

Continued from C1

"As a matter of fact, most of the time I didn't even remember what happened. And I don't believe that I'm going to persuade any one here or any one that knows someone on drugs to stop. There is always the possibility, however, that I am wrong and that is why I am here," said Dreyfuss, who, despite his long drug addiction, was never blacklisted from making movies. Instead, his movies just began to make less and less money.

What Dreyfuss described as his "love affair" with drugs began in 1963 with an amphetamine known as mini-whites.

"Amphetamines gave me an image of myself and the world around me that was very important. There is a philosophy that goes, 'The world sees me in one manner. I think the world sees me in another manner. I see me in another manner and I, in fact, feel about me in another manner.' Well, I walked around with all of these realities. I felt that I was 16 people. I wasn't one complete person until one night someone gave me an upper and I became one person. It wasn't cute, it was important like a real love affair. It was like coming home.

"I started taking one a day and I ended up taking 32 at a time. They killed my appetite, they made me feel powerful, they made me feel sexually secure and I thought that I understood the world better."

In 1972, during a national tour of "The Time of Your Life," Dreyfuss, loaded on mini-whites, had the first of many drug-related scares.

"I made my entrance that night and in front of 1,200 people, I lost my mind. I felt my sanity drain out of my brain and out my arms. I heard myself speaking the role and I could see someone talking but what I heard was in slow motion and I did not know if I was saying the lines or just my name over and over again," said Dreyfuss, who now has a chemically impaired memory he describes as the auto equivalent of an old discarded Model T.

It was the one and only time he ever used drugs during a performance.

But taking drugs, Dreyfuss told his listeners, was "never about acting."

"I didn't have to take drugs to be a good actor. I had to take drugs for the rest of my life," Dreyfuss said. "The one security I had was acting. It was women. I was afraid of women. I was totally unable to relate to women in a normal manner. I could never just talk to a girl. If I wasn't on the ceiling from drugs, I was criminally shy, unable to speak at all.

"So I discovered these drugs to help me through the experience. And in fact they did. I mean, let's face it, there is a good side to drugs and one of the good sides is that you can with the certain right connection become a little loose and flirt. And a girl can respond to flirtation and maybe you'll get lucky.

"The problem is that once you

get lucky the girl wants to make love and then you have to out wait all of those drugs. I can't tell you the times I have been at some girl's house trying to make conversation until everything is ready to work."

Today, women are his favorite thing, Dreyfuss said in response to a question. "Sobriety is a better experience. Unfortunately, sobriety is such a boring word. I'd like to come up with a phrase that has more 'ummph' because everything is better when you're sober. Sex is better, women are better, talking is better, listening is better. Listening, by the way, is impossible when you're on drugs and so is sex."

It was a lesson Dreyfuss took years to learn after several near brushes with death.

"My most prominent behavioral characteristic of drug taking was that I was always blacking out, waking up in situations not knowing where I was or what I had said. I cannot tell you the amount of times I woke up in the wrong side of Laurel Canyon in Los Angeles and I mean on a blind curve going 45 to 55 miles an hour. It was God's gift or whatever that prevented me from getting killed or killing someone else," said Dreyfuss, who is an agnostic.

"Not one of the times that I almost died meant one damn thing to me," he said.

Dreyfuss also touched on the death of his close friend, John Belushi.

"The only difference between John and I is that he's dead and I'm not," he said. "When John died, I got a lot of phone calls from mutual friends of ours. And in these phone calls, these friends were commiserating with me about how terrible it was that John died. It occurred to me a year and a half after I had sobered up that those friends had not called to commiserate with

me but said clearly in the English language, 'Richard, you're next.' But what I had heard was 'isn't it terrible about John.'"

"This is what I call the magic of drugs. There is a magic that says that even though I sniff or I take or I do or I drink, drugs are not a central part of my existence. There's a filter that we put over ourselves that denies what drugs do and they change the English language. It's magic."

Even his subsequent arrest following a car crash and a week's stay in the hospital did not separate Dreyfuss from his drugs.

What did finally make him stop was the haunting vision of a little girl.

"What I'm about to tell you really happened and I'm not a spiritual person," said Dreyfuss. "A week after the accident, I woke up one morning and saw this little girl in my mind's eye. I couldn't shake the image of her. Each day, even after I was released from the hospital, I saw her. And each day, she got clearer and clearer until I could see she was a dark-haired girl of about 8 wearing a pink and white dress with ruffles. And I finally realized that this was the little girl I did not kill that night."

"What I had done was black out, cross the center divider and slam into a big palm tree going 40 miles an hour and the car had rebounded and flipped over and I hadn't seen or heard a damn thing and the only thing that prevented me from killing someone was that no one was on the road.

"I knew I had been given a hint and that's when I stopped."

When asked what he would recommend students tell their friends to get them to stop using drugs, Dreyfuss had no answer.

"My speaking here ends at the

shoreline of wisdom. I can't recommend a thing to others. I was lucky. I was given a huge cataclysmic event in my life and it worked for me," Dreyfuss said.

"There are all kinds of things we could do to stop people from taking drugs, but are we going to do them? In reality we're really talking about making it in people's best interest not to take drugs, not to buy or sell drugs. There is an entire culture in this world that has no alternative but to take drugs. We've created an underclass that is permanently reliant on drugs because we offer them no jobs, no housing and so they think, 'Why not?'"

"Why do people like us, privileged white people, take drugs? Because we have lost the spiritual center. When I say I have no solution it doesn't mean I don't have all these opinions about what's happening here. I think we should pay taxes so that teachers would be paid more and better people would become teachers and smarter people would teach our young better character traits so that they wouldn't take drugs. But we don't pay teachers because we don't believe they're important because they're too expensive because we don't want to pay taxes because we believe we're being ripped off," said Dreyfuss amid applause.



La Jolla, CA  
(San Diego Co.)  
La Jolla Light  
(Cir. W. 9,040)

APR 21 1988

Allen's P.C.B. Est. 1888

## Is it an Ullrich, or isn't it? Nobody is sure

<sup>2955</sup>  
Name of house's  
architect remains  
a bit of a mystery

By JEANNE BEACH EIGNER  
Light Staff Writer

Standing on a rise overlooking the Pacific, the 1988 Designer Showcase House has a bit of mystery to go along with the glamour of its remodeling by a team of San Diego designers.

The mystery: Who was the original architect?

Some experts feel it was Edgar Ullrich, one of the most prolific of La Jolla architects, who built La Casa de Manana and many other homes in the Muirlands and the Barber Tract, as well as many buildings at the University of San Diego (see story below). But there is no real proof.

"It looks like his work," said Marian Ullrich, daughter-in-law of the architect, as she looked at pictures of the original house. But, said Ullrich, widow of Edgar V. Ullrich Jr., the house in its present state bears little resemblance to an Ullrich house.

"Nobody has real proof that it was his design," said Jean Rudd of the Historical Society, chairwoman of this year's Designer Showcase.

The house, built around 1926 at 6211 Camino de la Costa, was remodeled some time in the 1950s. Its stately Spanish lines, graceful arched doorways and windows and a gallery looking out to the west were removed. The remodeling left the interior smaller and replaced the original wooden arched windows with small, prefabricated metal windows on the exterior.

Historian Pat Schaelchlin agreed that the original "has the elements of an Ullrich." In her research, she has tracked down a real estate notice from the 1950s referring to Ullrich as the architect. But there is no conclusive evidence in the form of a blue print, contract or other office records.

"There are times when an architect is chosen for a building and, for whatever reason, does not actually complete the building, even though it may have been announced in the newspaper," said Schaelchlin.

In the late 1920s a fire gutted Ullrich's office, possibly destroying files that may have held the answer, added Marion Ullrich.

"That's definitely an Ullrich house," said Bob Wilson, who worked with Ullrich as a draft-

Please see HOUSE, D5



Before the 1988 Designer Showcase House, on Camino de la Costa, was remodeled in the 1950s, it had graceful arched

doorways and windows. Today, the house, inset, has metal windows and, indoors, looks very little like it used to.



# HOUSE

2955

## Continued from D1

man in the late 1920s. The house was built, said Wilson, for Mrs. W.L. McCormick as a retirement home in 1926.

The Camino de la Costa house is the 14th of the San Diego Historical Society's annual Designer Showcase Houses, co-sponsored by the American Society of Interior Designers. Each spring the society locates a historically significant house and members of the San Diego chapter of the American Society of Interior Designers fill the house's interiors.

The remodeled house will open with a benefit gala tomorrow night. Group tours will be given the week of April 24 through 30, and the house is open to the public May 1 through 22. The \$10 per person tickets will benefit the Historical Society's preservation efforts and the educational programs of the ASID.

This year, La Jolla designers Bonnie Sipe of Sipe Design, Deborah Thomas of McCartney and Thomas, Mary Clare Brandt of Adelma Liefgreen and Associates and Robert Magruder of Magruder Interior Design are among the 18 designers participating in the Designers Showcase.

The house is almost a guide to what not to do in a significant remodeling project. Not only was the historicity of the original structure destroyed, the architect's intentions were obliterated. The charm of the house, evident in old photographs, is gone.

It was "frustrating," said interior designer Mary Clare Brandt, to work on a house badly remodeled. Brandt remodeled a bathroom in the house.

Debbie Thomas, in charge of the master bath, had to get rid of pink flocked wallpaper and dolphin fixtures installed in the

'50s.

"In our design concept we did want to keep a feeling that this finished product had all the modern conveniences, yet had the charm and classic features of the house. What is unfortunate, I think, is that they replaced all the original doors and windows with metal," said Thomas.



La Jolla, CA  
(San Diego Co.)  
La Jolla Light  
(Cir. W. 9,040)

APR 21 1988

Allen's P. C. B Est. 1888

## La Jollan appointed as campaign director

Jack Boyce, Regional Director of the North American College Endowment Campaign, has announced the appointment of La Jollan Sara Finn as the Campaign's Bay Diocesan Director.

Joining Finn on the North American College Steering Committee are Jack Boyce, who heads the Western Lieutenancy of the Knights of the Holy Sepulchre and is vice president of the University of San Diego, and Rev. Daniel Dillabough S.T.D., J.C.L., the Judicial Vicar for the Catholic Diocese of San Diego and an alumnus of the North American College.

Finn is president of Sara Finn Public Relations. Before forming her own company, she was the Director of Public Relations at the University of San Diego. She serves on the Boards of Partners for Livable Places, the San Diego Chapter of the Public Relations Society of America, the City of San Diego International Affairs Board, the Governmental Affairs Board of the San Diego Chamber of Commerce, and the Parish Council of All Hallows Church, La Jolla.

She was educated by the Religious of the Sacred Heart and was inducted into the Papal Order of the Holy Sepulchre in 1982.

Dillabough attended the North American College in Rome from 1970-75 and returned to serve as the College's Director of Pastoral Formation from 1983-87 while completing his graduate studies.

Heading the National Committee for the North American College Endowment Campaign is Russell Kendall of Houston, Texas. The National Episcopal Chairman is the Most Reverend Francis R. Reh. His Eminence Joseph Cardinal Bernard and His Eminence John Cardinal O'Connor are serving as Honorary National Episcopal Chairmen of the campaign.

Msgr. Larence M. Purcell S.T.D., is the present Rector of the College in Rome, which was founded in 1859. Four San Diegan seminarians are presently prepring for priestly service at the North American College.

The fluctuations of the world monetary market; increased pices and the steady devaluation of the dollar, have presented a threat to the academic and pastoral programs at America's national seminary in Rome, The North American College. The nationwide Campaign has raised over \$4 million to help alleviate this economic crisis.

Finn stated: "Financial support for the North American College Endowment Campaign will assure the continuance of strong leadership and quality graduate education for the priests of the San Diego Diocese. The church in the United States is calling upon the laity, Bishops and priest alumni to make the drive a success."



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

APR 22 1988

*Allen's* P. C. B Est. 1888

**USD choir to present  
early American music**

ALCALA PARK — The University of San Diego Community Concert Choir will present "A Sacred Concert of Early American Music," April 22, 8 p.m., in the Immaculata. *2955*

The concert will feature anthems and spirituals of American composers and arrangers.

Donations will be accepted to benefit the Immaculata Music Fund.

For further information call 260-4682.



APR 22 1988

Allen's P. C. B. Est. 1888

# Your home's view may not be built to last

## Protecting view subject of many NC skirmishes

By Catherine M. Spearnak  
For South Coast Newspapers

A house with a view. It's something prized by coastal dwellers and dreamed of by those who live elsewhere.

But should you find a home with the perfect ocean or canyon view you've longed for, be careful. That scenic panorama may last only as long as the trees stay cropped in your neighbor's yard, or until a developer builds a three-story split level across the street.

In other words, the view may not be built to last.

Neighborhood battles about ocean views are legendary along the North County coast from Del Mar to Oceanside. Some onlookers fondly quip that there's a "growing concern" among coastal residents about a neighbor's trees blocking their view.

That's putting it mildly. In Del Mar, residents' skirmishes over ocean views prompted the City Council to adopt legislation to try to curb the fights. Bureaucratically enough, it's called the Vegetation View Blockage Ordinance.

"People who had views 10 or 12 years ago no longer have those views," explains John Vahorski, an administrator for the city of Del Mar.

City officials hope the ordinance, approved last fall, will give residents an equitable way to solve their view differences without filing civil lawsuits.

Homeowners who want a neighbor to cut his trees are

asked to notify the person twice, in writing. If the two sides fail to agree, the ordinance gives the neighbor with the view and the homeowner with the trees a chance to discuss their case with an independent mediator, who then renders an opinion.

The city pays about 50 percent of the mediation costs. Participation is voluntary, and the ruling is not legally binding. Still, a logical discussion may help the two sides see the light, Vahorski said.

Other coastal cities with view property may soon follow suit. Encinitas is considering drafting an ordinance that would limit building heights — also a problem where views are concerned.

Cardiff-by-the-Sea, with its sloping hillsides that offer fine views, is one community where residents are particularly concerned that the trend toward tall, duplex houses — or "twin homes" — may block a view they've had for years.

View maintenance has become a major issue in Encinitas during the past few years, according to Encinitas Planner Pat Murphy.

"We are trying to make sure everyone enjoys their view and no one maximizes their own view to the extent that it limits someone else's," he said.

Solana Beach hasn't needed a view ordinance so far, explained George Ann Held. She's a city administrative assistant who answers resident's questions about their rights to a view.

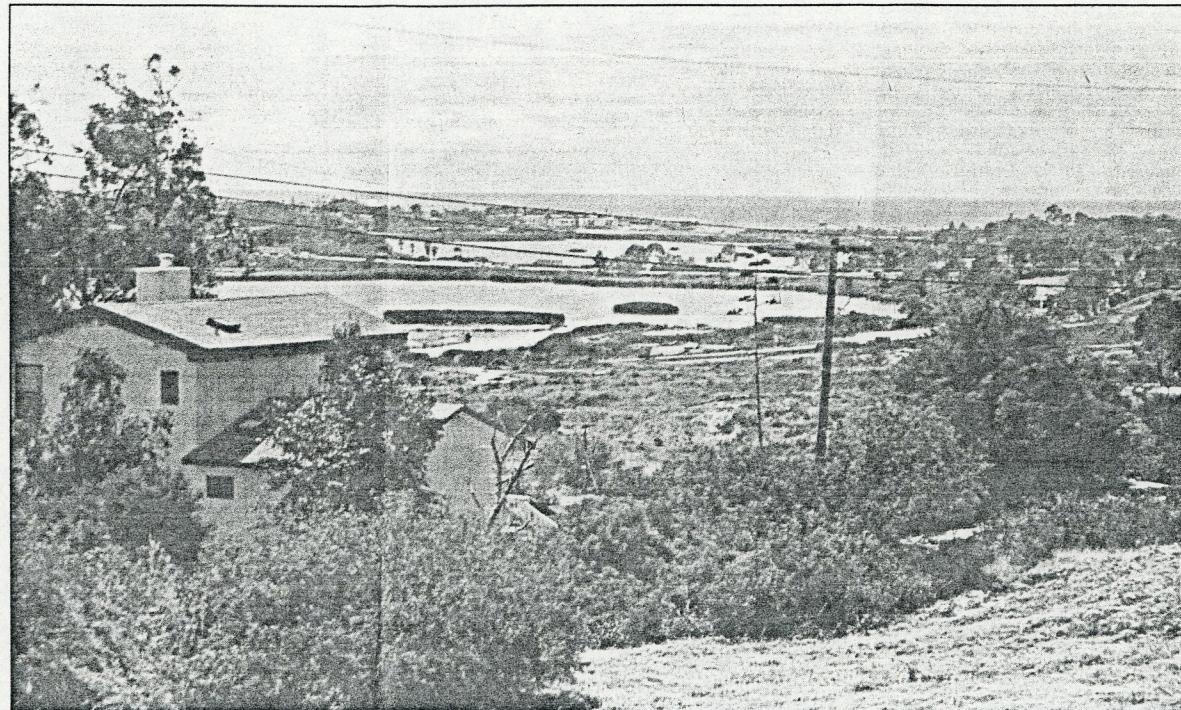


Photo / Linda Panuska

Overgrown trees and new homes can get in the way of your home with a view, like this one which looks out over Agua Hedionda Lagoon in Carlsbad and to the ocean beyond. Protecting that view could involve a lot of negotiating, however.

The issue isn't quite as ardent as in Del Mar.

"More often than not, people are more angry because a tree is coming down than they are because it blocks a view," Held said.

Held said the best way to maintain a view blocked by trees is to talk things over with your neighbor and come to an amenable agreement.

"And I'd talk to them about it with checkbook in hand," she said. The person who wants the

trees trimmed should always offer to pay for it and hire a professional, she said.

Legally, people who own view homes are out on a limb, according to Professor John Minan, who teaches land-use law at USD School of Law. Since precedent was set in 1830, the courts have ruled that homeowners do not have the right to demand a clear view.

The homeowner has the right to do as he wants with the air space above his property. The

only thing the view owner can do is ask the property owner to keep trees trimmed, Minan said.

Cases that have gone to court have been decided against homes with a view, though property owners have argued that their home is devalued when its view is lost.

The only option is buying a "view easement." Neighbors negotiate about how much the view is worth. Then the view owner pays the property owner

to keep his trees trimmed, not build a second story on his home, or do anything that would diminish his outlook.

The best thing about a view easement is that it lasts forever, even if the property changes hands because the easement rights pass along with the property.

An easement may help view owners relax, knowing they'll always be able to see the ocean for the trees.



San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

APR 22 1988

*Allen's* P. C. B Est. 1888

USD

2955

Information seminar for  
prospective graduate business  
students will be held April 28,  
6-7:30 p.m., at the University  
Center. For more, call 260-4524.



San Diego, CA  
(San Diego Co.)  
San Diego Log  
(Cir. W. 40,000)

APR 22 1988

*Allen's* P. C. B Est. 1888

## USD to Offer Graduate Degrees In Marine Sciences

<sup>2965</sup>  
SAN DIEGO—In a move that is hoped to strengthen the region's marine-related business and research activities, the University of San Diego has announced the establishment of graduate degree programs in marine science and ocean studies.

The new graduate degree programs, master of marine science and master of ocean studies, are designed to complement USD's three-year-old marine studies undergraduate program.

"San Diego is a major national oceanographic and marine research and business center, and fast becoming an international center. We fully expect that our graduate and undergraduate de-



San Diego, CA  
(San Diego Co.)  
San Diego Log  
(Cir. W. 40,000)

APR 22 1988

Allen's P. C. B Est. 1888

## Dinner-Dance to Benefit Ocean Study Planned for June 24

<sup>2955</sup>  
SAN DIEGO—San Diego Oceans '88, a dinner, dance and auction, has been planned for June 24 at the San Diego Marriott Hotel and Marina.

The event, sponsored by the San Diego Oceans Foundation, is held annually to raise funds for the foundation.

Dr. Roger Revelle has been named honorary chairman of the \$125-per-person event, and channel 39 newscaster Marty Levin will emcee the proceedings.

The fund-raiser, billed as San Diego's premiere ocean event, begins with an on-the-docks cocktail party at the Marriott Marina.

From there, the party moves to the foyer of the marina ballroom for a second cocktail party and silent auction. The auction includes an opportunity to bid for a spot in a new fishing tournament, "The San Diego Oceans Foundation Shootout Tournament."

A dinner/dance will follow the auction.

"The evening will be made special thanks to the generous support of the commercial fishing industry and local sportfishermen," said Frank Powell, Oceans Foundation executive vice president and chairman of Oceans '88.

This year, \$10,000 of the proceeds from the event will go toward establishment of a scholarship fund for the University of San Diego's new graduate degree programs in marine sciences and ocean studies.

The foundation is issuing a challenge to area corporations, foundations and individuals to provide \$10,000 each in "matching funds," said Powell.

"Students at USD whose studies will help improve the management of the oceans' resources will be eligible for the annual scholarship," said Seth Brown, Oceans Foundation president.

For more information on the fund-raiser or the scholarship program, call Carl Nettleton at (619) 237-1221.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 23 1988

Allen's P. C. R. Est. 1888

# Is sexism a sin? Bishops stir harsh disagreements

By Robert Di Veroli  
*Tribune Religion Writer*

Is sexism a sin?

The draft of a proposed statement by the U.S. Roman Catholic bishops on women says it is, but some Catholics say their bishops are mistaken.

Sexism may be a lot of things, they say, but a sin it isn't.

"The bishops have invented a new category of sin," said Phyllis Schlafly, a Catholic laywoman and founder of the Eagle Forum in Alton, Ill.

"Nobody ever thought it was a sin before," Schlafly said. "Sexism as militant feminists understand it is the attitude that there are different roles for men and women. But there's nothing the matter with thinking there are different roles for men and women."

"God must have been the first sexist if that's what you mean because he did establish different roles for men and women. 'Sexism' is a word invented by the radical feminists and which they use as an epithet to lay a guilt trip on men and intimidate them."

But Dr. Kathleen Dugan, chairwoman of a committee that coordinated San Diego input for the bishops' draft, disagrees with Schlafly.

"I think it is a sin," Dugan said.

"Very early in the Christian tradition, in Jesus' example as well as in the teaching of St. Paul, we are told there are not to be any divisions between Christians whether they be of race or sex or creed," said Dugan, professor in the University of San Diego theology and religious studies department.

"Paul says there is no longer male or female, slave or free and it seems to me that sexism in that sense is a sin against human dignity," she said.

The Rev. Robert Kress, chairman of the USD theology and religious studies department, also questioned the description of sexism as sinful, however.

The tendency to label everything a sin was once a conservative hallmark, but today it's the "liberal ecclesiastics" who talk repeatedly about "institutional sin," "structures of sin" and other alleged forms of sin, Kress said.

"I think it's two different cases of clericalism," Kress said. "We used to have right-wing clericalism and now we have left-wing clericalism and that just inflates the category of sin."

"In the olden days, everything was sin from one point of view, and now everything is sin from another point of view. The world is more complex than that. You can't explain all the problems in the world on the basis of sin and moral failure as such, but generally, clericalist documents tend to do that."

Kress said it would be better to talk about ineffective or incompetent institutions, for example, than sinful institutions.

Bishop Leo T. Maher of the San Diego Catholic Diocese said sexism is sinful in that it is dehumanizing.

"It's something like pornography," Maher said. "It degrades and dehumanizes human beings."

The bishops' committee that drafted the 164-page document, "Partners in the Mystery of Redemption, a Pastoral Response to Women's Concerns for Church and Society," left no doubt on where it stands on the matter.

"The sin of sexism should be recognized for what it is, and attitudes tending toward it or an incapacity to deal with women as equals should be considered as negative indications for fitness for ordination," the bishops said in their draft.

"We consider it of the utmost importance that seminarians and priests, ourselves included, reflect upon our attitudes toward women and the ways in which we communicate and work with them."

The draft condemns "all punitive or prejudicial attitudes." Please see *SEXISM: A-11, Col. 1*



## ★Sexism

Continued From A-10

2955

tudes that persist toward women, all stereotypes that subtly perpetuate injustices, all practices that make women feel as if they are not fully accepted by the church."

It breaks no new ground and while it affirms church teachings against artificial contraception, abortion and female priests, it does so in a manner that echoes feminist concerns.

It says "some women" have left the Catholic Church because they did not or were "unable" to accept its teaching on artificial birth control and calls for dialogue with those who find it "unacceptable" even though it has been repeatedly reaffirmed by popes down to modern times.

It cites the church's teaching against female priests, but then says dissenters call for "further study" on the issue — one the pope himself has said is closed.

The bishops say that "some women" feel alienated because of centuries-old sexist attitudes in the church; that some women feel that full participation in the church will follow only when women are ordained priests; and that some women fear the dialogue about abortion appears to be closed.

The draft speaks sympathetically of the use of "inclusive" rather than male-oriented language, of lesbians who feel the "pain of exclusion" from the church and of women being "under-represented" in its councils.

The draft says the church is "not free" to open the priesthood to women, but it encourages a study of allowing women to become deacons and altar girls, something Maher says will never happen.

In so doing, USD's Dugan said the bishops have mounted a direct challenge to church law, even though the altar-girl idea was rejected only six months ago at the worldwide synod on the laity in Rome.

"I think they found in their consultations that a lot of people were very concerned about that," Dugan said. It's just one more sign of how out of touch the U.S. bishops are with the universal church, said Schlafly.

Schlafly said the bishops' repeated use of the phrase "some women" suggests they were talking about a minority of American Catholic women.

It shows they have bought the agenda of "radical feminists" whose goal is to change church doctrine against the ordination of women, abortion and artificial birth control and to render all church language gender-neutral, Schlafly said.

"I think the bishops should address themselves to preaching about all the real sins in the world, of which

there are many, instead of inventing phony ones," she added.

Schlafly says the bishops expressed the concerns of only a "tiny minority" of Catholic women. "I'm a Catholic and I don't hear anybody pushing the radical feminist agenda," she said.

"I find the majority of Catholics are highly offended that the bishops should cave in to the demands of the radical feminists this way. This paper simply encourages dissent and creates problems that did not need to be created."

However, Dugan said the consultations were "fairly representative."

"The consultations were themselves approximate in the sense that not everybody participated and I'm sure the bishops were aware of that," she said. "Even among the group of people who were consulted here that statement would be true — 'some women' felt this and 'some women' felt that. Not everyone is alienated about the same things."

Dugan said she did not believe consultation participants were primarily radical activist types.

"It certainly was not true here," she said. "We had an extremely broad spectrum of people, people from different professions, homemakers to professionals, women who were very active in leadership positions in the diocese."

"That's not to say it included everybody. Certainly, it did not and I think that probably on either end of the spectrum there were people who chose not to participate, but I think the sample of people who did participate was fairly representative."

The draft calls on the U.S. bishops to support affirmative action and laws that ensure equal opportunity for women and remove sex discrimination, provide for parental leaves without loss of job continuity, opportunity for advancement, or diminished health and pension benefits; that establish day-care centers near home; and that hold fathers responsible for child support.

Such activity by the bishops would not breach the church-state separation principle, say the bishops, because "such activity belongs not only to the state but legitimately to the church."

The draft, which took five years to produce, will be discussed in June at the bishops' semiannual meeting in Collegeville, Minn. After revision, it is expected to be put to a final vote of U.S. bishops in November 1989.

The committee that drafted the document, headed by Bishop Joseph Imesch, of Joliet, Ill., said it had received suggestions from 75,000 women and 25 national organizations.



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## Talks planned on African economic reform

2955  
Leonard H. Robinson Jr., president of the African Development Foundation, will begin a series of talks here tomorrow on economic reform and recovery in sub-Saharan Africa.

The African Development Foundation, created by Congress in 1984, provides financial assistance through grants, loans and loan guarantees to farmers and small businesses.

To date, it has provided more than 100 grants to community-based projects in 23 African countries.

One specific project that Robinson plans to discuss involves women in the village of Desai in Zambia.

In 1985, the foundation made a \$14,025 loan to a group of women weavers in Desai. The women used the money, which has been paid

back, for buying weaving equipment and to train 12 weavers.

Robinson will make a presentation about this project at 6:30 p.m. tomorrow at the Educational Cultural Complex, 4343 Ocean View Blvd., and he will present the same project to the City Council at 2 p.m. Monday.

At 7 p.m. Monday, Robinson will update the World Affairs Council on

"Economic Reform and Recovery in Africa: What Works and Why?"

The talk, moderated by Robert Caldwell, editor of *San Diego Union* Sunday opinion section, will be held at the International Center on the campus of the University of San Diego. The public is invited.

Tuesday, Robinson will talk about trade and investment opportunities in Africa during a 7:30 a.m. business breakfast at the Embassy Suites Hotel in La Jolla. The cost is \$10.



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## LOCAL BRIEFS

# Rolls, Trafton homer twice to lead

Catcher Dave Rolls and right fielder Mark Trafton each homered twice to lead USD past the University of San Francisco, 15-9, in a West Coast Athletic Conference baseball game yesterday at USD.

Rolls hit bases-empty homers in the second and sixth innings; Trafton hit a two-run homer in the fourth and a bases-empty homer in the sixth. Rolls has 34 career homers, five short of the school record set by John Baron last season.

Clairemont High alumnus Rick Doane had the game-winner with a two-run homer in the fifth. Left field-

er Chuck Graham drove in three runs and shortstop Andy Roberts had four hits for the Toreros (21-27, 4-17 in the WCAC).

Winner Jim Westlund (4-1) went 7 $\frac{2}{3}$  innings. Duffy Aceret (4-6) lost. The Dons are 13-25 and 2-11. The teams play a double-header today at noon at USD.

## Toreros past Dons, 15-9



Oceanside, CA  
(San Diego Co.)  
North County  
Blade Tribune  
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(Cir. S. 30,498)

APR 24 1988

Allen's P.C.B. Est. 1988

# Your home's view may not be built to last

## Protecting view subject of many NC skirmishes

By Catherine M. Spearnak  
For South Coast Newspapers

A house with a view. It's something prized by coastal dwellers and dreamed of by those who live elsewhere.

But should you find a home with the perfect ocean or canyon view you've longed for, be careful. That scenic panorama may last only as long as the trees stay cropped in your neighbor's yard, or until a developer builds a three-story split level across the street.

In other words, the view may not be built to last.

Neighborhood battles about ocean views are legendary along the North County coast from Del Mar to Oceanside. Some onlookers fondly quip that there's a "growing concern" among coastal residents about a neighbor's trees blocking their view.

That's putting it mildly. In Del Mar, residents' skirmishes over ocean views prompted the City Council to adopt legislation to try to curb the fights. Bureaucratically enough, it's called the Vegetation View Blockage Ordinance.

"People who had views 10 or 12 years ago no longer have those views," explains John Vahorski, an administrator for the city of Del Mar.

City officials hope the ordinance, approved last fall, will give residents an equitable way to solve their view differences without filing civil lawsuits.

Homeowners who want a neighbor to cut his trees are

asked to notify the person twice, in writing. If the two sides fail to agree, the ordinance gives the neighbor with the view and the homeowner with the trees a chance to discuss their case with an independent mediator, who then renders an opinion.

The city pays about 50 percent of the mediation costs. Participation is voluntary, and the ruling is not legally binding. Still, a logical discussion may help the two sides see the light, Vahorski said.

Other coastal cities with view property may soon follow suit. Encinitas is considering drafting an ordinance that would limit building heights — also a problem where views are concerned.

Cardiff-by-the-Sea, with its sloping hillsides that offer fine views, is one community where residents are particularly concerned that the trend toward tall, duplex houses — or "twin homes" — may block a view they've had for years.

View maintenance has become a major issue in Encinitas during the past few years, according to Encinitas Planner Pat Murphy.

"We are trying to make sure everyone enjoys their view and no one maximizes their own view to the extent that it limits someone else's," he said.

Solana Beach hasn't needed a view ordinance so far, explained George Ann Held. She's a city administrative assistant who answers resident's questions about their rights to a view.

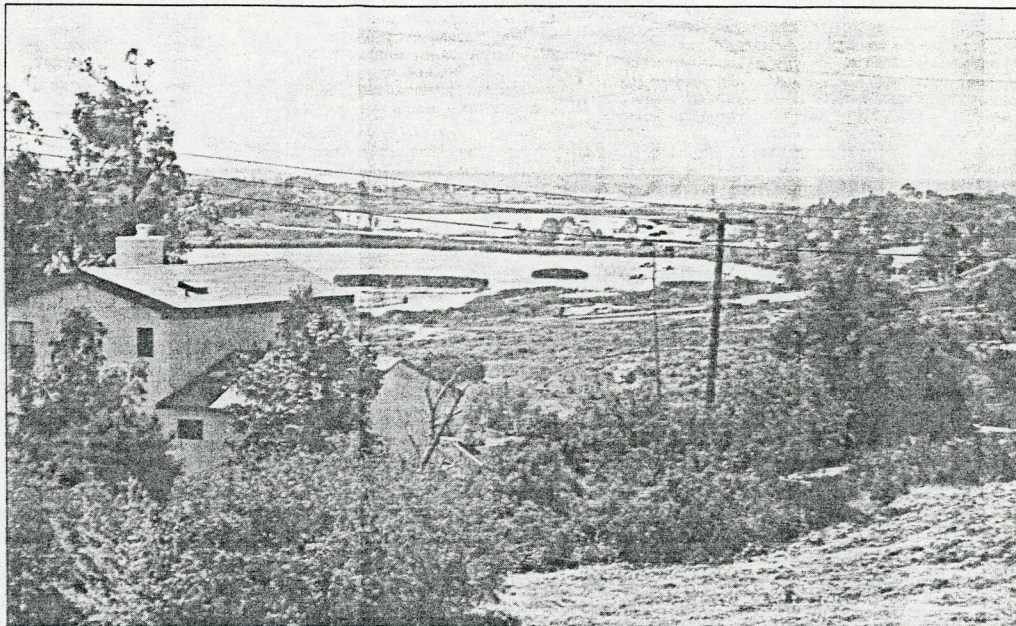


Photo / Linda Panuska

Overgrown trees and new homes can get in the way of your home with a view, like this one which looks out over Agua Hedionda Lagoon in Carlsbad and to the ocean beyond. Protecting that view could involve a lot of negotiating, however.

The issue isn't quite as ardent as in Del Mar.

"More often than not, people are more angry because a tree is coming down than they are because it blocks a view," Held said.

Held said the best way to maintain a view blocked by trees is to talk things over with your neighbor and come to an amenable agreement.

"And I'd talk to them about it with checkbook in hand," she said. The person who wants the

trees trimmed should always offer to pay for it and hire a professional, she said.

Legally, people who own view homes are out on a limb, according to Professor John Minan, who teaches land-use law at USD School of Law. Since precedent was set in 1830, the courts have ruled that homeowners do not have the right to demand a clear view.

The homeowner has the right to do as he wants with the airspace above his property. The

only thing the view owner can do is ask the property owner to keep trees trimmed, Minan said.

Cases that have gone to court have been decided against homes with a view, though property owners have argued that their home is devalued when its view is lost.

The only option is buying a "view easement." Neighbors negotiate about how much the view is worth. Then the view owner pays the property owner

to keep his trees trimmed, not build a second story on his home, or do anything that would diminish his outlook.

The best thing about a view easement is that it lasts forever, even if the property changes hands because the easement rights pass along with the property.

An easement may help view owners relax, knowing they'll always be able to see the ocean for the trees



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## Pianist Bobby Short back for 'Encore' to play jazz classics at Mingei benefit

<sup>2955</sup>  
**I**s this city getting uptown? You betcha.

The famous Bobby Short is on the San Diego shuttle. He is the classy perennial at the piano of New York's Carlyle Hotel, singing songs by Cole Porter, Duke Ellington, Noel Coward and so many others.

Well, he is a popular performer here, too, and is returning May 6 for Mingei International Museum of World Folk Arts and Sept. 17 for the Whittier Institute at Scripps Memorial Hospital.

Mingei is calling its show "Encore" because it is Short's second time to play jazz classics for the museum's fund-raiser in the Hotel del Coronado's Grand Ballroom. Ellen and Roger Revelle will be the honorees, Barbara Walbridge will be chairwoman. Audrey Geisel is in charge of the menu.

A champagne reception will launch the evening at 6:30 p.m., followed by dinner and the performance. Reservations are \$150 a person; call 453-5300.

In case you miss that evening, try again on Sept. 17, the night of the annual Neiman-Marcus Catalogue Caper. An "angel" has underwritten Short's performance for this benefit for the Whittier Institute of Diabetes and Endocrinology. Neiman-Marcus is donating more than 200 prizes for the treasure hunt in the store. Judith Harris chairs the caper, and hopes to raise \$100,000. For information, call 692-9100.

**W**adie Deddeh's usual role is that of a state senator, but May 7 he steps out as a model in the Hotel del Coronado's Grand Ballroom. **Chula Vista Woman's Club** is sponsoring the luncheon and fashion show "Summer Showcase." The women's fashions will be from Dean's of Chula Vista, the men's from The Highlander. The event will begin with a social hour at 11:30 a.m. Call 421-7510 for reservations.

### Spindrift

Janet Sutter

#### SPINOFFS

**Crime Victims Fund and San Diego County Bar Association.** Police Chief Bill Kolender and his wife, Lois, will be honored at the Gold and White Ball, a fund-raiser to provide emergency financial assistance to victims of crime. The casino opens during cocktail time at 6:30 p.m. Saturday at the Sheraton Harbor Island Hotel, with dinner and dancing to follow; reservations are \$125 or \$200, call 238-1988.

**San Diego Junior Theatre.** A fete of fantasy, fun and fancy footwork is promised for Cinderella's Ball, celebrating the theater's 40th anniversary, from 8 to 11 p.m. Saturday in the Casa del Prado courtyard, Balboa Park. Cinderella and the Old Globe's Craig Noel, a Junior Theatre founder, will be there. Reservations are \$100; call 239-1311.

**Assistees of Assistance League.** Senior presentation and annual fashion show, "Jet Set" clothes from Nordstrom, will be 11:30 a.m. Saturday at the La Jolla Marriott. Reservations are \$20; call 453-1378.

**Whispering Winds.** San Diego Family Camp, a Catholic camp in Julian open to all faiths, will have a dinner dance beginning at 6:30 p.m. Saturday at the San Diego Marriott's Marina Ballroom. Reservations are \$250 or \$1,000 per couple; call 459-5571.

**Symphony Auxiliary Council, La Jolla Chapter.** "Fun Film Fest" will feature classic films, wine, barbecue picnic and entertainment by "Chords R Us" barbershop quartet, at 6:30 p.m. Saturday at John Locke's Lyric Pines Outdoor Theater &

Gardens. Proceeds from tickets (\$35) will go to the San Diego Symphony; call 488-7701.

**Coronado Chapter, Children's Home Society.** "First Class Escape" will feature cruise clothes from Nordstrom at Horton Plaza, and someone will win an "escape" cruise to Catalina Island and Ensenada aboard the Southward. It begins with bon voyage cocktails at 11 a.m. May 4 in the Grand Ballroom, Hotel del Coronado. Luncheon reservations are \$35; call 435-9238.

**University of San Diego Auxiliary.** Luncheon by the Bay at the Catamaran Hotel will feature "Life in the Big Apple" by William Eichorn, former New York City Opera soloist and USD music professor, at 11 a.m. May 5. Reservations are \$16; call 454-1951.



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## Results of construction curb argued

<sup>2955</sup>  
Measure seen  
both a success  
and meaningless

By Lori Weisberg  
Staff Writer

San Diego builder Bill Davidson could not be more delighted. His high-priced houses are selling almost as quickly as he can build them, a phenomenon he acknowledges is not unique to his company.

The elation Davidson is experiencing, however, may be only a temporary high. Those robust sales of his \$260,000-to-\$420,000 houses, he admits, will come to an end once he uses up the building permits he was allocated under the city's interim growth control measure, which restricts housing development to 8,000 units a year.

And that is when he, like other builders, will begin to feel the real squeeze of growth limitations, Davidson contends.

"Half my phone calls are from friends who are trying to get on the list for new homes," said Davidson, who is president of the San Diego Building Industry Association. "In the short term, I look like a genius, but in the long term, once these houses are gone, I'll have nothing left to do."

It has been nine months since the City Council enacted what is known as the Interim Development Ordinance, a controversial attempt to substantially slow development while the city overhauled its long-standing growth management policies.

Although the measure has continued to come under attack, few can dispute that it has sharply cut the issuance of building permits. What has become cause for argument is whether the slowdown has accomplished anything more than a temporary blip in San Diego's upward spiral of construction.

Statistics alone show that since 1986, when the city issued permits for an unprecedented 19,180 new housing units, housing starts have declined steadily. In 1987, the city authorized permits for 12,415 units, and by the end of this year, city planners expect that fewer than 8,000 units will be authorized.

In that sense, city officials are claiming success for a measure they

See Growth on Page B-2



# Growth: Building curb called both success and meaningless

Continued from B-1

say was needed to get a grip on San Diego's overwhelming growth. And by November, they are promising the voters a new growth management plan that will more effectively control the city's development and protect its natural resources.

Despite the council's best intentions, builders and slow-growth advocates remain unconvinced that the interim measure has been a success.

The development industry contends that the ordinance, which is due to expire next February, has spawned fear and uncertainty, serving only to inflate housing prices and create an artificially high demand for homes, as well as buildable land.

Meanwhile, slow-growth proponents and environmentalists claim that building permit statistics are illusory and that in truth, the council has so riddled the ordinance with exemptions that it has become a meaningless gesture.

Besides, they argue, developers' anticipation last spring that some form of a housing cap would be adopted scared them into obtaining permits before they needed them.

"I think in two years you'll see that it won't have had any effect on the rate of growth," predicted Peter Navarro, an economics professor at the University of San Diego and a member of Citizens for Limited Growth, which has qualified a slow-growth initiative for the November ballot.

"I'm more concerned about the message they're send-

*'I'm not ecstatic. I'm not happy. But I am satisfied that we've totally changed the emphasis from no controls on development to some controls . . . 24 months ago that would have been a miracle.'*

— Mayor Maureen O'Connor

ing to the public. They're saying, 'We're vulnerable to pressure from special interest groups and here's evidence of that.'"

City Councilwoman Judy McCarty, probably the council's harshest critic of the interim growth cap, has characterized it as an "unmitigated disaster."

"Environmentalists aren't happy with it, property owners are not happy with it, and to this day no one understands it," she said. "Yes, it's slowed things down, but at what price? Have we built any facilities in the interim? I can't think of one good thing about it, except that less than 8,000 units have been issued."

Mayor Maureen O'Connor, who has been critical of the council for exempting whole communities from the ordinance, said she still believes the measure is a great improvement over the city's previous policy of simply accommodating growth.

"I'm not ecstatic. I'm not happy. But I am satisfied that we've totally changed the emphasis from no controls on development to some controls. . . . Twenty-four months ago that would have been a miracle," O'Connor said.

Council members defend the measure by noting that as the first year of the ordinance winds to an end, they have not exceeded the 8,000-unit limit even though the measure was made retroactive to April 29, 1987, the date when O'Connor and Councilman Ed Struiksma inflamed the growth debate by presenting rival plans for reining in housing construction.

That sent developers into a rush for permits, and the number of dwelling units authorized by the building department shot up, averaging between 1,200 and 2,200 units a month. By comparison, during the first three months of 1987, the number of units approved had ranged between 580 and 800 a month.

The real stampede for permits, however, began once the interim measure was enacted, setting off a cutthroat competition for allocations under the city's new system. In fact, the Planning Department became so overwhelmed by requests that applicants began camping out in the department's reception area because they could not reach the planners by phone.

To date, the city has received requests to build nearly 24,000 housing units, while authorization has been given for just 5,511 units. Because the council has agreed to set aside more than 1,500 units for developers who have been deemed to have a legal right to proceed with their projects, fewer than 1,000 units remain to be allocated. The permit cycle, however, will begin anew in May.

Critics contend that while the council may have remained within the 8,000-unit limit, it has, in some cases, exceeded the allotments that were established for each of the city's communities. In doing so, the council has borrowed from the unused allocations of communities such as North Park, where development pressures have not been as great.

One of the more blatant examples is La Jolla, where 409 units have been authorized despite an allocation of just 25 units.

"We were delighted at the beginning with our allotment of 25," said Rob Whittemore, president-elect of the La Jolla Town Council. "La Jolla is really unhappy with the excessive growth they've seen and this was going to give us some breathing space. But this borrowing undermines the rationale for having made these community allotments in the first place."

What has proved even more troubling to the city's slow-growth advocates, however, are the exemptions granted since the ordinance went into effect. So far, the council has released three North City communities — Miramar Ranch North, Carmel Mountain Ranch and, most recently, University City — from the growth control measure. Other communities, such as downtown, Tierrasanta and Otay Mesa, were exempted from the very beginning.

The ordinance permits communities to be exempted as long as a plan is in place that assures public facilities will be financed and phased in when development occurs.

Planning officials say there has been little demand for building permits in most of the exempted areas, although in Tierrasanta roughly 280 housing units have been authorized since the ordinance went into effect.

"You can't have exemptions for thousands of units and then say, 'but we haven't reached the 8,000-unit limit yet,'" said Kathleen Zaworski Burke, president of the Homeowners of Peñasquitos Association. "I think the IDO was a tremendous idea, if only it had been implemented in the spirit in which it was adopted. People have now woken up to the realization that not only does Santa Claus not exist, but he's also a mean old man."

Bitterness also has set in for developers who believe they have been unnecessarily delayed in moving ahead with their projects. Two lawsuits have been filed challenging the Interim Development Ordinance and others may follow, predicted one land use attorney.

The council, reacting to pressure from developers, set up a priority system for those who were in the midst of obtaining their building permits when the interim ordinance was enacted.

Builders also were permitted to appeal to the council for a variance from the ordinance if they could prove they faced a particular hardship.

Builder Charles Sloan believed he had a convincing hardship case for a variance on his three-unit apartment project in Kensington. He explained to the council that his 2½-year-old daughter suffered from Down's syndrome and he needed the extra income to help pay for her costly therapy.

The council turned him down, although he eventually received the go-ahead from the Planning Department when more units became available.

"Those people are not human beings up there," Sloan said of the council. "Within half a mile of my project, over 100 units are going in and they wouldn't let me put in my three lousy units. It's an exercise in futility."

Hardest hit by the housing cap have been the smaller builders who do not have the flexibility to work on other projects while they wait out the interim ordinance, argues attorney David Mulliken, who is representing a development company that has filed suit over the ordinance.

"The IDO itself is not an effective way of controlling growth if you assume that's the objective," said Mulliken, whose client, ADM Development Associates, has been prevented from proceeding with a 30-acre lot sale program just south of Del Mar. "People don't come to San Diego because there are empty houses for sale. Houses get built because there's a demand for them."

And what a demand there has been, say real estate experts who claim that housing prices have risen dramatically because of slow-growth pressures.

In the short time the city's interim growth measure has been in effect, it has caused the average price of a San Diego home to go up by nearly \$5,000, according to a Berkeley-based consultant hired by the city to assess the economic effect of housing caps.

Builders, desperate to find land they can develop, are willing to pay far more than the land is worth simply because "they all want to make a living," said Robert Morris, executive director of the Building Industry Association. And some are moving outside San Diego County, where there are fewer obstacles to development.

Although the housing industry appears to be in excellent health now, it may not be six months from now, when developers will have exhausted the bulk of the building permit supply accumulated in recent years, Morris said.

Despite all the criticism the city has taken for the Interim Development Ordinance, Councilman Ron Roberts says he is convinced that San Diego would be worse off without the measure.

"I just don't think we could have handled another year of 15,000, 16,000 housing units," Roberts said. "Yes, we probably did drive up the cost of housing and land, but I also think it was what was called for."



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**UNIVERSITY OF SAN DIEGO:** Watercolors by Eileen Whittaker, through June 3. Founders Gallery, Alcala Park, 260-4600, extension 4261. Monday through Friday, noon to 5 p.m.

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## LOCAL BRIEFS

# Baron's grand slam helps USD split

Sean Baron hit a grand slam and USD beat the University of San Francisco, 18-10, yesterday in the second game of a West Coast Athletic Conference double-header at Cunningham Stadium.

USF won the opener, 5-1, aided by six errors.

Baron's homer finished a four-run second inning for USD (22-28, 5-14). Dave Monastero (3-4) won, pitching the final five innings.

Baron was 2-for-2, catcher Dave Rolls was 3-for-3 with three RBI and three runs scored and Parris Soriano 4-for-5 with five RBI.

USD plays USF (14-26, 3-12) this afternoon at 1 at Cunningham Stadium.

**More baseball** — UCSD, ranked eighth in Division III, swept a double-header from visiting Biola, 3-1 and 7-1. A fifth-inning error and a wild pitch in the sixth in the opener helped the Tritons (22-12). Gary Fessia had a run-scoring single, and Jim Martinez had the only other hit for UCSD. Dave Adamson (5-2) won. Rick Nowak (7-4) pitched a two-hitter in the second game, striking out seven and walking three. Eric

Judson hit a bases-empty homer in the fifth, his first of the season. Biola is 19-22 ... San Diego City scored two in the first, second and sixth innings to beat host Southwestern, 7-4. Rick Twyman homered and Eric Pender lost for the Apaches ... Point Loma Nazarene lost a Golden State Athletic Conference double-header to Westmont, 3-0 and 8-2. PLNC (11-29, 4-15) got four hits off Chad Bethel (6-1) in the opener. Westmont's Dan Angulo had a two-run homer in the second game. Westmont is 23-14 and 14-5.

**Softball** — Pattie Hurtt hit a bases-empty homer in the opener and pitched a four-hit shutout in the second game, leading host UCSD to a non-conference, double-header sweep of Whittier, 12-2 and 9-0. Hurtt (14-2) also had a triple and three RBI in the opener. Stacie Sasaki (14-3) won the opener for sixth-ranked UCSD (28-5-1). Dana Chaioken hit a bases-empty homer in the second game. UCSD plays at Chapman Tuesday afternoon at 1. Whittier is 15-16.

**Volleyball** — The UC Irvine men defeated UCSD 15-11, 15-8, 15-5 in the championship match of the inaugural Southern California Volleyball Con-

ference Tournament at UCSD. Dave Pettker led the Anteaters (7-17) with 19 kills, and Paul Miller had 15 for the Tritons (12-19). LaVerne defeated Chapman 15-4, 15-5 in the consolation final.

**Tennis** — Patty Alcares and Jill Lewis will play Diane Gonzales and Luis Buckley in this morning's final of the La Jolla Women's Doubles B-plus championships at Tennis La Jolla Country Club. Alcares-Lewis defeated Jene Pitrossky and De De Hasket 6-3, 6-1 in one semifinal yesterday; Gonzales-Buckley defeated Nancy Sterling and Roxy Giuliani 6-4, 4-6, 6-2 in the other. The B final is at 9.

**Swimming** — Mt. Carmel's Lars Jorgensen won the 200- and 500-meter freestyle events, and teammate Brent Blackman finished second in both events at the one-day Mission Viejo Invitational competition. Tim Murphy finished third in the 50 free, and the Sundevils finished second in the 400 free-relay. In girls' competition, Heather Merten won the 50- and 100-meter free events, and Erin Mathews took fifth in the 100 breaststroke.



Los Angeles, CA  
(Los Angeles Co.)  
Times  
(San Diego Ed.)  
(Cir. D. 50,010)  
(Cir. S. 55,573)

APR 24 1988

Allen's P. C. B Est. 1888

2955 □  
The University of San Diego split a doubleheader with the University of San Francisco. The Toreros lost the first game, 5-1, but won the second, 18-10.

Four of USF's five runs in the

2955  
opener were unearned as USD committed six errors—four in the first two innings that led to four runs.

Greg Weiser (5-5) struck out 10 and snapped a five-game losing streak. James Ferguson (5-5) took the loss for USD.

The Toreros banged out 18 hits in the second game, as Dave Monastero (3-4) earned the win over Juan Galletti (1-3). Sean Baron hit a grand slam in the second inning for USD. Parris Sorianello had 5 RBIs, Dave Rolls and Chuck Graham added 3 and Brian Bainbridge had 2. USD is 22-28 and 5-14. USF is 14-26 and 3-12.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 25 1988

Allen's P. C. B Est. 1888

## Around San Diego in business . . .

### Seminars and Miscellaneous:

"How To Open Your Own Business," seminar, tomorrow, 8 a.m.-4:30 p.m., National University, 4007 Camino del Rio South. Sponsor: Service Corps of Retired Executives. Information: 557-7272. Cost: \$15 at the door.

"Fundamentals of Retirement Planning: Create Your Own Retirement Plan," free seminar, tomorrow, 5:30-7 p.m., SunRoad Plaza, Suite 200, 1455 Frazee Road, Mission Valley. Reservations: 542-0600.

"City Alive After Five," a social mixer sponsored by the Central City Association, tomorrow, 5:30-7:30 p.m., Great American Federal, Sixth and B. Reservations: 234-0331. Cost: \$7, members; \$10, non-members.

San Diego Venture Group luncheon meeting with guest speaker Ely Callaway, Wednesday, 11:30 a.m., Sheraton Grand Hotel, 1590 Harbor Island Drive. Reservations: 457-2797. Cost: \$30.

"Investment Strategies - 1988-1998," free seminar, Wednesday, 7 p.m., La Jolla Marriott Hotel, 4240 La Jolla Village Drive. Hosts: Miles Clif Dillon and Earl N. Feldman. Reservations: Diane Stell, 456-7754.

"Social and Economic Consequences in Our Relationship with the Soviet Union," breakfast presentation by Dr. Gary Williams, Thursday, 7:30-9 a.m., Nordstrom Cafe, Horton Plaza, 7th level, downtown. Cost: \$7. Reservations: Afton Slade at 581-2464.

"Project Professional Liability Insurance," seminar sponsored by Robson, Cavnag & Associates, Thursday, 8:15 a.m., University Club, Seventh and A streets, downtown. Reservations: Ginger Cornwell, 235-6301.

"Entrepreneurship," breakfast seminar, Friday, 7:30 a.m., University of San Diego, Manchester Conference Center, Alcalá Park. Registration at 260-4585. Fee: \$15.

porate offices to Sorrento Valley at 4920 Carroll Canyon Road.

Fertility Center of California has opened a new San Diego office at 6475 Alvarado Road, Suite 109.

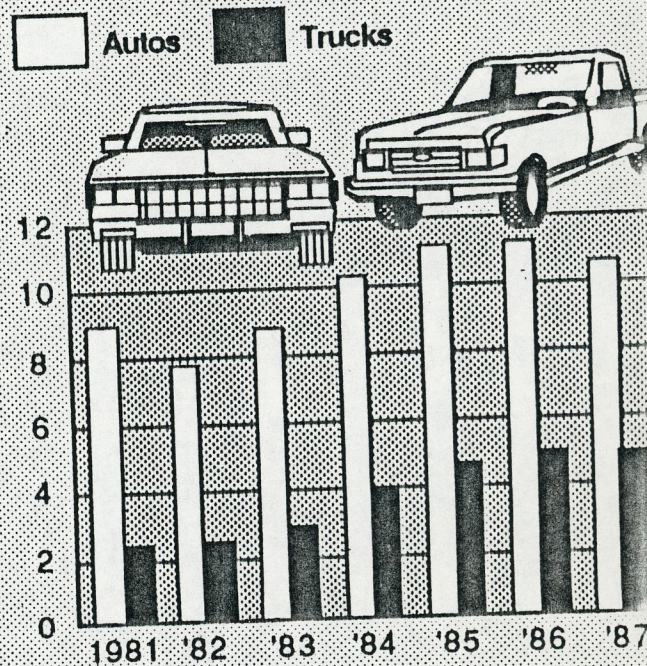
Exclusive Concierge, an out-of-hotel concierge service, is a new business developed by Diane St. John of St. John Enterprises. The service provides incentive programs, client services, conference, convention or seminar planning and a host of other services. Exclusive Concierge is located at 125 W. Mission Ave., Suite 106, Escondido.

Spelman and Co., a securities firm, has relocated its office to 1127 Wall St. in La Jolla.

Phenneger and Morgan Inc., a corporate communications and labor-management relations firm based in Spokane, Wash., has opened an office at 2134 Carol View Drive, Suite 302, Cardiff.

### Vehicle sales

For model years; In millions of units



Chicago Tribune Graphic;

Source: U.S. Department of Commerce



San Diego, CA  
(San Diego Co.)  
San Diego Business  
Journal  
(Cir. W. 7,500)

APR 25 1988

*Allen's* P. C. B. Est. 1888

FRIDAY, APRIL 29

**SEMINAR:** The benefits and problems of "Entrepreneurship" will be discussed at 8 a.m. at the ~~USD~~ Manchester Conference Center. Dr. William Soukup, USD associate professor of management will explore the characteristics and approaches of entrepreneurs and their influence on an organization. The hour-long seminar will be preceded by a 7:30 a.m. continental breakfast. The fee is \$15. For registration information, call 260-4585. 2955

San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 25 1988

*Allen's* P. C. B. Est. 1888

2955 Friday, April 29

**The International Association for Financial Planning, San Diego** chapter, and KPBS Public Broadcasting For San Diego will have Venita VanCaspel, a financial adviser, speak from noon to 2 p.m. at Sheraton Harbor Island East Hotel, 1380 Harbor Island Drive. Fee is \$35. Reservations required: 273-1231.

**The benefits and problems of "entrepreneurship" will be discussed** at 8 a.m. at the ~~USD~~ Manchester Conference Center. Fee is \$15. Registration: 260-4585.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 25 1988

Allen's P. C. B Est. 1888

## LOCAL BRIEFS

### SDSU sweeps New Mexico; USD wins

<sup>2955</sup>  
First baseman Harry Henderson drove in four runs to help San Diego State sweep New Mexico, 13-0 and 8-4, yesterday at Smith Field in a Western Athletic Conference double-header and extend its winning streak to 16.

Center fielder Jeff Barry had three RBI and Henderson drove in two in the first game. John Marshall (7-1) pitched a two-hitter.

In the second game, Henderson hit

a two-run homer in the first inning to lead the Aztecs (35-13-1, 13-2 in WAC). Reliever Dave Riddle (4-2) struck out eight in 6 2/3 innings.

The Aztecs play New Mexico (16-21-1, 4-7) today at 2 in their final home game of the season.

**USD baseball** — Catcher David Rolls hit a grand slam in the eighth to lead host USD over the University of San Francisco, 12-9, in a West

Coast Athletic Conference game.

USD is 23-28 and 6-14. Reliever Tony Battilega (5-4) won; Mike Campas (0-2) lost. Rolls had 11 RBI in the four-game series against USF (14-27-1, 3-13).



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 25 1988

Allen's P.C.B. Est. 1888

## Evert stuns Navratilova in Houston final; Lendl wins

2955  
From News Services

Defending champion Chris Evert took advantage of mistakes by top-seeded Martina Navratilova for a 6-0, 6-4 victory yesterday in the final of the \$250,000 Virginia Slims of Houston tournament.

Navratilova, who double-faulted on match point, committed 47 unforced errors to 14 by Evert, seeded second.

"I was psyched up for this match," said Evert, who earned \$50,000.

"Martina was pressing. She had too many errors. I don't know if she was nervous or just off. I think she's had a tough three weeks, and I got her at a vulnerable time."

The loss broke a streak of five tournament titles for Navratilova, who was disheartened.

"I'm still trying to figure out what happened," said Navratilova, who received \$22,000. "I don't know whether to laugh or cry, I was so pitiful."

### TENNIS

**Monte Carlo Open** — Ivan Lendl, the top-ranked men's player, came back from a two-month layoff to win the \$492,500 tournament in Monaco with a 5-7, 6-4, 7-5, 6-3 victory over Argentina's Martin Jaite. It was the 71st Grand Prix title of Lendl's career, tying him with John McEnroe for second place in career Grand Prix titles. Jimmy Connors leads

with 105. A stress fracture in Lendl's right foot forced him to withdraw from three events this year. Lendl won \$67,500, Jaite 33,750.

**Bank of Oklahoma** — Amos Mansdorf of Israel upset four-time winner Jimmy Connors 2-6, 7-5, 6-4 to win the Bank of Oklahoma Tennis Classic singles championship in Tulsa and the \$50,000 first prize. Connors easily won the first set and led, 2-1, in the second, but unforced errors plagued him the rest of the

match.

**WCAC championships** — Scott Patridge and David Stewart of USD defeated Pepperdine's Craig Johnson and Kevin O'Neill 6-4, 6-3 in the doubles final of the West Coast Athletic Conference men's tournament in Malibu. The Toreros were second to Pepperdine in the team standings ... USD's Jennifer Larking lost 6-4, 3-6, 7-5 to Ginger Helgeson of Pepperdine in the women's singles semifinals in Santa Clara.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 26 1988

Allen's P. C. B. Est. 1888

## Bill would weaken right of initiative

Article 2 of the California Constitution gives us the important right of the "initiative." It empowers ordinary citizens to initiate a new law, or change an existing one by getting enough voter signatures to qualify the initiative for the ballot.

In the past, we have achieved vital benefits by this means. For example, the "Crime Victims' Rights Amendment" gained essential criminal justice reforms. Closer to home, Proposition A, the "managed-growth" amendment, and Proposition H, the "clean air" amendment, won essential environmental protection for San Diego residents that could not have been gained otherwise.

A bill authored by Assemblyman Peter Chacon would weaken our initiative power. If it becomes law, AB4678 would delay the effective date of any state, county or city initiative for one year or longer, whenever such initiative would regulate land uses within the territory to be affected. Under present law, initiatives take effect on the day following the election at which they are approved.

The consequence of the Chacon bill would be to provide land developers ample time to pursue and complete construction projects that a majority of electors in the area previously had voted to prohibit or regulate. Clearly, the winners would be developers and builders. Losers would be all of us who want to regulate growth, to preserve the quality of our lives and who counted on the "initiative" as our last resort for achieving it.

The claimed justification for the Chacon bill is the desirability of having an environmental impact report prepared during the time the initiative's effective date would be delayed, so that any negative impacts of the initiative could be learned.

The defense is patently silly, because the proposed environmental impact report would be prepared after the initiative election and would be of no value to voters. Besides, precedent proves that any and all negatives associated with an initiative will be fully publicized by its opponents in a well-financed campaign.

—ROBERT SIMMONS, professor  
University of San Diego Law School



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 27 1988

Allen's P. C. B Est. 1888



## Mingei plans Revelle tribute

By Nancy Scott Anderson

*Tribune Society Editor*

**M**INGEI International Museum of World Folk Art will honor Ellen and Roger Revelle during a black-tie (or "ethnic elegance") dinner featuring entertainment by New York jazz artist Bobby Short. The fund-raising event, chaired by Barbara Walbridge, will be held May 6 in Hotel del Coronado. The champagne reception starts at 6:30 p.m. Dinner will follow at 7:30. For reservation information, phone 453-5300.

The La Jolla Chapter of San Diego Symphony Orchestra's Auxiliary Council will have a film party and picnic at 6:30 p.m. Saturday in John Locke's Lyric Pines Outdoor Theater and Gardens. Tickets are \$35 each. For more information, phone 488-7701 or 454-7598.

The University of San Diego Auxiliary will meet for lunch and a program featuring USD music professor William Eichorn May 5 in the Catamaran Hotel. Social hour is 11 a.m. For more information, phone 427-4958.



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
(Cir. D. 7,415)

APR 27 1988



## *Law Briefs*

by Martin Kruming

\* \* \*

**On the Move:** After more than two years, **Ann Moore** is leaving as deputy city attorney in Chula Vista to join McDonald, Hecht & Solberg. She follows **Charles Gill** who was hired by McDonald, Hecht 1½ years ago from the same office. Both are University of San Diego Law School graduates.

The city attorney's office is presently advertising for the No. 3 position in the three-person office. **Tom Harron** is the city attorney; **Rich Rudolf** is the assistant city attorney, who spent several years as deputy county counsel in San Diego.

**Bruce Jaques Jr.** and **Kurt Kicklighter** have made partner at Higgs, Fletcher & Mack.

**Nancy Davis** is with Brobeck, Phleger & Harrison as marketing director, having previously been director of public relations for Enron Corp. in Houston.

**Debra Gordon** has relocated her office to 2333 First Ave., Suite 201.

\* \* \*



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 27 1988

Allen's P. C. B Est. 1888

Wednesday, April 27, 1988

EC

The San Diego Union C-3

## LOCAL BRIEFS

# Aztecs beat Anteaters for 18th victory in row

<sup>2955</sup>  
San Diego State won its 18th straight baseball game last night to tie the second-longest winning streak in school history.

The Aztecs defeated UC Irvine, 11-4, in a non-conference game at Smith Field. SDSU won 24 in a row in 1983 and 18 straight in 1979.

Third baseman Lance Pinnell (2-for-3) led 17th-ranked SDSU (37-13-1) with four RBI. Anthony Johnson, starting at shortstop for injured Steve Montejano (pulled stomach muscle), was 3-for-5 with a triple and RBI. Jack Skoog (2-0), the second of six Aztecs pitchers, won. The Anteaters are 26-25-1.

**SDSU tennis** — San Diego State's men's team gave coach Skip Redondo, who resigned last week to become the pro at Coronado's Meridian Hotel, a victory in his last home match. The host Aztecs beat U.S. International University 5-3. Julio Noriega, the NCAA District VII player of the year, led the Aztecs, defeating Mike Gutter 6-2, 6-2. The Aztecs (10-14) travel to Provo Friday for the Western Athletic Conference Championships.

**WCAC golf** — San Francisco's Mike Fabian shot a three-day 218 to win the West Coast Athletic Conference championship in Portland, Ore. The Dons also won the team title

with 899 points. Jim Johnson of Pepperdine was two strokes behind Fabian. The Waves were also second with 902 points. Rick Schulty shot a 226 and John Schabacker had 228 to lead USD, which finished fourth overall with 917 points.

**USD baseball** — Parris Soriano hit a three-run homer in the third and Sean Baron a bases-empty homer in the fifth as the host Toreros defeated The Master's College, 15-3, in a non-conference game. James Ferguson (5-4) won. The Toreros are 24-28; the losers are 20-23.

USD catcher Dave Rolls is the WCAC player of the week after hitting .611 (11-for-18) with 14 RBI, 10 runs scored and three home runs, two of them grand slams.

**Water polo** — El Cajon Valley High assistant coach Bob Scheaffer was named an assistant for the U.S. Junior Development Camp June 25-July 1 at the U.S. Olympic Training Center in Colorado Springs. He will observe 11 head coaches, selected from across the U.S., who will teach passing, shooting and dribbling skills to about 80 youths under-18. Scheaffer was nominated for the position by El Cajon water polo and boys' swim coach Robin Sanchez, the junior development head program's goalie coach.



San Francisco, CA  
(San Francisco Co.)  
Chronicle  
(Cir. D. 630,954)  
(Cir. Sat. 483,291)

APR 27 1988

Allen's P. C. B Est. 1888

## USF Wins Golf Title

Portland, Ore. 2955

Mike Fabian and Chris Williams both shot 1-over-par 73s yesterday at the West Delta Country Club to lead the University of San Francisco golf team to the West Coast Athletic Conference golf championship, the Dons' sixth WCAC golf title in the past eight years.

Fabian also won the individual title, with a 54-hole score of 218, two strokes in front of Pepperdine's Jim Johnson.

USF's team score of 899 was three shots better than defending champion Pepperdine's, with Portland finishing third at 908, followed by San Diego (917), Loyola Marymount (917), St. Mary's (962), Gonzaga (988) and Santa Clara (1,004).



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 28 1988

Allen's P. C. B. Est. 1888

## Lawyers come to the defense of profession <sup>2955</sup> *Battle continues against perception on ethics, honesty*

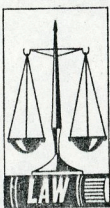
By Scott LaFee  
Tribune Staff Writer

**S**INCE TIME immemorial, lawyers have suffered the slings and arrows of outrageous reputation. William Shakespeare called them "perilous mouths." Clarence Darrow said they were the trouble with law.

More recently, public opinion polls have generally found lawyers wanting in honesty, ethical standards and professionalism. A few years ago, a Christian Science Monitor survey reported the legal profession's reputation had dipped to an "all-time low credibility — ranking on a par with (gasp!) news-media reporters and

only slightly higher than used-car salesmen."

The National Law Journal even reported in 1986 that nine of 10 people surveyed did not want their children to become lawyers.



But parents beware. A five-year slump in law school applications has ended. According to the Law School Admissions Council, the number of applicants rose 17 percent this winter.

There are now more than 700,000 lawyers in the country, one for every 350 residents. More than 100,000 of them live in California. The United States has so many lawyers it is trying to export some to Japan, where the ratio of lawyers to citizens is one to 10,083.

(Only a handful of foreign law firms actually operate in Japan. American lawyers contend the 1986 law approving foreign legal competition merely allows domestic law firms to hire foreign lawyers as outside consultants.)

Even exporting attorneys will not keep the U.S. from exceeding 1 million lawyers by 1995. One lawyer for every 279 men, women and children. This is the stuff of song and legend:

*Disaster, disaster so what else is new?*

*We've suffered the worst and then some.*

*So I'm sorry to tell you, my suffering friends,*

*Please see LAWYERS: A-M, Col. 1*



# LAWYERS: Some of the nation's 700,000 rise to defend their much-maligned profession

Continued From Page 1

Of the terrible scourge yet to come.

Tom Paxton may have been singing for laughs in his 1985 song "One Million Lawyers," but his lament still begs the question: Why do people hate lawyers so?

Defense attorney Melvin Belli, who has suffered a few slings and arrows himself for representing clients such as Jim and Tammy Bakker and Jack Ruby, the killer of Lee Harvey Oswald, thinks his profession's public persona has improved.

"In the old days, law schools taught bread-and-butter tactics, how to make money. But now, more than ever, the lawyer is interested in helping people."

Politicians have a worse reputation, said the 79-year-old attorney.

"People like (Edwin) Meese."

But Attorney General Meese, whose reputation has been mightily bruised by repeated scandals, is a lawyer, too. Indeed, most politicians (and political appointees like Meese) began as lawyers.

Meese's troubles haven't landed him in jail, but one well-known defense attorney says too many other members of the bar are spending time behind bars.

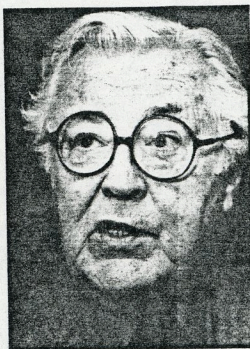
"You can't send lawyers to jail, particularly when they're high in a political administration," said F. Lee Bailey, "and then turn around and say being a lawyer is the equivalent of having a halo around your head."

The profession is bedeviled by tales, apocryphal or not, of clients wronged by their attorney. Everyone knows a story. Or a joke.

**Question:** Why are research laboratories using lawyers instead of rats?

**Answer:** Three reasons. One, there are more lawyers. Two, researchers occasionally become attached to rats. And three, there are some things a rat just won't do.

The fun usually ends when a law-



MELVIN BELL  
"It's a tricky profession"

yer calls. Lawyers generally mean bad news. Worse yet, people know that whatever the travails to come, lawyers walk away at the end. Case closed.

"Woe unto you also, ye lawyers," says the Bible in Luke 11:46, "for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers."

Yet no one can accuse lawyers of sloth. In 1966, there were 70,906 lawsuits filed in federal courts nationwide. In 1986, there were 254,828. Product-liability lawsuit filings in federal courts jumped to 13,554 in 1985 from 1,600 in 1974. Lawyers stay busy.

"I think as long as we have lots of (lawyers) and a lack of work, they'll invent new ways to annoy people and get money for it," said Bailey, whose own work has included defending kidnapped heiress Patricia Hearst and Albert DeSalvo, the Boston Strangler.

No doubt much litigation is justifi-

able. Nonetheless, there's a persistent notion that lawyers live only to file lawsuits. In his 1912 novel, "The Financier," Theodore Dreiser said lawyers were "intellectual mercenaries to be bought and sold in any cause."

The United States is the most litigious nation in the world. Americans sue at the drop of a hat. They sue because the hat was dropped.

"Some litigation is a reflection of society," said David Marmon of the local firm Christian Lawyers of America. "Some is motivated by greed, some by competition. Most is caused by ordinary people. They just want to sue. They want to fight in court."

People usually see a lawyer only when they've got a problem, said Marmon. Whether plaintiff or defendant, they're suspicious.

"When you're putting yourself, your money and maybe your property in the hands of somebody, and you don't know what's going on ... it might make a person feel a little uneasy," Marmon said.

Unfortunately, said Bailey, lawyers have become adept at dancing around the truth: "Say 'liar' fast enough and it becomes 'lawyer.'"

What lawyers do seems mysterious to ordinary people, beyond the realm of reasonable people.

"It's a tricky profession that deals with words," said Belli. "People feel that lawyers aren't doing everyday work, that by reason of his legerdemain, he able to make a living."

"One of the biggest problems is that attorneys have allowed the profession to become somewhat mystical by keeping themselves in a position where the public doesn't truly understand the scope of their work," said Samuel E. Spital, a local lawyer best known for his non-mystical television commercials.

Too many lawyers equate mysticism with power and prestige, said University of San Diego law profes-

sor Robert Fellmeth. In a commentary to be published in the California Regulatory Law Reporter, Fellmeth complains that some lawyers strive only toward plush offices, speakerphones and assistants who do most of the talking. These are the icons of a successful lawyer.

The image of power is heightened when nobody knows what lawyers are saying, said Fellmeth. Lawyers speak in tongues: ipso facto, reductio ad absurdum. It is mostly "gratuitous and sheer pretension," Fellmeth said.

"A typical lawyer will know approximately 300 words with a special 'legal sounding flavor,'" said Fellmeth. "Of these, about one-half will be totally unnecessary as opposed to a normal English word carrying the same message."

Lawyers like suffixes: substantiality instead of substantial, for example. Former sportscaster Howard Cosell, Fellmeth points out, was consummate at such verbal overkill. Cosell was a lawyer.

Lawyers use a lot of Latin, whether they need it *vel non* (or not). It has been this way *ab initio*, from the beginning. "They talk that way for a lot of reasons," said Fellmeth, "including the fact that prior lawyers talked that way."

Lawyers like repetition. Legal brief is an oxymoron. Fellmeth said a contract seems weightier, more iron-clad, if phrases are repeated. It's like padding a school book report with dictionary definitions.

For instance, a contract to sell an item promises not merely to sell it but to assign it, transfer it and deliver it as well.

Fellmeth suggested an appendix at the end of most contracts could define terms and eliminate excess verbiage but "of course, then the document would be easy to understand. Someone might get the idea that the work of the attorney is not quite as

momentous as he wishes it to be perceived."

Legal reputations take their worst lumps after lawyers lose cases, said Marmon of Christian Lawyers. Clients "go away thinking I didn't get satisfied. I paid my lawyer a bunch of money and I'm worse off than I was before."

Belli presents a different case, win or lose.

"Basically, when a case is through, people think they're entitled to certain rights because of the Constitution. And they're (angry) that they have to pay a fee to a lawyer for what they think they ought to get as a matter of right. They resent that it doesn't come naturally. That it sometimes requires hiring a lawyer and going to court."

Hiring a lawyer is an expensive proposition, especially when rates can exceed \$200 an hour. The median income for lawyers is \$78,000, according to a 1986 Harvard Law School survey. The 1986 median income for American workers, according to the U.S. Labor department, was \$19,996.

Are lawyers in it only for money?

"Not too many young lawyers are concerning themselves with protecting public interests, practicing law without regard to money," said Fellmeth, who is also executive director of USD's Center for Public Interest Law. "They're too busy worrying about whether they'll be able to make payments on their BMW."

Judging from television commercials, many lawyers don't appear overly concerned with money. In sincere tones, they solicit clients with promises of free first-hour consultations and no payment unless the client wins.

The latter is called a contingency fee. With it, a lawyer agrees to take the case with no money up front, just the prospect of reaping one-third or more of any monetary settlement.

What isn't mentioned in the com-

mercials is a contract clause that says if the lawyer is fired before settlement, the dissatisfied client must pay all legal costs, well-spent or not.

Lawyers like Spital and Belli say, contingency fees make the pursuit of justice available to everyone. "It's the poor man's ticket to the courtroom," said Belli.

But lawyers are regularly castigated as ambulance chasers for sometimes pursuing such cases. After the 1984 Union Carbide gas leak in Bhopal, India, killed 2,500 people, Belli was harshly criticized for filing lawsuits in the U.S. claiming \$15 billion in damages on behalf of 21,477 Indians. Under the standard 30 percent contingency fee, Belli could earn \$4.5 billion.

Belli said Indian lawyers asked him to represent them, not the victims, in U.S. courts. "I didn't chase down those cases. We don't chase down cases because we don't have to," he said.

Belli said his San Francisco firm receives more than 50 requests each day from people seeking his services. Few lawyers can make that claim. Indeed, that is why so many lawyers advertise, said Fellmeth.

Former Supreme Court Chief Justice Warren E. Burger once blamed legal advertising for creating such public distrust of the profession. He said some lawyers' advertising "would make a used-car salesman blush."

The propriety of lawyers advertising sparked heated debate long before the Supreme Court ruled it legal in 1977. The controversy continues today, even though the American Bar Association estimates one-quarter of all lawyers advertise in some way.

Most lawyers advertise only in telephone directories. In 75 pages of the Pacific Bell Yellow Pages for San Diego, thousands of lawyers sell their services with pictures of car crashes, grieving couples and studio portraits of themselves looking, well, trustworthy.

The sales pitch on television is more aggressive. In one commercial, a woman comes home shaken from an automobile accident. She seems fine but when her husband asks if she's hurt — ping! — there goes her



Next stop a lawyer because, as another commercial suggests, even when you're guilty, you've got the right to sue.

Perhaps this is what Chief Justice Burger was talking about. But Spital, who has been advertising on television for five years, sees nobler motives — at least with his commercials.

"I believe advertising is doing a positive thing for the law. It's allowing the public to realize that they can choose, that they can negotiate with the law and not be afraid. I think it's helping society a lot," he said.

Few public heroes have been lawyers. Abraham Lincoln once told friends he would never be a good lawyer because he could not defend those who were guilty as capably as those who were innocent.

Lawyers' reputations are tarnished by the company they keep. Sleaze by association. The public sees them representing brazen, albeit alleged, Mafia kingpins and drug smugglers and it wonders how they sleep at night.

Lawyers are pledged to defend all citizens to the best of their ability, even if they are guilty. But the best efforts of lawyers can sometimes trespass beyond apparent good taste, compassion and a sense of what is right.

Witness the "Twinkie Defense" in which former San Francisco supervisor Dan White escaped first-degree murder convictions for the 1979 shootings of Mayor George Moscone and Supervisor Harvey Milk by claiming he had eaten too much junk food.

Or the defense lawyer in Fresno who recently put a 14-year-old girl on the stand for 40 hours. The girl had accused his client of sexual abuse. The lawyer said he was only doing his job.

True enough, but such tactics don't help his profession's reputation. Indeed, they may only give credence to author Dreiser's allegation that lawyering is a "dark, inhuman, unsympathetic struggle built on cruelties."

Fellmeth, who served as the California Bar Association's first discipline monitor, complains that lawyers are notoriously lax in regulating themselves.

But a bill pending in the state Senate, one that would create an independent hearing system and expand the scope and resources of investigators, could help clear the profession of miscreants. It would be a major improvement, Fellmeth said.

Bailey said he would be happy to live to see any improvement.

More vigorous enforcement ought to help. It may even mean the end of lawyer jokes. But tongue-in-cheek cynics say a better solution can be found in Shakespeare's play "Henry VI, part II."

"The first thing we do, let's kill all the lawyers," Shakespeare suggested.

It's one answer but it poses another dilemma: If we do, who will defend us in court?



La Jolla, CA  
(San Diego Co.)  
University City Light  
(Cir. W.)

APR 28 1988

Allen's P. C. B. Est. 1888

The USD Opera Workshop will  
present "The Pilgrim" at 8 p.m.  
April 29 and 30 in Founders  
Chapel at the University of San  
Diego. It will be performed by  
USD students accompanied by  
the UCSD orchestra and the  
handbell choir of St. Bar-  
tholomew's Episcopal Church of  
Poway. For information, call  
260-4682.

29/55



San Diego, CA  
(San Diego Co.)  
San Diego Navy  
Dispatch  
(Cir. W)

APR 28 1988

Allen's P. C. B Est. 1888

## 'The Pilgrim' To Open

2955  
The USD Opera Workshop will present "The Pilgrim" at 8 p.m. Friday and Saturday, April 29-30, in Founders Chapel on the campus of the University of San Diego.

"The Pilgrim," a liturgical drama set to music, will be performed by USD students accompanied by the UCSD orchestra and the handbell choir of St. Bartholomew's Episcopal Church of Poway.

"This is a beautifully written drama for all to witness,"

states USD's William Eichorn, director of the workshop.

Composed in 1980, this will be the first San Diego performance of the work by Richard Proulx, director of music for the Diocese of Chicago.

The concert is open to the public. A donation of \$7 general, \$5 senior citizens, and \$4 for students is suggested.

For more information, call John Nunes at 260-4682.



National City, CA  
(San Diego Co.)  
Star News  
(Cir. 2 x W. 3,336)  
(Cir. S. 3,301)

APR 28 1988

Chula Vista, CA  
(San Diego Co.)  
Star News  
(Cir. 2 x W. 24,418)

APR 28 1988

Imperial Beach, CA  
(San Diego Co.)  
Imperial Star Beach  
News  
(Cir. 2 x W. 2,730)  
(Cir. S. 2,568)

APR 28 1988

*Allen's* P. C. B Est. 1888

## USD seminar

2955  
The benefits and problems of  
p "Entrepreneurship" will be  
b discussed at 8 a.m. on April 29 at  
the University of San Diego Man-  
c: chester Conference Center.

Dr. William Soukup, USD  
associate professor of manage-  
ment, will explore the  
characteristics and approaches of  
entrepreneurs and their influence  
on an organization.

The hour-long seminar will be  
preceded by a 7:30 continental  
breakfast. The fee is \$15.00.

For registration information,  
call 260-4585.



La Jolla, CA  
(San Diego Co.)  
La Jolla Light  
(Cir. W. 9,040)

APR 28 1988

*Allen's* P. C. B Est. 1888

**Jesse Jackson supporters:** Supporters in the 41st Congressional District, which includes La Jolla, will hold a delegate selection caucus Sunday at USD's University Forum A-B to elect candidates for delegates to the Democratic National Convention in Atlanta.

Registration begins at 2 p.m. and no person will be registered after 3. Proof of residency may be required. Five delegates and two alternates have been assigned. Official allocation will be determined by the popular vote in the California primary election June 7, with delegates being taken from lists elected in the May 1 caucuses.

For more information, call caucus convener Daniel Thomas at 587-3698. 2955



Los Angeles, CA  
(Los Angeles Co.)  
Los Angeles Times  
(Orange County Ed.)  
(Cir. D. 181,789)  
(Cir. S. 219,295)

APR 28 1988

Allen's P. C. B Est. 1888

## UC Irvine Notebook / Ann Killion

# <sup>2955</sup> <sup>2416</sup> Kronemann Has New Look but Same Results

Greg Patton, UC Irvine's men's tennis coach, should be relieved that the Anteaters don't have a football team. If they did, the football team might have gotten to Trevor Kronemann first.

Kronemann, a sophomore, doesn't exactly look like a tennis player. He looks more like a tight end.

But Kronemann, who is 6-feet 3½-inches tall and weighs 230 pounds, is a major reason for the Anteaters' success this season. The team, which will open play in the Pacific Coast Athletic Assn. championships at Las Cruces, N.M., Friday, is 21-6. Kronemann, the No. 2 singles player, is 23-13 overall and 18-8 in dual matches.

Kronemann, who moved from 51st to 34th in the most recent national rankings, has beaten second-ranked Scott Melville of USC, third-ranked Andrew Sznajder of Pepperdine, 11th-ranked Greg Failla of Cal State Long Beach and 33rd-ranked Patrick Galbraith of UCLA.

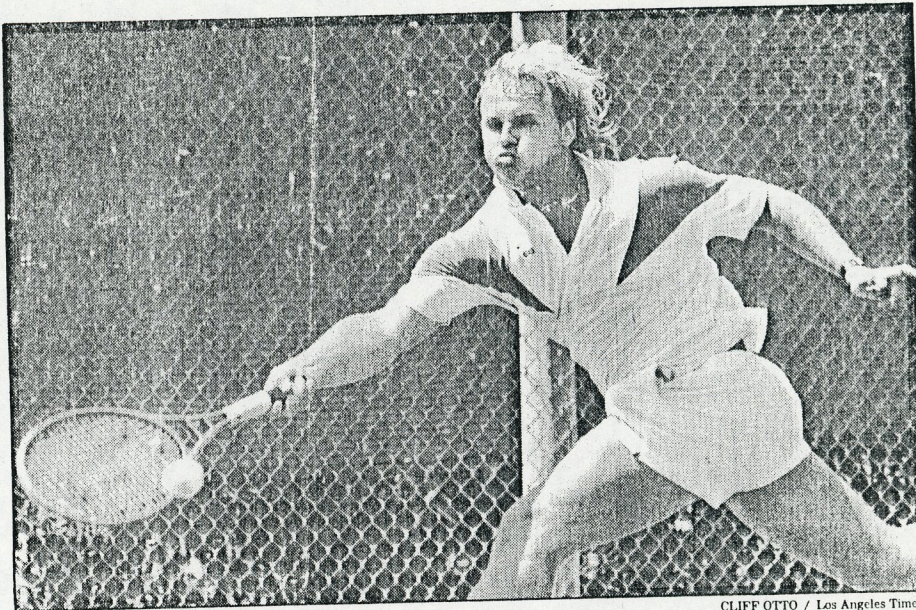
Kronemann and Mike Briggs are the ninth-ranked doubles team in the nation.

"Trevor comes on like Rambo, firing bazookas at you," Patton said. "He just doesn't know how hard he hits the ball."

When Kronemann was younger, he did play football and also soccer. When he lived in Wisconsin and Minnesota, he even played ice hockey for a while. But tennis, which he started playing when he was 3, was always his main sport. And when his family moved to Bradenton, Fla., when Kronemann was 9, he enrolled in Nick Bollettieri's Tennis Academy and concentrated on tennis.

Patton first noticed Kronemann when he was a high school senior playing on the junior national team. Kronemann was being recruited by Tennessee, but he was interested in going to college in California.

Kronemann and Patton say that



CLIFF OTTO / Los Angeles Times

Irvine's Trevor Kronemann says he has played the best tennis of his life since he lost 20 pounds.

I can do until I actually do it. Now I'm beginning to see where tennis can take me."

There is one unpleasant side effect of Kronemann's new svelte look. Until now, his teammates had called Kronemann "Tank," an appropriate nickname for the power player with a lethal forehand.

But now they have taken to calling slimmed-down Kronemann "Tinker."

"I don't know about that nickname," Kronemann said. "I think I like 'Tank' better."

□  
The Anteaters are seeking their seventh PCAA tennis title this weekend.

Irvine is well in front of the rest

San Diego State, ranked 19th in the nation, is favored to win its third straight league title. Irvine is 18-6 and unranked.

□  
After a two-week hiatus, Irvine's crew will return to action Sunday in the Newport Regatta. Other schools competing include Orange Coast College, USC, UCLA, Cal State Long Beach, Loyola Marymount and the University of San Diego.

The first race is scheduled for 8 a.m. at the North Lido Channel off Pacific Coast Highway in Newport Beach.

Conference championship by defeating UC San Diego last weekend.

□  
The UCI Track and Field Invitational will be held this weekend, with the women's competition Saturday and the men's Sunday.

Headlining the women's invitational are Bonnie Dasse, competing in the shotput, and Ruth Wysocki, Regina Jacobs and Kerri Zaleski in the 800 meters.

In the men's competition, Brazil's Tom Hintnaus leads the pole vault field, Nigerian record-holder Ade Olukoji will compete in the shotput and Canadian national record-holder Kyle McDuffy will be in the long jump.



Newport Beach, CA  
(Orange Co.)  
Newport Ensign  
(Cir. W. 3,934)

APR 28 1988

Allen's P. C. B Est. 1888

## OCC to host 23rd Regatta

<sup>2955</sup>  
Coach Dave Grant's Orange Coast College crew will host the 23rd annual Newport Invitational Intercollegiate Rowing Regatta this Sunday morning on North Lido Channel in Newport Beach.

The regatta, which has a special flavor all its own, is one of the most prestigious collegiate rowing events on the West Coast, ranking right behind the Pacific Coast Rowing Championships and the San Diego Crew Classic.

"We're proud of the regatta and the way it has grown over the years," Grant says. "It has a charm all its own, and it isn't so large that it has ceased being a fun, intimate affair."

This year's regatta gets underway at 7:45 a.m. and concludes at 10:15 a.m. with an awards ceremony. Twelve different schools will participate. Entrants include UCLA, Santa Clara, University of San Diego, U.C. Santa Barbara, U.C. Ber-

keley, Cal Poly San Luis Obispo, San Diego State, California Maritime Academy, Loyola, University of San Francisco, U.C. Irvine and Orange Coast.

The best vantage point for the spectators is at OCC's Intercollegiate Rowing and Sailing Base, located at 1801 W. Coast Highway in Newport Beach. Admission is free.

Grant's Pirates are expected to do well in the regatta.

OCC's powerful JV eight is the number one boat on the West Coast, having beat the top boats four weeks ago in the San Diego Classic title.

Competing against eight of the best boats in the nation two weeks ago at the Stanford Crew Classic, the Bucs finished third behind Harvard and Brown. OCC defeated Penn and Wisconsin in dual races in the regatta.

"This is definitely one of the strongest JV boats we have ever had," Grant says.

In years past the Bucs have

been known more for their technical ability than for physical strength. That's not the case this year.

"This is the most physical crew we've ever had," says Grant, who is in his 23rd season at the Pirate helm. His boats have won 80 percent of their races over the years.

"This crew is also technically very sound."

The JV race begins at 9:30 a.m.

OCC is also the favorite in the freshman eight race. The JV race begins at 9:30 a.m.

OCC is also the favorite in the freshman eight race. The Pirate frosh boat won the San Diego Crew Classic four weeks ago. Orange Coast finished second to Cal two weeks ago in the Stanford Crew Classic.

OCC's novice eight is also a favorite, having won the San Diego Crew Classic. The Pirates have fielded the strongest novice boat on the West Coast for the past eight seasons.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 29 1988

Allen's P. C. B Est. 1888

**'THE PILGRIM'** Richard Proulx's liturgical drama set to music will be performed by the University of San Diego Opera Workshop at 8 p.m. today and tomorrow in Founders Chapel, USD.

Oceanside, CA  
(San Diego Co.)  
North County  
Blade Tribune  
(Cir. D. 29,089)  
(Cir. S. 30,498)

APR 28 1988

Allen's P. C. B Est. 1888

**'THE PILGRIM'** The liturgical drama set to music is performed by the USD Opera Workshop at 8 p.m. April 29 and 30 at Founders Chapel on campus. Information: 260-4682.

San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 29 1988

Allen's P. C. B Est. 1888

**'The Pilgrim' — USD Opera Workshop** presents "The Pilgrim," liturgical drama set to music, 8 p.m. April 29 and 30, Founders Chapel. Admission: general, \$7; senior citizens, \$5; students, \$4. Information: 260-4682. 2955

Escondido, CA  
(San Diego Co.)  
Times Advocate  
(Cir. D. 32,195)  
(Cir. S. 34,568)

APR 28 1988

Allen's P. C. B Est. 1888

### Musical drama 2955

North County performers join the University of San Diego Opera Workshop to present "The Pilgrim," a liturgical drama set to music. The handbell choir of St. Bartholomew's Episcopal Church in Poway is heard in "The Pilgrim," a liturgical drama set to music.

The University of California at San Diego orchestra also collaborates with USD students in the production.

Workshop director William Eichorn calls the play, "a beautifully written drama for all to witness."

Richard Proulx, director of music for the diocese of Chicago, composed the

work in 1980. The USD production is its first local performance. 2955

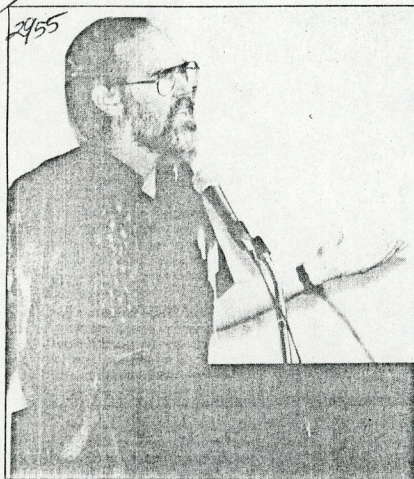
"The Pilgrim" plays at Founders Chapel on the USD campus at 8 p.m. Friday and Saturday. Instead of ticket prices, donations are suggested: \$7 general, \$5 seniors and \$4 for students. Call 260-4682 for information.



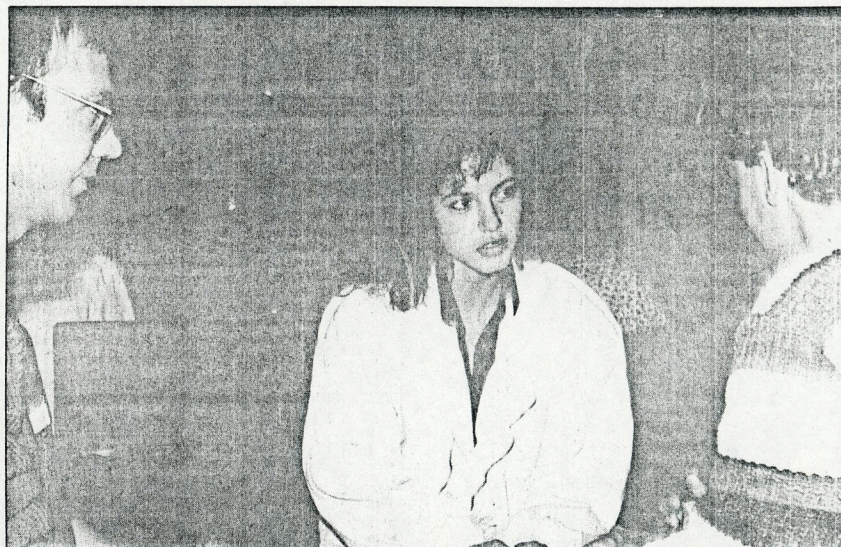
San Diego, Calif.  
Southern Cross  
(Cir. W. 27,500)

APR 29 1988

Allen's P. C. B. Est. 1888



**OPENING NEW DOORS** — Father Michael Kennedy, SJ, former pastor of Christ the King Church, San Diego, addressed participants at "Connections," a conference for young adults held April 23 at the University of San Diego. Father Kennedy invited the group to open new doors by experiencing the world around them. The priest is now associate pastor at Queen of Angels parish in Los Angeles and works at a refugee resettlement house in L.A.



**COMMUNICATING** — Christina Jimenez of St. Michael parish, Paradise Hills, listens to Marc Payne, right, of St. Brigid parish, Pacific Beach, as Eddie Goan of Santa Sophia, Spring Valley, observes as they work on improving their communication skills during a

workshop at Connections, the San Diego diocesan young adult conference, April 23 at the University of San Diego. Father Daniel Dillabough, judicial vicar of the diocesan Tribunal, conducted the workshop on "Improving Important Relationships."

## Young adults 'connect' at conference

By Maureen Nuesca  
Southern Cross

**ALCALA PARK** — The keynote speaker at this year's "Connections" young adult conference urged participants to continue opening doors to new experiences throughout their lives.

"The day you don't open any new doors in life, you die inside. To be a human being means to open doors and be expanded into the real world," Jesuit Father Michael Kennedy, associate pastor of Queen of Angels parish in Los Angeles, told the 200 participants at the April 23 conference at the University of San Diego.

Sponsored by the Office of Youth and Young Adult Ministries and the campus ministry programs at USD, the University of California, San Diego, and San Diego State University, the gathering's purpose is to "discover how we can become more connected: with each other, with ourselves, and with our God," according to a youth office spokesperson.

At the opening assembly, Father Kennedy invited the group to open a new

door by listening as he described the experiences of a 22-year-old Salvadoran man, who was beaten, poisoned and left to die in an El Salvador gully because he was a Christian. The young man now resides in and is receiving medical treatment at Casa Grande, a refugee resettlement house in Los Angeles where Father Kennedy works.

Father Kennedy urged the young adults to become followers of Jesus and open their lives to new experiences, rather than being "Joe averages" whose daily existence has become a monotonous routine.

Look at Jesus and see what type of man he is, said Father Kennedy, former pastor of Christ the King parish in San Diego. "He is not a plastic sissy. He is a man of strength, always challenging the status quo," he explained.

He challenged the young adults to continue opening doors that reveal living conditions and experiences of other peoples.

"Jesus said, 'The kingdom of God is near, open that door.' Ours is a world of resources in which we can help others," Father Kennedy said.

If those gathered continued to open

doors, they would realize what a tiny world they live in, he explained.

After the general assembly, participants attended two of seven workshops offered at the conference.

Father Dan Dillabough, judicial vicar of the diocesan Marriage Tribunal, was among the speakers. His lecture, "Improving Important Relationships," focused on the importance of relationships and improving personal communication skills.

Communication is integral to life, Father Dillabough said. He stressed the importance of using communication skills to improve relationships.

Listening requires more than hearing, he noted. Posture, eye contact and environment are involved in listening, he said, adding that a person can clarify what has been said by asking open-ended questions.

"Communication skills are crucial in improving relationships. Relationships say who we are and what we believe," he said.

During her presentation, "Connecting with God in Prayer," Susan Stark, a retreat consultant for the San Diego diocese, stressed the development and

maintenance of a prayer life.

"We each have restless hearts and a longing from within points us to the Spirit," Stark said.

Developing a "life of the Spirit" conflicts with society because "praying is not materially productive and it does not hold any type of power or control over anyone," she noted.

"Prayer is opening our hearts to the Spirit, staying in touch with the spiritual world, and listening to the spirit," Stark explained.

A sign of prayer in one's life is the growth of virtues, she added. "Without prayer, we become paralyzed, deaf and blind, spiritually."

Reflecting upon the day, conference participant John Thomas Sperrazzo said, "It was beautiful. The workshops were so rich. Connections, indeed, were made. I feel that prayer in my life is going in a better direction, thanks to Susan Stark's workshop."

Another conference participant, Lorraine Brzozowski told *The Southern Cross*, "I'm new in town and this has given me a chance to meet people with similar backgrounds. Overall, I'm really impressed."



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 29 1988

*Allen's* P. C. B Est. 1888



**B**ig stink: Dr. Richard Casey, director of USD's Marine Studies Program, phoned SDPD's Harbor Patrol this week for permission to launch his boat for a study of Mission Bay pollution. Permission denied. The bay, they told him, was closed to boating. Pollution.



Los Angeles, CA  
(Los Angeles Co.)  
Los Angeles Daily  
Journal  
(Cir. 5 x W. 21,287)

APR 29 1988

Allen's P. C. B. Est. 1888

## Bar Sends Mixed <sup>1955</sup> Discipline Message

By DAN TRIGOBOFF

The Los Angeles County Bar Board of Trustees sent a mixed message of support and opposition Wednesday to legislators and State Bar leaders attempting to overhaul the State Bar's disciplinary system.

On numerous items within the proposed reform in Senate Bill 1498, the county bar rejected the advice of its State Bar Committee, and supported the reform. But on others, the trustees found the proposals too sweeping, and voted to oppose.

Overhaul of the state's attorney disciplinary system has been one of the most controversial bar issues in years. It has been fueled by the relentless prodding of State Bar Monitor Robert Fellmeth, a nationally known consumer advocate and law professor at the University of San Diego.

Wednesday evening's meeting was supposed to be an opportunity to discuss with State Bar President Terry Anderlini and other State Bar leaders the most controversial of all the proposals: a substantial raise in bar dues to pay for beefing up discipline.

But the dues issue was not taken up, and the State Bar leaders did not attend, L.A. County Bar President Larry Feldman said, because of meetings scheduled next week on bar reform that will include local bar leaders and legislators.

Over its own committee recommendations, the county bar voted to support a requirement that attorneys with judgments of simple negligence against them report the judgments to the State Bar. The county bar committee wanted the requirement set at gross negligence.

Ironically, a similar proposal requiring the reporting of judgment reversals for incompetent representation was opposed, local bar leaders preferring a gross negligence standard there.

Another controversial measure supported by the trustees will require the State Bar to notify prosecutors if there is reasonable cause to believe that an attorney under investigation in a disciplinary proceeding has committed a crime.



Los Angeles, CA  
(Los Angeles Co.)  
Los Angeles Daily  
Journal  
(Cir. 5 x W. 21,287)

APR 29 1988

Allen's P. C. B Est. 1888

## Bar Discipline Monitor Criticizes Law Schools' 'Socratic' Method

2955  
By CHARLEY ROBERTS

WASHINGTON — California Bar Monitor Robert Fellmeth excoriated the processes by which lawyers are trained and regulated for committing the legal profession to "moral abdication."

Fellmeth, the keynote speaker Thursday at a national legal reform convention in Washington, D.C., said law schools train students to find ambiguities rather than answers, and lawyers engage in a practice that seeks advantage for a client instead of striving to discover the truth.

"They are never taught that some answers are better than others, that some things are worth working for, fighting for and, on occasion, dying for," he said.

### Abandon Socratic Method

Fellmeth suggested in an interview afterward that the traditional Socratic method of teaching be abandoned after the first year of law school and that other teaching techniques that provide answers instead of "moral relativism" be used in the second and third years.

Instead of trying to create more business for themselves, he told the HALT convention, lawyers, legal educators and lawmakers should promote the use of paralegals and alternative dispute resolution to reduce the expense and delay for consumers.

In addition, he said, changes are needed in the attorney-discipline system, including aggressive investigation of complaints, effective testing and retesting, removal from practice of incompetent or corrupt individuals and a speedier, less complicated appeal process.

His address, kicking off the two-day HALT conference, was warmly received. HALT is a national nonprofit organization that advocates more affordable legal services by increased use of nonlawyers and more consumer protection from dishonest or inept lawyers.

Fellmeth, a law professor and director of the Center for Public Interest Law at the University of San Diego Law School, was named to the legislatively created post of bar monitor in January 1987 to examine the California State Bar's attorney-discipline system and to recom-

mend changes.

In three reports so far to the Legislature he has criticized the backlog of uninvestigated complaints, underfunding and "structural infirmities" in the State Bar's system. Among his recommendations is a proposal to remove the process from the State Bar and turn it over to an independent agency.

### Criticized California System

Fellmeth told the HALT convention that California's system of assuring quality legal services "has been in shambles for years," but it is "better than most states."

Specifically, he complained that the bar exam is "shallow" in its testing; retesting, continuing education and specialty testing are not required; inadequate resources have been committed to ferreting out miscreants and lawyers dominate the State Bar's Board of Governors, which is responsible for establishing and overseeing the attorney discipline system.

"Policymaking boards should not consist of members of the trade or profession being regulated," said Fellmeth.

He also preached against the efficacy of what he called the legal profession's "catechism," namely that the adversary process, with its questioning and arguments by opposing counsel, is the best means of reaching the truth in a dispute.

"A screaming match between the people involved would be more useful," he said, because at least some issues tend to get resolved in those exchanges.

In the legal system, however, lawyers advise against acknowledging anything and judges avoid making final decisions for as late in the process as possible.

As a result, he said, "what we have is a system of trial by exhaustion, in which he who can pay his lawyer the most wins."



APR 29 1988

Allen's P. C. B Est. 1888

## UPCOMING HIGHLIGHTS

2955 TONIGHT/29	TOMORROW/30	SUNDAY/ 1	MONDAY/ 2	TUESDAY/ 3	WEDNESDAY/ 4	THURSDAY/ 5
<p>8 p.m. — Carol Channing performs with <b>San Diego Symphony</b>, last of Super Pops concert series, Symphony Hall (also April 30).</p> <p>— Ray Charles with <b>Pacific Symphony Orchestra</b>, Orange County Performing Arts Center, Costa Mesa.</p> <p>— "The Pilgrim," USD Opera Workshop, Founders Chapel, USD (also April 30).</p> <p>— <b>SDSU Spring dance concert</b>, San Diego City College Theatre (also April 30).</p> <p>— <b>Grossmont College Music Faculty Ensemble</b>, works by Chick Corea and Billy Taylor, East County Performing Arts Center, El Cajon.</p> <p>— Mezzo soprano <b>Nancy Jones</b> and soprano <b>Jane Randolph</b>, Goodwin Chapel, Point Loma Nazarene College.</p> <p>— "Devour the Snow," North Coast Repertory Theatre, Solana Beach.</p> <p>— "Snoopy!" Santee Community Theater, Cajon Park School, Santee (also April 30).</p>	<p>8 a.m. — Encinitas Family 5K, North Coast Health Center.</p> <p>1 p.m. — "Reptiles and Amphibians," film, museum auditorium, Natural History Museum.</p> <p>7:30 p.m. — <b>Palomar Community Orchestra</b>, Mahler's "Symphony No. 1 in D Major," Palomar College Theatre, San Marcos (also 3 p.m. May 1).</p> <p>8 p.m. — <b>Donald O'Connor</b> performs as part of Artsfest series, East County Performing Arts Center, El Cajon.</p> <p>— "bodily concessions," opening performance in NEOFEST Sixth annual Festival of New Arts, Sushi Gallery (also 10 p.m.).</p> <p>— San Francisco choreographer <b>Helen Dannenberg</b> performs with <b>Three's Company and Dancers</b>, Sherwood Auditorium, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>— Comedians <b>Felicia Michaels, Ronny Kenney</b> and <b>Dave Conrades</b>, the Comedy Store, La Jolla.</p>	<p>7 a.m. — <b>Frank Shorter Invitational</b>, Celebrity run/walk, Scripps Memorial Hospital.</p> <p>8 a.m. — <b>Baja Coast Ride</b>, 65-mile fun bike ride from Tijuana's Bullring to Ensenada.</p> <p>Noon — <b>Musical Swap Meet</b>, Mandeville Center, UCSD, La Jolla.</p> <p>4 p.m. — <b>USD Symphony Orchestra</b>, Sister Rossi Scholarship Concert, Camino Theatre, USD.</p> <p>7:30 p.m. — Civic organist <b>Robert Plimpton</b> and <b>Classic Brass</b>, First Presbyterian Church.</p> <p>8 p.m. — "The Elephant Man," UCSD Theatre Ensemble Group, Warren Theatre, UCSD, La Jolla.</p>	<p>9:30 a.m. — <b>Hugh M. Davies</b>, director of LJMCA, discusses "New Works into the Collection: the Art We Buy and Why," Coast Room, La Jolla Museum of Contemporary Art, La Jolla.</p> <p>5 p.m. — "Los Vendidos," UCSD El Teatro Ensemble, Mandeville Center Recital Hall, UCSD, La Jolla.</p> <p>7:30 p.m. — "Mink Sonata" play reading, part of Old Globe Play Discovery Program, Casius Carter Center Stage, Simon Edison Center for the Performing Arts, Balboa Park.</p> <p>8 p.m. — Cellist <b>Lynn Harrell</b> and pianist <b>Vladimir Ashkenazy</b>, La Jolla Chamber Music Society, Civic Theatre.</p> <p>— "On the Hunting Grounds," part of "International Style" film series, Mandeville Center Auditorium, UCSD, La Jolla.</p>	<p>7 p.m. — Tribune dance critic <b>Valerie Scher</b> speaks on "Alwin Nikolais: Magician in Movement," Friends of Performing Arts, Embassy Suites, La Jolla.</p> <p>8 p.m. — <b>Antologia de la Zarzuela</b>, San Diego Foundation for the Performing Arts, Civic Theatre.</p> <p>— "Cats," Orange County Performing Arts Center, Costa Mesa (opening night).</p> <p>— "The Strong Breed," Plus Fire Performance Group, Installation Gallery (also May 4 and 5).</p> <p>— Comedians <b>Jay Johnson, John Melichar</b> and <b>Greg Otto</b>, the Improvisation.</p> <p>8:30 p.m. — "Dog Logic," South Coast Repertory, Costa Mesa (preview; also May 4 and 5).</p>	<p>10 a.m. — <b>Designers Showcase 1988</b>, San Diego Historical Society, La Jolla.</p> <p>3 p.m. — American Indian Studies professor <b>Linda Parker</b> discusses "Canadian Indian Women in Contemporary Society," SDSU.</p> <p>8 p.m. — Academy Award winning screenwriter <b>Ring Lardner Jr.</b> discusses McCarthy-era blacklisting, Mandeville Auditorium, UCSD, La Jolla.</p> <p>— "Six Women With Brain Death, or Expiring Minds Want to Know," San Diego Repertory Theatre, Lyceum Space, Horton Plaza.</p> <p>— "Suds: the Rockin' Sixties Musical Soap Opera," Old Globe Theatre, Simon Edison Center for the Performing Arts, Balboa Park.</p> <p>— "Tea," Cassius Carter Centre Stage, Simon Edison Center for the Performing Arts, Balboa Park.</p>	<p>10 a.m. — <b>Railfair '88</b>, San Diego Railroad Museum, Santa Fe Railroad Yard.</p> <p>11 a.m. — <b>Gunter Schuller</b> conducts <b>San Diego Symphony</b> in final Coffee Concert, Symphony Hall.</p> <p>— "When You and I Were Young," Forever In Their Prime Time Players, Blessed Sacrament Church.</p> <p>7 p.m. — "Los Vendidos," UCSD El Teatro Ensemble, Mira Costa College Theatre, Oceanside.</p> <p>7:30 p.m. — <b>Donald Francis, M.D.</b>, speaks on "AIDS in the Community: Where Are We?" San Diego Marriott.</p> <p>8 p.m. — Austrian pianist <b>Alfred Brendel</b>, La Jolla Chamber Music Society, Civic Theatre.</p> <p>— <b>Grossmont College Dance Department Spring concert</b>, East County performing Arts Center, El Cajon.</p> <p>— "Betrayal," Gaslamp Quarter Theatre Company, Gaslamp Quarter Theatre (preview).</p>



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 29 1988

*Allen's* P. C. B Est. 1888

USD — USD Symphony Orchestra, under  
direction of Henry Kolar, presents Sister Rossi  
Scholarship Concert, featuring music by  
Verde, Tchaikovsky, Khachaturian, and Bee-  
thoven, 4 p.m. May 1, Camino Theatre. Ad-  
mission: general, \$5; students, \$3. Informa-  
tion: 260-4600, ext. 4427.

2955



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 30 1988

*Allen's* P. C. B Est. 1888

● Irving W. Parker, professor of English at the University of San Diego, will be invested as a Knight in the Pontifical Order of St. Gregory the Great at 5:15 p.m. today in a con-celebrated Mass of Thanksgiving at the Immaculata.

Parker has been honored by Pope John Paul II for dedicated service at the university from 1954 to the present. His service included serving as chair of the curriculum committee for the unification of the men's and women's colleges into the present university, director of the University Writing Center and as chair of the Department of Fine Arts.



San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 30 1988

Allen's P. C. B Est. 1888

## LOCAL BRIEFS

# Rolls' record-setting day carries USD in baseball

Catcher <sup>2955</sup>Dave Rolls set one school record and tied another yesterday to lead USD past host Nevada-Reno, 18-7, in West Coast Athletic Conference baseball.

Rolls drove in six runs, giving him a school-record 62 this season. The old record (59) was set by Bill Pinkham in 1981. Rolls also hit his 15th and 16th home runs to tie the record set by Sean Baron last year.

Baron had five RBI. Chuck Graham had four hits, including a bases-empty home run in the fourth, for USD (25-28, 7-14). Jim Westlund (5-2) won.

Grossmont High alumnus Ben Angotti hit a two-run homer in the third for Nevada-Reno (22-23, 4-7). Valhalla High alum Rob Sharp lost.



San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 22 1988

Allen's P. C. B Est. 1888

USD — The USD Community Concert  
Choir presents "A Sacred Concert of Early  
American Music" 8 p.m. April 22, Immaculata  
Parish Church, USD. Free-will offering. 2955

San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 22 1988

Allen's P. C. B Est. 1888

"Brigadoon" — USD Theatre Arts pre-  
sents Lerner and Loewe's musical about  
mythical Irish town that comes to life once  
every hundred years, and young romantic-  
minded man who happens upon it, 8 p.m.  
April 22 and 23 and 2 p.m. April 24, Camino  
Theater. Tickets: general, \$5; students, senior  
citizens and military, \$3; children 12 and  
under, \$2. Information: 260-4712. 2955

San Diego, CA  
(San Diego Co.)  
Evening Tribune  
(Cir. D. 123,092)

APR 15 1988

Allen's P. C. B Est. 1888

"Brigadoon" — USD Theatre Arts pre-  
sents Lerner and Loewe's musical about  
mythical Irish town that comes to life once  
every hundred years, and young romantic-  
minded man who happens upon it, 8 p.m.  
April 21-23 and 2 p.m. April 24, Camino The-  
ater. Tickets: general, \$5; students, senior citi-  
zens and military, \$3; children 12 and under,  
\$2. Information: 260-4712. 2955

San Diego, CA  
(San Diego Co.)  
San Diego Union  
(Cir. D. 217,089)  
(Cir. S. 341,840)

APR 22 1988

Allen's P. C. B Est. 1888

UNIVERSITY OF SAN DIEGO CON-  
CERT CHOIR — The chorus, directed  
by Father Nicolas Reveles, will present  
"A Sacred Concert of Early American  
Music" featuring anthems and spiritu-  
als by American composers and ar-  
rangers at 8 p.m. today in the Immacu-  
lata Parish Church, USD. 2955



San Diego, CA  
(San Diego Co.)  
Daily Transcript  
(Cir. D. 7,415)

APR 6 1988

Allen's P. C. B Est. 1888

What's it like to be kidnapped in Beirut? Father Lawrence Martin Jenco, who was abducted in 1985 by Shiite Moslems, will talk about his 19 months of captivity at 7 p.m. April 13 at the University Center Forum at USD. Attendance is free.

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Mission Valley, CA  
(San Diego Co.)  
San Diego Weekly News  
(Cir. 2 x M. 20,000)

APR 13 1988

Allen's P. C. B Est. 1888

April 13—Father Lawrence Martin Jenco, who was abducted in 1985 by Shiite Moslem extremists in Beirut, will discuss his 19 months of captivity and the current situation in Lebanon at USD's Center Forum at 7 p.m. Info.: 260-4682

2955



FEATURE



1955

WS

DAILY JOURNAL

# Report

April 29, 1988

No. 88-8

Daily Journal Report is a supplement  
to The Los Angeles Daily Journal and  
San Francisco Banner Daily Journal.

## Attorney Discipline In Disarray

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Renowned for making it difficult to get a license to practice law in California, the State Bar is also developing a reputation for the disarray of its disciplinary system. Excerpts from the State Bar Discipline Monitor's initial report, reprinted in today's Journal Report from the Summer 1987 issue of *The California Regulatory Law Reporter*, published by University of San Diego's School of Law's Center for Public Interest Law, show just how deficient the Bar's discipline program is.

In fact, State Bar Monitor Robert C. Fellmeth notes in his initial report that despite the Bar's citation to "improvement statistics," the Bar's "actual output figures . . . are actually declining, or at best static. . . ." Fellmeth, however, additionally points out in his latest report, released on April 1 and also partially published today, that the California Bar "appreciates the depth of these problems and has moved progressively and constructively toward remedy." But, according to Fellmeth, the Bar can't solve its problems without an adequate budget and without the passage and "competent" implementation of Senate Bill 1498.

Introduced by state Senator Robert Presley, this bill, which proposes major lawyer discipline reforms, is explained in the Bar Monitor's latest report. SB 1498 is making its way through the Legislature and seems to be receiving positive feedback on the whole, although its fee increases are believed to be unlikely to pass.



# Second Progress Report Of The State Bar Discipline Monitor

by Professor Robert C. Fellmeth

*Excerpts from the State Bar Discipline Monitor's Second Progress Report, issued on April 1, 1988, are reprinted below:*

The California State Bar is in a dilemma of major proportions. It is under a legislative mandate to reduce its complaint backlog, but it cannot do so with the inadequate budget it requested in 1987 for 1988. It must, therefore, spend money it does not have in order to finance any kind of improved system in 1988, and must seek additional monies for 1989. This makes the 1989 budget request especially significant. If a budget increase in 1989 is not granted during the early part of 1988, the Bar will be compelled, under its vote of January 22, 1988, to halt all expansion of its discipline system to attack the backlog, and will be compelled to retrench at close-to-1987 resource levels. Nor does the Bar have available to it resources from the nondiscipline parts of its operation to compensate for the 1988 budget deficiency. While the judgment of the 1987 Bar leadership in seeking inadequate funding (over our repeated remonstrations to request \$25 to \$35 in additional dues for 1988) has placed them in this dilemma, that judgment was not made by those currently directing the system. Further, neither the Bar nor the Monitor appreciated the extent of the hard-core cases in the backlog.

If the Bar does not obtain additional monies (including 1988 pay-back) early in 1988, the discipline

system will become a shambles. The Office of Trial Counsel will not have sufficient resources to diminish its 500-case backlog. The Office of Investigations will be unable to reduce appreciably the 700 to 1,000 apparently meritorious cases in the 1,500-case Office of Investigations (OI) backlog awaiting completion of investigation. Hundreds of attorneys who should be disciplined, including a substantial number warranting disbarment, will continue to practice for substantial periods unaffected by the Bar discipline system. Beyond this emergency, the Bar lacks underlying resources to investigate and prosecute proactively the meritorious cases flowing into the system. This finding is valid assuming substantial administrative reform and authority augmentation. . . . The Chief Trial Counsel sensibly proposes rolling his enhanced resources, to be added through 1988, into a Special Operations Unit for vertical prosecutions after backlog control is achieved.

## VI. SB 1498 (PRESLEY): A THREE-YEAR REFORM PROGRAM

We and others have proposed reforms which go beyond those implementable by the Board of Governors through rulemaking or administrative decision. We support the passage of SB 1498. These provisions have been reviewed by Bar discipline staff, commented upon by interested parties,

and discussed with available experts. They have been reviewed by the Office of the Attorney General, and formulated with Senator Robert Presley, his staff, and other legislators. Except as noted below, we believe virtually all of the provisions, as proposed, have the support of the staff of the Bar. Further, most of them have been reviewed by the Discipline Committee of the Board of Governors, or the Board as a whole. Several of them, as we comment below, have not yet been finally reviewed or approved by these bodies in their final language.

It is the purpose of SB 1498 to enhance the authority of the State Bar's discipline system, to restructure the State Bar Court for professional and predictable decisionmaking, and to provide adequate resources for the system to accomplish its purpose as a whole. The following is a summary of SB 1498 (Presley).

### A. Enhanced Detection

Section 3 requires the Bar to retain the fingerprints of new admittees for arrest notification purposes. The Bar presently requires the fingerprints of all persons who take the Bar examination to verify their identity and to prevent cheating. This section would authorize the Bar to retain the fingerprints of those who are admitted to the Bar so they may be registered with the Arrest Notification System of the Attorney General's Office. This system already exists and is designed to allow regulatory agencies to detect whether anyone they have licensed has been arrested for any crime.



The Bar Monitor's reports have critiqued the criminal conviction and arrest referral system embodied in current law (see Initial Report at 41-44; see also First Progress Report at 29-31). In general, the Bar relies on voluntary reporting by attorneys or by prosecutors who file criminal charges against attorneys. Both systems have serious flaws. The proposed system would allow the Bar to utilize a currently-existing verification program. Its use requires that the fingerprint records of licensees be submitted to identify those who are arrested. The state computer then notifies the licensing agency that a licensee, accurately identified as such, has been arrested, and the nature of the charges. This information would be transmitted to the Bar at an early stage and would enable the Bar to take quick action to protect consumers who are depending upon the arrested attorney as appropriate, and to immediately track the matter.

This section does not cover currently-practicing attorneys whose Bar fingerprint records have long since been destroyed, since to do so would require their re-fingerprinting. However, the section does authorize the Bar to fingerprint all attorneys subject to current discipline so that any subsequent arrest of those individuals would automatically be reported to the Bar.

Over time, the fingerprints of all members of the Bar eventually will be in the Arrest Notification System. This section as worded has been specifically approved by the Discipline Committee of the State Bar and by the Board of Governors.

Section 11 requires the reporting of contempt and sanction findings made by judges against attorneys to the Bar. This reporting may not occur until sanctions have been imposed or the contempt is rendered final. It is understood that some sanctions imposed (e.g., those resulting from the implementation of the current "fast-track" system) do not indicate significant wrongdoing by attorneys. However, contempt and sanctions often indicate unethical acts by attorneys.

Further, an extensive pattern of sanctions or contempt orders may justify a State Bar investigation into an attorney's standard of practice. The receipt of this information is important to detect individual unethical acts by attorneys, and patterns of behavior warranting investigation. Section 11 has specifically been approved by the Discipline Committee of the Board of Governors.

Section 12 broadens the requirements regarding reporting of malpractice actions and adverse judgments against attorneys. The section requires the reporting of judgments against attorneys where professional "negligence" is found, as opposed to the more limited reporting of "gross negligence." Such a standard does not imply that the Bar is *expanding* its disciplinary system to encompass individual acts of negligence by attorneys. Such a jurisdictional claim for the discipline system would render it excessively broad and diminish its efficacy. However, the Bar has an obligation to monitor patterns of negligence which may reach levels of unacceptable incompetence, in order to preclude irreparable harm to future consumers. The section currently requiring the reporting of a judgment for negligence committed in a professional capacity should not be limited to findings of "gross negligence." The Bar should know of any such judgment, whether it be gross negligence or simple negligence, in order to detect patterns of behavior which may warrant disciplinary action, including possible license restrictions, suspension, or revocation. The Bar has not yet supported reporting judgments short of "gross" negligence.

Section 15 prevents the sealing of court records regarding attorney dishonesty or negligence from State Bar investigators. At present, both the plaintiff and defendant in attorney malpractice actions have an incentive to seal court records. The plaintiff can promise to agree to the sealing of the records in return for additional settlement sums. From the defendant's perspective, an agreement to seal the records prevents professional embar-

assment and possible Bar sanctions—a clearly desirable outcome for which he or she will augment the settlement. Hence, both parties have an interest in sealing the results for their own benefit and to the detriment of possible future clients who may suffer similar injury. The court, particularly if no class action allegations impose a special fiduciary duty upon it, tends to sign off on stipulations where requested by both otherwise adverse parties.

Although it is not the intent of this section to interfere with settlements (which are encouraged for various policy reasons), latitude to settle should not be at the price of avoiding regulatory review. Attorneys operate as officers of the court. They are capable of imposing irreparable harm on consumers with whom they deal. The state licensing agency should have a right, at least for its own investigative purposes, to review documents in the record where there is a public accusation of professional malpractice or incompetence. This section affords that opportunity, subject to Bar confidentiality until such time as a notice to show cause is issued.

The section exempts from Bar access records sealed pursuant to the Penal Code provisions governing sealing and "record cleaning." This latter exemption is acknowledged because of the state policy under the Penal Code to allow qualifying persons to purge completely their records for all purposes. Section 12 has been discussed and approved in principle by the Discipline Committee of the Board of Governors.

Section 16 gives the State Bar access to attorney client trust fund records where relevant to an investigation. Further, the records of the State Bar itself relevant to admission and membership are made fully available to the disciplinary agencies of the State Bar. This section is meant to clarify the law and assuage the fears of those parts of the State Bar which collect certain information and which have refused or hesitated to share that information with the disciplinary agencies of the Bar without statutory authority. These sections make it



clear that the Bar's trust fund records (including the account name and number), and all membership records (including current address, notices submitted by Bar members required by statute to report civil suits and criminal convictions, as well as prior discipline records which may be in the Bar's membership records) are fully available to the Office of Trial Counsel and Office of Investigations.

The sections also clarify a respondent attorney's obligation to turn over to the State Bar financial records relevant to a Bar investigation, including relevant client trust fund account records.

These sections have been altered to meet certain objections of the staff and the Board of Governors. The sections, as currently written, narrow the Bar's access to records to departments where the records kept may be relevant, and privacy interests are minimal. For example, confidential recommendations made by members of the Bar as to various judicial candidates are not within the scope, nor are they intended to be within the scope, of disciplinary investigation concern. The section concerning attorney obligation to produce records has likewise been altered to make it clear that the obligation does not involve an "immediate" search warrant type of power, but is exercised in the context of a "request" or "subpoena" to which the attorney must respond. Should there be a supervening privilege justifying nondisclosure, those objections may be raised in a motion to quash or by other proceedings, in the normal course.

Section 34 gives the Bar access to attorney work product in disciplinary proceedings, subject to client waiver of his or her privilege and possible confidentiality within State Bar proceedings. This provision will solve a serious problem created by *Lasky v. Superior Court*, 172 Cal.App.3d 264 (1985). This case appears to allow an attorney to assert the work product privilege against his or her own client. *Lasky* itself did not involve a client claim of malpractice against an attorney, but as worded it could result in

insulating work product in those cases, and perhaps from Bar inquiry as well. Where the State Bar inquires into an attorney's honesty or competence, there must be an examination of attorney work product. Hence, the Bar must be exempt from the *Lasky* limitation or the attorney achieves an unacceptable immunity. In the *Lasky* case, the court noted: "if the Legislature did not intend the result reached here, it is up to the Legislature to appropriately amend the statute to provide an exception to this absolute language." 172 Cal.App.3d at p. 279.

Section 34 thus allows the State Bar to discover work product when relevant to an alleged breach of duty by a lawyer against whom disciplinary proceedings are pending. The client may project attorney/client-privileged materials (which are not subject to any privilege of the attorney). And the work product may be subject to a protective order to limit disclosure to those who must see it in order to accomplish the purpose for which it is obtained. The Discipline Committee of the Board of Governors has approved the concept and wording of the proposed section.

Sections 31 and 32 would require overdraft notification by banks of client trust accounts. These sections simply require a bank to notify the Bar when there is an NSF check against a client trust account. We have observed a pattern of NSF checks as precursors to serious embezzlement/misappropriation cases. These client trust accounts normally include retainers against which billing is made, and settlement checks and other proceeds collected on behalf of clients by an attorney. Where checks submitted to this special account exceed its balance, a serious problem is indicated. Even where a bank may choose to pay the NSF check, the Bar should know of its existence.

Under existing law, client trust accounts are set up by banks under distinct procedures and separate reporting requirements. The additional burden to the bank of reporting NSF charges to the Bar should be easily

administered within the already separate trust account system in place. This section was proposed by the Bar staff.

Section 33 requires service of complaints alleging professional malpractice against an attorney on the State Bar. The reporting provisions currently extant require attorneys to report complaints alleging malpractice when more than three are filed within a twelve-month period. This overly restrictive provision does not appear likely to yield a great deal of useful information and has in fact not yielded many reports to date. The suggested section, proposed by Bar staff, will enable the detection of patterns and serve early notice of possibly serious breaches of professional standards.

## B. Enhanced Authority

Section 1 (at page 3 of the bill) clarifies the interim suspension power of the Bar. After a showing of substantial harm to three or more separate clients in separate acts, the burden of proof shifts to the attorney to show unlikely reoccurrence.

There has been some discussion that the Bar should adopt a "preponderance of the evidence" test in its disciplinary proceedings for interim suspension and final discipline. While there are arguments in favor of such a standard, we currently oppose such a liberalization. Existing law is clear: a preponderance of the evidence test is applied where a public employee is fired from his or her job, but a "clear and convincing" test is applied where a license is revoked and the right to practice a profession or trade is precluded. We can find no compelling reason to use a different test in the context of attorney license revocation than would be the appropriate standard for physicians or other licensees. See *Gardner v. Commission on Professional Competence*, 164 Cal.App.3d 1035, 1038-40 (4th Dist. 1985); see also *Furman v. State Bar*, 12 Cal.2d 212, 83 P.2d 12 (1938).

The Bar's current interim suspension powers are important given the historical length of disciplinary



proceedings. Even where serious criminal charges are filed by a District Attorney, several years may transpire before the conviction is final and the suspension powers of the Supreme Court are invoked to protect future clients. However, the Bar has had difficulty in winning interim suspension cases, due partly to the burden placed upon it by volunteer and other judges in the current system.

Although the interim suspension cases filed thus far consume enormous investigative resources, involving in some cases documentation of a pattern of abuse against ten or more clients, volunteer judges have been extremely susceptible to claims of an attorney's "sudden reform" under current statutory criteria. This section attempts to clarify the burden on the Bar by writing into the law the standard generally applicable in civil preliminary injunction cases. The Bar must prove likelihood that it will prevail on the merits; the judge must weigh the competing equities; and the Bar has the additional burden of showing serious harm to clients. (For a description of the current requirements for general preliminary injunctive relief, see *Robbins v. Superior Court*, 38 Cal.3d 199, 206 (1985); see also *Cohen v. Board of Supervisors*, 40 Cal.3d 277, 286 (1985).)

The section also makes it clear that where interim suspension is granted, the underlying disciplinary offense shall be prosecuted on an expedited basis. The Bar must not be allowed to delay the expeditious prosecution of the underlying case where interim suspension has been obtained. And the respondent should not be allowed to use the Bar's historical delay as a defense to the propriety of interim suspension.

Section 1 has been approved by the staff and the Discipline Committee of the Board of Governors.

Section 1 . . . gives the Bar a more flexible panoply of interim remedies short of license suspension to protect consumers. One reason underlying interim suspension denials is the dilemma of the State Bar Court judge, who must decide whether to impose a dra-

conian remedy where there may be evidence of rehabilitative behavior by an attorney. Or, the abusive behavior of the attorney may be limited to a particular aspect of his/her practice, e.g., a particular kind of proceeding or area of the law where he/she is not competent. This section gives the State Bar Court judge the power to allow continued practice to minimize irreparable harm to the attorney, but under conditions which protect consumers. This might involve use of the State Bar Court Probation Department to oversee the financial transactions and accounts of the attorney, or it might include a restriction on areas of practice, or other safeguards. These interim remedies are particularly important as the Bar enters further into the area of gross incompetence, and given the State Bar's generally undifferentiated license to practice across a wide spectrum of specialties. Section 1's provisions on interim remedies have been approved by the staff and the Discipline Committee of the Board of Governors.

Section 7 gives the Bar the authority to enforce Supreme Court orders against attorneys after their resignation or disbarment. At present, attorneys who are disbarred or resign with charges pending are required, pursuant to Rule 955, to facilitate the transfer of files to new counsel and to otherwise protect their former clients. However, where attorneys fail to comply with Rule 955, there is no way in which that order may be enforced. Although the Supreme Court orders certain behavior, it does not have a means to bring contempt actions on its behalf. The Bar believes it is unable to do so because once the disbarment or resignation occurs, it "loses jurisdiction." Section 7 is intended to give the Bar the authority to enforce such contempt orders against former attorneys in appropriate superior court venues where they have been violated. This section has been approved by both the Bar's staff and the Board of Governors.

Section 20 makes the unauthorized practice of law, which is normally a misdemeanor, a misdemeanor-

felony "wobbler" where it is engaged in by an attorney who has been suspended or disbarred. At present, "unauthorized practice of law" violations are misdemeanors and are not given high priority by prosecuting agencies. District Attorney's offices consider the misdemeanors of unauthorized practice by licensees of the forty various agencies regulating trade and professions in California to be a matter of low priority. It is appropriate to allow a prosecutor to file either a misdemeanor or a felony action against someone who has been specifically ordered in a prior judicial proceeding not to so practice. The "wobbler" status, a common format for many crimes in California, allows the case to be filed as a felony where circumstances warrant. It may be reduced to a misdemeanor by either a prosecutor or a judge in the course of proceedings, but it at least may be filed, and is potentially prosecutable, as a felony. This section is supported by the State Bar staff and the Discipline Committee of the Board of Governors.

Sections 21 and 22 prevent disbarred attorneys from benefiting from the use of their name as an attorney. The law firm involved is obliged to remove the disbarred attorney's name from the letterhead, and publicity and promotion by the firm is otherwise prohibited. The Discipline Committee of the State Board of Governors has not approved the specific language of Sections 21 and 22, and some feel that current law already covers, at least indirectly, the prohibition contained in these sections. However, we feel that the specificity of Sections 21 and 22 warrants their enactment.

Section 2 requires notification of criminal prosecutors when criminal acts are uncovered by the Bar. It is not the intent of this section to require the Bar to notify a prosecutor whenever a traffic citation is detected. However, where a Bar investigation uncovers possible embezzlement, theft, or any other criminal act of consequence, the State Bar staff, as a routine matter, should inform criminal prosecutors and police agencies of their findings. The section does not require such re-



portage upon "mere suspicion." Where an investigation results in such evidence rising to the level of "probable cause" (the standard which would normally justify a search warrant), such notification would be statutorily compelled. The rationale behind this section is to assure the public that the status of a person as an attorney is not a form of insulation from criminal proceedings. Both criminal prosecuting agencies and the Bar would pursue allegations against attorneys independently.

The Bar Staff has not supported Section 2, nor has it been approved by the Discipline Committee of the Board of Governors. The staff contends that an existing internal Bar rule requires notification to prosecuting agencies of criminal behavior by attorneys. We believe it is an important enough provision to warrant enactment by statute. This is particularly true since, historically, reporting between prosecutors and the Bar regarding attorney misconduct and criminal acts has been neither routine nor extensive.

Section 17 clarifies the Bar's power to enforce an attorney's terms of probation, and provides that a probation violation may be grounds for disbarment in and of itself. It requires that probation violation proceedings be expedited and provides for a preponderance of the evidence test. These provisions are needed to clarify the status of probation revocation proceedings. The need for their expeditious calendaring and the preponderance of the evidence test are consistent with probation revocation proceedings generally. This section is supported and was proposed by the Bar staff.

Section 27 clarifies the timing of service of State Bar orders to show cause for the production of files and records. The proposed section is consistent with the general terms of the Code of Civil Procedure pertaining to production of such records in civil discovery. This section is supported and was proposed by the Bar staff.

Sections 28 and 29 allow the superior court to appoint a receiver, hire temporary counsel, or take other mea-

sures to protect the clients of an attorney who has abandoned his/her practice under Section 6180 of the Business & Professions Code. These changes in the current law simply broaden, to some extent, the options available to the superior court to protect the interests of clients of attorneys who are unable to practice. These sections are supported and were proposed by State Bar staff.

Section 1 . . . sets forth a statutory default procedure for attorneys who fail to respond to a properly-served notice to show cause. Such attorneys may be subject to involuntary inactive enrollment under the procedures set forth in a manner similar to proceedings under the Administrative Procedure Act (APA) in general. The notion to show cause, which is the formal accusation in State Bar disciplinary proceedings, must be duly served pursuant to law. The NTSC must contain specific language in capital letters at its beginning informing the attorney of the consequences of failure to respond. Further, after the initial time to answer has passed, a subsequent notification is sent to the member, again warning him/her of the consequences of failure to respond and allocating another fifteen days to answer after receipt of the letter.

This section also requires the Bar to terminate the involuntary inactive enrollment of a member when a proposed answer is filed with a request to set aside the member's default. This proposed statutory change is a "soft" default proceeding. It simply allows the Bar to act quickly and decisively, with adequate warning, against attorneys who refuse to respond to service. At the same time, it requires the Bar to reinstate attorneys who do answer, even if their answers are late. However, where this occurs, the Bar's current disciplinary statute requiring attorneys to "cooperate with the Bar" would appear to have been breached unless the request to set aside the default has a justifiable basis. This section, as written, is supported and was proposed by the State Bar staff.

Section 19 provides for disbarment without the possibility of read-

mission. This section gives the State Bar Court and Supreme Court the option of disbarring a member for life where a pattern of violations so warrants. This section is supported and was proposed by the State Bar staff. It has not been approved by the Board's Discipline Committee.

### C. Restructuring Of The State Bar Court

Sections 5-10 and 14 of SB 1498 create a State Bar Court Judge system to replace the 450 volunteer attorneys in the field who currently adjudicate disciplinary cases of their peers. A group of full-time, independent, and professional hearing judges would preside and decide the cases. Review would be to an appellate panel of three judges, including one person who is not a member of the Bar. There would be no judicial court of appeal review paid for by the General Fund. The judges would be appointed by the Supreme Court but would be paid by the Bar. The procedure would be quicker than the current APA process of multiple appeals.

These sections create the positions of hearing judge and review judge in the State Bar Court, and afford the State Bar Court a degree of independence.

These provisions, as written, have been endorsed by both the staff and by vote of the Board of Governors of the State Bar, except for some disagreement over one section.

It is the position of some Bar staff and some members of the Board of Governors that the Executive Committee of the State Bar Court should be determined by the Board of Governors. As written as present, SB 1498 specifies that the Executive Committee of the State Bar Court shall consist of seven persons (the three appellate judges, the presiding hearing judge, one additional hearing judge appointed by the presiding judge, and two members appointed by the Board of Governors representing the other two departments of the State Bar Court (Probation and Arbitration)). It could alternatively, as suggested by Bar



staff, be constituted and appointed by the presiding judge of the Review Department.

The Executive Committee of the State Bar Court has jurisdiction only over the very limited Rules of Practice of the State Bar Court. It is our feeling that the judiciary presiding over that court system should control its Executive Committee. To leave the composition and membership of the Executive Committee to the Board of Governors would be to seriously compromise the independence of the State Bar Court system relied upon by the Supreme Court, particularly under proposed finality provisions which would limit Supreme Court review of its proceedings.

We have adjusted the jurisdiction of the State Bar Court to make clear that its Executive Committee may not adopt Rules of Practice which conflict with the Rules of Procedure, which generally govern the operation of the Bar's discipline system and which are adopted by the Board of Governors. We have also made it clear that the State Bar Court has no jurisdiction over the canons of ethics, or the substance of violations which give rise to disciplinary proceedings. Insofar as the Rules of Practice govern how the Court is to be organized, who is to perform what scheduling, and other court administrative matters, we believe it is demeaning to the judges to be subject to detailed Rules of Practice as dictated by a committee of persons, the majority of whom are elected by practicing attorneys.

The judges are Supreme Court appointees and should not be regarded as persons serving under Board aegis. Thirty-three states — but not California — follow ABA standards 3.4 and 3.5, and authorize their Supreme Court to appoint the Board which oversees the state disciplinary system. We are asking for the Board to cede only the adjudicatory part of its system — where it has the least justification for control.

The structural change as proposed is also needed to implement the finality rule as proposed by the State Bar. Decisions of a hearing judge of

the State Bar Court will not automatically be reviewed, as is presently the case. They will be subject to review by appeal of either the Bar or the respondent to the three-judge appellate panel. These decisions are then subject to petition for review to the Supreme Court, as is the general case with Supreme Court jurisdiction. The proposed system moots the need for delegation of Supreme Court jurisdiction over Bar discipline proceedings to the court of appeal level, as discussed *supra*.

The end result of this system is a desirable end goal to which the APA proceedings of other agencies may aspire. A current license revocation or suspension matter under the APA involves accusation and discovery, hearing before an administrative law judge of the Office of Administrative Hearings (a generalized position), appeal to the board or commission overseeing the trade, followed by writ of mandate review by superior court, appeal to the court of appeal, and petition to the Supreme Court. The entire process takes many years and is expensive for the agencies involved. The process outlined in this legislation should consume less than half the time currently spent in administrative license review proceedings under current APA procedures. The finality rule, avoidance of court of appeal jurisdiction, and the measures included in this legislation have been supported generally by the staff and the Board of Governors of the State Bar.

#### D. Resources

##### 1. Fees.

SB 1498 also includes sections 23-26 relevant to resources. It would authorize the Bar to charge its membership up to \$145 in fees for discipline enhancement in 1989, 1990, and 1991. This fee enhancement has been approved by the Board of Governors of the State Bar, and recently by a substantial number of local bar associations. The willingness of these associations to accept higher license fees to enhance discipline is partially the

result of the extraordinary leadership of the current Board of Governors, whose members have carried these recommendations to the local professional attorney associations throughout the state and gained their acceptance with remarkable success.

With respect to the funds requested, we do not believe that we are simply "throwing money at the problem"; instead, the funds will implement a three-year plan of the Bar staff. This is the first long-range planning attempt by State Bar staff in recent years. It is the first attempt by the State Bar staff in at least a decade to face the extent of its problem squarely and to propose solutions which are capable of achieving an acceptable final result. Prior staff failed to disclose the extent of deficiency to prior Boards. Prior Boards have not given the discipline system adequate priority. This has changed for the present, and there is a window of opportunity to accomplish a meaningful discipline system for this profession.

What the Bar must do is not spend indiscriminately, but adequately fund an efficient system. However, the most efficient system imaginable cannot handle the current flood of cases, many of them meritorious, without additional resources. The Bar has not reduced its backlog as substantially as its numbers indicate. The backlog stands at 1,500 cases in the Office of Investigations. As described above, under 10% of most OI cases historically result in formal accusation, but over 50% of the backlog cases appear to be meritorious. Further, there is now a backlog in the Office of Trial Counsel of 500 completed investigations awaiting preparation of a written accusation of counsel. That number will increase without additional resources.

Although the fee increases requested are not trivial, their amounts must be kept in perspective. The \$145 sought here will not all consist of additional resources for 1989. As we have described, the Bar has been compelled to spend substantial monies in 1988 to make reductions in the backlog at the investigation stage. It has committed



itself to \$200,000 over what it budgeted for 1988 during the first quarter, and anticipates having to spend up to an additional \$6 million during 1988 for needed OI and OTC resources to be hired in stages throughout 1988. The proposal of the Chief Trial Counsel to hire personnel in five stages through 1988 is a responsible approach. To wait until 1989 and then bring in large numbers of people is not advisable. It is better to gradually add people to the staff so that their training and integration can be coordinated with minimum disruption.

Waiting until 1989 would also mean further delay for thousands of cases, including those still backlogged. These cases should be processed as soon as possible, and additional resources should be added at a rate which can be absorbed by the system to accomplish that flow, without waiting for 1989 to start. To wait until 1989 and begin training at that point will mean an even larger "bulge" of cases moving through the State Bar Court system — which would be more unmanageable and disruptive than a more extended and less severe case-load increase.

The Chief Trial Counsel is establishing a more efficient system for the elimination of cases which are not likely to result in discipline. The persons who are making the decisions are qualified to make them and many fewer cases are getting to the part of the system requiring the use of heavy Bar resources. Without commenting on the precise levels requested, the money being expended and committed to that system in general will be well spent. Failure to add additional resources will result in serious consequences.

The fact that the Bar has committed itself to spending certain monies unbudgeted in 1988 means that they must come from the 1989 budget. That money will not be spent until the legislation authorizing expenditures is passed by the legislature. Hence, the legislature must act quickly to signal its assent to the expenditure of the 1988 monies. The Bar's Board of Governors has approached a plan where

the 1988 overexpenditure will be repaid over the three-year period during 1989, 1990, and 1991, coextensive with the three-year plan of the State Bar approved by the Board of Governors.

SB 1498 would also extend the term of the State Bar Discipline Monitor at current expenditure levels (\$1.90 per member) through the conclusion of the three-year plan (1991), so both the substantive aspects and financial expenditures can be monitored and reported upon to the Chief Justice and the legislature, pursuant to the instruction of SB 1543. The Monitor will be required to issue a final report to the legislature on the performance and status of this three-year plan upon termination of the position. Should the State Bar Court system and reforms advocated be implemented on an accelerated schedule, as will be attempted, that term could be cut back as appropriate.

With regard to the level of fees, anticipated to be \$450 to \$470 (depending upon whether the Client Security Fund fee is increased from \$25 to \$45) for 1989, several observations are in order. First, malpractice premiums for attorneys have increased approximately 300% over the past three years. They now stand at a median figure of \$4,500 per lawyer per year (an average figure of \$5,829). The total dues at issue represent just over one month's worth of malpractice premiums for the average covered attorney. The enhancement sought by the Bar amounts to 1-1/2 weeks of malpractice premiums.

While there is not a one-to-one relationship between malpractice and discipline, there is a relationship. The 1988 malpractice survey by the Bar, which achieved an unusually high response rate, revealed that relationship with clarity: there is an extraordinary correlation between those who are causing malpractice claims and those who have already been the subject of disciplinary proceedings. . . those who have been the subject of complaints to the Bar have *three times* the number of malpractice claims as the general population of

attorneys. It is a reasonable inference that the ratio of claims and monies paid out is substantially higher than that ratio for the attorneys who have had NTSCs issued against them. An enhanced discipline system, particularly as we have been urging (which includes gross incompetence more meaningfully within its ambit and which uses the enhanced authority to imposed license restrictions as well as disbarment remedies), should have a salutary impact on these escalating premiums. If the enhanced disciplined system proposed by SB 1498 results in no more than a 10% reductions in claims payouts and these are reflected in premium payments, then the savings in insurance will not only pay for the \$145 enhancement proposed — it will pay the entire \$450 license fee amount. A 3% reduction would pay for the enhancement amount requested.

Although license fees for other professions are substantially below the \$450 to \$470 requested here for attorneys, the Bar is an "integrated body" consisting of elements of both a state agency and a professional association. Our surveys indicate that similar fees for doctors are approximately \$470 and are slightly higher for dentists. Contractors licensed by the Contractors State License Board, licensed in more than two subspecialties (as is common), and belonging to commonly-used trade associations, would pay in excess of the amount proposed here for attorneys. The union dues paid by blue collar workers are often in excess of the amount proposed here for attorneys, and they do not finance a discipline system.

The Bar is considering a number of measures to soften the impact of the current projected dues increase. The legislation allows for and requires the return of (or credit for) any unexpended (or uncommitted) monies at the end of each year. The Bar opposes this provision. Given the nature of most agencies, this may not be a provision worthy of reliance for prudent expenditures standing alone. The Bar is considering a program for installment payments, and for payment by credit



card. The Bar is also considering an expansion of its "hardship" application system for lower income attorneys with special justification for fee reduction or waiver.

## 2. Expenditure Budget: 1989.

(T)he detailed accounting and budget pre-planning — now compelled by AB 3758 (Calderon) — are new precedents for this agency beginning with the 1988 budget. The backup presented by the Bar represents detailed documentation which will now be provided routinely for budget augmentation requests.

We have not completed our examination of all accounts where monies are requested, but would note that the resources sought for OI and OTC have been substantially justified by empirical analyses conducted by the Chief Trial Counsel of caseload studies. It is possible that further administrative improvement will preclude the need for OI or OTC additions after 1990, except to match attorney growth — which should not require license fee increases per attorney, except to adjust for inflation and related salary contract obligations.

It is also possible that the State Bar Court expenses may be reducible. The State Bar Court judge system should level off in attributed expenses after 1990 to well under \$30 per member. Further, its implementation saves the Bar the substantial monies needed to educate, transport, pay per diem or compensation, schedule, and administer the 450 attorney referees in the field, and the transportation, per diem, and copying costs implicit in the eighteen-member Review Department as well. If enhanced consistency and predictability results in more settlements and fewer hearings than is presently the case (as OTC attorneys predict), this reform could well prove less expensive than its current alternative. Given the publicly financed court of appeal level the system will avoid, it is almost certain to be implemented at a net savings if total costs — Bar and public — are included.

The remainder of the State Bar Court expense accounts involve expansion to accommodate the increasing workload anticipated from below. Part of the expansion involves creating a Court Clerk's Office in San Francisco, so cases can be filed in San Francisco and files pertaining to cases there are available. A separate reform creates a tape transcript system. Rather than reporting and transcribing all testimony, the new system would involve technicians recording from a central room, and transcribing only where there is an appeal and a written record is needed. (Under current practice, such savings are impossible due to the review of all cases by the Review Department to ameliorate the inconsistent results from volunteer hearing referees.)

We have not reviewed all of the just-submitted State Bar Court expansion accounts, nor the substantial moving and "build-out" expense accounts for all of the Bar. There are clear expenses involved in expansion in San Francisco and more critically in Los Angeles, where the Bar is attempting to locate at Beaudry Center pending rehabilitation and expansion of its Third Street building. We do not doubt that these are legitimate moving costs, but have not yet had an opportunity to study the numbers in relation to their justification.

We believe that the majority of the monies requested in SB 1498 are justified. But we believe some reductions may be possible. Further, we believe that after moving into Beaudry Center by 1990, the Bar will be capable of at least a 10% reduction in its ceiling enhancement — to \$130. Such a reduction would translate into a \$15 license fee reduction, if the authorized maximums are reached by the Bar from 1989 to 1991.

## VII. OTHER REFORM EFFORTS

In addition to SB 1498 and the administrative measures undertaken by the staff and listed above, other reform efforts ancillary to the disciplinary process are under consider-

ation or under way. These include:

- (1) Consortium on competence.
- (2) Alcohol and substance abuse program.
- (3) Malpractice insurance.
- (4) Mandatory continuing education.
- (5) Specialization/retesting.
- (6) Client trust fund monitoring.
- (7) Consumer trust fund.
- (8) Written fee agreements.
- (9) Client disclosure requirements.

Each of these efforts may beneficially impact the workload of the discipline system. They will be reported on in greater detail in future progress reports.

In addition, the Complainants' Grievance Panel authorized by SB 1543 (Presley) (Business and Professions Code section 6068.8) is now in full operation. This Panel of seven persons began its business meetings on June 19, 1987, and met on six subsequent occasions during 1987. The Panel includes four appointees of the Board of Governors, and one each by the Assembly Speaker, Senate Rules Committee, and Governor.

The Panel is assisted by the Administrative Compliance Unit (ACU) of the Bar, including two attorneys, one investigator, a paralegal, and a secretary. The Panel reviews decisions by OI (or Intake) to close cases when a complainant requests such review.



# The Discipline System Of The California State Bar: An Initial Report

by Professor Robert C. Fellmeth

*Excerpts of the report are reprinted below.*

## INITIAL INQUIRY

The State Bar Discipline Monitor ("Bar Monitor"), assisted by four attorneys from the Center for Public Interest Law, . . . began the initial inquiry into the discipline system of the State Bar . . . following the appointment by Attorney General John Van de Kamp of Center Director Professor Robert C. Fellmeth as Bar Monitor on January 21, 1987. The Bar Monitor position was created by Senate Bill 1543 (Presley), which was enacted in 1986 (Chapter 1114, Statutes of 1986).

## I. PRESENT BAR DISCIPLINE STRUCTURE

How does the State Bar handle an original complaint generated by a consumer telephone call to the Bar's toll-free telephone number? The Complaint Flow Chart identifies the eighteen (18) major steps involved in a typical consumer complaint. . . .

### A. Office Of Investigations

Since the latter part of 1986, the Bar has a toll-free 800 telephone number available to receive complaints (1-800-843-9053). . . .

The Intake Flow Detail Chart . . . tracks the matter through the OI Intake Unit. The OI Intake Unit operator evaluates the call, and determines it to be either an "inquiry" or a possible "complaint."

An "inquiry" is defined by the Bar as a minor complaint unlikely to lead to discipline imposition (e.g., an attorney's failure to return a client's

phone calls or failure to return files or documents to a client). These "inquiries" are distinguished from "complaints," which describe acts by an attorney which are unethical or unlawful, and which may warrant discipline.

If the OI Intake Unit Operator designates the matter an "inquiry," he/she is free to attempt to resolve the matter through an immediate phone call to the attorney involved. If "resolved," a special "Inquiry Form" is completed and temporarily filed (Step A of Intake Flow Detail Chart).

Certain types of complaints are not accepted or investigated by the disciplinary arm of the State Bar. If, in the judgment of the operator, the caller's problem is not within the jurisdiction of the Bar, the caller is so informed. For example, fee disputes are directed to the caller's local bar association or to the State Bar's fee arbitration system; . . .

Where the OI phone Intake Unit investigator deems the matter to be a possible "complaint" appropriate for State Bar jurisdiction and discipline, he/she will send a complaint form to the consumer to be completed and returned. . . . Although the OI Intake Unit operators have theoretical authority to open a formal complaint over the phone, almost all cases referred for further investigation arrive at the Bar in written format, either by way of letter and documentation or through the completion of the complaint form sent to the consumer by the Intake Unit phone operator. . . . A recent survey revealed that only 20% of the blank complaint forms sent out by operators at Step B (those which

are facially meritorious from phone contact) are returned to the Bar for possible action (Step C).

These written materials sent to the Bar are reviewed every day. . . . the matters may be rejected. . . . These rejections may also involve phone calls to the accused attorney to "resolve" the matter. Cases are automatically "resolved" where the consumer drops his/her complaint.

This elimination of allegedly non-meritorious cases by "inquiry closed" designation at the Intake level is a relatively new phenomenon, and is one part of the Bar's effort to reduce its backlog and delay problems. . . . These cases are recorded on paper in yet another separate file, and are periodically destroyed (current inquiry files go back just over one year). . . . Where the Intake Unit review . . . results in a determination of a possible complaint, it is assigned a priority from "one" to "four" (the San Francisco office traditionally assigns priorities "one" through "five"). "One" indicates a high priority matter, possibly justifying disbarment, such as misappropriation of clients' funds. A "four" or "five" designation indicates a matter appropriate for lesser discipline, should discipline be warranted at all. A document sometimes referred to as a "priors sheet" is attached to the complaint form or letter upon initial receipt at Step C. This sheet . . . is kept with the file as it proceeds to Step F in the Intake Flow Detail Chart. . . .

The complaint is then transferred to one of the units of the relatively new Office of Investigations. . . .



Here, consumer complaints are once again reviewed by a group of investigators for possible culling of nonmeritorious cases, or cases which may be "resolved" short of formal proceedings. This unit may redesignate a complaint received from the OI Intake Unit as an "inquiry," or may close the file as a "non-sufficient facts" (NSF) case. . . . Just as in the OI Intake Unit, the intake unit of Special Operations may also spend some time attempting to "resolve" matters by calling the attorney involved and attempting an accommodation between the attorney and consumer (also known as the "complaining witness," or "CW," in Bar disciplinary parlance).

Where the line investigator believes after investigation that a case warrants the issuance of formal charges, or a "Notice to Show Cause" (NTSC), he/she will so recommend to the director of his/her investigative team (Step 6). Upon the approval of the director . . . the matter is sent to another new entity within the Office of Investigations, designated at Step 9 on the Complaint Flow Chart — the "Legal Unit" of the Office of Investigations. Since the Office of Investigations has been separated from the Office of Trial Counsel . . . it requires some legal advice and services. . . .

. . . the same OI Legal Unit . . . handles possible "admonitions." Admonitions are not disciplinary and are **not reviewed by the Review Dept. . . . or necessarily by a referee.** They consist of a "warning" to the respondent, similar in tone to a "reproval." They are kept "open" for two years. . . if there is no repeat offense or further problem, the entire matter is then dismissed after that two-year period and will not be recorded as prior discipline.

If the OI Legal Unit believes that the investigation is complete and that further proceedings are warranted . . . a recommendation for the issuance of an NTSC is then transferred to the Intake/Special Proceedings Unit of the Office of Trial Counsel, now separate-

ly constituted and designated at Step 10. . . .

### B. Office Of Trial Counsel

Where the OTC Intake/Special Proceedings Unit believes that a Notice to Show Cause is warranted . . . in Los Angeles a line attorney within the OTC Intake/Special Proceedings Unit is given two weeks to draft an NTSC. That draft is reviewed. . . ; the line attorney is then given another two weeks (four weeks total) to complete the final draft. At this point, the OTC Intake/Special Proceedings Unit issues a "Notice of Intent to Issue Notice to Show Cause" to the respondent attorney. This notice invites a prospective respondent to schedule a conference to discuss the possible filing of an NTSC. The attorney has ten days in which to respond to the notice of intent letter. If the attorney does respond, an "intent to issue" conference is normally held (Step 11). At this point, the respondent is again given the opportunity to present his/her defense(s) to the OTC intake attorney who has drafted the Notice to Show Cause. A review of the action reports and internal commentaries on these conferences establishes that they often have a significant impact on the perceived strength of a case, on the nature of the NTSC to be filed, and often reveal a need for further case investigation.

At this point in the process, the OTC attorney has several options. First, where possible (and after consultation with the investigator handling the case if appropriate), the OTC Intake/Special Proceedings Unit may NSF the case, classify it as a closed investigation, and return it to the first floor file room.

Second, the Office of Trial Counsel may stipulate with the respondent to issue a "private reproval," subject to State Bar Court approval. A private reproval is a confidential letter of disapproval and warning to the attorney. It is theoretically made a part of the disciplinary record. The issuance of a private reproval is not always revealed to the CW (contrary assurances

of upper Bar staff notwithstanding). The OTC Intake/Special Proceedings Unit may also issue an "admonition,"

Third, the OTC Intake/Special Proceedings Unit may determine, particularly based on new information which may be forthcoming from the "intent to issue" conference, that re-investigation is required prior to the filing of the Notice to Show Cause. If this is the case, that additional investigation must be conducted by the OTC Intake/Special Proceedings Unit attorneys. . . .

Fourth, it is possible that the Office of Trial Counsel and the respondent may stipulate to discipline at this stage in the proceedings. Should that be the case, the matter would then skip to Step 16 in the Complaint Flow Chart.

### C. State Bar Court

The State Bar Court adjudicates all matters which fall within the regulatory functions of the State Bar, including original disciplinary proceedings, and "special proceedings". . . . These "special proceedings" are relevant to discipline and include conviction referral proceedings; Rule 955 violation proceedings (requiring attorneys leaving practice to provide client transition); probation revocation proceedings; expedited Involuntary Inactive Enrollment proceedings, or proceedings to re-enroll as active; incapacity proceedings; and reinstatement proceedings.

The State Bar court is organized into three departments: a Review Department (eighteen members), a Hearing Department (currently 528 referee positions), and a Probation Department (where 130 referees are assigned as probation monitors). Each department is headed by an Assistant Presiding Referee and the entire State Bar Court is headed by a single Presiding Referee. The Court is composed mostly of volunteer lawyers (448), with a number (80) of "public" (non-attorney) members.

The Hearing Department referees sit as sole referees or in three-member



panels and conduct all initial adjudicative hearings within the jurisdiction of the State Bar Court. Both lawyers and public members serve in the Hearing Department.

The Review Department, which consists of twelve lawyers and six public members, meets ten times per year for one- or two-day meetings to review and make final recommendations on all disciplinary matters.

The Probation Department administers an expanded probation monitoring and compliance program under which volunteer referees work one-on-one with lawyers on probation to ensure compliance with the terms of probation. The Department has a contract with ESCCO, an alcohol and drug abuse evaluation and referral entity.

All matters in which the Review Department recommends discipline (involving disbarment or suspension) automatically go the Supreme Court for review. All such discipline is "recommended from the State Bar Court" to the Supreme Court, which has the final word. Although the Supreme Court may alter the decision of the Review Department, it normally gives "great weight" to the findings and recommended discipline of the State Bar Court. . . .

Finally, where discipline is recommended involving suspension or disbarment, the Supreme Court must act and effectuate its decision. Note that many attorneys "resign with charges pending" during any of the stages of the disciplinary process. Often, this resignation is a product of discussions between the Office of Trial Counsel and the respondent. Where these resignations with charges pending occur, they are regarded by the Bar procedurally as roughly equivalent to a disbarment. (Resignations without charges pending are separately considered by the Board of Governors outside the disciplinary process and granted in that organization's formal minutes.) Where charges are pending, the resignation will be treated as a disbarment in that rein-

statement will normally be contested by the Bar at least over the subsequent five-year period following resignation, and records of the offense may be "perpetuated" by the Bar, or kept ready should a petition for reinstatement be filed by the disbarred or resigned attorney under Rule 662. As a practical matter, few cases are perpetuated under current procedure.

## II. INITIAL CONCERNS: DISCIPLINARY PROCESS DEFICIENCIES

The Legislature has required the reduction of the momentous Bar case backlog by December 31, 1987 to specified levels, and has set as a statutory goal a maximum six-month period between the receipt of a consumer complaint and *investigative* disposition, either by close-out, agreed discipline, or the *filing* of a formal Notice to Show Cause accusation for adjudication. Meanwhile, the Bar's own efforts at improvement yielded several reports from a special Board of Governors Committee to expedite the process: the Coyle Report in 1984, and the Kroeker Report in 1985. The latter, formulated under the direction of a Los Angeles police administrator, was largely implemented as reflected in the system described above.

### A. Intake

In late 1986, the Bar laudably created an 800 toll-free number for consumer complaint information and for initial receipt of complaints. A single OI Intake Unit . . . performs this function. The unit operates under the general jurisdiction of the Office of Investigations (OI). . . .

*Outreach: Exposure Of Toll-Free Number.* Preliminary investigation indicates that the toll-free number is little known. Those attorneys representing respondents and complaining witnesses in Bar proceedings we have interviewed, including several with many years' experience as State Bar OTC attorneys, did not know this toll-free number **existed**. A survey of sixteen recently-published major California telephone directories, both white and yellow pages, including those published from January-March of 1987, do not include this or any

number for attorney complaints under any headings a consumer might choose to search. Thirteen of these directories do not list any State Bar number. The only directories in which the Bar is listed at all appear to be the white pages of the Los Angeles, San Francisco, and Sacramento directories; the listings, however, are not under "Bar," nor are they in the California State Government section. Each is under "State Bar of California," and only appear because the Bar has an office in those cities. Even here, *none* list discipline or investigations and *none* list the toll-free number.

Virtually every other state agency is listed in each of the directories searched. Local branch office numbers of these agencies as well as Sacramento and/or San Francisco addresses and telephone numbers are listed. The State Bar is not even listed in the official State of California Telephone Directory. Although the most recent edition of that directory was published in July 1985 (before the toll-free number was in existence), *no* telephone number, address, or State Bar listing is contained anywhere in the book. Although most of these directories were published before the 800 toll-free number was implemented, the 800 number is not currently available from even Los Angeles or San Francisco Directory Assistance. It is available from "800" directory assistance only! Nor are we aware of any plans or efforts to place the 800 number (or any Bar number) in telephone directories and with directory assistance over the past eight months.

We surveyed the five largest Southern California county bar associations: San Diego, Los Angeles, Orange, Riverside, and Ventura counties. Two of these associations did not know the Bar's toll-free number, and the third, San Diego County, "just received the toll-free number on March 13, 1987." We also surveyed the three largest county bar associations in Northern California; San Francisco, Sacramento, and Santa Clara. Only Santa Clara knew of the toll-free number the Bar has had in



place for eight months to receive all attorney complaint inquiries.

We find no proactive effort on the part of the Bar to inform consumers of the availability of the toll-free number, or indeed of any mechanism for redress against dishonest or incompetent attorneys, except for the existence of a single Bar pamphlet on the subject.

Middle-level Bar staff is candid about the reason for the surreptitious implementation of consumer complaint channels. The Bar currently has a serious backlog, and is under statutory deadlines to diminish that backlog. Increasing the incoming flow of cases jeopardizes that effort. Further, notwithstanding the limited exposure of the 800 number and the lack of Bar efforts to publicize the discipline remedy availability to consumers, the toll-free number is not likely to be answered even if discovered and called by a consumer. Pacific Bell records indicate an on-line blocked busy rate of between 62%-72% during 1987. This busy rate is affirmed in a survey we took in the form of repeated phone calls to the toll-free number at approximately 15-minute intervals throughout several days. Consistent with the Pacific Bell data, this survey indicates that three calls are necessary in order to get through to the Intake Unit. Two out of every three attempts will result in a busy signal.

Despite the lack of publicity, the Intake Unit was contacted by consumers 2,496 times through the toll-free number during February 1987. It is not unrealistic to assume that the proper publicity of the availability of discipline remedies, and the proper listing of the Bar's toll-free number in standard directories and elsewhere under a commonly-recognized title, would result in a substantial increase in that volume. It would appear appropriate for the Bar to anticipate a need for five to ten lines to handle the incoming flow.

**Local Bar Association Barriers and Filtering.** Many consumers who consult a local directory, or become aware of the presence of a local bar association, will make an initial con-

tact there concerning a problem with an attorney. Our survey of these associations suggests several problems in this area. Seven of the eight associations we surveyed "accept many complaints," and generally refer these matters to practicing attorneys who serve on "Client Relations Committees." They attempt to "resolve the problem between the client and attorney." A complaint form is sent out by six of the eight associations, designed for local use. Matters are then assigned for "investigation" to volunteer local practicing attorneys. In general, cases are not referred to the State Bar unit until or unless the local association determines it has no jurisdiction over the matter under its existing criteria. The State Bar is *not* informed of the existence of the complaint or the pendency of the investigation until it is rejected, and only then if the complaining witness sees fit to make separate contact with the Bar, where it must enter the Bar's complaint procedure *de novo*.

It is important to understand that any investigation and "resolution" by local bar associations is handled by entities lacking any disciplinary authority over members of the State Bar. None of these associations have any license suspension or revocation powers, and have only "jawboning" authority to influence attorney behavior. These local bar associations are simply trade associations.

It is unclear why the Bar does not require all such local associations to transmit to it immediately any information received, whether a memorandum of oral conversation, a complaint form, or written correspondence which indicates or describes conduct by a licensed attorney which may warrant discipline. At present, local bar associations receive substantial numbers of complaints. Their characterization as "minor" or otherwise within the jurisdiction of the local association is a matter determined solely by those local associations. Except in unusual circumstances, most local bar associations initiate no communication with the Bar concerning complaints, and there is commonly a six-

to eight-month delay during which local associations may filter and delay initial complaints. It is reasonable for a consumer to believe that the communication of a complaint to a local bar association constitutes contact with the State Bar discipline system as to that attorney. Such is not the case, but the State Bar has made few efforts to disabuse consumers of the misapprehension.

**Secrecy.** As the state repository of information on attorney discipline, the State Bar must be contacted in order to learn attorneys' records and standing. Hence, if a consumer wants to retain an attorney, he/she may want to know of complaints which have been lodged against him/her, and their resolution.

The State Bar, however, will not reveal any information about prior or ongoing investigations which have not resulted in the filing of a Notice to Show Cause. Only after the public filing of a Notice to Show Cause will OI or OTC disclose the identity of any attorney under investigation. Hence, if an attorney is named in ten or fifteen pending complaints (and a surprising number of attorneys have five or more currently open investigations under way), no information will be released to the consumer about that fact. This non-disclosure problem is exacerbated because historically, matters have remained under this confidential investigation for two or five years prior to the issuance of a Notice to Show Cause.

Furthermore, where the Bar determines that an attorney has committed wrongdoing warranting a "private reproof," the Bar simply writes a letter reproofing the attorney for the improper conduct. Many cases are disposed of this means before a Notice to Show Cause is issued. With a private reproof, the matter is completely confidential, the file is closed, and no further action is taken on the matter. The complaining witness is not informed that a letter of reproof has been issued. We have reviewed several letters which misleadingly inform the CW that the matter has been "closed" by the Bar with the clear



implication that the complaint was totally without merit. We have reviewed other letters to CWs which do note that there was a private reproof, but these do not specify what the reproof included.

The offense may also be disposed of by way of "admonition." An admonition is similar to a private reproof in that a letter of disapproval is sent to the respondent. Here, also, its contents remain a secret. The admonition is not discipline, but a freezing of the case which "remains open" for possible reactivation for a two-year period. If additional complaints arise, the admonishment case may be reopened and added to those complaints for consolidated discipline. After a two-year period, the matter is closed.

As with private reprovals, a consumer requesting information about an attorney who has been admonished is not told of that fact. Our review of the files also indicates that, in at least several instances, even the complaining witness is not told of the admonition, notwithstanding Rule 415 (which requires that the CW be informed of the issuance of the admonition).

Under these policies, only disbarment, resignation with charges pending, suspension, probation, public reproof, or cases now pending after the issuance of a Notice to Show Cause may be disclosed to the public. This information is *not* available, however, through the toll-free number arranged by the Bar for public inquiry. Although some of this information is available on the IMB computer terminal accessible by OI Intake investigators, it will not be provided to consumers. A detailed description of open cases pending in the State Bar system post-Notice to Show Cause is a goal of the IBM computer system which has not yet been completely achieved. At present, the computer will inform the Intake investigator whether a complaint is currently pending against a respondent, the general nature of the allegations, and the identity of the OI investigator or OTC attorney handling the case. However, under present policy, that infor-

mation is not revealed to consumers calling the toll-free number to request information about attorneys. Information about prior completed discipline is also not provided.

Public inquiry is referred to the "Membership Records" number of the State Bar in San Francisco (which is not a toll-free number). A phone call to the Membership Records section, often requiring several attempts given a high busy rate, theoretically yields the fact of prior discipline and the State Bar Court file number. No further information is revealed by Membership Records, and the consumer must travel to the State Bar Court clerk's office in Los Angeles, look up the case number, and read the file.

We surveyed disciplinary disclosure by the Bar on prior discipline and open cases. We chose a number of attorneys with a variety of disciplinary problems. We chose some with private discipline, some with public discipline, some with a few open cases on which NTSCs had been filed, and some with a very large number of reported complaints. We phoned the Membership Records number and asked what information could be provided to us concerning the prior or current discipline of ten attorneys with a mix of past and current disciplinary problems. As expected, we were also not told about admonitions. We asked about several attorneys with 20-30 recent investigations each — pre-Notice to Show Cause. They were given a clean bill of health without mention of these allegations.

More troublesome, we received erroneous and misleading information about many of the attorneys tested. We were told by Membership Records that an "NTSC" meant that "an attorney had to go to court to provide information." This is rather a soft characterization of an attorney who, after an investigation and opportunity to rebut those charges in an informal conference, is the respondent in two separate cases of formal disciplinary charges before the State Bar Court. Another attorney with a pending NTSC — who we knew has received a "public" reproof — was identified as

someone whose case had been dismissed. Another was curiously identified as having a case "under investigation" (which is not usually disclosed under present policy). Actually, the attorney had three formal NTSCs filed and pending. An attorney who "resigned with charges pending," a disciplinary resolution which the Bar equates with a disbarment judgment in its procedures and statistics, was described simply as someone "who had resigned from the Bar."

**Proactive Detection.** A reading of hundreds of investigative files within the State Bar office generates one overwhelming impression: the detection and initial acceptance of the case for discipline depends on an aggressive and articulate complaining witness. The Bar Intake and Investigations processes rely substantially upon the complaining client to make the allegations and provide the evidentiary support to justify a possible Statement of the Case leading to a Notice to Show Cause. Although several specialized matters, such as conviction referrals, enter the Bar system directly into the Office of Trial Counsel, many categories of serious behavior not resulting in a criminal conviction will not be detected unless proactive monitoring and inquiry are conducted by the Bar.

Although the Bar haphazardly derives occasional cases from newspapers (usually after an embarrassing public disclosure of attorney misconduct by journalists), the Bar has no significant proactive detection program of its own. The closest it has come to such a program has been an ill-advised attempt by the Special Operations Unit of OI to find solicitation violations after the Cerritos plane crash.

We have been approached by judges who have expressed a willingness to provide information to the Bar concerning incompetence and improper behavior by attorneys practicing in their courts. However, at present, these non-client complaints have been treated by the Bar as if they are merely one-on-one "grudge" contests between the complainant and



the attorney involved.

It would appear that the routine monitoring of advance sheets and the establishment of a recognized system of complaint receipt from third parties (as opposed to clients or opposing attorneys of the respondent) should be arranged. This is especially so insofar as the Bar can make available to itself the resources of trained judges who are in a position to detect a substantial amount of attorney incompetence and dishonesty. A special and publicized channel of communication to the State Bar, perhaps including the confidentiality already available from Business and Professions Code Section 6094, should perhaps be staffed so that the Bar may initiate its own investigations on behalf of the public. . . . Although the upper staff will occasionally open an investigation from such sources, and delineate the matter "SBI" for "State Bar (initiated) Investigation," these inquiries are generated more by magazine or newspaper stories or the vagaries of happen-stance than by an institutional outreach-detection mechanism.

Under a new statute, the Bar now requires attorneys to disclose to the Bar certain indictments, convictions, the imposition of discipline by another jurisdiction, and the filing of three or more civil malpractice actions against the attorney within a one-year period. This self-reporting requirement may not be effective, and to the extent there is compliance, it excludes the automatic detection by the Bar of major malpractice judgments, major acts of unfair competition (including deceptive legal advertising), and many other civil actions brought and judgments rendered, because the reporting requirement is not triggered until three narrowly-defined civil actions are filed within a twelve-month period.

The issuance of malpractice judgments is even more egregious. Although it is now improper to prohibit a plaintiff from reporting a violation of Bar disciplinary standards to the Bar as a condition for settling a case, the parties in a major malpractice action can agree to "seal the record." This

might preclude detection and easy use by the Bar of evidence demonstrating gross incompetence. At present, the Bar has not sponsored legislation to prohibit such sealing tactics, and does not itself systematically monitor malpractice filings in any sense.

Incompetence allegations could be detected through a statutory requirement that the Department of Insurance gather all information concerning legal malpractice claims filed against attorneys and transmit that information to the State Bar for review. Only four legal malpractice carriers currently offer insurance in California. It would not be difficult to require a review by the Bar of all claims filed as a matter of course. The majority of the cases would thus be reported to the Bar; the remainder might be addressed through a requirement that the clerk of the court transmit any legal malpractice case filing against an individual attorney (not an insurance firm) to the State Bar for review.

*Initial Delay.* . . . there are several initial issues of delay raised by the OI Intake process. As the backlog grew to 5,000 and then to 6,000 unprocessed complaints, those consumers filling out and returning complaint forms for the State Bar received a form letter. This standard letter was mailed (usually within 30-60 days of the Bar's receipt of the complaint) to literally thousands of persons submitting complaints into 1986. The letter basically explains that the Bar is deluged with a backlog of complaints and is without adequate resources to process them. The letter warns the complaining witness that there will be a six-month delay before the complaint can be addressed by Bar investigators.

In large numbers of now-closed investigate files, the Bar's next contact with the complaining witness then occurred from 12-18 months after the initial complaint was submitted to the Bar. This next contact from the Bar after the "six-month delay letter" generally consists of a simple request for additional information, such as the written attorney fee agreement, if any, and other documents

and information which might be expected to exist given the nature of the complaint. Many of the complaining witnesses . . . did not answer this belated letter. A subsequent follow-up letter is sometimes mailed from OI, repeating the requests. If these two letters are not answered, the complaint is then closed (NSF) with the notation that the complaining witness lacked sufficient interest to pursue the matter.

It is important to note that the files reveal a large percentage of the backlog reduction accomplished during 1986 has resulted from these kinds of closures. These cases have been closed out as a result of proactive investigation of complaints showing lack of actual merit, but at least partly as a vicious-circle by-product of the delay which created the backlog.

*Competence and Resources at Intake.* The new procedure to eliminate marginal cases more quickly is based on an evaluation of the complaint in light of existing disciplinary standards, statutes, and rules, and the judgments of the Review Department of the State Bar Court and the California Supreme Court. The Intake statistics indicate that, although the number of contacts from consumers to the State Bar has increased markedly over the past ten years, Intake now categorizes many contacts as "resolved" or "inquiry" and reduces the flow of surviving matters for investigation and possible formal proceeding.

A review of the Intake Flow Detail Chart suggests the funnel effect. At first phone contact, one of these six persons can, without review, designate a matter as an "inquiry" and decline to send the consumer the complaint form. An attorney ignoring clients repeatedly may respond when prodded by the Bar and avoid any further inquiry. Even on a serious matter, an attorney response assuaging a CW will cause a "bottom drawer" filing closure. If the OI Intake operator views the allegations as serious and unresolvable quickly, a complaint form is sent. As noted above,



only 20% are apparently returning the forms. If the CW does not write, the matter rests inactive in three-ring binders until periodic destruction.

Another Intake investigator will likely review those which are returned during the morning readings. He/she can, once again, designate the matter as "inquiry closed" by completing a closure form. A review of these forms suggests that a number of them could well warrant further inquiry.

The importance of this initial point in the complaint flow process is underscored by the number of cases dismissed at this level. The statistics suggest that from 100 to 250 complaints per month are "closed" by Intake which would previously have made it into investigations and been counted as an entering "complaint." In addition, it is not entirely clear whether the large number of matters simply designated "inquiries" might be possible complaints. They are eliminated on their face as matters irrelevant to the disciplinary jurisdiction of the Bar, but their classification as such depends upon a correct understanding of that jurisdiction. It is not at all clear that such an understanding exists.

These initial decisions to reject (and prioritize) are momentous. The people making these decisions are junior investigators. Four of the six members of the OI Intake Unit have less than one year of experience as Bar investigators. None have any significant legal training. Their decisions to reject are reviewed systematically only by Gita Saraydarian, who, although obviously a bright investigator, has no legal training and has been with the Bar only since April 29, 1985. One of the senior attorneys within the Office of Trial Counsel remarked to us: "I don't understand how they can make an initial wholesale elimination of complaints without investigation by people who are perhaps the least qualified in the entire Bar system to make that judgment." Nor will the imminent replacement of these investigators by paralegals, perhaps with

experience as phone complaint receivers, ameliorate this serious deficiency.

We are very surprised that there is no attorney present . . . at these readings to establish consistency in inquiry designation; recognize possible important legal issues; direct an immediate request for specific and useful documents and route a case for special treatment where warranted. . .

Our inquiries within the Bar staff suggest that it is believed the presence of an experienced attorney to direct and route these important decisions consistent with State Bar policy and Supreme Court and Review Department standards would apparently violate the notion of an "independent Office of Investigations." This "territoriality" which permeates the reforms resulting from the Kroeker Report is here — as elsewhere — misplaced, counterproductive, and based on a faulty analogy between street crime police practice and a very different procedure appropriate for an administrative law enforcement system.

Interviews indicate further exacerbating problems, including a lack of knowledge about current Bar standards justifying Notice to Show Cause issuance, a lack of any information about current Supreme Court or Review Department rulings, a lack of knowledge about the area of law which the consumer complaint concerns, and a lack of knowledge about the legal procedures in general. In a particularly poignant area, investigators — from those newly-hired to the Director — seem to define the "willful" and "moral turpitude" jurisdiction of the Bar with a police "criminal law" interpretive flavor. This is consistent with the street crime background of a substantial portion of OI personnel, and it results in a natural focus on undisguised misappropriation cases. While perhaps deserving of very high priority, the jurisdiction of the Bar under current Supreme Court standards is far more expansive as to negligence and repeated incompetence than either the investigative emphasis of OI or the candid verbal

comments of investigators reflect. . .

This general OI criteria concern is exacerbated by a failure to provide training or guidelines to investigators in general. The attorneys assigned to the OI Legal Unit . . . have attempted some minimal training sessions and there has been an OI "retreat." None of the three OI team leaders . . . attended the major OI attorney-directed workshop in 1987.

The OI Intake Unit is not a popular position among investigators, and notwithstanding its importance, turnover has been very high. Although the Intake System has been in effect less than eight months, two-thirds of the original investigators (four of the original six) have left.

The Board of Governors has recently allocated \$320,000 for the hiring of up to ten new investigators. The Bar's actual plan, however, apparently involves the hiring of new paralegals to replace the OI Intake Unit "investigators." These new employees would be designated "consumer complaint handlers." The six investigators presently assigned to the OI Intake Unit would be dispersed to the various general investigative units to augment the investigative staff and help\* reduce the backlog. Present plans unwisely do not include the proper expansion of Intake personnel or incoming telephone lines. Although the use of paralegals does not seem objectionable, it does not address . . . lack of training, lack of expertise, lack of attorney review, lack of consistent decisionmaking, and lack of adequate resources and incoming phone lines.

*Patterns and Complex Cases.* The Intake process is not designed to recognize complex cases. It is quite possible that a sophisticated estate planning or real estate fraud would not be recognized as such by the current Intake process unless directly identified by an articulate complaining witness who uses the proper terms of art. In addition, many of the egregiously incompetent attorneys manifest their harm through a large number or pattern of small acts. One failure to return phone calls for several weeks to a client may be a minor



matter warranting at most a phone call reminder. But a complete failure to return all phone calls from thirty different clients, half of whom complain over a six-month period, warrants further investigation as a possible standard transgression, or even a possible abandonment which may lead to irreparable harm for the clients. . . .

The Bar does not enter onto its computer any contact classified as an "inquiry," although it has prospective plans to do so. These matters are filed, as noted above, in a file room according to the respondent's name. Although the Director of Investigations has expressed interest in occasional random sampling of "inquiry" entries against particular respondents for evidence of repetition or pattern, the computer system does not now allow for "inquiry" retrieval, and the backlog does not generally afford investigators the time to conduct a manual search of the "inquiry" file.

In other words, the Bar is not in a position to detect patterns of behavior. Its current procedure emphasizes the sustenance of a viable case in a single complaint. If that single complaint is unable to meet a threshold test appropriate for Notice to Show Cause treatment, it generally will not be saved by the existence of numerous other NSFed or even open cases, and the investigator making the critical decisions generally will not check the "inquiry" file to determine the incidence of complaints now rejected at the outset.

## B. Investigators

*Initial Review by Special Operations.* The vast majority of incoming cases are assigned lower priorities "three" or "four" by the OI Intake Unit. These cases are now routed to a special unit for an additional intake review. . . .

This additional review suffers from the same defects as the OI Intake Unit review process described above. Although some of the investigators conducting this review have law enforcement experience, they are not familiar with current Supreme Court

or Review Department standards and decisions in eliminating cases from further proceedings. Their workload precludes extensive additional investigation into individual complaints, and the application of rejection standards by this newly-created ad hoc team is unlikely to be internally consistent. Once again, these are momentous decisions. . . .

It would appear better to have the most qualified person make the hard decision with maximum information at an early stage, rather than subjecting the system to a repeated culling by investigators without coordination, knowledge of current legal standards, or adequate expertise.

Special Operations intake review also suffers from the absence of a trained and experienced attorney capable of recognizing more subtle legal issues and directing the acquisition of critical evidence. Since the reading takes but one to two hours each day, and since the prioritization, routing, and rejection decisions made at this stage are momentous, those decisions should be made by a single attorney with respected expertise and current knowledge who will make consistent decisions which will only have to be made once. If new information is obtained warranting later rejection of the case (by either "inquiry" designation or NSF file closeout), that information can be submitted to that same person under the work flow now extant. This position is one of the most important in the entire system and is nonexistent in the present configuration.

*The Volunteer Investigative Attorney Program (VIAP).* Many cases emerging as possible complaints from the new Special Operations intake unit (Step 5) will be routed to a new Volunteer Investigative Attorney Program. That is, in order to reduce the backlog given a lack of professional investigative resources, the Bar has begun the reinstitution of its VIAP program, which calls for the use of volunteer attorney investigators in the field. The Bar proposes to ask for volunteers from local bar associations, subject these individuals to brief train-

ing, hand them from ten to fifteen files each, and allow them to complete the investigative work and recommend NSF close-out or possible issuance of a Notice to Show Cause based on their findings.

This program, now underway, is ill-advised. Although our findings and conclusions are tentative in many respects, we have no hesitation in categorically condemning the VIAP program either as it has historically functioned or as it is now being implemented. The system is structurally flawed at the outset. It appoints as investigator and quasi-prosecuting agent a currently practicing attorney, usually one who lives and works in the same community as the accused respondent. Notwithstanding a general feeling in the legal community that such investigators will be objective and that conflict of interest problems are solvable, it is quite understandable that complaining witnesses whose complaints are rejected will not share that view.

Although the Bar intends to be more careful in its selection of field investigators (prior recruits have included accused respondents), the perception of conflict of interest by the complaining witness — whatever the good faith of the examiner in the field — undermines an effective system. Those who submit themselves to this system must have full confidence in its impartiality. The Bar clearly has the resources to conduct professional and independent investigations and it should do so. If its current budget does not allow for high-quality adequate investigative resources, an assessment of a very small amount per attorney would produce more than sufficient salary enhancement and additional positions to perform the job.

The VIAP program was attempted in 1985-86 (and previously) in several waves to attempt reduction of the investigative backlog. The experience of the Bar with the program at a practical level has been clearly negative. The Bar's internal files indicate that most of the attorneys who volunteered for VIAP had no experience in investigation and little knowledge of



Bar standards, the conduct of administrative proceedings, and/or the area of law at issue in the complaint.

Bar files and our interviews indicate that the performance of the VIAP program has been extremely unsatisfactory. The work was inconsistent and a large number of the volunteers either did no work or such unsatisfactory work that it had to be completely redone by an OI line investigator.

A rather bitter memo from the Assistance Chief Trial Counsel dated June 24, 1986 notes the following: 38 volunteers allegedly signed up to be investigative examiners; 25 confirmed that they would attend the workshop, and 13 actually showed up for the workshop training. A large proportion of those assigned cases after the final cut failed to do anything at all by way of investigation. Although they were given a sixty-day deadline, a substantial number of those did not complete their investigations of six, eight, or even all ten files assigned to them. . . . the Discipline Committee of the Board of Governors was reduced to writing letters demanding the return of files from a substantial number of attorneys who, after volunteering and attending the workshop, failed to follow through. In many cases, all that was accomplished was a sixty-day delay and a series of letters and threatening phone calls . . . in an attempt to get the files back so that somebody could do something with them.

Even more disturbing than the lack of conscientious follow-through by VIAP volunteers is the quality of their work. In our interviews of OTC line attorneys who have had to handle VIAP-investigated cases in which Notices to Show Cause were recommended, OI line investigators who often must reinvestigate the matters assigned out, and OTC supervisory attorneys in the workshops, the judgment was unanimous: *the program does not work*.

The structure of the program reminds one of the difficulty one may have in getting one's son to take out the garbage. The constant reminding and nagging necessary to get the kid to take out the garbage often involves far

more work than it would take to just take the garbage out yourself. This homespun analogy is most appropriate to the VIAP process.

*Load, Delay And Passivity.* Cases which have been classified as a priority "one" or "two" may not be selected for VIAP treatment, and will go to the director of an investigative team if not eliminated by the preceding culling process. . . . although the Office of Investigations has its own legal staff, . . . NSF decisions by line investigators are curiously not subject to attorney review.

Numerous serious problems and concerns exist with the current operation of the Office of Investigations. The first difficulty is simply the workload. At one time, OI maintained a large "tank" which contained up to 2,500 files warranting further investigation and assignment to specific investigators. The OI "tank" no longer exists; the problem has been "solved" by simply assigning out most of the cases to investigators and reducing the tank. Unfortunately, the assignment of these cases results in a working caseload per investigator of 150-200 cases at a time; that is, some forty "sub-tanks" have been created. There is general agreement among investigators that a standard mix of Bar discipline cases, assuming that complex priority "one" cases are not included, should be in the 50-60 case range.

Most investigators have three times the number of cases they are able to handle. Consequently, they must rely almost exclusively on telephone and written correspondence for their investigation. Virtually no field work is undertaken by the Office of Investigations. Many investigators have expressed a need for on-site field work for many reasons familiar to those who investigate white-collar crime. There is no substitute for going through the records directly yourself, seeing the witnesses face-to-face, and otherwise conducting an on-site inquiry in many cases.

OI personnel, however, must obtain special permission through a time-consuming process in order to

conduct such an investigation. The Bar effectively prohibits such inquiries by placing burdensome barriers before investigators who wish to conduct any inquiry beyond a very peremptory collection of admissions and documents by phone or letter. Hence, any case successfully directed into the system must be carried through the cooperative effort of the complaining witness. Whenever the complaining witness becomes satisfied with the respondent attorney, loses interest in the additional work required of him/her to pursue the matter, or otherwise "does not cooperate," the matter is closed forthwith.

As noted earlier, there is no proactive investigation, and there is very little subject matter expertise within the Office of Investigations. Investigators within the OI intend to fall into two categories: retired former police officers most familiar with street crime; or former secretaries or process servers promoted from within the Bar.

Although the Special Operations Unit was designed to handle complex and serious matters, only two investigators are so assigned at present given the Bar's current preoccupation with reduction of the backlog. Presently, no resources are available to handle complex or serious investigations within the State Bar system, except for the token commitment noted above. Virtually every investigator and former and present OTC attorney with whom we spoke are adamant on the failure of the Bar structure as presently constituted to handle any sophisticated, complex, and serious matter. The system is designed to cull out simple abandonment or clear misappropriation-of-funds cases amenable to two witness hearings and quick resolution.

It would appear that in addition to proactive inquiry, a proper discipline system would have a Special Operations Unit consisting of attorneys and investigators. Given the resources available to the Bar, and the number and severity of the complaints received, such a unit could easily include investigators and attor-



neys expert in real estate, estate planning, family law, and other substantive areas commonly the subject of attorney abuse and consumer complaint. We believe that these substantive areas can be identified through a survey of the incoming complaints, particularly in the priority "one" and "two" categories.

OI's preoccupation with demonstrating to the Board of Governors and Legislature its backlog reduction and statistical improvement has reached such a level that a "quota" has now been imposed on OI investigators. They must close five cases per week or be subject to discipline. Further, one of these five cases must lead to an SOC (Statement of the Case) for recommended NTSC issuance. OI investigators agree that closing an average of five cases per week is not unreasonable in the long run, since that is the approximate historical performance level of the Office of Investigations under normal circumstances. However, the imposition of this mandatory quota week to week has a predictable result on these satellite tanks. Investigators move into the forefront cases which are easy to NSF, particularly in the priority "three" and "four" categories. They are delaying the high priority, complex, and serious matters requiring additional investigation. This observation does not derive from inference, but is openly admitted by those investigators subject to the current system who have spoken candidly with us. Complex cases are specifically avoided in favor of case-load reduction statistics. And, once again, there is a strong incentive to NSF cases without attorney review.

In March of 1987, OI presented with pride thirteen pages of statistical charts and graphs to the Bar's Board of Governor's showing alleged compliance with the statutory backlog reduction commands. The older cases are being resolved (although backlog levels of complaints over six months old number close to 3,000 — similar to levels in 1982-83). In January 1987, however, OI regrettably did not meet its "goal" of 700 complaints disposed of, finishing at 580. It issued 106 SOC's

for NTSC issuance and prosecution, which is close to a 20% meritorious complaint rate. That figure appears a bit high, except the new "inquiry" elimination at intake may reduce it to below 10% by traditional measures, a more typical figure. Then in February OI approached its 700 goal with 677 complaints disposed of, and in March it powered through an extraordinary 1096. But it issued only 14 SOC's in February and 40 in March — from close to a 20% meritorious complaint rate to a rate in the 2-4% range. The inference is clear.

*Fragmentation.* The OI case overload and failure to detect patterns is further exacerbated by the historical failure of the Bar to assign cases against the same respondent to the same investigator. Although most within the Bar believes this problem has been somewhat ameliorated in recent months, we surveyed investigative files against the last 100 attorneys whose investigations were closed in Los Angeles. We chose the 19 attorneys with the highest number of "priors" listed on their priors sheets and ran each of those names through the computer to ascertain which investigators had been and were being assigned the various cases against these respondents. The results indicate that some problems still persist.

*Policy Impediments to Aggressive Investigation.* We have briefly described the requirement that investigators obtain special permission to engage in "field work." Other impediments are also placed in the way of the investigator. Any investigative technique which involves the possible expenditures of funds, ranging from copying expenses to extraordinary travel, must be separately approved through a time-consuming process. A subpoena duces tecum cannot be issued for documents (even by the attorneys working with the Office of Investigators), without the inclusion of an affidavit in support of such a subpoena. The review of the affidavits filed in such cases gives the impression that search warrant affidavit criteria are being used for the simple administrative subpoena of a docu-

ment, including documents held by current licensees of the Bar. No procedure has been established for obtaining an administrative search warrant for an attorney's office. Although such a procedure would involve some special problems, it is one of the most useful mechanisms for administrative system enforcement since it does not depend upon the voluntary surrender of incriminating evidence by the respondent. Over the past decade, no administrative search warrant power has been requested by the State Bar.

Apart from failing to facilitate aggressive investigations, the Bar has imposed some additional barriers. The first is its prohibition against the mention of the accused respondent's name. During the entire course of the investigation, investigators are prohibited from mentioning the name of the attorney they are investigating. They are even prohibited from writing the respondent's name in their correspondence back to the complaining witness who complained about him/her in the first place. Where a complaining witness has problems with two or three attorneys, the investigator's attempt to write a response letter acknowledging the complaints without mentioning the name of any of them makes for some interesting problems in draftsmanship. Apparently, the theory behind this policy is that a third party might see the letter, which might cast some unwarranted aspersion on the subject of the investigation.

This same propriety sensitivity to besmirching the name of an attorney is carried over into the basic mechanics of the investigator's work as well. Under the Bar's current procedure, the investigator is unable to even talk to another client of the respondent who is not the complaining witness without express permission and written justification. Investigators must complete a form entitled "Request for Permission to Interview Non-Complaining Clients of Attorney." Permission to conduct such an investigation is not simply subject to approval by (the) Director of Investigations. . . . Copies of 1987 forms indicate that



these requests . . . must then be specifically approved by three separate members of the Board of Governors' Committee on Discipline.

The fact that an investigator, under current workload restrictions, is compelled to make a separate written request with justification, in order to simply talk to a non-complaining witness, which must be approved by a superior and then by three currently practicing members of the Board of Governors' Discipline Committee, is a sad commentary on the priorities and sensibilities of the Bar. OTC and OI requests for this elementary authority, including a request in April of 1986, were unfortunately rebuffed by the Board of Governors.

Perhaps the most poignant example of solicitude occurs when Los Angeles investigators have probable cause to believe there is serious misappropriation from an attorney's client trust fund. They need the bank name and account number to subpoena the records. This bank information is available in the Bar's own Legal Services Trust Fund office. That office, however, refuses to divulge this information to the Bar's own investigators in deference to the confidentiality interests of licensed attorneys.

These examples do not exhaust the subject. An investigator seeking a CII check on prior criminal arrests and convictions may need fingerprints. All attorneys have their prints taken when they take the Bar exam. OI requests for the prints from the Bar are denied as invading attorney privacy. When an examiner . . . requested the Bar's own moral fitness hearing transcript on a particular respondent, the Bar's own Office of General Counsel opposed her attempt to obtain it. The respondent had criminal convictions he had concealed on his application. A hearing was held at which he testified, and he was denied Bar admission. The admission was improvidently reversed by the Bar and (the OTC attorney) had the later-admitted attorney as a respondent within several years on an original proceeding (and two subsequent conviction referrals). . . .

Perhaps the most comical extension of territorial protectionism has occurred in May of 1987. A new statute mentioned above requires attorneys to notify the Bar of criminal convictions or if three civil malpractice filings are entered in any one year against them. As inadequate and limited a source of information for OI and OTC discipline use as this may be, it is something. Last month, however, an OTC attorney was told by the Membership Records office now gathering this information that her inquiry about such reporting by a respondent she was prosecuting was "confidential" and could not be revealed.

*Morale/Resources.* The Bar has serious difficulty in attracting and maintaining top-flight investigators for this important work. Current investigators contend, with some apparent justification, that their starting pay is substantially below comparable pay for District Attorney's Office and Attorney General's Office investigators, and well below comparable pay for peace officer duty. Estimates of the deficiency range from 10-25%.

Exacerbating the problem is an apparent ceiling on promotions at the Investigator III level at a salary which does not encourage long-term career path development. Also, during 1984, the Bar was able to obtain the abolition of the "step increases" which normally augment pay within a class. That is, in most public sector employment, including District Attorney's Office and Attorney General's Office investigators, the salary of an Investigator I will increase somewhat as he/she progresses from steps A through D in time of service. These periodic raises, at approximately 5%, occur once every year or two and provide additional incentive to remain with the position. The Bar has replaced this system with a "merit" system, but it has not yet been implemented.

Investigators generally have only rudimentary clerical help, and at least in Los Angeles have been moved into a "bullpen"-type work space. Each investigator is given a very small area (perhaps six feet by six feet) in a large

open room complete with noise and bustle. There are constant distractions and interruptions of social and related conversation within the room, and OI personnel have great difficulty in concentrating on the investigative work at hand. . . .

*Investigator/Attorney Interaction.* The creation of a separate Office of Investigations . . . has been completed with a vengeance by the Bar.

The Bar's Office of Investigations has adopted a policy which precludes a line investigator from even *talking* to an attorney, including the three attorneys directly assigned to the Legal Unit of the Office of Investigations, without first obtaining the permission of the senior investigator in the unit . . . and then the permission of the unit director. . . . Neither the investigators nor attorneys involved agree with this impediment to their mutual communication.

*Abatement.* One way to remove a case from an overly burdensome workload is to "abate it." Sometimes it is appropriate to delay an investigation or prosecution pending the arrival of similar charges imminently forthcoming, or for other reasons. However, a review of files reveals that the Bar routinely engages in an "abatement" of its disciplinary action where any civil or criminal case is pending or may prospectively raise similar issues. Furthermore, these decisions are made by investigators without any apparent attorney review.

To illustrate the inappropriateness of this policy, one need only review a 1985 Kern County case. The client entrusted her fortune, \$2.5 million, to her counsel. He took the money and invested it in corporations he controlled or participated in and borrowed from the funds. He has not paid back the monies and the investments have been lost. Phone records in the Bar's file detail over 300 attempts by the client to contact the attorney. Almost all of them are recorded as a one-minute sign-off, meaning counsel was "unavailable." The file also includes an affidavit from the attorney's own



bookkeeper, attesting to sufficient dishonest behavior to warrant consideration of immediate disbarment. Although bereft of most her funds, this complaining witness retained an attorney and sued the attorney for fraud in federal court. Upon learning that a civil case was pending, the Bar immediately — without attorney review — abated its disciplinary proceedings.

Further, this abatement procedure does not allow for any automatic recall of the matter should the civil case be resolved. Rather, the complaining witness must reapproach the Bar at a later and more opportune time (when the matter will undoubtedly still be on appeal) in order to reactivate the case. The complaining witness in the above-mentioned case, having some difficulty in paying for counsel, has now had three different lawyers handling her case in federal court. Those counsel handling the case told us that they have "gotten absolutely no help from the Bar and that the matter is tied up in interminable discovery disputes in federal court, and is likely to remain in that status for a long time to come." Meanwhile, the attorney retains the client's monies, is free to practice law, and is so practicing today.

Theoretically, "abatement" is governed by Rule 350 of the Bar's Rules of Procedure. Under the rule, "upon written motion . . . for good cause shown," a hearing panel or assistant presiding referee may abate an action pending related litigation (Rule 350(b)). The Bar has so abated approximately ten cases in 1987 through the Office of Trial Counsel. But many cases are being abated in OI, without required compliance with Rule 350(b) standards or procedures, indeed, without attorney review! Investigators simply "abate" or — to avoid that terminology — "NSF without prejudice" a matter. There is no mechanism for retriggering the case unless a CW refiles another complaint after the cause for abatement is gone.

*Proper Criteria for NSF.* Apart from the issue of lack of attorney review of case closures, and inconsisten-

cy in closing files based on "non-sufficient facts" (NSF), is the propriety of the actual decisions made. We reviewed hundreds of closed investigative files, most of which were NSFed at the investigative level. It is clear that the majority of complaints about attorneys communicated to the Bar are deserving of "inquiry" (that is non-complaint-generating) status. A substantial number involve emotional reactions to volatile situations, complaints about rudeness, and misunderstandings about the law and court procedures. However, substantial inconsistency exists between cases closed and cases moved up the line for further proceedings. We noted numerous closed cases which would seem appropriate for further investigation; while numerous cases investigated further could have been closed immediately.

Some specific practices stand out. Whenever a complaint against a lawyer also involves a dispute over the attorney's fee, there is a tendency for investigators to close the case forthwith as an "attorney fee dispute matter." Complaints which contain as one minor aspect a concern about the size of the fee and/or whether the attorney did anything to earn the fee are summarily closed without reference to possible additional violations, and sometimes without explanation (as noted above) of the attorney fee arbitration remedy. Where a complaining witness appears to have a number of legitimate and perhaps actionable bases for Bar discipline against an attorney, the supplemental existence of an attorney fee dispute should not eliminate the case from further proceedings. Yet, in many instances, this is the case.

A second off-repeated practice is to simply claim a "lack of jurisdiction" whenever complaints are made about the unauthorized practice of law, including unauthorized practice by lawyers who have allegedly resigned or been disbarred by the discipline process.

Finally, as noted in the discussion of Intake, the Supreme Court's interpretation of "moral turpitude" — a

legal term of art — is quite different than that which appears to be the impression of most investigators.

We have been informed that the Bar's first, rather informal audit of investigator-NSFed cases . . . suggested that at least eleven of eighty cases reviewed were deserving of further investigation.

*Referral To Other Authorities.* Many of the complaints made to the Bar, including the unauthorized practice of law problem noted above, may not fall within the jurisdiction of a licensing revocation remedy; however, alternative or supplemental criminal prosecution may be warranted. Under current Bar procedures, however, a special authorization under Rule 227 of the Bar's Rules of Procedure must be obtained in order to "disclose information or to exchange information with other agencies." Once again, a separate form is required to be completed in order to obtain the necessary permission.

As with the forms required in order to interview a non-complaining client, these Rule 227 waiver forms impose both a practical and psychological barrier on the proper performance of investigative duties. The presumption and the procedure appear to be: "Let's review the matter and make sure we are not hurting this attorney unnecessarily before we act." In the area of disclosure to another government agency, particularly a prosecutorial agency, such a mindset is particularly inappropriate. If the Bar, or any person in the Bar, has information indicating a violation of any criminal statute of this state or nation, that person is duty-bound to report the matter to the public authorities so concerned.

We have reviewed all of the requests for authorization to disclose information to and exchange information with other agencies, as well as the requests for permission to interview clients other than the complaining witness. Approximately thirty requests to interview non-complaining clients of the respondent were proposed in the Los Angeles office since January of 1986. Out of



more than 12,000 complaints arriving at the Bar during this period (approximately 9,000 relevant to Southern California attorneys), surely more than thirty instances arose where the conduct of these additional interviews would be appropriate.

The Rule 227 request forms for authorization to disclose information and/or exchange information with other agencies also reveal the infrequency of this action by the Bar. Our analysis reveals only twelve such cases of cross-referral requested, approved, and made during the last year (June 1986 to the present) from the Los Angeles office, and five from San Francisco. Once again, of the 9,000 complaints received by the Bar during this period, more than seventeen surely included substantial evidence of criminal violations warranting disclosure to existing prosecutorial agencies. Interviews with the lead prosecutors in the two largest counties of California indicate a general lack of coordination and co-operation between the Bar and the white-collar crime units of those major offices. There is no close ongoing working relationship nor mutual sharing of information, which should certainly be the case given the common interests of both entities.

### C. Office Of Trial Counsel

The OI Legal Unit is under severe pressure to accept the degree of investigation accomplished and approve statements of cases ("SOCs") for transmittal to the OTC. NSF closing, admonition issuance, or SOC preparation removes the case from the total backlog attributable to the Office of Investigations, which has been the subject of recent legislation.

The Intake/Special Proceedings Unit of the Office of Trial Counsel includes four attorneys who handle the drafting of Notice to Show Cause. These attorneys did not investigate the case, do not directly work with the investigator, and will not try the case after issuance of the order. They also may NSF the case, issue an admonition prior to Notice to Show Cause, stipulate to a private reproof or other

discipline, or go forward with a formal Notice to Show Cause proceeding.

Of 8,574 complaints received in 1986, 7,715 were determined to have nonsufficient facts — an approximate 90% rejection rate. Further, the increasing number of "inquiries" eliminated as potential complaints during the current OI intake procedure would appear to make this rejection percentage much higher.

The OT raw data "close-out sheets" for 1987 indicate a large number of NSFs and admonitions entered after OTC acceptance and before NTSC filing. These close-out sheets indicate the disposition of cases which have survived the series of culling operations in Steps 1-9 of the Complaint Flow Chart, and which have been recommended for formal disciplinary action by the Legal Unit of the Office of Investigations. As to this limited and "elite" population, the OTC at a very early stage then on its own closed out 24 cases for "non-sufficient facts" during January-March of 1987. Ten were eliminated with the token "admonition." During the same three-month period, 65 NTSCs were filed. Of these, some may be dismissed at hearing or settled by stipulation.

*Investigative Coordination/Assistance.* The lack of physical facilities in Los Angeles has resulted in the Office of Investigations' leasing of additional office space in the Security Pacific Bank building. This means that the Office of Investigations will be located at the Third Street and Seventh Street offices of the State Bar. This fragmentation of location reflects the larger problem of the bifurcation of attorneys and investigators in the current evolving system. While it is possible that straight "abandonment" cases and certain other categories may be handled through an investigation by one individual and transfer of the case to a prosecutor for short matter hearing and disposition, complex cases simply cannot be tried after a four-month investigation (or a one-year investigation), and a simple "hand-off" to a prosecuting attorney.

In the administrative process, where discovery is allowed, investiga-

tive help throughout the entire process is crucial in a complex case. Without such investigative resources readily at hand, the attorney finds himself/herself performing that investigative work, wasting his/her expertise, and foregoing hearing preparation. The current "horizontalization" of the process — with its numerous review levels as a case proceeds step-by-step from different persons in distinct paper "hand-offs" — destroys the vertical continuity necessary to prosecute a complex case. One investigator and one attorney must know the case and work it in a consistent and coordinated manner all the way through hearing. Interviews with both investigators and line attorneys indicate strong agreement that the current arrangement does not provide for the possibility of such complex case prosecution on a realistic basis.

The lack of investigative resources is very much exacerbated under existing time pressures as the complaint reaches Step 10 of the Complaint Flow Chart. The Los Angeles OTC Intake/Special Proceedings Unit . . . consists of eight OTC attorneys: of these, five work on short matters, including SOC intake, Section 6007(c) interim suspension matters, probation revocations, and Rule 955 actions. The other three work on conviction referrals and reinstatements only.

In San Francisco, a single OTC unit of ten attorneys . . . handles everything: intake, special proceedings, and general hearing work. . . .

. . . under the current system, the attorneys in the OTC Intake/Special Proceedings Unit have no reasonable access to investigative resources sufficient to conduct any such reinvestigation following the "intent to issue" conference: in fact, they are under pressure not to do so, since the matter is now removed from the statistical caseload of the Office of Investigations, and OTC has only twenty days in which to file the NTSC.

*Settlement Procedures.* The timing and preparation problems of OTC



counsel are (at least partially) direct results of the lack of discretion given them in the settlement of cases. The current mechanism for stipulation must be prepared, which includes a stipulated statement of facts and the recommended discipline. For many respondents, the stipulated statement of facts — which becomes part of a public record — is as important or more important than the actual discipline. Where the NTSC has been issued and time is progressing toward the settlement conference and the hearing, negotiations are likely to begin for disposition.

In the settlement discussions, OTC counsel handling the case is not given bottom-line authority to negotiate discipline recommendations. This lack of authority is curious, given the fact that prosecutorial agencies involved in criminal matters routinely designate such authority to the deputies handling the cases, including deputies employed at the office less than one year. The bottom-line recommendations are actually made by experienced counsel within the office, based on a review of the file, discussion of it with the attorney handling the case, and guidelines for minimum penalty designations. However, once the settlement "authority" has been given to trial counsel, it is part of his/her job to negotiate it down to or close to that level, and standing authority to do so is necessary for an efficient resolution of any negotiated settlement. There is nothing more frustrating than attempting to negotiate an agreement with someone who has no authority to consummate that agreement.

In the case of the State Bar, the current practice is most puzzling. Counsel handling the case are not given a bottom-line discipline recommendation, nor any authority to negotiate to that level. Rather, settlements must be specifically authorized to the letter. . . . The tortured procedure is as follows. First, OTC counsel is unable to negotiate with any authority, since he/she has no permission to settle under any defined terms. Rather, another OTC form to settle the case must be completed . . . which is submitted to

the Assistant Chief Trial Counsel of the team concerned. It is then commented upon, changes are made. . . . OTC counsel then drafts a final stipulation, including findings of fact and the agreed-upon discipline in a more extensive document.

During these proceedings, very little verbal discussion occurs. . . . These matters are handled in writing. The changes made . . . to the draft are not suggestive, but involve "red-pen" revisions. After this process is complete, the entire document is sent back to the respondent for signature. In almost every case, the respondent does not agree to some of the changes made during this process. The respondent usually argues about some of the changes, and may accept or reject the agreement. If the respondent requests additional changes, and the OTC counsel agrees, he/she must then go through the same process described above in order to accomplish the alteration.

Finally, after the respondent and OTC trial counsel have obtained an agreed-upon version of a fairly lengthy document which has been approved in that form, it is submitted to a referee. If that referee (a volunteer practicing attorney whose name is chosen from a list of "settlement referees" kept at the State Bar Court) disapproves any part of the document, whether agreed to by the respondent or not, the entire document must go back through the whole OTC process.

After approval to this point, the stipulated settlement goes to the Review Department, which will examine it ex parte. The Review Department rejects approximately 25-30% of the stipulations reached through this process.

Aside from issues of professional insult, inefficiency, and enormous frustration to respondent's counsel (which may chill settlement possibilities in any event), the process also involves inordinate delay. As documents go from desk to desk, back and forth, time passes. Often settlement negotiations begin very shortly before

the scheduled settlement conference and after some minimal discovery. The hearing date may be fast approaching as the documents are submitted, resubmitted, revised, altered, and debated. As this process continues, OTC counsel scheduled to handle the hearing is in the position of losing bargaining power as he/she has eschewed hearing preparation given the press of other matters and the likely disposition which may be forthcoming.

This "Tinker-to-Evers-to-Chance" phenomenon of handling files back and forth is not confined to the stipulation process. Other types of decisions are also characterized by the spirit of the famous Abbott and Costello "who's-on-first" routine. The course of one particular case in the disciplinary process illustrates the problem which is growing in severity within the Bar. A description of the progress of that case is here quoted from a memo in the file of the Acting Chief Trial Counsel:

"This case was twice denied by Paul Virgo (Chief Attorney of the Legal Unit of the Office of Investigations). CW appealed to Judge Coyle (Board of Governors' Committee examining disciplinary system) and J. David Ellwanger (until very recently, the Chief Executive Officer of the Bar). They referred the matter to Susan Manony-St. Clair (until recently, the Chief Trial Counsel). Susan advised CW the matter would be reviewed by a member of the A & D Committee (Committee on Discipline of the Board of Governors) after Bill Davis (senior OTC attorney) prepared a summary and contacted CW.

Judge Coyle also brought the case to the attention of Jerry Markle (until very recently, the Assistant Chief Trial Counsel in Los Angeles). The case was then assigned to Andrea Wachter [OTC attorney] in San Francisco. She apparently appealed to Fran Bassios [then Assistant Chief Trial Counsel; now Acting Chief Trial Counsel] who referred the matter back to Virgo. It was then transferred from Virgo to Gerner to Dalton."

In addition to the ten people who



apparently reviewed this case, a hand-written note added by the Office of Trial Counsel asked "Has it gone to A&D? If not, why not?"

Currently, we now have the Complainants' Grievance Panel, which will provide yet another avenue for review. One can create a system, and find in it people whose judgment one does not trust. One may respond by importing additional people to review those judgments. Then, when you lose confidence in those people, you appoint yet other people to review that judgment. We respectfully suggest that a better alternative is to attract and keep people whose judgments can be relied upon for consistency and fairness, subject to limited review by perhaps one additional person with overall perspective.

*Resources/Discretion Regarding Discovery.* In addition to the lack of investigative resources noted above, problems of multiple layers of review and delay in the face of mechanically-imposed deadlines, and a lack of cooperation from the rest of the Bar, trial counsel face additional obstacles. The lack of discretion afforded counsel in disposition is mirrored in impediments to formal discovery discretion during the ninety-day period in which it is allowed. Just as Bar investigators must get specific permission to engage in proactive inquiry, attorneys must also obtain specific permission to take a deposition, or engage in any act which involves the expenditure of monies. This requirement involves the preparation of a separate authorization request and the issuance of a check from San Francisco. Some ten days to three weeks normally transpire for this process.

Further, where attorneys engage in discovery and investigative work involving even minor sums of money (e.g., the copying of court files, etc., outside the Bar office), a similar requisition format must be followed. Hence, the expenditure of \$5.00 for copies must be separately approved as the time is clicking for settlement conference and hearing. At least one attorney in OTC informed us that he has simply taken to paying for these costs

out of his own pocket in frustration.

In addition to the problem of delay such requests entail, some are not granted. We have been told of examples where requests for transcripts and copies would not be permitted until attempts to gather these materials elsewhere had been exhausted. In one case, the OTC attorney was told to contact the respondent, then in state prison, and ask him if he had a copy of the transcript to facilitate his discipline.

This penurious approach also affects the transportation costs for out-of-state witnesses. Many CWs move, sometimes to locations within the state and often out of state. They must be flown back to testify at the hearing. Although it is theoretically possible to use a deposition transcript in lieu of live testimony at the hearing, no prosecuting attorney likes to do so, since it is disadvantageous to his/her case if the trier of fact cannot see live witnesses who have testimony against the respondent.

Nevertheless, Bar policy in such cases is often to obtain the reciprocal cooperation of the bar of the other state. That is, in order to save transport costs, the respondent's attorney will travel to the state where the CW resides and conduct an examination with a "volunteer attorney" representing OTC counsel, courtesy of another state bar. The transcript is then used at the hearing.

It is true that the plane fare costs might be more expensive than deposition reporting costs, but the small amount saved would appear to be a false economy. It is frustrating for counsel not to be able to attend a deposition to protect his/her CW during cross-examination and to ensure that the correct questions are asked on direct examination for later use at hearing.

The Acting Chief Counsel disputes that unreasonable barriers exist, contending that any needed expenditure will be and is approved and that the current review is preferable to a historical unbridled discretion to OTC counsel. We would note that regardless of supervisorial perception

of reasonable approval, interviews with most of OTC counsel establish very clearly that this is *not* the perception of those doing the work. Rather, they admit to being deterred in the very *request* of procedures they believe important. This is not a chance sampling, but an overwhelmingly supported conclusion.

The lack of investigative help also impedes aggressive discovery. There is little evidence of aggressive discovery by the Bar, even in relatively complex cases. Few depositions are taken; there is limited document discovery. These failures are not the result of a completed investigation at earlier stages. They are the result of a lack of resources, time, and perhaps experience at the OTC level.

The resource problem which besets OTC attorneys in the conduct of discovery, reinvestigation, and hearings extends to the many little things upon which an attorney relies for his/her arms and legs. Any law office is, essentially, a paper factory. It must absorb, collate, and turn out documents. However, OTC attorneys have extremely limited staff resources. Secretaries serve two to three attorneys, in addition to serving one law clerk, paralegal, or process server.

More important, there is constant secretarial turnover. Only one of the secretaries in the entire Office of Trial Counsel serving the line attorneys has been a permanent employee more than one year. . . . The rest are temporaries or newly-hired. Because of substantially below-market wages, legally-trained secretaries are generally unobtainable. These secretaries must be trained by the attorneys in the OTC, after which they allegedly leave for higher-paying jobs elsewhere. Attorneys report extremely slow service from the clerical staff. This problem is exacerbated by the fact that each secretary is only allowed from one to one-and-one-half hours per day on the word processor. . . . Often, it takes three to four days to get a legal document out through the word processing system.

In an amusing scenario, several attorneys reported that the office sup-



plies problem is so great that they have "retrieved paper from the wastebasket" in order to have something to write on, and that they duplicate pleading paper because it is sometimes not available in direct print form. Although obviously atypical and exaggerated, the recounting by staff of the niggling problems impeding their work seems to be symptomatic of a larger resource deprivation problem.

As is the case with Investigations, the number of cases appropriate for OTC counsel is a question of debate. However, a caseload above 25 at any one time would normally inhibit major attention to a complex and vigorously-contested matter. This is particularly so if the timing of cases is tightened so they go to hearing and the Review Department more quickly — a clear trend. In fact, some major cases would appear to require a caseload of no more than two to three such matters at any one time, with no other time commitments, in order to handle properly the discovery and hearing (assuming no settlements). A large caseload inhibits aggressive attention to a high priority case. It is necessary to free a certain number of OTC counsel to handle these complex cases.

Prior caseload levels have created serious problems, especially in Los Angeles. Although the Acting Chief Trial Counsel properly notes that the Los Angeles "tank" of 500 NTSC-approved cases in 1986 awaiting (some, for many years) NTSC filing may be attributed to Los Angeles management deficiency, the reality is not so simple. For several years, the attorney in charge in Los Angeles was Jerry Markle. In 1986, Markle wrote a series of memoranda imploring all who would listen to add OTC resources. One of these memos has a notation from its recipient back to Markle suggesting that there would be less of a problem if he would devote some of his memo-writing energy to his job. The response of the Bar was not immediate or energetic, and was totally unsympathetic to Markle's management position. The unusual candor in these memoranda suggest a high level of frustration. Markle resigned in

1986.

*Delays:* Four fundamental reforms could ameliorate delay problems post NTSC-filing. The first is a default system, discussed below. This reform, currently under consideration by the Bar, would eliminate the 12-24 months now commonly required to discipline an attorney who does not appear to contest the charges. The second area of reform involves the early settlement conference discussed briefly above, and the delegation to OTC attorneys of adequate authority with direct conversational review under defined guidelines for stipulated settlement purposes. The third reform involves possible changes in Review Department procedures, discussed below. A fourth reform, and currently under consideration, lends finality to the decisions of the State Bar Court, and is also discussed below.

Another procedure which could marginally help the expedition of cases within the OTC could be the inclusion of the standard forms commonly used by the office in the Bar's word processing system. Assuming secretaries are obtained who are able to call up these forms and that adequate word processing facilities are available, much of the repetitious work of counsel would be short-cutted and the cases moved along at a faster rate or at least more work done during the time allotted.

*Competence/Turnover/Morale.* The Report's Exhibit 27 presents an important chart of the current vacant positions within the State Bar of California. Most of them are vacant positions within the disciplinary system. The chart indicates the offered salary, the position, the location the date available, and the date the position was posted. As noted in the discussion above concerning secretaries, the \$1500 per month for a Secretary II is not sufficient to attract an experienced legal secretary in the San Francisco or Los Angeles market. Some of these secretarial positions have been advertised and have gone unfilled for 6-9 months. As also noted above, the *Investigator I* position, offering a salary of \$1,764 per month, particularly

when several years of experience is required in the job description, is substantially below DA and AG investigator levels.

Although we are very aware that labor/management relations are subject to negotiation, and that there has been a recent strike by the attorneys within the Office of Trial Counsel and the supposed signing of a new agreement, it is also the obligation of the Bar Monitor to address those factors which impede an effective disciplinary system. The job market is an issue of fact. Attorney Is are offered positions at \$2323 per month; Attorney IIs at \$2786 per month; Attorney IIIs, requiring substantial litigation experience, receive \$3112 per month. The Bar learned what litigation costs on the outside means when it was forced to pay \$100 per hour and a total of several hundred thousand dollars in order to obtain the services of outside counsel while existing trial counsel went on strike. These expenditures, if applied to increases in existing trial counsel salaries, would be significant. By February 1987, \$272,000 had been paid out for commercial legal services. This amount alone, spent on outside legal help due to the strike, would have met the demands of OTC counsel then employed for well over one year. Inexplicably, some of these cases still remain with outside counsel at these very high rates.

It is apparent that these salaries are insufficient to attract competent professionals to perform the tasks required. Some ten positions in the Office of Trial Counsel remain vacant as the Acting Chief Trial Counsel attempts to find competent practitioners. One person recently hired was released during his probationary period because of performance deficiencies.

It is our strong feeling that attorneys who prosecute other attorneys should be among the best of the best. They should be among the most respected attorneys of the Bar. Not only should they be paid comparably to a Deputy District Attorney or Deputy Attorney General with like experience and responsibility: if anything, they



should be given a five or ten percent premium because of the need for mature and effective representation of the public in proceedings against errant attorneys. Current pay levels, however, appear to be substantially below market levels.

The pay situation is reflected in turnover. Thirteen attorneys in the Office of Trial Counsel left during 1986. In Los Angeles, of the twelve attorneys with the OTC shortly before the strike, two left shortly before the strike, and four have left since the strike. Assistant Chief Trial Counsel Markle has also recently left. Currently, only five attorneys in the entire Los Angeles Office of Trial Counsel have more than two years of Bar experience. . . . One attorney we interviewed noted with bemusement that he is now tenth on the list of twenty Los Angeles OTC attorneys in seniority, having been with the Bar only seven months.

Also disturbing is the fact that our interviews indicate that a substantial proportion of those with more than one year of experience are considering positions elsewhere. The professional attorney staff of the Office of Trial Counsel has been seriously depleted over the past year-and-one-half, and it faces possible evisceration unless meaningful actions are undertaken.

In addition to the pay issue mentioned above, the Office of Trial Counsel appears to have unclear "career paths" for trial counsel to provide them with the proper incentive to remain in their positions. It is unclear why the line attorney positions tend to stop at Attorney III, except for the recent push-back of three Attorney IVs through the hiring of Assistant Chief Trial Counsels.

Most important, as noted above in our discussion of investigator morale, in 1984 the Bar eliminated the "step increases" which are very important to retain employees in most agencies of government. The Bar abolished these step increases for a purported "merit" based system. We are informed that the system has not yet been implemented. A workable com-

promise might be to reinstitute slightly reduced step increases with a merit-based bonus add-on.

One of the consequences of the high turnover has been the additional fragmentation of cases. The departure of Tom Low left major cases for Jerry Fishkin to pick up; he, in turn, transferred fifteen of his cases to other counsel in order to make room for the complex cases left by the departing attorney Low. This same procedure is repeated throughout the Office of Trial Counsel whenever someone departs. Hence, the loss of experienced trial counsel over the past year and one-half, even if they should be replaceable, has dislocative effects of some consequence.

Most critical to the morale problem of existing senior trial counsel is a widespread perception that their work and professionalism are not respected. That feeling derives from the nature of what they consider to be "demeaning" promotional interviews by their supervisors, the imposition of additional layers of review over them, and the impediments imposed on the conduct of their cases. And it appears to extend substantially beyond these matters. We have been told consistently that the Bar system, from the Board of Governors on down, views the senior trial attorneys within the OTC as "people who can't make it in private practice." Comments to this effect have been overheard from recent members of the Board of Governors in different contexts. Indeed, the labor policies of the Bar and the administrative system imposed around these attorneys seem to reflect such an attitude. If that attitude is warranted based on demonstrated incompetence of the attorneys in that office, it would appear that the matter would be best resolved by the acquisition of allegedly more competent attorneys, rather than the continued denigration of those filling the positions.

It is more important that the *perception* of general contempt for their work exists than whether those who have created that impression meant to do so. Such an impression sometimes manifests itself in Review Department

demeanor toward counsel and, interestingly, in the attitudes of many Bar members they prosecute. A reading of file after file leaves one with the impression that the Bar is not an organization much feared or respected by practicing attorneys in the field. Initial questions by OI and OTC are often ignored; documents sought from respondents, courts, and other agencies are not quickly forthcoming; requests for documents and explanations of serious accusations are ignored. These responses are not occasional, but shockingly routine.

The most important element in any disciplinary system is an effective deterrent impact which prevents people from engaging in marginal behavior leading to abuse. In short, the profession must fear the Bar. The evidence is overwhelming that it does not. In order to create the kind of respect necessary, the morale of those who perform the visible and critical legal work must be high. They must have pride in their work and they must be respected by the legal community.

*OTC Filekeeping.* We were unable to review a substantial quantity of OTC case files. We reviewed a number of such files in San Francisco and found that they strongly reflect the lack of resources — both clerical and investigative — available to OTC attorneys. The files have investigative materials scattered throughout them, are unorganized, and unprofessionally kept.

Where there is a recommended NTSC, the investigative materials and reports compiled by the Office of Investigations are transferred (without copies kept by the Office of Investigations) to the Office of Trial Counsel with the SOC. The OTC Intake Special Proceedings Unit takes the investigative reports and materials and keeps them in the OTC case file thereafter. No other investigative file is kept, and these materials are not found in any other place. The OTC file goes to the OTC Intake/Special Proceedings Unit (Step 10), and then to the OTC team leader (Steps 11 and 12) if the case is not settled immediately after the "in-



Court system (e.g., the current debate over use of hearsay in default "prove up" proceedings).

It is unclear why a doctor (or mortician or accountant) who is respondent in a disciplinary proceeding should be subject to a different standard of proof or rule of evidence than are attorneys. The APA standard for admissibility of evidence has been judicially upheld and has an extensive record to commend it. It applies to the discipline (including license revocation) proceedings of over fifty professions and trades — all licensees except attorneys. We acknowledge that most attorneys within OTC support use of the California Rules of Evidence but it would appear that the burden is on the Board of Governors to demonstrate why and when attorneys need different standards. One argument could be the more peremptory review by the courts of attorney discipline. We are not convinced that this distinction warrants different evidentiary standards. We have not yet surveyed sufficient hearing transcripts to gauge the practical impact of a different standard.

**Review Department.** The Review Department consists of eighteen persons — twelve are currently practicing attorneys and six are "public" members. This appellate body considers appeals and reviews all decisions within the State Bar Court system. The Department reviews not only matters appealed to it and matters where discipline is imposed — but dismissals and stipulated judgments as well. One rationale for such an active appellate body rests with the fragmented and inconsistent result of several hundred different referees making decisions with minimal guidance or continuity.

The Review Department operates by allocating the cases within the State Bar Court system among its members. Any particular matter goes to a single member of the Department for detailed review. Where a relatively new public member is assigned a case, an attorney member may shadow-review it as well.

Each month, during a long "ex parte" calendar, the Review Department meets and considers those case where there is no oral argument or written briefs. Here, the assigned member of the Department who has read the entire record on a particular case discusses and comments on any problems he/she has with it. Where there is a problem, the proposed disposition may be rejected for either correction or rehearing. Where matters are subject to oral argument, either because the Review Department wants to hear oral argument or because the matter is the subject of appeal by either side, it will be heard in the morning portion of the proceedings. Once again, at least one member of the Department has read the entire record. The oral argument begins with a very limited (five minute maximum) presentation by each side. This is generally followed by a series of questions from members of the Review Department. Respondents often appear *pro per* in these proceedings.

The reason for Review Department evaluation is purportedly to apply some consistency in terms of discipline which is otherwise unlikely given the fragmented decisionmaking process beyond the now-adopted "Standards for Disciplinary Sanctions." It is also to ensure that the record is "clean" before it is transmitted to the Supreme Court. This means primarily guaranteeing that the transcript matches the findings of fact drafted by the referee. A small group of professional, independent administrative law judges, in communications with each other and coordinated, would tend to solve both problems. Stipulations would be approved in a consistent and professional manner, according to well-established guidelines; and the imposition of discipline would be relatively consistent and easily cross-communicated between the six to ten administrative law judges which would be necessary.

Several aspects of Review Department activity are troubling. First, a great deal of what the Review Department does, as noted above, would be automatically done in a properly-

operating professional system — without the additional layer of proceedings, the delay, and the expense that layer necessarily entails.

Second, although the Review Department attempts to provide consistency between the many decisions being made at a given point in time, it suffers from substantial turnover. Its voting membership changes markedly every two to three years. Hence, it does not provide consistency over time. Indeed, the policies espoused by the Review Department four to five years ago appear to be somewhat different from the policies being announced today.

Further, the Review Department process does not operate by clearly defined standards. One observer remarked to us that "it appears as if this is a chance for a lot of practicing attorneys to be 'king for a day.' They have been hamstrung by procedure and subservient to judges during most of their careers. Here is a chance to make judgments in a setting with broad limits." Although not an entirely fair criticism, it is not unusual for oral argument to include examination of a respondent by Department members. Questions quite outside the existing record are often asked. Neither respondent nor his counsel are under oath and the "testimony" elicited is not subject to cross-examination by OTC counsel. Nevertheless, there sometimes is fairly substantial discussion of mitigating factors, including representations such as "I didn't pay back the consumer because the investigator told me I didn't have to." Under current procedures, where the investigator does not remain with the case after submitting it to the Office of Trial Counsel and the examiner trying the case is no longer the investigator (as was once the case), the opportunity for ex parte gratuitous interjection by respondents is manifest.

Of much greater concern than procedural infirmities is the entire additive impact of, again, a group of twelve practicing attorneys dominating an eighteen-member Review Department and making a final decision based on a record given to them by



another practicing attorney about the discipline of a third practicing attorney.

The concern we have about the continuing due process and conflict of interest implications of currently practicing attorneys making these decisions is accentuated by the current "final judgment rule" being proposed by the Bar. The existing system of practicing attorney control has been justified by Bar officials for years because — the Bar argues — Bar disciplinary decisions are really nothing more than "recommendations for discipline to the Supreme Court." Although this is a disingenuous argument given the "great weight" State Bar Court determinations have with the Supreme . . . , it will no longer be as available to the Bar. That is, the final judgment rule will make the decision of the State Bar Court (i.e., the Review Department) "final," subject only to a thirty-day period in which to file objections or to petition the Supreme Court. Failure to file or refusal by the Court to review will result in finality.

This change may well be a justifiable one. However, it mandates structural reform of the State Bar Court system. The State Bar Court system will no longer be able to make the "we are advising, not adjudicating" argument. In fact, there will be less opportunity for judicial review of State Bar Court judgments than any other kind of adjudicatory ruling in the state. Administrative judgments made by any other California licensing agency are subject to Code of Civil Procedure section 1094.5 administrative mandamus. This review is not only significant, but is undertaken under the "independent judgment" test, where the jeopardy to a "vested right" is at issue (such as a license to practice). That petition for administrative mandate is itself subject to review by higher courts on the normal course.

Members of the Bar whose licenses are threatened by disciplinary proceedings uniquely do not have access to that writ of administrative mandate review by the appellate

court system. It would appear that a system imposing such finality and consisting almost entirely of currently practicing attorneys faces serious due process issues. . . .

It would appear that the system would be properly served in only one general format: an esteemed board of a workable number of persons appointed by the Chief Justice of the Supreme Court to formal terms, and consisting of men and women knowledgeable in the law, but not current practitioners (e.g., retired judges, law faculty, and esteemed public members). A body of this kind could handle appeals with the confidence of the Supreme Court and the credibility of the public. Further, if such a board or court were to consider appeals from the decisions of a small group of independent, professional administrative law judges, the appellate body's own review would likely cause it less travail. In the end, the Supreme Court could review petitions with confidence in an underlying system of consistency, competence, and independence.

*Supreme Court Advocacy.* All representation before the California Supreme Court is handled by the State Bar's Office of General Counsel. This is a separate office directed for many years by former General Counsel and newly-appointed Chief Executive Officer Herb Rosenthal.

Some arguments can be made in favor of OTC substitution for the General Counsel in factually complex cases. Numerous OTC counsel have complained that the Office of General Counsel advocacy of their cases has been "incompetent." At least to some extent, this criticism derives from an alleged lack of intimacy by appellate counsel with the facts of the case. Unlike the typical appellate case, here we have unusual latitude in both the Review Department and the Supreme Court to deviate from what is normally a respected record. The Review Department can not only exercise the independent judgment test; it can hear new evidence. The Supreme Court, although repeatedly confirming the "great weight" to be afforded

State Bar Court proceedings, is likewise free to reach its own judgment from the record. Hence, respondents' counsel — even at the Supreme Court level — are not above introducing material in briefs and oral arguments which may not be in any adjudicated record. OTC counsel, if present, would be able to rebut these new materials and arguments (particularly if familiar with the investigation of the case as well as the hearing).

We have been given examples of respondents taking advantage of the ignorance of General Counsel attorneys by making claims which would be easily answerable by counsel familiar with the facts. Further, OTC counsel commonly complain that General Counsel attorneys never consult them about their work on the case. Briefs may be sent to the OTC attorney, but usually after final draft or even filing. Often, there is no contact at all.

Although this phenomenon is not unusual in other kinds of settings (for example, a Deputy Attorney General handling a criminal appeal may not spend much time with the deputy district attorney prosecuting the case), there are reasons why Bar proceedings require more OTC participation. Here, the Supreme Court sits as the court of first resort. It considers not merely questions of law for precedential impact; it reviews a complex record and makes, itself, a review of factors regarding the penalty chosen.

. . . it might be appropriate to consider allowing OTC counsel to argue complex factual cases. An opportunity for OTC counsel to argue before the Supreme Court would add a prestige and moral-enhancing feature to the position. This would particularly be the case if the Chief Trial Counsel adopts a policy that he/she personally will argue any OTC discipline variation argument before the Supreme Court.

*State Bar Court Output.* In recent months, the Bar has consistently cited several "improvement statistics" to bolster its opposition to various legislative measures and to demonstrate increasing and more stringent disci-



petence, as it often does, the Bar should move swiftly. Indeed, the system established by this statute and rule, and that described in Bar official literature, paints such a picture.

Business and Professions Code Section 6101 requires a district attorney or other prosecutor to notify the State Bar that an attorney has been charged with a crime (misdemeanor or felony), and to notify the court clerk that the defendant is an attorney. The Bar is informed of the charges "and the alleged facts." After conviction, the clerk is then required "within 48 hours" to transmit a record of conviction to the State Bar, which the Bar then transmits to the Supreme Court within five days. The Supreme Court analyzes the conviction under Business and Professions Code Section 6102, and if the crime is a felony or is deemed to involve "moral turpitude," the attorney is suspended from the practice of law pending appeal of the conviction and final State Bar Court for hearing "after the judgment of conviction has become final," to determine whether or not "moral turpitude" is involved, and to consider an appropriate level of Bar discipline, which the Supreme Court will then review and possibly impose.

These are extremely important cases, involving the most dangerous kinds of consumer harm. But the system does not work as pictured. The process used to be handled through OI. . . . At present, with the separation of OI and OTC, the process is being picked up by . . . paralegals attached to OTC.

The initial problem, of course, is the same difficulty described above: a lack of investigative resources for matters which go directly into OTC, which has only paralegal help. As with reinstatements, these conviction referral cases deserve substantial investigative help. As a practical matter, the questions of moral turpitude and degree of discipline have required substantial litigation of underlying facts, particularly where the conviction is the result of a plea bargain without trial.

But these particular cases raise serious additional procedural infirmities. First, the system is failing at its very first level: the detection of attorney criminal convictions. Prosecutors are clearly not complying with Section 6101. We suspect most of them do not even know of the existence of the statute. Since senior attorneys in major District Attorney's Offices do not know of it, the Bar has apparently not educated them adequately. A review of pending conviction referral cases indicates that about one-third of the entries are derived from prosecutorial reporting. Most actually derive from newspaper clippings, letters, phone calls, hearsay references, etc. Since only a small percentage of the required notices are going to the Bar, a similarly small percentage are going to court clerks. Hence, the records of conviction are also haphazardly collected.

When the Bar does learn of a pending case, it writes for the charging documents and faithfully follows the progress of the case on a monthly status report, which we have reviewed. Files are not opened on these attorneys, however, unless a CW calls or writes to demand it independently. In this instance, a file will be opened but then immediately abated pending the result of the criminal case.

If the verdict is not guilty, or a search and seizure motion is granted which guts the prosecution's case and forces a dismissal, the Bar's disciplinary matter is closed automatically, whether a file has been opened or not. Further, if the prosecution ends in what is called "diversion" (i.e., the criminal case is suspended for a probationary period while the defendant is required to make restitution or attend drug rehabilitation programs, after which it may be dismissed), the matter is closed automatically.

If a previously-convicted attorney is on probation or parole and commits another unlawful act, the prosecutor is most likely to avail himself/herself of the easier standard of a probation revocation or parole revocation proceeding. These cases are not reported

to the Bar criminal referral system at all.

The Bar's range of coverage appears to be too narrow. The Bar should automatically track all filings, including probation and parole revocation hearings. Some of these proceedings may warrant the straight imposition of Section 6102, and others should appropriately be the subject of original Bar disciplinary actions. These original actions should also include interim suspension motions under Business and Professions Code Section 6007(c), or under unfit or abandonment theories, as appropriate.

Further, the Bar's standard for action appears to be overly solicitous to respondents. A failure to meet the prosecution's burden in a "proof beyond a reasonable doubt" proceeding is not the test for Bar disciplinary action. Most important, a very large number of cases are reduced or dismissed because of a procedural police error in obtaining a confession or in seizing evidence. Penal Code Section 1538.5 motions testing Fourth and Fifth Amendment compliance by police agencies form the single largest source of prosecutorial concern in compromising a case, and in dismissing it. But . . . the exclusionary rule is not applicable to Bar disciplinary proceedings. Rules of criminal procedure do not govern State Bar disciplinary proceedings. . . .

The Bar's procedures impliedly presume that its standards are as strict or stricter than criminal burdens and evidentiary rules. The Bar refuses to consider a criminal prosecution as a receipt of information which should be independently evaluated by it. Even in the extreme example of a felony act directly relevant to honesty, e.g., fraud or drug dealing, the Bar will simply drop the respondent and terminate the matter unless there is a conviction — or unless a CW appears to champion the public's cause. Then a case will be opened and the CW, considered a "complaining witness," can pursue the matter and the Bar will at least potentially consider it.



Even if there is a conviction, the Bar will still abate the matter — until it is "final." It is "final" only after appeals have been exhausted — that is, years later. At this point, a serious felon is in custody. If so, the Bar's action is then abated because he/she is in custody and the matter appears to be moot. Then when he/she leaves prison, many years will have passed in the normal course. The Bar then has some difficulty in imposing what appear to be belated add-on sanctions many years after an event. And, because the matter is then treated almost as an original proceeding and is subject to investigation (if available) and hearing, a substantial period will pass before the sentencing decision is reviewed by the Review Department and then Supreme Court. In the meantime, not only has the crime occurred many years ago, and a long sentence has perhaps been suffered, but the attorney now has two to three years while the matter is in the State Bar Court system to compile evidence of beneficent rehabilitation and charity.

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