commentary

from other pens...

Wildcat popularity helps churches, others

The Topeka Capital-Journal on football parking:

Some churches and other nonprofit facilities in Manhattan are learning the truth in that real estate mantra about location, location, location.

Those close enough to be within walking distance of KSU Stadium are finding there's plenty of green to be made from all of the purple madness surrounding Kansas State football. They let fans park in their parking lots — for a fee.

The College Avenue United Methodist Church youth group charges $8 a car, and it can squeeze about 225 cars in the lot. That's about $1,800 per game. The kids make enough during football season to fund their mission trips and other activities throughout the year and even are able to share some of the money with other groups.

Boy Scout Troop 75 parks cars at Trinity Presbyterian Church, then uses the bus from First United Methodist Church, which sponsors the troop, to shuttle people to the stadium. The Scouts can earn $15 to $50 for each three-hour stint they work at the lot. The money helps pay for trips to summer Scout camp.

St. Thomas More Catholic Church is farther from the action, so its parking spaces go for just $4. Even so, the youth group collects about $100 per game, enough to make its activities affordable.

And for those churches and other places too far away from the stadium? Well, there are still bake sales, car washes and the like for raising funds.

The Manhattan Mercury on DARE program:

Efforts to improve the national DARE program are to be commended, not just because of disputed findings that the program may have been ineffective but because of the role such programs can play in teaching young people about the dangers of drugs.

DARE — Drug Abuse Resistance Education — has been a staple in late elementary school in the Manhattan-Ogden School District and in most other districts nationwide. ...

It's probably wise, as is being studied, for the program to include more follow-up, involving seventh-graders and ninth-graders as well as fifth- or sixth-graders. ...

Preliminary studies have found that seventh-graders who participated in DARE were more likely than participants in a control group to consider drugs inappropriate and to refuse to use them. ...

DARE, unfortunately, doesn't come with guarantees. At some point, children make their own decisions. But DARE's prospects for success increase if its curriculum is reinforced by peers, parents and other adults. ...

It seems that the least DARE programs do is teach or remind youth that police officers are on their side. There are, of course, other ways for that worthwhile message to be sent, including some ways that are less expensive than DARE programs.

But drug abuse resistance education is, for better or for worse, education that young students will need to cope with some of the situations they'll find themselves in. That's reason enough to strengthen DARE programs.

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Do we count strikes or justice?

joan ryan
• commentary

It was launched by the murder of a 12-year-old girl in Petaluma in 1993. Today, it lands in the chambers of the U.S. Supreme Court.

The "three-strikes" law, passed overwhelmingly by angry California voters and legislators in 1994, allows for any criminal convicted of a third felony to be sentenced to life in prison. One result has been that violent repeat offenders can be locked up forever so they can't prey on little girls like Polly Klaas.

But the law is also catching nonviolent criminals in its wide net. There are men and women sitting in jail cells across the state serving life sentences for crimes that, in other jurisdictions, would be considered misdemeanors. Of the 7,291 criminals jailed on third-strike offenses in California, 344 are serving life terms for petty theft.

One man got a life term for stealing three golf clubs. Another for shoplifting children's videotapes. These, in fact, are the two cases the Supreme Court will hear today. The justices will consider the question many Californians have been debating since the law passed: Does locking up nonviolent criminals for life constitute cruel and unusual punishment, which the Eighth Amendment protects against?

"Three-strikers have earned their long sentences, because they are the most thick-skulled and predictably wicked of felons," wrote the California District Attorneys' Association in a brief. "They hurt people, they hurt communities and they hurt our economy."

Reasonable argument. Why shouldn't we remove from society anyone who repeatedly breaks the law, whether that person is violent or not? Laurie Levinson, a criminal law professor at Loyola University in Los Angeles and a former federal prosecutor, has an answer.

"Because the Constitution doesn't take that approach," she says. Punishment must be proportionate to the crime. "(The Constitution) sets a threshold. Not all crimes deserve the same punishment."

Three-strikes supporters say the harsh punishment isn't for the third crime but for an entire criminal career. Therefore, a life term for a relatively minor crime isn't disproportionate.

But, of course it is. What we're doing is punishing people for the rest of their lives for crimes for which they have already paid. We're locking up forever people who never committed a crime that warrants a life term. How does that square with our notion of justice?

The law was intended for people who pose a danger to society. For these criminals, the approximately $40,000 a year that it costs to keep them locked up is money well spent. But do we want to spend our limited state resources in keeping shoplifters and con artists in prison for the rest of their lives?

"There's also a hidden cost to the system itself," says Charles Weisselberg, Boalt Hall law professor. Does a person charged with a third-strike offense risk going to trial even if he is innocent? "The prosecutor has an enormous advantage (to force a deal). It distorts the process."

The Supreme Court is never eager to interfere with the states' right to determine punishments. But it ruled last year that Virginia violated the Eighth Amendment in imposing the death penalty on the mentally retarded. Perhaps a more relevant case concerned a seven-time nonviolent criminal in South Dakota who had written a $100 check that bounced. The high court ruled that, even when it comes to recidivists, there are limits to punishment. A life sentence was cruel and unusual.

Three strikes is a seriously flawed law, allowing for irrational, unjust and costly sentencing. Our state legislators can't or won't fix their mistake. Maybe the wise men and women of the Supreme Court will do it for them.

Joan Ryan is a columnist for the San Francisco Chronicle. Send comments to her e-mail at joanryan@sfchronicle.com.

Barring Clarence Thomas

nat hentoff
• commentary

In researching Clarence Thomas' record when he was nominated to the Supreme Court, I was struck by his passionate reliance on the Declaration of Independence as a foundation for his approach to the law. In that devotion to the Declaration, he is in the tradition of Abraham Lincoln, Martin Luther King and Frederick Douglas.

A fascinating new book on the history and continuing vitality of that document, "The Declaration of Independence: Origins and Impact" (Congressional Quarterly Press, 2002), shows the essence of Thomas' attachment to the Declaration in notes he wrote in 1987: "Here we find both moral backbone and the strongest defense of individual rights against collectivist schemes, whether by race or over the economy."

The book, which contains essays by 12 scholars on the pervasive effects of this basic American credo, was conceived and edited by Scott Gerber, a law professor at Ohio Northern University. His previous book on Thomas, "First Principles: The Jurisprudence of Clarence Thomas" (New York University Press, 1999), established Gerber's reputation as a constitutional historian. Gerber is neither a fan nor a detractor of Thomas; he is a judicious analyst of his work on the court.

Clearly the most controversial member of the Supreme Court, followed closely by Antonin Scalia, Clarence Thomas is more complex than his stereotypers recognize. For example, University of California in Los Angeles constitutional law professor Eugene Volokh, in his chapter, "How the Justices Voted in Free Speech Cases 1994-2002," points out that Thomas — second only to Justice Anthony Kennedy — has the most sterling First Amendment record on the court.

On the other hand, though warm and generous of spirit off the bench, Thomas, because he is a textualist — holding as sacred the original language of the Constitution — can be unmoved and ice-cold on capital punishment cases and the rights of other prisoners, as though we were still in the 18th century.

Thomas has again become the focus of controversy over this new book. Gerber wanted to dedicate the book to Thomas because he "has said more about the Declaration of Independence than any other public figure since Martin Luther King Jr." But Congressional Quarterly Press refused to permit the dedication. Gerber says he will not write for that publisher again.

Niko Pfund published Gerber's book on Thomas for New York University Press and is now academic publisher of Oxford University Press. Pfund says, "I'm not aware of a situation in which a press has dictated to whom an author can or cannot dedicate a book."

I have written more than 20 books, published by various, well-known publishers, and none of them has ever questioned my right to decide whom I wanted to dedicate the books to.

However, John Jenkins, general manager of the Congressional Quarterly Press, maintains that the firm has never permitted a book "to be dedicated to a sitting member of government" because that would mar Congressional Quarterly's reputation as a "nonpartisan, unbiased source of information about what happens in Congress and government." Having recently spent several hundred dollars buying the firm's reference books on the Supreme Court, I can attest to the useful catalog of Congressional Quarterly Press. But why has Congressional Quarterly allowed forewords of its books to be written by government members Justices William Rehnquist and Ruth Bader Ginsburg?

Jenkins says that "forewords (unlike dedications) merely commend to the reader the content that follows." This strikes me as a classic distinction without a difference.

A contributor to the embattled book, Dr. Garrett Ward Sheldon, professor of political and social science at the University of Virginia's College at Wise, wrote Jenkins that, "My guess is that your decision was motivated by prudential marketing concerns (namely, that the majority of professors who might adopt the book are politically Liberal, and would not adopt it if it were dedicated to a Conservative Supreme Court Justice.)"

In a letter to Gerber, Kathryn Suarez, Congressional Quarterly's director of Reference Publishing, said, "A dedication to a public figure undermines our commitment of objectivity and may be interpreted as presenting an unnecessary partisan or political stand, thus jeopardizing sales of the volume and our reputation." What do sales have to with the sanctity of nonpartisanship?

The basic fact is that there is no present member of government more attached in his writings to the Declaration of Independence than Clarence Thomas. There is a vintage vernacular word that describes Congressional Quarterly Press' barring of Thomas in this matter: pigheaded.

Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights.

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