

## New conflict of interest rules: a step

By Dan Marschall  
National Staff Writer

President-elect Carter's guidelines on conflict of interest in the executive branch issued last week in preparation for an Executive Order on the issue, are generally a "first step in the right direction," representatives of consumer and public interest groups say.

The guidelines will not end what Carter has called the "sweetheart arrangement" between regulatory agencies and the regulated industries, however. Federal officials often go from regulatory positions to jobs for companies seeking favors from those agencies. This practice creates real and potential conflict of interest, recent reports have concluded.

"Obviously a lot more work needs to be done," says Ann McBride of Common Cause. "We believe the guidelines indicate Carter's real commitment to moving forward on this issue."

John Gardner of Common Cause also heralded the guidelines as a "major breakthrough in the fight to eliminate conflict of interest in the executive branch."

Carter's new guidelines address the disclosure of financial holdings and the post employment practices of federal appointees. They require that some 2,000 officials publicly disclose their financial net worth and divest themselves of any holding that may be affected by official acts. They also prohibit federal appointees—for two years after leaving office—from representing a private party before their former agency on a matter that was under their jurisdiction. This provision extends an existing Executive Order ban on this activity for one year.

Another rule introduces a new concept that Common Cause believes is "extremely strict." For one year, officials are banned from formal or informal contact with their former agency on any matter.

The need for reform has been documented in recent congressional and Common Cause studies on the post-employment practices of regulatory officials. In October, a Common Cause report found that 48 percent of the federal commissioners who left from 1971-75 went to work for regulated industries or their law firms.

"There have been cases where agency officials have gotten lucrative positions for not being tough with companies they're supposed to be watching over," says Reuben Robertson, litigation director of the Aviation Consumer Action Project. "They're cashing in on their years of government service because they know where the skeletons are and how to manipulate and agency."

Robertson goes further than the Carter guidelines and proposes that top staff and agency officials should be prohibited from working for the industries they regulated for at least two years after leaving office. Common Cause offered a similar proposal in its report and still hopes it will be implemented in congressional legislation.

Bob Brammer of the Campaign to Stop the B-1 Bomber also expressed some doubt about whether the new guidelines will actually make much difference: "The Carter standards are good in spirit," he said, "but they are not tough enough to work. For instance, they would prohibit people from actually representing a private firm on matters they handled while in the Pentagon, but there's nothing to prevent them from telling their new business partners who to go to and what to say. The standards won't end the current cozy relationship between the Pentagon and the giant defense contractors."



Will Serrano decision make learning opportunities available equally to all?

Photo by Jane Melnick

## Calif. decision hits property tax

By Linda Hunt

The California Supreme Court on Dec. 30, for the second time in five years, declared unconstitutional the state's method of financing public education through local property taxes.

In a 4-3 decision, the court ruled that since elementary and secondary student expenditures are directly tied to the wealth of the school district, the current financing system discriminates against students living in poorer communities, violating state equal protection guarantees.

The ruling was the result of a class action lawsuit filed in 1968 by the Western Center of Law and Poverty on behalf of John Serrano, Jr., then seven years old.

Young Serrano's school test scores indicated that he was academically exceptional—nearly gifted. The school's principal told his father to "get out of East L.A. if you want your kids to get a decent education." The family moved from the predominantly Chicano community to nearby Whittier.

The elder Serrano, now Chief of Social Services for the Los Angeles Regional Center for the Developmentally Disabled had the option of taking his three youngsters out of East Los Angeles. But for most other children from poor and working class families throughout the state the problems of unequal education are not so easily resolved. So Serrano and his son went to court seeking a remedy.

In 1969 Baldwin Park, the community from which the Serranos moved, levied its school taxes at a rate of \$5.48 per \$100 of assessed property value, spending only a total of \$577.49 a year to educate each student. In that same year Beverly Hills residents paid only \$2.38 per \$100 of assessed valuation, but spent a whopping \$1,231.72 per pupil. The poor community with the lower tax base paid proportionately more, but got less. Similar disparities exist throughout the entire state—indeed, the nation.

### ► Poor districts cannot tax into excellence.

In its first ruling on the *Serrano* case in 1971 the court declared, "So long as the assessed valuation within a district's boundaries is a major determinant of how much it can spend for its schools, only a

district with a large tax base will be truly able to decide how much it really cares about education. The poor district cannot freely choose to tax itself into an excellence which its tax rolls cannot provide."

The court ordered the state legislature to come up with a method of relieving financial disparities between school districts. The Sacramento legislators put a floor on school expenditure by providing subsidies, but they left it to local districts to determine their own ceiling, depending on the districts tax base and the "willingness" of residents to supplement

*The Serrano decision goes beyond the schoolhouse door. It may herald on onslaught of challenges to government services financed through local property taxes.*

school expenditures. Poorer, already heavily taxed areas, however, could not afford to spend more, no matter how much they yearned for a quality education for their kids.

On Dec. 30 the high court again found the inequalities—not remedied by state legislation—a violation of the California Constitution's equal protection clause. It ordered the state legislature to find new methods of school financing by 1980.

### ► Politically explosive, legally limited.

Although of potentially great political importance, the legal impact of the *Serrano* decision may be limited. In 1973 the U.S. Supreme Court, in a case challenging the Texas school financing system, said that disparities in wealth in various school districts did not violate the U.S. Constitution and that it was a matter for each state to consider. State courts have varied in their rulings, although none has taken as clear a position against the unequal use of the property tax system as California and several have ruled that there is no discrimination involved in such a system.

The *Serrano* decision goes beyond the schoolhouse door. The court's decision may herald an onslaught of challenges to government services financed through local property taxes.

The decision has unleashed a two-headed tiger in the legislative chambers—an angry mass of homeowners demanding tax relief on one side, and big business shaking a formidable fist on the other.

Assemblyman Leroy F. Greene, chair of the Assembly Education Committee, said he questioned whether the legislature could meet the court's 1980 deadline.

"We will make a try, but the political problems are horrendous," he said.

### ► Tax increase or decrease in quality.

Other legislators have admitted that any new system of taxation for school financing will require a tax increase. No one has gone beyond vague generalities, but estimates put the state's additional tax costs at nearly \$1 billion.

While migraine groans still reverberated off the walls of the legislative office building, California's Governor Edmund G. Brown Jr. announced that he would unveil his own school financing scheme. He promised "significant" property tax relief for homeowners while not increasing state taxes. But he'll be doing it with mirrors, said one astute Sacramento-watcher.

Faced with its constituents, its campaign financiers, and a governor with a "tighten yer belt" philosophy, it's fair to say that the state legislature in California is not likely to tamper with the basic tax structure. It will not levy higher corporate taxes, nor will it redistribute the personal wealth of California's residents. With its options limited by the system it serves, the legislature is left with compromising public education by a "downward leveling," while imposing, say, an addition to the already regressive sales tax. Other possibilities offered by trial court Judge Bernard S. Jefferson include full state funding with a statewide property tax.

"By and large the people we have sitting in Sacramento don't have the guts it takes to change the tax structure so that every person is paying their fair share," replied John Serrano when asked about the court's decision.

"A lot of people and corporations don't even pay taxes," he said. "I'm talking about oil companies, insurance companies, banks. They're getting a free ride."

Linda Hunt works for the ACLU of Southern California.

# Attica inmates pardoned, but books not closed

By Judy MacLean  
National Affairs Staff

On Dec. 30, New York's governor Carey pardoned seven former inmates of Attica who had been convicted of crimes during the 1971 prison uprising and commuted the sentence of an eighth, Dacajeweah (John Hill). He said if he did not do so, "the law itself might well fall into disrespect" due to the way the case had been handled.

In his statement, Carey said he was acting to "firmly and finally close the book" on Attica. After five years of investigations, he concluded, law enforcement officials had covered up the events of Attica so thoroughly that justice was not possible.

On Sept. 13, 1971, thousands of National Guard and state troopers stormed Attica prison, which was being held by inmates protesting conditions there. Thirty-two prisoners and nine guards were killed during the assault.

The United States Second Circuit court reported that injured prisoners were then beaten with belts, sticks and bats, forced to strip and run naked through a gauntlet of guards armed with clubs, burned and threatened with death.

The state of New York then proceeded to spend over \$5 million indicting and prosecuting 61 prisoners; but because the state was unable to build a substantial case, most of the accused were never convicted.

## ►No action against guards or state troopers.

"We're pleased with anything that lets Dacajeweah out of jail," said Liz Fink, a lawyer from the Attica defense team, "but he should have gotten amnesty. To commute his sentence says he's guilty."

Akil Al-jundi, a former Attica inmate who was indicted as a result of the uprising, agreed. "We're elated, but then we aren't elated, also," he said. "He should not have been indicted from the beginning. The people who were indicted were not the persons guilty of crimes."

Carey's action also foreclosed criminal prosecution of any prison guards or state troopers. Two independent investigations by the state of New York showed the state failed to properly plan the assault, to preserve evidence or to investigate the matter impartially.

Akil Al-Jundi, who is today minister for education of Attica Now, a group that has worked on the defense of the indicted

inmates, pointed out that the seven who were pardoned were already free due to appeals and other court actions. He said Carey's trading one commuted sentence for not prosecuting 20 guards "is so people won't beef."

## ►Balou Asahi vs. Rockefeller.

Al-Jundi doesn't agree with Carey that the book on Attica can be closed. He pointed out that one accused former inmate, Balou Asahi (Mariano Gonzales), was not covered in Carey's pardon because he is a fugitive.

Al-Jundi is also chief plaintiff in a \$2 million civil suit against former Gov. Rockefeller and the state of New York brought on behalf of inmates who were maimed in the assault and relatives of dead inmates.

A group of survivors of guards is also suing the state of New York.

"The other reason we can't say the book is closed is that the problems that existed in New York state prisons in 1971 exist today in 1977," said Al-Jundi. "The basic changes demanded by the inmates in '71 have not been made. It's still slave labor, even if you get 75¢ a day instead of 25¢, you still have to work five days a week and you're lucky at the end of the month if you have \$10. Prisoners are still released with only \$40. Furloughs are still discriminatory. What happened in Attica could happen today anywhere in New York's prisons. It was a response to conditions that remain the same."

## ►A guard blames attorneys and politicians.

Al-Jundi says the deaths at Attica may have chilled inmate unrest and that guards also don't ever want to see another Attica. "They learned the state thinks correctional officers are dispensable, too."

Former guard Michael Smith, a hostage when the inmates took over, is today on medical retirement from the prison system. "It's too bad so many people lost their lives and it didn't make any substantial difference in the prison system," he says. Smith would like to see better prison conditions, "not color TV—material things like that only scratch the surface—but better programs for really helping the inmates."

"It's too bad," said Smith, "that the only ones who benefited were politicians and attorneys. Politicians used Attica to get elected and attorneys benefited financially."

# 20,000 seeking jobs on Carter's team

Jimmy Carter's offer to all Americans to come work in his administration has been taken seriously by some 20,000 people. "I think they'll have to bring over a trailer-truck on Jan. 20th and pick up the resumes and dump them into the Potomac," said a senior transition official last week. "This whole thing is ridiculous."

It all started with an emotional Carter campaign appeal and since then, his so-called Talent Inventory Program has been swamped. There are now 18 full-time professional staffers ripping through mounds of envelopes every day, helped by some 40 secretaries and volunteers.

The resumes are reduced to short forms and computerized. But already most job seekers are getting form letters back from TIP with the bad news.

"Many of the applicants are not now eligible for a presidential appointment," press officer Rick Neustadt said with a measure of understatement, "so we refer them to the various [cabinet] departments. A 20, 21 year old, just out of college, writing us for a job isn't likely to get one."

What the program's advice amounts to in most cases is for the applicant to take the civil service exam—in other words, get in line with everybody else.

There are only about 2,200 jobs open to presidential fiat. Those among the 20,000 applicants who have administra-

tive or subject area skills are broken down into lists for eventual presentation to the White House personnel office, which will take over TIP's function on Jan. 20.

"It's not a charade, not a gimmick," press aide Anne Edwards said of the project. "The resumes are taken very seriously and are being read by well qualified people." But the senior transition official, a savvy political operator in Democratic circles for years, said that applicants without heavy sponsors were unlikely to be taken seriously. In other words, she said, the pattern of job placement follows past administration procedures.

"There's really no point to pay a lot of attention to [resumes from] people you've never heard of," the official said, "because we've already heard of too many people who are sponsored. That's what makes this whole program so silly."

Until Jan. 20th, however, workers in the tightly guarded downtown office will be ploughing through the letters, some 300 a day so far, around the clock and through the weekends.

"If we ever have the time, we do skim the unsponsored ones," the official sighed, "but all resumes look the same. They've all been published and have lots of degrees."

—Jeffrey Stein



Sen. Howard Baker, new Minority Leader, was Mr. Clean in Watergate hearings.

# Byrd and Baker to lead Senate parties

Conservative West Virginia Democrat Robert Byrd was elected without opposition Jan. 4 to probably the most influential position in the U.S. Senate—Majority Leader.

The same day Watergate figure Sen. Howard Baker (R-Tenn.) was elected Minority Leader in a surprise one-vote victory over Sen. Robert Griffin (R-Mich.), widely assumed to be a shoo-in. Baker's supporters, who lobbied heavily for him with colleagues, said the Republicans needed a symbolic change, with new faces in leadership roles.

A challenge to Byrd from Sen. Hubert Humphrey (D-Minn.) failed to materialize at the last minute when it was judged hopeless. The ailing Humphrey, it was feared, might be more vocal than methodical as Majority Leader and lacked crucial AFL-CIO support, which he had expected to get.

Both of the new Senate chiefs come from the conservative wings of their parties. Byrd was so in tune with Nixon's economic, law-and-order, and Vietnam policies that the Republican National Committee gave no funds to his opponent one year.

Domestically, Byrd has never quite lived down his Ku Klux Klan membership during the 1940s. Though since repudiating his association with the Klan, he has not been an ally in civil rights issues. He once called Martin Luther King a "self-serving rabble rouser" and voted no on Thurgood Marshall's appointment to the Supreme Court. (Marshall is the only black Justice.)

As head of the District of Columbia Committee, Byrd became notorious for his insistence on enforcing the "Man-in-the-House" rule for welfare recipients, prompting *Washington Star* columnist Milton Viorst to observe that "Byrd has made his reputation as an authority on the

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mating habits of Washington's underprivileged."

A classic "self-made man" himself, Byrd seems to have a pervasive Horatio Alger philosophy guiding his politics. "Anyone with common sense and drive can get to the top," he told a Ralph Nader-connected researcher.

Mining dominates West Virginia and Byrd has managed a successful balancing act between the companies and the miners. This is not to say he is even-handed, however. The status of mineworker health and safety, for example, is a concern of the past for Byrd. "The problem was too long overlooked," he says, "but improvements have been made. Back in my day's day it was worth writing about."

Sen. Baker, despite his Mr. Clean Watergate role, was a Nixon enthusiast during the war years of Nixon's first term. "I think the President has, the majority of the time," said Baker, "a track record for candor and honesty in his representations with respect to Southeast Asia."

Though Baker's voting record is quite conservative, observers saw no ideological grounds for his victory, since the favored Sen. Griffin's record was quite similar.

—Tim Frasca