

## THE "SUBVERSION" OF THE JUDICIAL SYSTEM

It has become increasingly evident that the "judicial" mechanisms at Stanford University are not the fair and impartial system that they originally promised to be. This not because of any one misuse of or change in that system, but actually is the result of a series of actions and decisions over the period since the adoption of the Legislative and Judicial Charter of 1968.

The "subversion" of the judicial system will be documented by relevant letters, documents, and newspaper articles. The newspaper articles are limited to letters from the principals and interviews.

In order to simplify the presentation of the material, the admittedly interrelated charges are broken down into eight divisions.

1. So that the judicial mechanism might be more "efficient" in prosecuting troublemakers, a series of changes in the Charter have been proposed by the Judicial Council and the President using procedures provided in the Charter. However, these changes have never been officially enacted, but the "rules" of the Judicial Council have been changed to reflect the desires of the administration. The fact that there is no provision in the Charter for this rule-making activity of the Council has been acknowledged by Jack Friedenthal, first chairman of the Council and author of several of the proposed changes: "The Council promulgated a set of rules this year without specific authorization, and such rules proved indispensable. The proposal would simply eliminate speculation as to the legitimacy of such rules." [Letter of July 31, 1969 and August 4, 1969 to Kenneth S. Pitzer.]

On January 5, 1971, John J. Schwartz, Special Assistant to the President and Prosecutor in Judicial proceedings proposed a new and more comprehensive set of Rules of the Council to incorporate the few changes not yet adopted. And on February 10, 1971, Richard Lyman, President of Stanford, withdrew the proposed charter changes, as there was no longer any need for them since they were all de facto in effect.

The areas cover by these changes are:

- a. The switch from a commission hearing system to an adversary proceeding with a full-time paid prosecutor. (One should note that the parallel change -- provision for a public defender -- has not been implemented.)
- b. Contempt of council powers are used.
- c. Student members of the Council may be removed if they are penalized for proscribed behavior.
- d. Hearing boards of less than the full council may be used without consent of the defendant.
- e. The jurisdiction of the Council and the delineation of who may bring a complaint have been expanded.
- f. The chairman of the Council may no longer be overruled in all cases.
- g. The power of summons has been expanded.
- h. The role of the chairman in maintaining decorum has been expanded.
- i. The penalties for alleged violations of g., h., and b. have also been expanded.
- j. The burden of proof has been shifted to the defendant in some cases.

Not all of the above are in the current rules, but all, with the possible exception of c., are currently in effect. The current chairman freely acknowledges that he has entered into a private agreement with the President of the University expanding the chairman of the Council's power. It is also interesting to note that similar action has NOT been used to place the faculty under the Judicial Council's jurisdiction as has been recommended by the faculty, the student body, and the administration.

The various points made above can be documented by the following exhibits:

1. Stanford Judicial Council statement, June 4, 1969
2. Letter from Pitzer to Rhineland, July 28, 1969
3. Memo from Friedenthal to Pitzer, August 4, 1969 with attachment, Proposed Alterations, July 31, 1969
4. Memo from Ashley, August 25, 1969
5. Memo from Siena to Franklin, January 28, 1970
6. Memo from Wyman to Bulkeley, April 14, 1970
7. Letter from Lyman to Ashley, et. al., February 10, 1971
8. Jurisdiction and Procedures of the Temporary Judicial Council
9. Rules promulgated by the Stanford Judicial Council
10. Rules of the Stanford Judicial Council, draft of January 5, 1971
11. Article in The Stanford Daily, February 4, 1971 in which the Council chairman claimed that his powers are "implicit" in the charter.
12. The Legislative and Judicial Charter of 1968 (as amended)

2. The Stanford administration has systematically prosecuted only left-wing activity. The Free Campus Movement blockade of the Applied Electronics Lab in 1969 was never prosecuted. Although Dean of Students Peter Z. Bulkeley made statements to the contrary, the attacker of John Kathe on May 1, 1970 was never prosecuted. This unequal application of the law was admitted to by President Lyman in a speech to the Academic Council.

Documentation:

13. Article in Stanford Daily, May 4, 1970, p. 4, quoting Dean Bulkeley
14. Speech of Lyman to Academic Council,

3. There are conflicting statements from university administrators on university policy concerning the giving of information to police and Federal investigators.

Documentation:

15. Article in Stanford Daily about Wiggins and DeYoung, May 28, 1970
16. Speech of William Miller, Vice President and Provost, February 16, 1971

4. The definition of who is a student is manipulated to serve the needs and desires of the administration. Prosecutions before the SJC are under rules more broad than those to be used if an injunction is granted. Examples are prosecution of Katzenbach and Youdelman before SJC while listing them as non-students on the TRO. The Committee of 15 sent this entire issue to the ASSU. Pitzer stated current policy as: "[a student] was involved in a violation of University regulations during a quarter in which he was not registered. The SJC held generally that a 'student' for purposes of its jurisdiction is anyone who has matriculated at Stanford has not received a degree."

Documentation:

- 16A. Minutes of the Committee of 15, February 25, 1969
- 16B. Letter from Pitzer to Marshall, May 27, 1970

5. The Charter is clear that a body separate from the administration should enact student discipline regulations, and that if the president should make any such regulation, it shall expire in a certain time. This has been contravened continually. The following documents detail this:

12. The Legislative and Judicial Charter of 1968 (as amended)
17. Letter from Thomas Ehrlich to Pitzer, January 28, 1970
18. Letter from Pitzer to Ehrlich, February 10, 1970
19. Letter from Marshall to Pitzer, February 12, 1970
20. Article in The Stanford Daily, February 24, 1970 correcting incorrect "interpretation" of Pitzer letter
21. Rules and procedures issued by Lyman to The Stanford Community, May 11, 1970
22. Guidelines on Political Activity at Stanford,
23. Rules on open meetings issued by Lyman to The Stanford Community, December 1, 1970

6. Although the Student Conduct Legislative Council considered and refrained from passing a rule "protecting" campus residences, such a rule concerning the residence of the president is in the TRO. Documentation:

24. SCLC Rule I as published, May 20, 1969

7. The faculty members of the Judicial Council are not representative of the faculty or have exhibited biases that would exclude them from judging cases similar to those they handle if outside standards were to apply.

Documentation:

25. Faculty vote on resolution abolishing the Interim Judicial Body and repudiating it. The IJB contained Williams and Meier, now on the SJC. Vote was on May 8, 1968.
26. Packer Speech to Stanford AAUP giving votes of IJB members, May 13, 1968
27. Letter from David S. Nivison to The Stanford Daily, May 4, 1970

8. The administration is attempting to reinterpret Section II A 2 of the Judicial Charter to cover dismissing a student who has engaged in no new activity that violates university policy. The section was intended to allow the Judicial Council to hear cases concerning outside illegal behavior such as rape, etc. Documentation:

12. The Legislative and Judicial Charter of 1968 (as amended)
28. Memo from Williams to Siegel, November 30, 1970, quoting Schwartz