Judgment and Justice in America

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The Honorable Roberto M. Piñeiro is a judge in the criminal division of the Eleventh Circuit, Miami-Dade County, where he has served for the past six years. His service in the judiciary began in 1989 when he was appointed to the Country Court. He won a contested reelection race in 1994, securing 64 percent of the votes.

Except for four years as a civil litigator with the law firm Patton and Kanner, his professional life has revolved around public service, first as an Assistant State Attorney from 1977 to 1984, where he served in the Felony Division, as Felony Division Chief, in the Sexual Battery Division, and as Major Crimes Prosecutor. Later, from 1986 to 1989 he worked in Special Prosecutions, Organized Crime, Public Corruption Prosecutions, and was cross-designated Special Assistant U.S. Attorney.

Judge Piñeiro attended Belen Jesuit Preparatory School, Miami-Dade Community College, the University of Miami, and Duke University School of Law. He is married to Barbara Gershkoff, an Assistant State Attorney, and he and his wife have one daughter, Allison, and one son, Jared.
JUDGEMENT AND JUSTICE IN AMERICA
ROBERTO M. PIÑEIRO

In viewing my topic I decided to talk, firstly, about how one gets the job and keeps the job of sitting in judgement; that is, how one gets to become a judge and how one gets to remain a judge. Secondly, I'll discuss how one sits in judgement in a criminal court setting.

Because my experience has been with the Florida State Court System and with criminal justice, primarily, I will limit my comments to these institutions, though, I'm sure my observations may be validly extrapolated to the Federal courts and to other state court systems.

Presently, we have two ways of becoming a judge in Florida, but only one way of remaining a trial judge. You can become a judge by winning an election to become one or you can apply for appointment by the Governor. However, you can only keep the job by winning reelection. I've done both. I was appointed to the County Court by Governor Bob Martinez and to the Circuit Court by Governor Lawton Chiles. However, I also had to run a contested election to keep my job.

When you apply for a judicial position you fill out a multi-page questionnaire with detailed questions about your professional and personal history. This questionnaire is submitted to a nine person panel known as the Judicial Nominating Commission. Six of the members are attorneys; the other three cannot be involved in the legal profession. The governor selects three members on his own; the other three are also selected by the Governor but only from a group recommended by the Florida Bar. The six attorneys, so
selected, then pick three lay members. Once the committee receives all the applications they interview the candidates and conduct investigations by soliciting comments from the candidate's references and from the public in general. The list of applicants is published in the Daily Business Review, a vehicle by which the commission solicits input. The commission is routinely allowed thirty to sixty days to complete their investigations. Once the investigation is over, the commission must submit a list of no more than six nor less than three nominees to the Governor's office. The Governor then conducts his own investigations. The governor's general counsel and staff solicit input and receive unsolicited input as well. Our present Governor, Jeb Bush, actually engages in the herculean task of interviewing each candidate personally. The Governor makes an appointment from one of the submitted names within sixty days of having received them.

The appointment process is a very painstaking one. Although politics, of course, play a role, the investigation by the commission insures that the Governor can only make his appointment from a pool of well qualified individuals. Incidentally, the large majority of minority judges have first come to the bench by way of the appointment process. Florida's governors have been very conscious of the need for diversity on the bench. For justice to be done, it must be seen to be done and a judiciary that mirrors our richly varied community assures all our citizens that they are represented at the bar of justice. Just a year or so ago, Governor Jeb Bush appointed our first Haitian-American judge in Miami-Dade County, not to mention in the entire state. He also appointed the first Hispanic to our highest court the Supreme Court.

The electoral process is a much more colorful, "fun filled" and imprecise method of selecting and keeping judges.
When I was first appointed to the bench in 1989, I was truly naive about judicial elections. However, on the last day and last thirty seconds of the qualification period I drew an opponent. At that moment, I found myself chasing a white rabbit through a looking glass and hurtling smack dab into the middle of a full fledged Miami-Dade County judicial election. I was relieved to find out that, while I knew nothing about getting elected, there were campaign consultants who would like nothing better than to help me retain my seat. That is, if I paid each of them a $20,000 retainer before my opponent paid them a $20,000 retainer. If not, and my opponent paid first, then they would like nothing better than to help my opponent attain my seat.

A big stumbling block to my receiving this much needed help was that I worked for a living, I had a family to support, and I did not have the odd $20,000 bucks laying about. But, even this would not have been enough as I had to come up with, at least, two other consultants to cover the Jewish, Hispanic, and African-American votes of our richly multi-cultural and multiethnic community. Not having the first 20K, I certainly didn't have the other 40 for the two other consultants; nor did I have the funds to actually run a campaign. I was told that I would need a minimum of $100,000 for a county court campaign and $200,000 for circuit court. All that wholly theoretical cash had been spent, and I didn't even have one measly campaign sign to show for it.

However, I was told not to despair about raising the much needed cash as there would be many attorneys willing to give me money solely because they would be appearing before me in court. This, I felt, raised a moral dilemma. After all, how could I solicit people who have a vested interest in my rulings for money? This would be an enormous conflict and even though I would still rule honestly and fairly it would still look pretty bad; especially to an opponent.
of my contributor. But, I was told not to worry as I would never actually ask attorneys for money. To do so would be clearly and undeniably unethical. I would simply ask attorneys to ask other attorneys to give me money. I would tell attorney A to tell lawyer B to give me money. I could then tell lawyer B to tell attorney A to give me money. All I had to do was to call Attorneys A & B my Campaign Committee. This, I was told, would be ethically correct, even if utterly contrary to the legal principle that an agent's actions taken on behalf of the principal are deemed to be the actions of the principal.

Now, war chest firmly in expectations, I set about the task of publicizing my sterling legal accomplishments and my qualifications. Little did I know, but I had it all wrong. I would not be publicizing my expertise. I would be publicizing my name. Qualifications would be alright for attorneys and the Miami Herald endorsement, but with national, state and county elections, as well as the other fifteen judicial races, my qualifications would be lost in a cacophony of electoral publicity. There would be no way for voters to learn or remember anything about me other than my name.

So, war chest still firmly in expectations, I set about the task of publicizing my name. I was congratulated on having the foresight and judicial acumen of having the "right" name. The "rightness" of my name came, not from having a good reputation, though I certainly did and still have one, if I may say so myself and I may, but from having a name easily recognizable as Hispanic by Hispanics and ethnically unidentifiable by all other ethnic groups. Non-Hispanics could easily think Piñeiro was an Italian name; specially if I used the forename of Rob or Robert instead of Roberto. Luckily, according to the political pundits, I was not, as a colleague of mine coined, moniker-challenged.
Now, I had to take positive steps to actually get campaign contributions and win an election. Well, I set up my Campaign Committee and asked them to ask... themselves for money. I tried to keep away from the "coercing" err..." prying of "err..." strong-arming" err... solicitation of funds, yeah, that's the ticket, as much as possible, so as to not even know who was contributing, thereby making sure the contribution could not, in anyway, be seen as contributing to a particular ruling. However, these good intentions were shattered when I realized I was legally required to know the name of each and every contributor and the exact dollar amount of the contribution as I had to certify, under oath, that my campaign reports were correct.

I collected the funds and used the money to, in part, put up attractive, vastly informational, and environmentally friendly campaign signs that eloquently urged the electorate to "KEEP JUDGE PINEIRO". These signs were strategically placed in all parts of Miami-Dade County. I know that they were very strategically placed because they were placed right next to the strategically placed signs of the other thirty judicial candidates wishing to call attention to their "right" names.

Finally, election day came and went, and the informed voters liked my name and decided to keep me. I had survived the judicial election lottery.

In my pre-election naivete I thought judicial "wannabes" targeted an incumbent judge if the judge's qualifications were poor, or if a judge received poor bar poll ratings. However, having survived my election scare, I lost my innocence and learned what really matters in how possible opponents decide to target a particular incumbent judge. Certainly, a judge's qualifications and reputation are factors, but they run a poor second or third or even tenth vis a vis other more
"politically important factors".

The first of these factors is THE NAME. Yes, I know the Bard of Avon wrote "what's in a name? A rose by any other name would smell as sweet." However, it seems that judicial candidates and campaign consultants are not Shakespearean connoisseurs-to them the name is foremost. Why? Again, let’s go back to the assumption that the voters really don't know much about the qualifications of judicial candidates. The truism is that most voters only know the name, as that is the only thing which appears on the ballot. This is what makes having the "right" name of maximum importance. If voters don’t know anything about a candidate but what is in the voting booth itself, then the name is all they have to go by. As such, the voters will use the name to make their selection. Does the name indicate the candidate's gender? If so, voters of the same gender will tend to vote for that person. Does the name imply a particular racial or ethnic group? If so, and the voter is of the same implied grouping, then that person gets the nod. Case in point, this cynical view that the right name is everything in Miami-Dade County judicial elections was proven true a few years ago. After being appointed a judge, Michael Chavies, a very well respected and well qualified African-American, subsequently lost his election by, ironically, losing the African-American vote. This happened because Hispanic-Americans knew that Chavies was not a Hispanic name, and to African-Americans it looked too much like Chavez. His white opponent's "right" name was Taylor. A Taylor has a greater possibility of being black than a Chavies, so Taylor got the votes. This should not, necessarily, be taken as an indictment of our voters. If the voter knows nothing but the candidate's name, it is only natural to vote for a name that is somehow reassuring, and ethnically compatible surnames are reassuring. Parenthetically and fortunately for our community, Judge Chavies was reappointed by the governor.
Second most important political consideration-MONEY. Personal riches and/or the ability to raise large sums of cash from, mainly, attorneys, is the next blip on a campaign publicist's radar screen. Money means you have the ability to publicize your name on billboards, TV and radio ads, and in the newspaper. The more the voters see your name the greater chance they have of remembering it at the voting booth. You somehow remember this name so it's probably okay to vote for it.

Certainly, the election of judicial officers has its detractors and I was one of them. However, elections do have the very desirable and salubrious effect of making the judge ultimately answerable to the people, not just politicians or people with influence. People who care a great deal about our judiciary have given thought to devising ways of tweeking judicial elections so that a voter will be better informed when he goes into the voting booth to vote for our judges, and to try to ameliorate the pernicious effects of campaign contributions.

Representative Gaston Cantens drafted and was able to get the legislature to pass a bill that rolled back the filing deadline for judicial candidates from late July to mid May. The benefit of this bill was that it gave incumbent judges more time to raise money after being opposed so that they would not feel compelled to raise a large pre-deadline war chest to scare away opponents. "Wannabes" would not be able to ambush an incumbent at the last minute. There would be enough time for a reputable incumbent to set up and mount a credible re-election campaign. The less money raised by a judge for a re-election campaign; the fewer eyebrows raised about a judge possibly favoring her contributors.

There is a proposal by the Cuban American Bar Association to pro-
vide for public financing of judicial elections. This meritorious proposal goes a long way to alleviating my biggest complaint about judicial elections - the need to raise large amounts of cash from people who have a vested interest in the court's rulings. It will certainly help promote the perception of justice being done in a fair and impartial manner, which may be as important as the actuality of fair and impartial justice. As such, money would no longer be such a critical factor in judicial elections.

I have an idea to somewhat alleviate my second biggest gripe with judicial elections-the fact that the electorate is, for the most part, uniformed about the judicial candidates. I would propose the creation of a "Judicial Evaluation Commission". This commission could be composed of volunteers appointed by each of the three branches of government and/or elected by the voters of a particular judicial circuit or some other fair way to select a body of volunteers. The panel would be empowered to require detailed applications from judges and judicial candidates; to conduct public interviews and solicit input from lawyers, jurors, litigants and the public, in general-very much like what the Judicial Nominating Commission does when they recommend nominees to the Governor. The commission would then recommend judicial candidates in each race to voters prior to an upcoming election. This recommendation by an unbiased public body and based on an intensive investigation should be a valid barometer to voters of the candidates' qualifications. The "right name" might then be the candidate who is most qualified as opposed to the candidate whose name appeals most to the greatest number of gender, racial, and ethnic groups.

To further educate the public about judicial races, volunteer bar associations such as the Cuban American Bar Association, the Florida Association of Women Lawyers, the Black Lawyers Association, the Carribean Lawyers Association, and the Dade
County Bar Association, should be encouraged to make public recommendations of judicial candidates and publicize their recommendations. This public service would help bring qualifications and reputation to the forefront of the right political factors. I believe that the Black Lawyers Association already makes such endorsements.

Alright, you have been appointed or elected judge, how do you do your job, how do you judge?

Judging is an art. Judging is a science. Judging is study. Judging is an exercise in logic. Judging is deduction. Judging is induction. Judging is the use of common sense. Judging is the use of uncommon sense. Judging is the use of compulsion. Judging is persuasion. Judging is mediation. Judging is to listen, and to think, and to speak, and to do. Judging is all these things, all done in pursuit of one goal-JUSTICE. One of the Torah's prime exhortations is "justice, justice shall you pursue." This is the maxim that I and my colleagues embrace each day we take the bench.

Study, logic, deduction, induction, compulsion, listening, speaking, and common sense all help you learn and enforce the law. However, just because something is legal does not mean it is just, and justice may not always be legal. That is were uncommon sense, persuasion and mediation come into play as well.

The law in the United States is a complex tool used to ensure the continued existence of our free, democratic republic. It ensures that might does not make right, that right, as embodied by the law, makes might. It is a tool that must be constantly calibrated by our elected representatives to meet the needs of our constantly evolving society. It is a tool that must be wielded by the executive branch to administer our democracy. It is a tool that must be upheld and enforced fairly, impartially, and justly by the judiciary. Our three
branches of government are the proverbial three legged stool that support our republic. How a judge tries to achieve justice in the full panoply of matters that come before a trial court judge, is too massive an undertaking for this short conversation. As such, let us concentrate on just one facet—the sentencing of a criminal defendant.

All of the criminals which have been found guilty in my court fall into two very distinct categories. First, we have the criminals; those people who commit crimes because it is in their nature to do so. There are evil people out there. There are people out there who would like to get away with something even at the expense of harming another human being. Sentencing these miscreants is when I can say that judging is a joy. Secondly, we have the otherwise good people who happen to have committed a crime. This is when I am compelled to admit judging is a gut-wrenching experience.

In order to impose an appropriate and just sentence, the judge must factor in the nature of the crime and the nature of individual who has been found guilty of that crime. When I first stated my legal career as an Assistant Dade County State Attorney, 25 years ago, during the dark ages, a judge had full discretion to impose whatever sentence she felt appropriate. The only limitation was the statutory maximum penalty. This gave the judge an opportunity to hand tailor what she thought would be the best sentence for a particular crime and for a particular defendant. The judge would be free to give whatever weight she felt various factors warranted. Without hindrance she could analyze various considerations such as:

1. the severity of the crime
2. the severity of the injury to the victim
3. the injury caused to society by the defendant’s actions
4. all the relevant circumstances of the crime
5. the convict’s criminal record, or lack thereof, and his entire past
history
6. the victim's need for restitution
7. the possibility of rehabilitation
8. the possible need to send a message to the community
9. a host of other variables

The law gave the judge full discretion, free of any limitation, in all cases but one-first degree murder. That crime had a penalty of life in prison with a minimum mandatory sentence of 25 years state prison. This meant that, regardless of any other consideration, the most lenient sentence a person convicted of this crime could receive was twenty-five years in state prison. A spouse who kills his partner to collect an insurance claim would face the same penalty as a spouse who pulls the plug on a terminally ill and suffering partner. In 1977, this was the only minimum mandatory sentence, or "min-man" in legal parlance, on the books.

While a judge enjoyed great freedom to fashion the best possible sentence in his estimation, this free wheeling discretion led to great disparity of sentences for similar crimes throughout the state. Judges were in no way required to try to give similar penalties for similar crimes. There could be great differences in sentencing policies between courtrooms just a few feet apart from each other, not to mention differences between cities such as Miami or Tallahassee. In order to promote more uniform sentencing across the state and across the hallway for similar crimes, a laudable goal, the legislature in the early 1980's created sentencing guidelines-thereby bringing mathematics into the art and science of judging. Crimes were categorized by their severity and were given a certain number of points-the higher the number the more severe the crime. Points were also assessed for other factors such as: victim injury, prior convictions, legal restriction at the time of the offense, such as probation, and any additional offenses. All the defendant's points were
then totaled up on a score sheet and the defendant's guideline sentencing range was computed. Lawyers, many of whom came to the law because they hated the math required for medical school, were shocked to discover they had to learn how to use a calculator. I still don't know how to use one. That's why I became a judge; I force the lawyers to use them for me. By law, these guidelines are mandatory and the court must not deviate upwards or downwards absent some very precise and codified circumstances.

The sentencing guidelines did provide for more uniformity while allowing the court discretion to sentence within the sentencing range, and to determine if any special circumstances exited for mitigation or aggravation of the sentence. The guidelines allowed judges a way of fashioning a sentence for similar crimes in line with other courtrooms around the state. Thus, defendants were treated more equally. The guidelines fashioned a good balance between allowing a judge full discretion to impose a punishment for one certain individual and providing for equal treatment of particular crimes across the state.

The guidelines were so successful that the legislature decided that even more uniformity was in order. They felt that certain crimes were so serious that minimum-mandatories or min-mans should be imposed. In the mid eighties in our country and, more particularly, in our state the "cocaine cowboys" were in full cattle drive mode. Our state was drowning in a deluge of illegal and lethal drugs. The drug trafficking also fostered a bloodbath of drug related murders. The Medical Examiners office had to rent a refrigerated Burger King truck to house the overflow stiffs. Drastic measures were needed to stem the tide. The legislature turned to minimum mandatory statutes; keep the drug dealers in prison for a certain time and at least that one charming fellow would be out action for a while. One less criminal for law abiding citizens to worry about. Starting
with the one min-man statute on the books in 1977, min-mans have proliferated amazingly since the mid 80's; it's like bunnies high on viagra. We now have dozens of min-man statutes. They include:

1. Possession of more than 25 lbs. of marijuana-3 years min-man
2. Possession of more than 2,000 lbs. of marijuana -7 years min-man
3. Possession of more that 10,000 lbs. of marijuana-15 years min-man
4. Possession of more than 28 grams of cocaine-3 years min-man
5. Possession of more than 200 grams of cocaine-7 years min-man
6. Possession of more than 400 grams of cocaine 15 years min-man
7. Possession of more than 150 kilos of cocaine-Life min-man

There are also min-mans for possession of other drugs. The preceding list is just some examples. The court has no discretion, whatsoever, to impose a lesser sentence. The mid level coke dealer in possession of 199 grams of cocaine faces the same min-man as the mule who swallows balloons filled with 29 grams of cocaine. This is where the persuasion, mediation, and the uncommon sense of judging comes in-trying to help convince the prosecution that, perhaps, the equities of a particular case or defendant require a more lenient resolution and convincing the defendant that, if found guilty, the prosecution is in the driver's seat, so it may be in his best interests to cut his loses and take the state's plea offer.

The elected officials ultimately responsible to the electorate, while denying the judge the discretion for leniency, have granted it to the State Attorney’s Office. In actuality, a prosecutor just a few years out of law school is in control of the min-man sentence, as opposed to a veteran jurist with decades of experience and with well earned grey hairs. How does the prosecution exercise its discretion to waive the minimum mandatory sentence? By law, the prosecution may waive the min-man if the defendant provides “substantial assistance in the identification, arrest, or conviction of any of that person’s accomplices, accessories, co-conspirators, principals, or of any other person engaged in trafficking in controlled substances".
Substantial assistance can, in the first place, be provided by, in effect, ratting out your running buddies - your partners in crime. Well and good, you turn in other criminals who have already committed a crime. Certainly, this is of great benefit to society—some more bad guys off the street equals less crime being committed.

However, there is a second way of providing substantial assistance. You can assist in the arrest or conviction of "any other person engaged in trafficking in control substances." Basically, you will be turning in other people who are not your present partners in crime. How this works is that the police go on a fishing expedition trolling you as the bait. You become a police confidential informant, a C.I., sent out with instructions to make provable cases for them. You are asked to commit crimes with the intention of arresting future criminals. Some plea agreements call for the informant to bring in a certain number of "fish" and of a certain weight. If you do not succeed, then you do not pass go and go to prison for your minimum mandatory sentence. However, if you succeed then you are off the hook. You go free and your fish goes to jail, that is, unless he too earns his C.I. wings and goes on the prowl, looking for his own catch to turn in. What if you actually do really, really well, better than expected. Hey, let’s give you permanent employment and start paying you a bonus for future provable cases. We’ll put you on commission. Who says crime does not pay? You have an untrained, highly motivated and proven bad guy engaging in crime with the court's blessing. There have been notorious incidents where some of these valued confidential informants have committed perjury, have entrapped otherwise honest citizens. One especially infamous female informant traded sexual favors to help set up cases. Prostitution on behalf of law enforcement may not be the most laudable means of crime prevention. This manner of substantial assistance has become so unsavory that I refuse to accept substantial performance pleas.
involving this second type of assistance.

Regardless of the type of substantial assistance provided, what type of criminal can provide it? The one time dealer who sees an opportunity to make a quick buck, perhaps at the suggestion, maybe even the urging, of a confidential informant? The moronic, desperate mule who is so behind the 8 ball that he would actually swallow balloons filled with poison? The bad guy who, not only, talks the talk, but who also walks the walk of the certified, no-good, down and dirty, poison pedaling scum of a drug dealer? If number three is your final answer, then you're ready to go on to the next round. Yes folks, the guy most people would want off the streets in a big way has a new lease on life and has been reincarnated as Officer Friendly. Yes, this is the man who enjoys the state's leniency—the one who least deserves it. The one time dealer knows very little and can't help the cops. The mule is at the very bottom of the drug dealing totem pole. All he can do is give the name of the person who gave him the drugs in another country. The prosecution is not in agreement with Jesus Christ's praise of the old widow who gave one coin to the temple because it was all she had. They'd rather deal with the certified drug dealers who can provide them with lots of gold in the form of substantial assistance.

There are other minimum mandatory penalties that apply based upon the geographical situs of a particular crime. If you are in possession of a controlled substance with intent to sell or deliver and are a certain distance from certain facilities, then some min-mans apply. Possession with intent to sell or deliver can be proven to a jury by the amount and packaging of the drugs in your possession. Drug dealers tend to sell drugs in small individualized plastic bags or tin foil. The problem is that drug buyers tend to buy drugs in small individualized plastic bags or tin foil because that is how dealers sell them. So, how do you differentiate the seller from the
buyer? It's a judgement call for the jury.

If you are in possession of a controlled substance with intent to sell or deliver and are within a 1,000 feet of a house of worship, or within 1,000 feet of a child care facility, or within 1,000 feet of a public or private elementary, middle, or secondary school, or within 1,000 feet of a convenience store, or within 200 feet of a private or public college or university, or within 200 feet of a public park, or within 200 feet of a public housing facility, then you face a minimum mandatory penalty of, no questions asked, 3 years state prison. Can any one of you please tell me where I can find a place in Miami that is not within the proscribed boundaries of the aforementioned facilities? Unless the state can be persuaded to treat you with leniency, you'll do your 3 years in the slammer, even if you are an honor student with a drug problem, even if you beg for drug treatment, even if you are a decorated veteran with a "jones" for heroin caused by war wounds, even if you didn't know that the 7 Eleven was only 999 feet away, and you'd never been to it anyway. You are still at the mercy of the state. Certainly, in the aforementioned circumstances you are bound to get some leeway, but you are not legally entitled to it. And well, who knows?

You say you'll take it to the jury. Surely six good people from our community will see you are not really a bad guy; that you've never even been arrested before and give you a break. They won't find you guilty and send you away for 3 years, day for day, when they find out about how good you are and about how you were addicted because you served our country in war and how unfair the state is being to you. Your lawyer will tell them to find you guilty of a lesser charge so that the min-mans don't apply. Wrong. The jury will not find out that you've never been arrested before. It is against the law for them to do so. The jury will not find out you were addicted because of your war wounds. The evidence code says it's not rele-
vant and it is disallowed. The jury will not find out you are facing a minimum mandatory sentence of three years. This too is illegal and will not be allowed in evidence for the jury to hear. The jury is never told the penalty you are facing. Your lawyer will not be able to argue for a finding of guilt to a lesser charge because of the min-mans. The court is legally required to instruct the jury that if there is a finding of guilt, it must be for the highest offense which has been proven beyond a reasonable doubt. All of the foregoing will happen because, while I may think your cause is just and that you are deserving of a break, I am a sworn officer of the law. I will follow the law whether I like it or not. My personal feelings have absolutely no say in how I am duty bound to follow the laws by which we must all abide. Absent the state's magnanimity, your goose is cooked.

Minimum mandatory sentences are not only applicable to drug charges. The min-man for first degree murder is now life in prison. We all know about the Broward county case of the eight year old boy who was sentenced to life after he was convicted for killing a little girl by body slamming her repeatedly in imitation of wrestling moves. The judge who sentenced him got a lot of flack for the severity of the sentence, but he had no choice, he was allowed no discretion.

A defendant before me charged with sexual battery on a minor was begging for castration so as to not be forced to serve a mandatory life sentence. Certainly, it is a horrible crime, but when told to stop by the minor, the defendant stopped. The victim's mother thought a couple of years in prison were enough. The lead detective agreed. He testified the defendant was extremely remorseful and tearily confessed to everything. It was only after a great deal of persuasion and mediation that the defendant was sentenced to 13 years state prison followed by 12 years probation with mentally disordered sex
offender treatment and the possibility of chemical castration if a mental health professional opined it would be in the best interests of society. Certainly, not a walk int the park, but it sure beats the rest of your life behind bars.

Years ago a distraught father was sentenced to the minimum mandatory penalty of twenty five years in prison for the killing of his comatose and terminally ill son. This was a man with no prior record who killed out of love and in a, perhaps, misguided attempt at mercy.

The manic proliferation of these minimum mandatory statutes put the courts on the sidelines in the fashioning of an appropriate sentence. The legislature has let the pendulum swing too much toward lack of discretion and is creating, in many cases, cookie cutter justice. The legislature is to be lauded for giving judges the discretion to upwardly depart in the cases of career criminals and habitual violent offenders to the extent that they can be sentenced to even beyond the statutory maximums. Hopefully, in the future, greater discretion will be exercised in carving out further exceptions to the use of the reasoned discretion of the people's elected judges. After all, if a judge is doing a poor job by sentencing too leniently, then exercise your right to vote and kick the bum out of office.

In conclusion, I am happy to confidently say that we have the best justice system in the world. Whatever its imperfections, and there are some, our foundation is firmly rooted in the need to provide "liberty and justice for all".

Thank you for this opportunity of talking with you and I hope we can continue this discussion with some questions from you all.
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Peter A. Machonis, Ph.D. (Pennsylvania State University), Associate Professor, Modern Languages
Anthony Maingot, Ph.D. (University of Florida), Professor, Sociology and Anthropology
Tomislav Mandakovic, Ph.D. (University of Pittsburgh), Professor, Decision Sciences
Pete E.C. Markowitz, Ph.D. (College of William and Mary), Associate Professor, Physics
Florentin Maurrasse, Ph.D. (Columbia University), Professor, Earth Sciences
Lesley A. Northup, Ph.D. (Catholic University), Associate Professor, Religious Studies
Kevin O'Shea, Ph.D. (University of California), Associate Professor, Chemistry & Graduate Program Director
Darden Pyron, Ph.D. (University of Virginia), Professor, History
Meri-Jane Rochelson, Ph.D. (University of Chicago), Associate Professor, English
Caroline Simpson, Ph.D. (University of Florida), Associate Professor, Physics
Richard Tardanico, Ph. D. (The Johns Hopkins University), Associate Professor, Sociology/Anthropology
Constantino Manuel Torres, Ph.D. (University of New Mexico), Art & Art History
Michael Wagner, Ph.D. (Florida State University), Professor, Music
The Honors College

The Honors College at Florida International University in Miami offers the best of two worlds. It is a small community of outstanding students, dedicated scholars, and committed teachers who work together in an atmosphere usually associated with small private colleges. Yet, we do so with all the resources of a major state university, which is one of the nation's top doctoral/research extensive universities. Only 152 universities in the United States hold this superior rank.

The Honors College provides a broad foundation for dedicated students who want to get the most out of their undergraduate education. The undergraduate experience it provides is significantly enhanced by the broad interdisciplinary nature of the curriculum and opportunities to work closely with expert faculty and in the community. The opportunities for graduate or professional study and employment are greatly expanded because of the range of unique activities and academic experiences made available to students in the College. Additional opportunities in The Honors College include mentoring, Gamma Epsilon Phi (formerly The Honors College Society), National Student Exchange, and the Pre-Collegiate Summer Institute.

The Honors Curriculum

You may pursue almost any major available in the University and at the same time complete the honors curriculum. The curriculum emphasizes the following activities: Critical, integrative, and creative thinking; Group and independent research; Oral presentation; Close contact between students and faculty; Integration of class work with the broader community.

Admissions

The deadline for Priority Consideration is February 15.

Freshmen: Because admission to the freshman class of the College is limited and competitive, students should complete the application process as early as possible in their senior year of high school. Students should have a minimum high school GPA of 3.5 (weighted) and commensurate test scores on the SAT or ACT. Students who have been named National Merit, Achievement or Hispanic Finalists and Presidential Scholars will be automatically admitted to The Honors College.
Transfer & Current FIU Students: Students with at least a 3.3 in prior college work also can apply to the College at the second or third level. Students transferring from Florida community colleges may compete for transfer scholarships. Minimum requirements: Associate in Arts Degree and GPA of at least 3.5. Membership in the Honors College is required for all transfer scholarship recipients.

The Honors Faculty

“Knowledgeable, caring, enthusiastic, and approachable.” These are some of the characteristics students use to describe the diverse honors faculty. Carefully selected from the more than 1,400 faculty members at the University for their accomplishments as both teachers and scholars, members of the honors faculty take great pride in their close association with their students and are committed to excellence.

Honors Place @ Panther Hall

“Honors Place is remarkable. It’s like home and everyone there is family. We work hard and play hard, driven by our friendship and common pursuit of excellence” - Damion Dunn, Honors Place Resident Assistant.

The Honors Place at Florida International University is on-campus residence living. As an Honors College student, you will have the opportunity to participate in this special campus housing program.

Study Abroad Opportunities

The Honors College currently offers four study abroad programs to its students: summer programs to Spain, Italy, and a new program to the Caribbean. There is also a new fall semester program to Spain.
THE HONORS COLLEGE
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