

THE WEEK IN REVIEW

In the New Ball Game, These Two Would Have Struck Out

By JANE GROSS

HAD California's new three-strikes-and-you're-out law been on the books two and a half years ago, Frank Schweickert and Gerald Miller would have gone to prison for the rest of their lives.

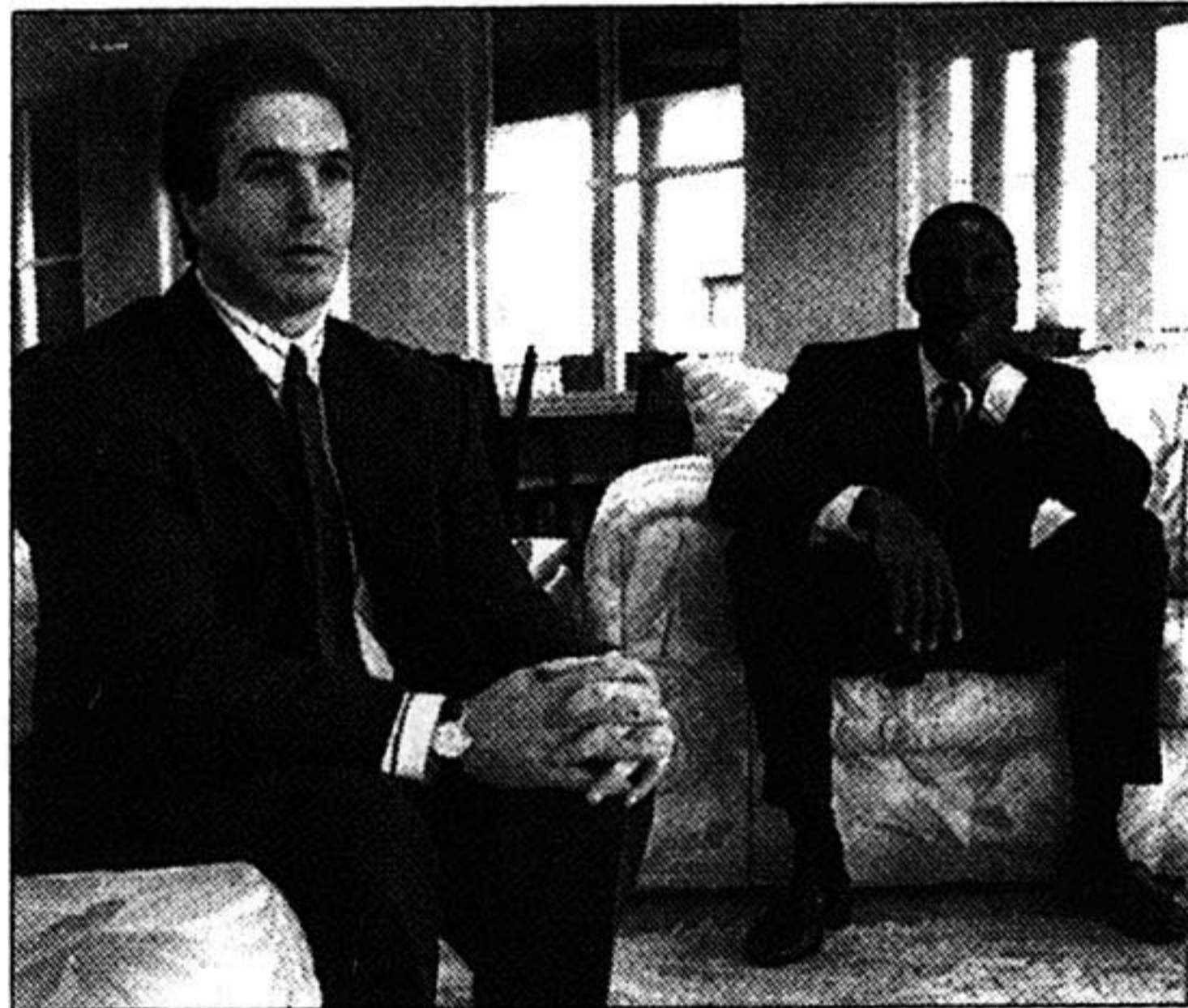
Between them, Mr. Schweickert, 28 years old, and Mr. Miller, 38, had been convicted of more than two dozen serious or violent felonies and had served 25 years in Vacaville, Folsom, Soledad, San Quentin and other notorious prisons up and down this vast state. With an inmate population of 120,000, California incarcerates more people than most countries.

But in 1991, in unrelated armed robbery cases, two judges offered Mr. Schweickert and Mr. Miller alternatives to yet another prison sentence, allowing them instead to enroll in the nation's largest self-help organization for hard-core felons and addicts. Delancey Street, as the 25-year-old group is known, teaches murderers, burglars, junkies and prostitutes to read and write, program computers and fix cars, even say "please" and "thank you" and order from a menu.

Despite the fashionable contempt for such creative and, some critics would complain, lenient sentencing, some of the results show that many defendants do not squander their opportunities and don't go on to commit more crimes.

Last week, Mr. Schweickert and Mr. Miller, who live in the waterfront apartment complex built and run by Delancey Street residents, served tea and scones and discussed the three-strikes statute, the nation's toughest anti-crime law, which was signed Thursday by Gov. Pete Wilson.

The law was conceived by a Fresno photographer whose teen-aged daughter was killed by a repeat offender, and it sailed through the Legislature amid the public outcry over the abduction and murder of 12-year-old Polly Klaas by a criminal with an extensive record.



Darcy Padilla for The New York Times

Schweickert, left, and Miller at the Delancey Street residence.

It doubles prison sentences for those convicted of a second serious or violent felony and locks up anyone who is convicted of a third felony, violent or not, for triple the normal sentence, or 25 years to life, whichever is greater. Among those already charged as a three-strikes offender is a Los Angeles man with a 52-page rap sheet whose latest crime was rolling an elderly Skid Row transient for 50 cents.

More Inmates, More Prisons

The measure is expected to double the number of prisoners in California by the end of the decade and force the construction of 20 new prisons, in addition to the 28 now in use and the 12 already on the drawing board. It also limits plea bargains and time off for good behavior and counts certain juvenile crimes as strikes. About 80 percent of the 1,000 hard-core felons now at Delancey Street residences here and around the country would instead be behind bars under the terms of the California law, Mr. Miller and Mr. Schweickert among them.

The two former felons are adamant that unrehabilitated criminals will not be dissuaded by fear of longer prison sentences.

Mr. Schweickert and Mr. Miller, abiding by the rehabilitative policies at Delancey Street, agreed to an interview on the condition that their criminal records would not be discussed in detail.

"It wouldn't have stopped me from doing anything," Mr. Miller said of the new law. "If you're talking about three- or four-time offenders, they really won't care where they wind up. I never cared. Prison's where I

Repeat offenders care little about where they will wind up, Mr. Miller says. 'Prison's where I wanted to go. That's where all my friends were.'

wanted to go. That's where all my friends were. That's where I was comfortable. You don't have to do anything. You don't have to be responsible for anything."

Mr. Schweickert said that he so longed for prison after one discharge that he committed a burglary six days later in order to return. Remembering, he said: "I was sitting in a hotel, thinking: 'This is crazy. Why am I here? I can't function. I'm not going to get a job. I don't know how to get a job.'

"I had such a feeling of hopelessness and not feeling part of anything that I went out and committed crimes to go back to prison where at least I knew where I stood and what was expected of me," he said. "I knew what the rules were there. You come out here and you don't know anything. You feel inadequate. You're lost."

Mr. Schweickert turned down several

chances to come to Delancey Street upon earlier convictions, preferring prison card games and bench presses to work and school. And when he grudgingly agreed, it was not to seek redemption but to avoid a lengthy sentence.

"I came to beat 15 years," he said. "If they'd have offered two or four, I'd have rather gone to prison."

"But there was a little sliver in me that wanted something better," Mr. Schweickert said. So he tried to follow the rules, speak politely, wear a coat and tie and work with people he didn't get along with.

And as time went by, Mr. Schweickert said: "Whether you like it or not, you get a conscience. Whether you like it or not, you learn to care about somebody. Whether you like it or not, you learn to be a little more responsible. Now I'm starting to like who I'm becoming."

Mr. Schweickert predicted that the new law would make repeat felons more violent when eluding the police.

Dreams and Goals

"Before, if I was doing a robbery and getting chased by cops, I'd lay my gun down, give myself up and take my six years," he said. "But now you're talking about a life sentence. Why isn't it worth doing whatever it takes to get away? If that meant shooting a cop, if that meant shooting a store clerk, if that meant shooting somebody innocent in my way, well they'd've gotten shot. Because what's the worst thing that could happen to me:

25 years to life? If I'm getting a murder sentence anyway, I might as well do whatever it takes to maybe get away."

Mr. Miller worried, too, about the felons sentenced to 25 years under California's three-strikes law who then are paroled after 20. "I wouldn't want to meet them then," he said. "I know what prison does to people. It turns you into an animal. Anyone who goes to prison loses a certain part of himself, loses concern for other human beings, loses feelings. Once you lose those, they're very hard to get back. He's going to be nasty, vicious. He's not going to care what he does and who he does it to."

At the end of those same 20 years, Mr. Schweickert and Mr. Miller were asked, how do they expect their lives to look?

"My life, as I'd like it to be?" Mr. Schweickert mused. "The idea of a job, and it doesn't matter so much what or how much money I make but that I'm content with what I do. I see myself married. I see myself with two or three kids. I'd have a house, for sure, in a suburb or country-type place. I'd be doing something in community outreach, to be involved. And I'd have a few decent hobbies, with other people."

Mr. Miller gazed into space, imagining. "I'm coming home from a job," he said. "Driving across the Bay Bridge just like a normal everyday human being. It doesn't really matter what kind of car it is. Before it had to be a Cadillac or something real fancy, but that doesn't matter now. I'm a decent, responsible, caring human being and I'm going home to a wife and one or two kids. And we go to movies, plays, watch TV, have picnics on weekends. We do regular fun stuff."