

Inequities Noted in Many Federal Court Decisions

By LOUIS CASSELS
United Press International
Washington—A former Army officer who had never been in trouble before was convicted in a midwestern federal court of writing several bad checks.

He was sentenced to 18 years in prison. About the same time, a man with a long criminal record was found guilty in a California federal court of robbing a bank.

He drew a jail sentence of three months.

Such gross inequities in sentencing are by no means unusual in the federal court system. A justice department study recently showed that the average sentence for auto theft ranges from 11 months in the western district of New York to 46 months in the southern district of Iowa. A forger convicted in Maine can expect a sentence of about nine months, but if he is convicted in Oklahoma, he is likely to be sent up for 63 months—seven times as stiff a penalty for the same offense.

Injustice Seen
Practically everyone who has ever taken a close look at the U.S. judicial system has decried the injustice of this, and has urged that something be done about it.

But correcting inequities in sentencing is easier to prescribe than to accomplish. There are 302 federal district judges in the United States, and each is free to be as tough or as lenient as he thinks best, within the limits set by statute.

These limits are usually pretty broad, so there is ample room for judges to display their individuality, dispensing taps on the wrist or sentences of almost sadistic severity.

When Congress has taken away judges' discretion in sentencing, by prescribing mandatory rather than flexible penalties, it has usually made matters worse instead of better.

There is widespread agreement among jurists and penal authorities, for example, that some of the worst offenses against justice have resulted from the federal narcotics law, which fixes stiff mandatory sentences, with no hope of parole, even for those who

are led into small-time drug peddling because they are addicts themselves.

Answer Sought
What, then, can be done to secure the "equal justice under law" which is supposedly guaranteed to all Americans, including those standing up to be sentenced in federal courts?

One solution, which has been widely adopted by state courts and long advocated by Federal Prisons Director James V. Bennett, is the so-called "indeterminate sentence." The judge sentences the offender to prison for a flexible term, and leaves it up to the parole board to decide, after a careful investigation of his rehabilitation possibilities, when he should be released.

Bennett emphasizes that the indeterminate sentence is not a plan for coddling criminals. Some studies indicate that hardened offenders actually serve longer terms in prison under his system than when the judge sets a definite sentence.

Number Doubles
The number of adult federal offenders given indeterminate sentences has more than doubled during the past two fiscal years. Counting youths (who are more likely to receive such flexible penalties) about one-sixth of the 15,000 persons committed to federal prisons last year went in on indeterminate sentences. Despite their growing acceptance of flexible sentencing, federal courts are still far behind state courts in this field. Last year, more than half of all state prisoners were committed under indeterminate sentences.

Another way to achieve greater fairness in sentences is to bring judges together to discuss the problem. During recent years, "sentencing institutes" have been conducted for federal judges in all parts of the country. Experts from the bureau of prisons and the parole board confer with judges at these institutes, and typical case histories are discussed.

Institutes Pay
"The institutes have done a great job, especially with the conscientious younger judges who are comparatively new to the bench," said a federal official who has participated in many of them. "The only

trouble is that we can't make any judge attend, and the ones who need it most—the ones who are old-timers who glory in a reputation for "throwing the book"—rarely show up."

A third device for correcting gross inequities in sentencing is executive clemency. The president has power to commute, or reduce, the sentence of any federal prisoner, on the recommendation of the attorney general.

The Kennedy administration has made increasing use of this power in recent years. Soon after he took office, Attorney General Robert F. Kennedy announced that he

intended to recommend presidential commutations in cases where sentences "are obviously and severely out of line with justice as well as with the prevailing sentencing practice among federal courts."

Use Sparingly
He said, however, that this power would be used sparingly because he was "extremely hesitant" to "change the judgments of the courts."

During the 1962 fiscal year—the first complete fiscal year under the Kennedy administration—16 commutations were approved by the White House. This far exceeded the

average of five a year granted by President Eisenhower.

During the first eight months of the current 1963 fiscal year—that is to say, through March 31—38 commutations were granted. If this pace is continued throughout the fiscal year, the total will be about 57—more than Eisenhower approved during his entire eight years in office.

Case History
The kind of situation in which commutation may be recommended by the justice department is illustrated by the following actual case history:

A 20-year-old Los Angeles man, with a wife and two children, was blinded by acid sprayed in his face during an industrial accident. His wife divorced him and took custody of the children. Later, he recovered his eyesight. Desperate for money with which to try to get his family back, he went to Georgia and robbed a bank of \$5,000. He got away safely to California, but then became remorseful about the crime—his first violation of law—and turned himself in to the FBI.

The judge sentenced him to 40 years in prison.

By the time the case came up for Justice Department study, he had served nine years, had an excellent prison record, and had been trained as a skilled surgical nurse and technician. His sentence was commuted to 15 years—about the national average for bank robbery—which made him eligible for immediate parole.

Not Automatic
Reed Cozart, Justice Department pardon attorney, said that commutations are recommended only upon review of applications submitted by prisoners.

"We have no provision for automatic review of all sen-

tences, such as the armed forces have," he explained. "We act only upon applications."

Although the current level of commutations is high by comparison to the past, it still represents only a tiny fraction of the 24,000 persons serving sentences in federal prisons. And Attorney General Kennedy says:

"Commutations are at best

only stop-gaps, in a few cases. They can in no way solve the problem of disparities in sentencing."

"In the long run, a flexible sentencing procedure which works to rehabilitate offenders offers the best hope for rectifying the great variation in sentencing practices, which is one of our foremost problems in the administration of justice."

Controversy Over Law Enforcement Still Undecided

Yreka—A controversy over law enforcement in the unincorporated areas of Siskiyou county is still up in the air today, after a county board of supervisors committee Tuesday afternoon failed to reach agreement on the matter. The committee will meet again next Tuesday.

On opposing sides in the controversy are Sheriff A. B. Cottar of Siskiyou county and the Siskiyou county board of supervisors.

Sheriff Cottar contends that he must have either more money or more deputies in order to operate. The board has turned down his request.

"My men have been getting paid on the basis of a 40-hour work week but have actually been working 50 to 55 hours a week," the sheriff said. He blamed poor working conditions for a rather large turnover in the sheriff's department during the past 3½ years. The average number

of employees in the department during this period has been 21, while the turnover during the same period has totaled 41.

Grand Jury Recommendation
The county grand jury recently recommended that steps be taken either to hire additional deputies or raise the salaries of those working overtime. Sheriff Cottar added:

The board of supervisors, on the other hand, announced that it was turning down Cottar's request for additional funds "feeling that we have had very good law enforcement, and there is no real need for additional services."

The board also indicated disapproval of the fact that Cottar "took his case to the people" prior to the budget hearings by speaking before various organizations in the county and urging residents to write letters to the board supporting his request.

Moves Deputies
When the sheriff's request was turned down by the board, Cottar moved the department's five residents deputies from outlying areas such as Happy Camp, Tulelake and Mt. Shasta into Yreka to relieve the overworked personnel in the main office.

"I'm still running cars out to those areas on patrol," he added, however.

But the supervisors countered by taking steps to provide additional law enforcement service for the outlying areas. Although it has not taken final action, the board proposes to employ four constables in this capacity, one each at Tulelake and Mt. Shasta and two at Happy Camp.

The constables would be paid, the board explained, from funds chopped out of the sheriff's budget, a maneuver which would leave Cottar in the same situation as before.

Historical Meeting Set for Late July

Ashland—The Third Annual Southern Oregon Historical Conference will be held July 27 at Southern Oregon college, Ashland, and at Jacksonville under the sponsorship of the Southern Oregon Historical Society and SOC.

Dr. Hector Lee, dean of instruction, Sonoma State college, and Dr. Vaughn Barnett, chairman of the SOC social science division, have been chosen speakers by the committee on arrangements.

The committee also has scheduled a luncheon, a tea and reception at the pioneer Hanley home near Jacksonville, and visits to the Jacksonville Museum, the Beckman bank, the Beckman home, and other interesting points in southern Oregon.

A block of reserved seats for the opening performance of "Henry V" at the Oregon Shakespearean Festival has been reserved for conference members, according to Dr. Arthur S. Taylor, professor of social science at Southern Oregon college and chairman of the arrangements committee for the Southern Oregon Historical Conference.

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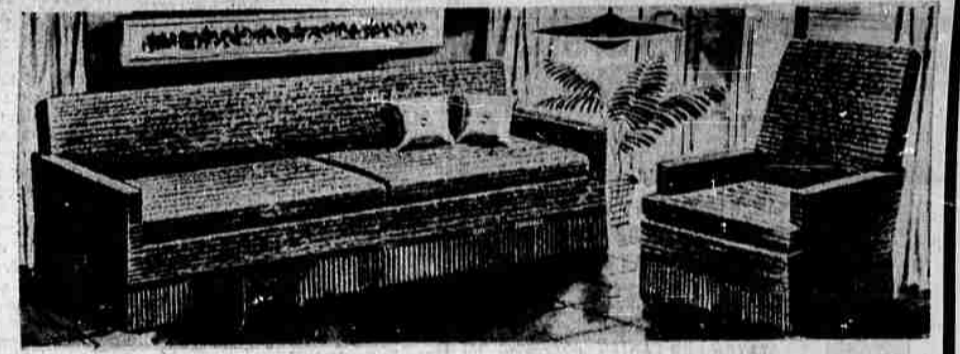
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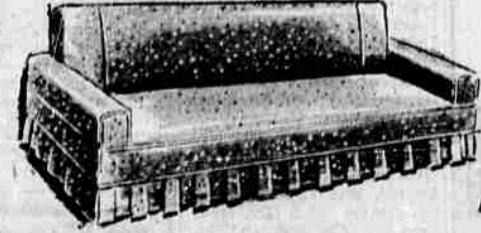
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