

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA ASSEMBLY SESSION

MINUTES

April 4, 1975

This meeting was called to order by Mr. Barengo, Chairman, on Friday, April 4, 1975 at the hour of 8:10 a.m.

MEMBERS PRESENT: BARENGO, BANNER, HEANEY, HICKEY,
LOWMAN, POLISH, SENA, HAYES and
WAGNER.

MEMBERS ABSENT: NONE.

Guests present were John C. DeGraff; E. M. Gunderson, Chief Justice of the Nevada Supreme Court; Les Kofoed, Executive Director of the Gaming Industry Association of Nevada, Inc.; R. B. Lee, representing CATRALA in Nevada; Doris I. O'Connor, representing CATRALA (Hertz Rent-A-Car); Harry McCool, representing CATRALA (Thrifty Rent-A-Car); James C. Bailey, representing CATRALA (Lee Brothers Leasing); Ernest H. Zebal, Jr., American Dist. Telegraph Co.; Vern Calhoun, State of Nevada Narcotics and Investigation Division; W. E. Adams, City of Las Vegas; and Dick Bunker, County of Clark. Attached to these Minutes is a copy of the Guest Register.

Mr. Sena testified first regarding A.B.481, of which he was prime introducer. This bill was brought about by the immigration office and is centered around a problem which is of particular annoyance in the Las Vegas area. It is very easy to obtain false identification, and many complaints have been made. Mr. Sena passed around various types of identification which could be printed up in the Las Vegas area, such as birth certificates, social security cards, etc. For a small fee, one can have any type of identification printed up. Mrs. Wagner commented briefly about a brochure she received soliciting orders for this type of identification. Mr. Sena stated that he is not sure how to attack the problem, but something has to be done about it. On December 6, 1974, a letter was written from Consumer Affairs Division to the Attorney General. A response said that this situation was investigated and at that time these companies violated no statute or law in effect in Nevada. Mr. Sena stated that he was not really concerned about the "gag" cards--just the ones used for false identification.

Next to testify regarding A.B.481 was Vern Calhoun, of the State of Nevada Narcotics and Investigation Division. He

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said that his agency feels that they do need some control on this type of identification. The illegal aliens acquire this type of identification so that they cannot be traced. It is in this way that they establish a new identity. As a law enforcement agency, however, Mr. Calhoun stated that his department would like to be exempted if this bill passes. The reason for this is that it is necessary to use false identification in their job, and especially to remain undercover. There is another area which would be in jeopardy, and this is when a person testifies against a criminal. These people are furnished with a different identity so they can start a new life.

As to S.B.63, its purpose is to restrict the practice of issuing special drivers' licenses to local peace officers.

In order for a peace officer to work under cover, it is necessary for them to establish a different identity.

It is also important for other agencies, federal ones in particular, to have access to obtain different forms of identification. He explained to this Committee the various times a federal agency would need to do this. Mr. Calhoun stated that at any given time, there would only be about 100 of these special licenses in the whole world from Nevada. Mr. Barengo read to this Committee an amendment to the bill.

Mr. Calhoun further testified that Nevada uses federal agents by having some brought into this State and being assigned here. Mr. Calhoun stated that Internal Revenue Service does not usually get involved in this kind of investigation. Mr. Calhoun stated that he is aware of the opposition to this bill, but passage of this bill is a tool necessary for effectual operation. Discussion by this Committee followed.

Next, testifying regarding A.B.451 was Chief Justice Gunderson from the Nevada Supreme Court, who introduced John DeGraff, the Court's Planning and Co-ordinating Officer. When Judge Gunderson first came to the Supreme Court there was nothing being done to educate the local judges (justices of the peace). They had no other way than by reading local newspaper accounts to get information as to why their action had been rejected. They were very isolated from any contact with the laws as promulgated by the Legislature or by the Nevada Supreme Court.

The original bill providing for education of the justices of the peace and municipal judges was passed in 1971; however, it omitted to provide any money to implement the bill. The Supreme Court has, nevertheless, prepared many manuals which were distributed to the local judges. They have also had

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some seminars. They have undertaken to provide one such seminar after each legislative session, and the function of that particular seminar is to explain the new legislation and court decisions. Judge Gunderson said there was no point in rendering these various decisions if they were not going to be made known to the local judges. And, there is no point of the Legislature making laws for these judges to hand down if they are unaware of them. The main question is how the costs of the program are going to be met. Judge Gunderson said he was able to obtain some funding for some of the schooling from various agencies, because they coordinated their program toward various subjects. These particular funds will not be available in the future. He said it was clear that the time is coming during this biennium that they must have access to either state or local money. The Supreme Court is not really too concerned about where the money for the schooling comes from--the state or the local entities.

Judge Gunderson said he feels that this is probably a cost which should be borne by the local government--but, it is certainly a state problem if a justice of the peace or a municipal judge gives a case wrong handling and it must then be dealt with in the District Court, and eventually the Supreme Court. Judge Gunderson said it costs approximately \$1,000- to send one judge to a particular two-week session. He stated that he will be able to send eleven judges out of a total of 67 to a training session in June. Chairman Barengo suggested to the Committee that one alternative would be to require all of these judges to be lawyers--it would save a great deal of money. Although, he feels that it is not a viable alternative at this point. If the judges have to pay their own costs which might total \$1,000-, Judge Gunderson said that he will never be able to get any one of the judges to a seminar. Judge Gunderson said he will take the time to set up these programs, but if he has to deal with local entities to finance these programs, he does not have time to deal with seventeen county commissions. Since the institution of judicial education in this State, Judge Gunderson feels that the justices and the municipal judges are handling themselves in a better way than before. They are not totally leaning on the prosecution on their inquiries as to what their procedures should be.

Mr. Sena was excused from this meeting during Judge Gunderson's testimony to testify on a bill.

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Next, Mr. Dick Bunker, County of Clark, spoke. He told this Committee that during the last few days, Clark County has just closed the budget for the next fiscal year, 1975-76, and they are here to represent to this Committee that if the Legislature is going to mandate additional responsibility of a financial nature to them, they are also going to have to mandate some way for them to raise some money. Their budget is right to the limit. They have no other way to go as far as finances are concerned. If they are going to have some of these new programs that are being talked about, they are going to have to have some methods of raising additional funds.

Judge Gunderson commented on the money going to the State from the justices of the peace and the municipal judges. It is put into the permanent school fund. It is held and invested. The interest goes into the distributive fund, which is, in turn, returned to the local entities.

Next to testify was Mr. Bill Adams, City of Las Vegas, who spoke about A.B.468. This bill was introduced at the request of the City of Las Vegas in an attempt to try to clarify part of the parking ticket problem within the city. Mr. Adams spoke about the problem of the cars from a rental agency being parked in front of meters for indefinite periods of time, which cars were left by the lessees who just left town. Mr. Adams quoted a figure of 29,000 tickets which were outstanding from rental car agencies. They felt that this bill would bring more cooperation from the rental agencies to pay these fines. Mr. Adams stated that they need to recover their "so-called" loss.

Mr. Dick Lee, National Vice President of CATRALA, which is headquartered in Washington, D. C., spoke next in opposition to A.B.468. He pointed out the fact that two years ago California had two pages of legislation which said that the rental agencies were not responsible when the vehicle was under the control of another person. After a suit was filed in Las Vegas in regards to parking meter tickets, the Assistant City Attorney said car rental agencies cannot be held responsible for any parking ticket issued to a person having control of a car. Mr. Lee said he would cooperate with the law and anyone anywhere in the State on this--this bill would not be constitutional. Mr. Lee said on all contracts for rental it states that all violations and parking tickets are the responsibility of the person renting the vehicle. He stated that they use a legal affidavit after a ticket is issued.

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Harry McCool testified next regarding A.B.468. He is a member of CATRALA, and operates Thrifty Rent-A-Car in Reno and in Las Vegas. They have found in the past that filing affidavits in Reno with the city has been satisfactory, but in Las Vegas there is no method by which to report these matters in a timely manner. They run into a completely negative attitude in Las Vegas as far as the city cooperating with the car rental agencies.

Mr. Bill Ecklund of Budget Rent-A-Car testified from the audience that they often receive money from a customer, who mails it in to them. Apparently, the city notifies the customer of a fine after the Rent-A-Car agency files the affidavit with the customer's name and address on it, and the customer mails it to the agency instead of the city.

Don O'Connor, manager for Hertz Rent-A-Car in Reno, said that they send the city a photocopy of the entire rental agreement with the information about the customer on it. They do not know what the city does with this information, and he is not aware of what the city collects on this. They cooperate with the City of Las Vegas in any way. They would be happy to continue to cooperate with Las Vegas with any system they come up with.

James C. Bailey, a member of CATRALA and also representing Lee Brothers Leasing, testified that they are very much interested in this area--not only as far as parking meters are concerned but also with all misdemeanors. As far as the information being available to enforcement people, all vehicles are registered to the agencies. Information on the license plate is available in thirty seconds. Everyone who rents a vehicle has identification numbers on their vehicles. They do fill out affidavits and will go to any extent to cooperate with the local agencies. If they need further information, or if they will require a different process by which the car rental agencies report to them, Mr. Bailey said that they will assist the enforcement people to find a better way to collect these tickets.

Mr. Adams commented that he will find out what process is being used by the Las Vegas enforcement agency to code these rental car parking violations. He will see if they can handle these differently so that the car rental agencies can collect the fine before the car is turned in. He will report to this Committee.

As to A.B.468, Mrs. Wagner moved INDEFINITE POSTPONEMENT, and Mr. Hickey seconded. A vote followed with 8 Committee members voting in favor of the motion. Mr. Sena was absent for this vote. Legislation Action Form is attached hereto.
MOTION CARRIED INDEFINITELY POSTPONE A.B.468.

Mr. Lowman moved DO PASS A.B.451 with the requirement that it go to Assembly Ways and Means Committee. There was no second to this motion. Lengthy discussion by this Committee followed. It was moved and seconded that Chairman Barengo work towards getting a Resolution drafted in this regard.

Mr. Barengo appointed Mr. Sena and Mr. Lowman to a subcommittee to look into and gain more information on S.B.63 and A.B.481.

The Committee briefly discussed possible amendments to A.B.381--shield law.

As to A.B.447, Mr. Ashworth, Speaker of the Assembly, told this Committee that he spoke to the Governor, and he understands fully that the Office of the Secretary of State would handle the notary public duties which the Governor's Office now does. This bill sets up the regulation, reporting and record keeping of all notaries public. Mr. Ashworth stated that the Secretary of State has no objection to passage of this bill. The question of additional staff needed for this was brought up, and it was decided that this Committee would like comment from Mr. Swackhamer.

Mr. Barengo announced that next Tuesday morning at 9:00 a.m. the Senate Judiciary Committee would consider S.B.399. He requested that all Committee members who did not have conflicting meetings be present. This pertains to the Gaming Commission and is a very "heavy" bill.

It was decided that this Committee would further meet to discuss pending bills at 7:00 a.m., Wednesday, April 9, 1975.

After a motion and a second, Chairman Barengo adjourned the meeting at 10:20 a.m.

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA SESSION

LEGISLATION ACTION

DATE April 4, 1975

BILL NO. A.B. 468

MOTION: _____

Do Pass _____ Amend _____ Indefinitely Postpone Reconsider _____

Moved By Mrs. Wagner Seconded By Mr. Hickey

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Barengo	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Banner	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Hayes	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Heaney	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Hickey	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Lowman	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Polish	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Sena	_____	_____	_____	_____	_____	_____
Wagner	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____

Mr. Sena absent for vote.

TALLY:

ORIGINAL MOTION: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 4, 1975
Date

JUSTICES' COURTS

		Paid to State ^a	Retained by County
Churchill	FY 73-74	\$ 8,787.50	\$ 20,445.50
Clark	FY 73-74	81,220.19	503,431.72
Douglas	FY 73-74	37,620.75	65,300.30
Elko	FY 73-74	58,936.00	104,107.43
Esmeralda	CY 74	2,575.00	5,127.00
Eureka	CY 74	3,926.00	250.00
Humboldt	FY 73-74	824.00	15,664.00
Lander	CY 74	0	23,376.00
Lincoln	FY 73-74	2,155.00	9,142.00
Lyon	FY 73-74	29,131.00	8,507.00
Mineral	FY 73-74	20,615.42	38,423.00
Nye	CY 74	7,417.50	16,025.13
Ormsby-Carson	FY 73-74	15,950.00	67,066.00
Pershing	CY 74	24,461.00	7,738.00
Storey	CY 74	965.00	7,005.00
Washoe	FY 73-74	152,585.66	227,739.00 (Partial) ^b
White Pine	FY 73-74	18,458.17	8,968.75
TOTAL		\$465,628.19	\$1,128,325.83

^aFigures were obtained from county treasurers and court clerks and do not coincide in all cases with figures reflected in Schedule No. 5, Permanent School Fund, Analysis of Justice Court Fines by Counties for the Fiscal Years Ended June 30, 1970, 1971, 1972, 1973 and 1974, prepared by the Audit Division of the Nevada Legislative Counsel Bureau, a copy of which is attached.

Discrepancies are noted for Churchill, Clark, Douglas, Lincoln, Lyon, Mineral, Carson, Washoe, and White Pine. The following counties supplied figures for calendar years and cannot be uniformly compared with the Audit report which reflects fiscal years: Esmeralda, Eureka, Lander, Nye, Pershing, and Storey. Elko and Humboldt counties adopted the figures on the Audit Division report.

^bBreakdown by individual justice courts in Washoe County:

		Paid to State	Retained by County
Reno	FY 73-74	\$134,694.00	\$227,697.00
Gerlach	FY 73-74	235.00	42.00
Verdi	Not available		
Wadsworth	Not available		
Sparks	July 74-Dec 74	Not available	40,198.00

MUNICIPAL COURTS

		Fines and Forfeitures
Boulder City	FY 73-74	\$ 17,483.00
Caliente	FY 73-74	2,011.00
Carson City		----- ^c
Elko	FY 73-74	21,746.00
Ely	FY 73-74	26,011.00
Fallon	FY 73-74	39,376.00
Gabbs	FY 73-74	500.00
Anderson	CY 74	141,314.00
Las Vegas	FY 73-74	583,223.00
Lovelock	FY 73-74	6,324.00
North Las Vegas	FY 73-74	312,429.00
Reno	FY 73-74	730,734.00
Sparks	FY 73-74	227,298.00
Wells	CY 74	15,544.00
Winnemucca	CY 74	22,773.00
Yerington	CY 74	5,225.00
TOTAL		\$2,151,991.00

^cAll forfeitures and local fines, whether formerly designated as arising from municipal or justice court function, are paid into the Carson City treasury and are reflected in the figures for justices' courts supra.

AUDIT DIVISION
NEVADA LEGISLATIVE COUNSEL BUREAU
401 S. CARSON STREET, CARSON CITY, NEVADA 89701

MICHAEL L. MEDEMA
DEPUTY LEGISLATIVE AUDITOR



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STATE OF NEVADA
PERMANENT SCHOOL FUND

Analysis of Justice Court Fines By Counties
FOR the Fiscal Years Ended June 30, 1970, 1971, 1972, 1973, and 1974

<u>County</u>	<u>Fiscal Year</u> <u>1969-70</u>	<u>Fiscal Year</u> <u>1970-71</u>	<u>Fiscal Year</u> <u>1971-72</u>	<u>Fiscal Year</u> <u>1972-73</u>
Churchill	\$ 6,329.00	\$ 15,778.00	\$ 11,935.00	\$ 9,664.00
Clark	120,314.00	108,126.25	117,200.50	66,045.10
Douglas	12,902.00	12,665.50	18,361.94	20,984.50
Elko	37,882.00	40,643.00	31,699.00	47,551.00
Esmeralda	1,005.00	690.00	1,360.00	895.00
Eureka	312.00	1,250.00	1,631.00	1,505.00
Humboldt	3,214.00	2,005.00	850.00	1,540.97
Lander	300.00	-0-	-0-	-0-
Lincoln	5,324.00	4,585.50	2,256.00	1,619.00
Lyon	8,948.00	10,817.00	9,547.00	16,311.00
Mineral	10,344.00	9,065.00	10,922.00	18,659.00
Nye	8,117.00	7,216.50	4,171.00	4,290.00
Ormsby (Carson City)	8,858.00	12,203.00	10,045.00	15,622.00
Pershing	4,090.00	6,552.00	4,888.00	6,493.00
Storey	1,455.00	570.00	975.00	470.00
Washoe	111,487.90	162,538.00	148,937.00	139,718.00
White Pine	13,656.50	15,162.00	13,887.00	14,063.50
Other (State Parole Board)				150.00
Totals	<u>\$354,538.40</u>	<u>\$409,866.75</u>	<u>\$388,665.44</u>	<u>\$365,581.07</u>

Over

SCHEDULE NO. 5Fiscal Year
1973-74

\$ 8,562.50

117,734.00

32,626.25

58,936.00

1,495.00

3,116.00

824.00

-0-

1,799.00

21,311.00

23,145.42

5,973.50

17,251.00

9,303.26

647.00

170,589.91

18,596.92

\$491,910.76

By JOSEPH P. BUSCH
District Attorney
Los Angeles County

"Webster's New World Dictionary" defines "bail" as "money or credit deposited with the court to get an arrested person temporarily released on the assurance that he will appear for trial at the proper time."

That definition says it all. The most valuable contribution a bail bondsman can make toward the smooth functioning of the criminal justice system is to be sure that his clients appear in court.

The prosecutorial system could not operate efficiently without coordination on the part of judges, court personnel and counsel for both prosecution and defense. The defendant, of course, is the only unwilling performer in this drama, but he must be made aware of the importance of his participation, and it is the bail bondsman who has the major responsibility of making sure he understands.

This leads to another area in which prosecutors and bail bondsmen should try to work together smoothly. Prosecutors have been known to complain that bondsmen are sometimes given to "shopping;" that is, trying to obtain the most favorable bail recommendation for their clients by going from one deputy to another. Such a practice is time-consuming and counter-productive.

If a defendant willfully fails to appear in court, both the bondsman and police agencies have a responsibility to try to return him to the jurisdiction of the court to face the charges filed against him.

Each state has its own laws and procedures, of course, but in California, a bondsman has 180 days to try to return the defendant to court, before being held responsible for the amount of the bond.

There has been some criticism in the past that some bondsmen felt it



was the primary duty of law enforcement to locate and return defendants, and they would thus make only a superficial attempt to locate them. But the bondsman should make every possible effort to try to locate the defendant. Some, of course, return voluntarily and surrender themselves. The chances of this occurring are enhanced greatly if the bondsman has attempted to stress the importance of appearing in court for each stage of the proceedings.

In a related area, bondsmen — like all business people — must always strive to maintain the highest possible standards of professionalism. Two years ago in Los Angeles County, the Grand Jury investigated the practices of some members of the profession, after allegations were made that some judges were signing blank prisoner release forms and giving them to bondsmen for use at their convenience. The bondsmen would later fill in the prisoner's name, the date, bail amount and obtain his release from jail, thus circumventing normal court procedure.

Normal procedure calls for the prisoner's attorney to obtain a statement from the deputy district attorney including the offense, past record if any and a recommendation for bail amount. The statement, an

application for bail fixing and a request for release must then be filed with the County Clerk before the court orders release of the prisoner.

After the Grand Jury held eight hearings on the matter, it called for an overhauling of the entire system in California. Additionally, it accused three judges of malfeasance.

Since then, Los Angeles County judges have approved a new bail schedule, and simplified some of the procedures in the system. There have been fewer complaints of irregularities in the past several months.

As District Attorney of Los Angeles County, I firmly believe in a defendant's innocence unless his guilt is proven in court. I favor a bail system which allows a defendant to remain free in most cases, so he can support his family and feel the smallest possible disruption in his life. The bail system should not be punitive, nor should it discriminate against those persons who live in "poverty areas" and generally don't have the funds or collateral to produce bail money.

I believe the system can work, but only if everyone in it displays good faith and a willingness to cooperate unselfishly. Arrest is a traumatic shock. We should work together to minimize the shock and worry and safeguard the rights of the defendant.

This graphic report was prepared at the request of Senator John L. McClellan, Chairman of the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, United States Senate. It supplements an earlier report entitled "Federal Crimes and Sentences". Both publications are to assist the Subcommittee in its evaluation of criminal law changes proposed by the National Commission on Reform of Federal Law.

Data on these pages are drawn from comprehensive criminal offense and sentencing information regularly collected by the Administrative Office from all federal courts. In order to show the current criminal justice picture without excessive detail, data in this booklet and in the companion report are limited to seventeen selected offenses and to the last five fiscal years. The selected offenses account for about three-fifths the volume of all federal crime. Moreover, they broadly represent its diverse nature, the range of sentencing possibilities, and the varied legal grounds for federal jurisdiction.

The object of this supplementary report is to show trends and comparisons, especially with regard to such facts as numbers of persons prosecuted, rates of conviction, kinds of sentences imposed, length of time through trial and appeals court process, and apparent effect of proposed law changes on present penalties.

From the information presented in the following pages, most of which appears in graphic dimensioned formats, here are some of the major observations that may be drawn:

Prosecutions

The number of persons prosecuted for all federal crimes in 1971 was 43% higher than in 1967, and for the seventeen selected offenses it was 65% higher. Far greater increases occurred in certain specific offenses. "Weapons and Firearms" prosecutions, for example, climbed 554% and "Bail Jumping" 660%.

Convictions

The percentage of persons convicted has been declining in all of the seventeen offense categories, ranging from a 40% drop in Selective Service (75% to a 35%) to a small decline of only 3% for "Escape". Overall conviction rates since 1967 have dropped from 85% to 68% for the seventeen offenses and from 83% to 72% for all federal crime.

Dismissals

Among the persons not convicted, most are discharged as a result of court dismissals rather than by trial findings of "not guilty". Furthermore, in each of the selected offenses the percentage of persons dismissed has risen — most conspicuously in the "youth crimes". Dismissals in Selective Service cases, for

example, rose from 23% to 57%, in Marihuana cases from 16% to 38%, and in Narcotic Drug cases from 16% to 37%.

Pleas of Guilty

In all offense classes except one, Escape, proportionately fewer persons were convicted by guilty pleas in 1971 than in 1967. The range was from a sizeable drop of 34% in Selective Service pleas, to a 16% drop in Interstate Theft, to the smallest decline of only 2% for Counterfeiting.

Percentage Receiving Prison Terms

In all but three of the selected offenses — Auto Theft, Postal Theft, and Assault — a smaller percentage of convicted persons received prison sentences in 1971 than in 1967.

Percentage Receiving Long Prison Terms

In eight of the seventeen offenses the percentage of long prison sentences (5 or more years) has increased; in eight offenses it has declined, and one offense — Postal Theft — there was no change.

Average Length of Prison Term

The average length prison sentence shrunk in nine offenses, grew longer in five, and remained the same in three — Auto Theft, Escape, and Income Tax.

New Code's Effect on Penalties

Proposed criminal law changes would reduce maximum prison terms in about five of the seventeen offenses studied. In ten others the new law would raise present ceilings. As the table on Page A-19 shows, federal prison sentences over recent years, in almost two-thirds of the seventeen offenses examined, have tended to become shorter and less frequently resorted to. This experience runs counter to the pattern of maximum penalties suggested by the new code in the case of four offense classes: Interstate Transportation of Forged Securities, Bank Robbery, Bail Jumping, and Income Tax Violations.

Time Lapse to Court Disposition

The median time to dispose of federal criminal cases is 4.7 months. (The "median" is the middle case in the group; half the cases take longer and half take a shorter time). Median intervals vary by the manner in which cases terminate. For the 60% to 70% which end in guilty pleas the median is 3.4 months. For those going to jury trial it is 6.4 months and to non-jury trial 5.5 months.

Longer even than tried case medians are those for "dismissed" cases. In 15 of the 17 selected offenses, dismissed cases had longer median intervals than tried cases. Statistics do not tell us why cases ultimately dismissed should spend more time in court than if they had been tried. Some obvious reasons would include protracted defense motions and continuance requests, periods of defendant fugitivity, Rule 20 transfer delays, hold-ups awaiting outcomes for co-defendants separately proceeded against, interlocutory appeals, suspension of proceedings while defendants are in military service, in state custody, or are physically or mentally incapacitated.

Medians also vary by the nature of the offense charged. "Escape" cases, have the shortest medians — i.e., 2.5 months. Theft cases are 2.8. Income Tax and Postal Fraud prosecutions take longer than most other offenses. A Tax case median if it goes to a jury trial is 12.1 months; a Postal Fraud jury case median is 12.3 months. The longest median uncovered in the data studied was 19 months, the median interval for "dismissed" Postal Fraud cases — of which there were 382 in the last two years.

When U.S. criminal cases are appealed it roughly triples the total time span to final disposition within the federal court system. A significant contributing factor is that 3 to 5 months will elapse, after trial, during which the complete trial record, the transcripts, and the briefs are made ready for filing in the court of appeal.

Prisoner Petitions

Most prisoner filings in United States Courts are habeas corpus petitions from state prisons. Petitioners attack their convictions, their sentences, or the legality of the confinement. From 1962 to 1970 these state habeas cases were increasing by at least a thousand per year, reaching 9,063 in 1970. However, for fiscal year 1971, they dropped to 8,372 cases — a 7.6 percent decrease. On the other hand, petitions based on claimed denial of prisoners' civil rights by prison authorities have sharply increased, rising to almost 3,000 in fiscal 1971 from about 2,000 the year before.

As the table on page C-1 shows, the vast bulk of prisoner filings is disposed of rather quickly, in a median time that falls within a month. For petitions granted hearings the median time to disposition rises sharply, i.e., to at least 10 months. During fiscal 1971, 3.7% of state and 4.4% of federal petitions resulted in hearings. There were 418 hearings out of 11,065 state petitions and 184 hearings out of 4,134 federal petitions.



Paul C. Bender
Chief, Division of
Information Systems