

Justice addresses minimum sentences

By BRIAN CARLSON
Staff writer

Federal sentencing guidelines, though not perfect, can help ensure similar crimes meet similar punishments, while allowing sentencing flexibility in individual cases, Supreme Court Justice Stephen Breyer said Wednesday.

In a speech at the University of Nebraska College of Law, Breyer said the balance between uniformity and flexibility in sentencing probably won't ever be perfect.

But he said the Federal Criminal Sentencing Guidelines, which he helped develop, are a vehicle for providing greater fairness and honesty in sentencing.

Mandatory minimum sentences, on the other hand, only undermine efforts to hand down fair, consistent sentences, he said.

"Like law itself, the guidelines sought a better balance between rules that promote uniformity among cases and practices that focus upon fairness and equity in the individual case," he said.

Breyer worked for the Senate Judiciary Committee when Congress considered sentencing reform. Later, from 1985 to 1989, he served as a member of the Sentencing Commission.

The federal guidelines created "offense" and "offender" categories so sentencing judges could match an offender's criminal record with his offense, then hand down a sentence within the range allowed by that category.

In a given category, the maximum prison time can exceed the minimum by no more than 25 percent. The guidelines' punishments were based on past sentencing practices.

Judges consider not only the criminal charge, but the actual conduct of the crime. This is because two people may be charged with the same crime, even if one's conduct of the crime was more heinous.

Judges may depart from the guidelines in special circumstances, but they must provide a written justification.

Breyer made three suggestions for improving the sentencing guidelines:

First, he suggested removing statutory mandatory minimum sentences.

Mandatory sentences are too restrictive, Breyer said, making it more difficult to adjust sentences on the basis of circumstances surrounding a particular case.

"Statutory mandatory sentences prevent the commission from carrying out its basic, congressionally mandated task: the development, in part through research, of a rational, coherent set of punishments," he said.

Furthermore, Breyer said, mandatory sentences have failed to secure the

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STEPHEN BREYER
Supreme Court justice

long prison sentences for which they were intended.

Studies have shown that mandatory minimum defendants receive "downward departures," in which they are charged with a lesser crime than they could have been, more often than the general offender population.

Breyer speculated this was because prosecutors could sense that the minimum sentences would be too strong in some cases, and thus charged the defendant with a lesser crime.

"In sum, Congress, in simultaneously requiring guideline sentencing and mandatory minimum sentencing, is riding two different horses," he said. "And those horses, in terms of coherence, fairness and effectiveness, are traveling in opposite directions."

Breyer also said the Department of Justice should give greater attention to the sentencing guidelines to improve their effectiveness.

Breyer's third suggestion was that the commission simplify its descriptions of crimes. Rather than making fine distinctions between similar crimes, the guidelines should attempt to describe the "heartland" of more general criminal activity.

"The greatest obstacle to doing so is, I believe, the legal mind itself," he said. "We judges and lawyers love to make distinctions, but it is important to know when to stop."

Criminal conduct or sentences that are too specifically defined make it more difficult for the system to operate, he said. Also, he said, no one can be sure of the effect of punishment on an offender.

"Punishment is a blunderbuss, not a rifle," he said.

Breyer spoke at the Roman L. Hruska Institute, named for the U.S. senator from Nebraska from 1954 to 1977. Hruska attended the lecture.

In an interview, Hruska recalled the "long, laborious" process by which the sentencing reforms became law. As a member of the Senate Judiciary Committee, he was involved in sentencing reform.

"It's a monumental thing," he said. "It's the best we have for ensuring fair sentences."

Kansas State wins recycling challenge

From staff reports

In a head-to-head competition to raise awareness about environmental issues, UNL didn't recycle enough football enthusiasm to beat Kansas State University.

In honor of last Saturday's football game and America Recycles Day last week, the Student Governing Association at KSU challenged the University of Nebraska-Lincoln and the Association of Students of the University of Nebraska to see which school had more spirit to collect the most aluminum cans.

Dale Ekhart, UNL recycling coordinator, said UNL collected 394 pounds of aluminum.

KSU collected 566 pounds, he said.

"Apples for apples, we were in the ball game," Ekhart said. "But we didn't have enough score."

The total amount of cans collected was calculated per pound per number of students enrolled at each university, Ekhart said.

Stacy Meredith, KSU Student Governing Association environmental coordinator, said KSU students are happy they beat UNL and raised the level of environmental activism

on both campuses.

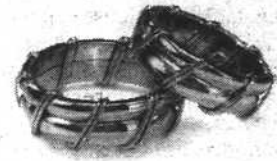
"Yes, we are happy that we won," Meredith said. "But we are even more proud that every school participated and raised recycling awareness."

Meredith said a total of 12 schools across Kansas and UNL competed in the recycling competition.

Ekhart said there was no prize for the winning school.

"The whole event was indeed successful for both schools," Ekhart said. "Sure we didn't win, but awareness was brought to recycling and environmental issues. That's a victory for everyone."

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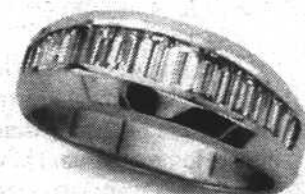
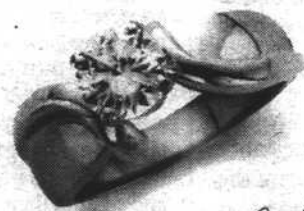
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Open house will cover new I-80 improvement project

By TODD ANDERSON
Senior staff writer

An Interstate 80 surface improvement project will be the topic of discussion at an open house this evening in downtown Lincoln.

Department of Roads experts will be available to answer questions and provide information about construction on two segments of I-80 today from 5 p.m. to 7 p.m. at the Lincoln Electric System building, 2620 Fairfield St.

Mark Osborn, spokesman for the Department of Roads, said the construction on both the eastbound and westbound lanes of I-80, southwest and north of Lincoln will begin around April 15.

Workers will repair and resurface the stretch of interstate between NW 56th Street and the west junction of I-80 and Highway 77 using a detour.

To complete the repairs, the Department of Roads will have to close

interstate lanes between 27th and Northeast 56th streets, as well as the rest area on the north side of the Interstate.

Osborn said the improvement project would take approximately two months to complete - before the Independence Day holiday; but the starting date depends on whether a bid for the construction is selected in December.

Despite the re-routing and the head-to-head traffic on those parts of the interstate, Osborn said the delays would be minimal.

"Hopefully the commuters who drive that every day will choose an alternative route," he said.

Drivers coming to Lincoln from Omaha may take Highway 6 or enter Lincoln at the North 56th Street exit for an alternate route, he said.

Osborn said the estimated cost of the project is \$3.9 million, with 90 percent of the money coming from federal tax money and 10 percent from state funds.