

Other Viewpoints

Sentencing rules disallow judgment

Kansas, like many states and the federal government, has tied judges' hands over the last couple of decades, setting up elaborate rules for determining who goes to jail and for how long – but leaving out judgment and common sense.

Judges used to have a lot of control over the kind of sentence criminals got in their courts. States moved from fixed sentences for each crime to variable, or indeterminate, sentences.

The penalty for a given crime would be a range of years, from six months to a year for a misdemeanor, to say two to five years for a minor felony and 10 to 15 for more serious crimes.

Then, judges had the authority to decide whether sentences for multiple crimes would run consecutively or concurrently. That if, a convict would begin serving, say, three concurrent sentences all at the same time, effectively meaning he (or she) would have to serve at least the "short end" of the longest term. If sentences were two to five years, eight to 10 and one to two, then the prisoner supposedly had to serve at least eight years before parole. The shorter terms essentially didn't count.

If sentences were given to be served consecutively, however, it was a different matter. The order in which they were pronounced meant everything, because the convict had to serve the "long end" of the first and the "short end" of the second.

A sentence of eight to 11 years, followed by a consecutive term of one to three, meant 12 years hard time, while the reverse meant 11. A judge who wanted to come down on someone could get pretty creative.

Judges also had wide latitude to grant probation for first-time offenders and others who seemed like good risks. Today, however, that has all been taken out of their hands.

Legislators upset by wide variations in sentencing, and wanting to crack down on drugs, started to ratchet up the rules. Eventually, states, Kansas included, produced sentencing "grids" factoring in criminal records, severity of crime, personal injury and other facts. Judges apply the facts of a case to the grid. There's little "judgment" involved.

A recent burglary case in Saline County illustrates one problem with this. Two men apparently had set themselves up in the burglary business. They were on a roll, hitting store after store, sometimes several a night, until they got caught.

The men were charged with 13 counts of burglary, but because they had few prior arrests and a low "criminal history" score, the sentencing grid qualified them – for no prison time at all. They were ordered to serve 60 days in jail and put on probation by an obviously peeved judge.

The judge told them that if she'd had her way, they would have been headed for the slammer. Because of the state's sentencing law, however, she couldn't. She did pronounce the sentences consecutively, but because of the rules, it meant little.

Another problem with the sentencing grid is it allows heavier sentences for drug crimes than for many "property" crimes. Thus, we are filling up jails with people convicted of drug offenses while people like these burglars, who created a lot of grief, get off easy.

Today, there's hardly any free space in Kansas prisons, but we keep sending drug offenders to jail and let others, who may have done more harm, off free, or easy. It makes no sense.

The only solution we see is to go back to the days when judges were allowed to judge people and use some common sense in sentencing those who were convicted in their courts. It's not about treating every criminal the same, but about treating them all – and society – fairly and justly.

A grid just can't do that. – *Steve Haynes*

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Sharon Friedlander - Publisher
sfriedlander@nwkansas.com

NEWS

R.B. Headley - Sports Editor
colby.sports@nwkansas.com

Marian Ballard - Copy Editor
mballard@nwkansas.com

Sam Dieter - News Reporter
colby.editor@nwkansas.com

Heather Alwin - Society Editor
colby.society@nwkansas.com

ADVERTISING

colby.ads@nwkansas.com

Kathryn Ballard - Advertising Representative
kballard@nwkansas.com

Kylee Hunter - Graphic Design
khunter@nwkansas.com

BUSINESS OFFICE

Office Manager

Melissa Edmondson - Office Manager
medmondson@nwkansas.com

Evan Barnum - Systems Administrator
support@nwkansas.com

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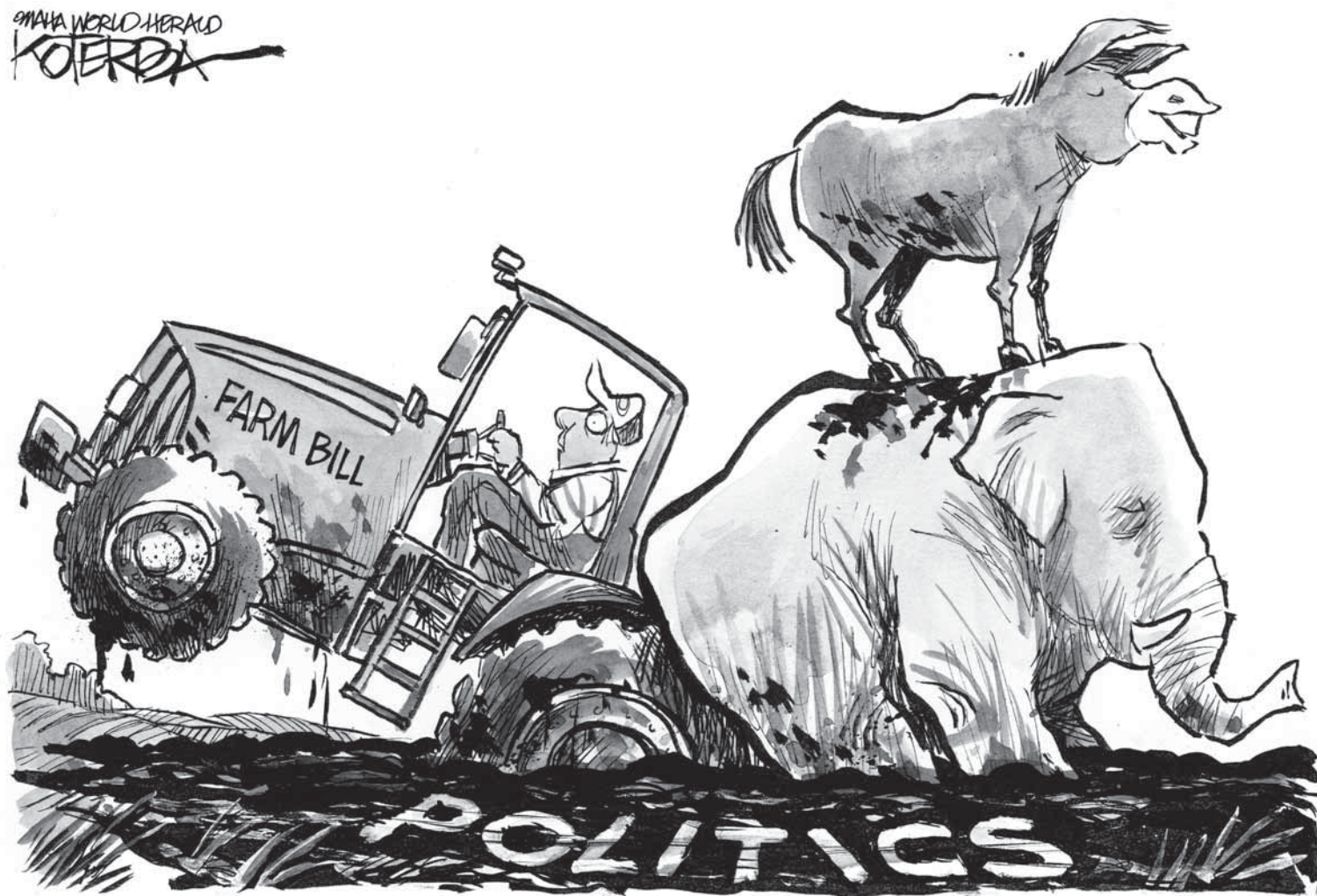
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Lesson: don't kick the lawnmower

My son tried to trim his toenails with a lawnmower about three weeks ago.

This was not a good choice.

He said he was mowing a friend's lawn when he had to go around a big rock. He pulled the mower back and took a step back, then fell backwards over a short fence his friend had put up to keep his dogs in.

As he fell, our son said, he grabbed out to catch himself. Unfortunately, the only thing there was to grab was the mower, which he pulled over his left foot.

After looking down and thinking to himself, "Please, Lord, tell me I didn't just pull a lawnmower over my foot," he pulled out his cell phone and called 911.

He called us from the emergency room.

"Mom, I sort of had an accident," he said.

His dad left the next day for Lawrence. There wasn't much he could do except sit and talk and run a few errands, but he did feed the cat and take stuff to the hospital.

Our son was in surgery for 2 1/2 hours while the doctors cleaned grass and dirt out of his foot, grafted skin over the ends of two shortened toes and pinned the third one together. He was in the hospital for four days and had



Cynthia Haynes

• Open Season

a second surgery to make sure there was no infection. They removed the top third of his left big toe and the one next to it and pinned the broken toe, which was in somewhat better shape.

Then he went home with a pair of crutches. I showed up the next day.

Like his father, there wasn't a lot I could do. I took him to the doctor and took a photo of his damaged foot. I did not put that photo on Facebook and have not shared it with many people, but I did want him to have a record of what his foot looked like after the accident.

I also got him a disability parking tag and left him my car, since his truck has a clutch and that's a little hard to manage with a damaged left foot.

His friends have come to the rescue, fer-

rying him to the doctor, the drug store and to get groceries. They've made him cookies and quiche and soup.

Last week he went back to the doctor and got a walking boot so he now only has one light crutch, but it's still hard to get around much.

He's doing well and hopes to get back to work soon, but it's hard. He's a bartender and they have to be on their feet pretty much their whole shift.

On a lighter note, his friend claims that the dog got out through the broken fence, found our son's toenail out in the yard and brought it home.

He claims, with a smile, that that dog has been after him for years.

I guess I need to go back to Lawrence and see if I can find a loud wristwatch.

Then all I have to do is get the dog to swallow the watch.

Hey, it worked for Captain Hook.

Cynthia Haynes, co-owner and chief financial officer of Nor'West Newspapers, writes this column weekly. Her pets include cats, toads and a praying mantis. Contact her at c.haynes@nwkansas.com

Without top leaders, democracy suffers

Other Opinions

• Lee Hamilton
Center on Congress

Strong, capable, determined leadership provides the energy that improves the quality of life in a community and breathes life into our representative democracy.

For those of us who think and write about democracy, few things are more appealing than a book about how to make it work better. My shelves are groaning with them.

They contain a lot of good and helpful ideas. There are proposals on how to improve elections and plans for strengthening legislative bodies, judicial systems, and the rule of law. There's a whole body of literature on how to make government and civil institutions stronger and more effective. There are ideas for buttressing the press and the public's access to information, and schemes for improving the civic organizations, think tanks, watchdog groups and policy-focused nonprofits that make our democracy so vibrant.

But over time, I've concluded that as complicated as democracy's workings might be, one thing matters above all else: effective leadership. It might not guarantee results, but without it, nothing much happens.

I saw this throughout my career in Congress, but it was most obvious in the counties and communities that made up my district. What struck me over and over was the difference that good leadership – both within and outside government – could make.

For instance, we now have fairly elaborate programs for the education of special-needs children. In my own state of Indiana, and in many others, this was not true a relatively short while ago. But over the years, parents, teachers, school leaders and others recognized the need, stepped forward, and pressed for change at every level from the school board to Congress.

Similarly, managing water resources has been an enormous challenge – dealing with floods when there's too much and drought when there's too little is a pressing matter in both rural and urban areas. But over the years, I've watched countless local leaders do the

hard and sometimes tedious work of developing watershed programs. Our water supply today is far better managed than it used to be.

Everything from getting a gate put in at a dangerous rail crossing to strengthening local health-care facilities to building an effective local law-enforcement system – with capable police chiefs, dedicated judges and energetic prosecutors – demands that people step forward and lead. Strong leadership matters: to quality of life, to how well communities respond to challenges, and to how vital our communities are.

Being an active citizen matters, too, but as citizens we know that we depend heavily on good leaders to make our communities work. We rely on people to roll up their shirtsleeves at every level of our democracy, and we demand a great deal of them. We want them to set goals and motivate us. We expect them to plan, organize and manage effectively. We hope that they can take the disparate strands of our communities in hand and make sure they're all pointed in the same direction. We look for a sort of tough-minded optimism, a conviction that "I can make a difference and so can you," so that we'll be inspired and energized by it.

That's why communities pay so much attention to leadership development – to identifying and training young leaders who can make a difference to the places they live. Strong, capable, determined leadership provides the energy that improves the quality of life in a community and breathes life into our representative democracy.

One of the eternally refreshing gifts of our representative democracy is that it encourages people to solve problems in their community – to remember, as the saying goes, that democracy is not a spectator sport. Maybe they love where they live and want to make it better; maybe they have a child with special needs who is not being served well by the schools; perhaps they know in their hearts that they can do a better job than the people who are in charge right now. Whichever it is, people step forward – often out of nowhere – to take matters in hand. That's what moves us forward as a society.

"I believe in Democracy because it releases the energies of every human being," Woodrow Wilson said. It is the great paradox of representative democracy: we are free to remain passive, but we can't make progress unless skillful, can-do people recognize that with freedom comes the responsibility to lead.

Lee Hamilton is director of the Center on Congress at Indiana University. He was a member of the U.S. House of Representatives for 34 years.

Write us

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Mallard Fillmore

• Bruce Tinsley

