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Two Views on the Federal Narcotics Law Problem*

I—Suggestion to Facilitate Apprehension and Conviction of Narcotic Law Violators

by Sumner Canary

United States District Attorney for the Northern District of Ohio

THERE ARE THREE PRINCIPAL ASPECTS to the enforcement of narcotic laws. They are:

(1) The apprehension of the criminal;
(2) The prosecution of the offender; and
(3) The sentencing of a convicted offender.

The United States Attorney is concerned primarily with the prosecution of cases which are prepared by other agencies and presented to him. For the most part, the prosecution of narcotic cases is relatively simple because there is little sympathy on the part of any juror for criminals of this type.

I should like to compliment the Bureau of Narcotics and the Narcotic Squad of the Cleveland Police Department. A high degree of cooperation exists between them. Having in mind the handicaps imposed by lack of adequate funds and sufficient personnel and by the requirements of law, I think they have performed an excellent service for the public.

Most narcotics come from foreign countries and come into the United States at seaports. Today most narcotics come into Cleveland from New York and some from Chicago and Detroit. However, with the opening of the St. Lawrence seaway I anticipate the possibility of some drug importation into Cleveland which will seriously increase the local enforcement problem.

Federal agencies do and should concentrate their efforts in apprehending major dealers in narcotics and those who engage in interstate trafficking. The major dealers are generally rack-

* EDITOR'S NOTE: The United States Senate is now working on a revision of its narcotics criminal code. In this connection, a Senate subcommittee headed by Sen. Price Daniel visited Cleveland in search of information recently. Two reports they received from top law enforcement executives in the Northern Ohio area are presented here as a composite picture of the problem and its many ramifications that have national as well as local significance.
eteers engaged in all forms of illegal enterprises. They have and
of necessity must have national and international connections.
They are of the same general group of persons who engaged in
the violation of the prohibition laws, who engaged in large scale
black market operations and who engage in any form of activity
so long as it is illegal.

The apprehension of these criminals in the narcotic traffic is
difficult because they rarely have narcotics in their possession.
In the transportation and distribution of narcotics they deal
almost exclusively through others whom they have encouraged
to enter the illegal enterprise. Thus, most cases against major
dealers can be made only by way of a conspiracy charge. I am
convinced that the only thing these men fear is a long prison
term. I therefore recommend that the maximum penalty for con-
spiration to violate the narcotic laws should be increased to twenty
years.

In view of the difficulty of obtaining evidence against the
major dealers, I think the most effective way to deal with the
narcotic traffic is to strike hard against those who do the actual
distribution. If the smaller dealers are eliminated the bigger
dealer will tend to disappear because there will be no one to work
for him. Large sums of money are involved. One kilo of heroin
in pure form is a small package easily transported. It generally
sells for about $15,000. It can be adulterated to make as much
as 700 ounces or 300,000 capsules which sell in the retail trade
for $1.00 or $1.50 apiece. Because of the enormous sums involved
the distributors will remain in the business so long as prison terms
are short, but I believe that the certain prospect of a long sentence
will drive some from the business and will prevent others from
entering it.

Under the present federal law, penalties are the same for the
sale, possession or unlawful importation of narcotics. The penalty
for a first conviction is from two to five years and this is applic-
able to addict, minor dealer and major supplier alike. In order to
give our judges wider latitude in determining the penalties for
offenders of different types, and in view of what I have just said
about the preventive effect of the prospect of long prison terms,
I think that the maximum penalty should be increased to twenty
years.

I should like to say that I do not believe that there is such
a person as a so-called "first offender" in this business. These
people are not like the unfortunate person who commits his first
crime. The people engaged in the narcotic racket are in it day in
and day out and commit a violation of law each time a sale is
made. It may be that they are convicted for the first time but
that does not mean that they are true first offenders. I think that
except in rare instances severe sentences should be imposed upon
the first conviction. The table which follows shows few convic-
tions of second and subsequent offenders. I think this adds weight
to my belief that severe penalties can be a deterrent to those who
engage in the narcotic traffic.

The Boggs Act is an Act which prescribes mandatory mini-
mum penalties for second and subsequent offenders. There are
occasional instances in which mandatory minimum sentences
result in undue hardship. I believe that the enforcement of the
laws against the narcotic traffic can be more effective by the sub-
stantial increase of the permissible maximum sentences for all
convictions.

I recommend that federal agents be permitted to tap tele-
phone wires when reasonable grounds for obtaining evidence
exist. This right should be controlled, perhaps by a requirement
that a court order first be obtained, but the right should exist.
Much of the dealing in narcotics is done by telephone or per-
sonal contact. Payment is usually in cash. Thus, apprehension
of major dealers is difficult. It is now necessary to make many
arrests of many small dealers in the chain of distribution in order
to obtain evidence against the major dealers, and frequently such
arrests are not productive of sufficient evidence—primarily be-
cause of the refusal of those arrested to give evidence because of
fear of personal harm.

Within the past year the Sixth Circuit Court of Appeals has
twice ruled that evidence is admissible which was obtained by
agents who have listened to an interstate telephone conversation
with the permission of one of the parties to the conversation.
These holdings have been of considerable assistance in the prose-
cution of several cases in this district which could not have been
successfully prosecuted without evidence obtained in that man-
ner.

In this district persons arrested for narcotic violations are
usually released on bail in amounts varying from $1,000 to $20,000
depending upon the seriousness of the offense and the character
and background of the offender. Bonds in this district have been
adequate to insure the presence of the offenders at the time of
trial but in many instances those persons released on bail used their liberty to engage in further traffic in narcotics in order to raise money to finance their trial and perhaps their appeal.

The following table shows the number of narcotic convictions in this District Court each year from 1952 to date, the sentences imposed (total and average), and the number of subsequent offenders. Seven of these cases involved marijuana, a few of them cocaine, and all of the rest heroin. During this period there were no cases involving persons under 21 years of age.

<table>
<thead>
<tr>
<th>Year</th>
<th>Narcotic Convictions</th>
<th>Total Number of Years Sentenced for Narcotics</th>
<th>Average Sentence for Narcotics</th>
<th>Subsequent Offenders</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>42</td>
<td>132 yrs., 9 mos. plus (3 yrs. probation)</td>
<td>3 yrs., 3 mos.</td>
<td>4</td>
</tr>
<tr>
<td>1953</td>
<td>30</td>
<td>96 yrs., 6 mos.</td>
<td>3 yrs., 2 mos.</td>
<td>2</td>
</tr>
<tr>
<td>1954</td>
<td>48</td>
<td>172 yrs.</td>
<td>3 yrs., 6 mos.</td>
<td>4</td>
</tr>
<tr>
<td>1955</td>
<td>17</td>
<td>72 yrs., plus (5 yrs. probation)</td>
<td>4 yrs., 3 mos.</td>
<td>3</td>
</tr>
</tbody>
</table>

Relatively few addicts are tried in Federal Court in this district and those that are usually are sent to the Federal Hospital at Lexington, Kentucky. The Probation Department, however, has no way of knowing what per cent of these addicts return to addiction upon their release. Even in those cases where addicts are paroled to them they have no means of knowing whether the parolee has resumed his addiction other than his word. However, the belief is widespread that a large percentage of addicts resume their habit upon release and there is no rehabilitation program to prevent this.

The proposal for the distribution of free drugs is not, in my opinion, advisable. I do not believe that such a distribution would eliminate the illegal traffic in narcotic drugs.

The suggestions which I have made do not provide a complete solution for this problem but I do believe that some of those suggestions would greatly facilitate the apprehension and conviction of narcotic law violators and would thus reduce the traffic in narcotics.