

*Sections 501, 502, 503, 505, and 507*

Sections 501, 502, 503, 505, and 507 of the bill provide for mandatory minimum sentences in the event of conviction for felonious assault, burglary, robbery, an armed crime of violence, and the placing of explosives with intent to injure, respectively. The Law Enforcement Council and the Department of Justice are opposed to these provisions. We believe that full discretion should be retained by District judges to consider all of the highly individual circumstances of each crime as factors relating to sentencing. This is not only the trend in the law, but, we believe, a highly desirable trend. It is expressed in Public Law 85-752 (72 Stat. 845), approved August 25, 1958. It is expressed with considerable elaboration in the model penal code adopted by the American Law Institute. (See the criteria for different forms of sentencing spelled out in secs. 7.01-7.04 of ALI model penal code, proposed official draft, adopted at May 1961 meeting.) A few of these factors would include the age, character, and prior record of the defendant; the actual or probable consequences of harm resulting from the crime; the presence or absence of intent by the defendant to cause harm; personal factors making rehabilitation likely or unlikely; defendant's willingness to compensate victim for damage or injury; provocation for the crime; probability of recurrence of a similar crime; etc.

Provisions for mandatory minimum sentences seem to proceed from the assumption that the courts of the District of Columbia are soft on criminals. It is sometimes said that our courts mollycoddle criminals and that criminals feel that they may commit crimes without serious regard to the possibility of severe sentences. This assumption, and this type of public utterance, are simply not based upon fact. The facts are very plain and they show that the average sentence meted out by the U.S. District Court for the District of Columbia is substantially more severe in almost every category of felony than the average sentence meted out by other Federal courts and is substantially more severe than the average sentence meted out by State courts. I am attaching to this statement two tables which compare, by categories of felony, average sentences in the District of Columbia with average sentences in other Federal circuits and with average sentences in the States. These figures were supplied to me, at my request, by the Federal Bureau of Prisons. They appear also in the printed record of House committee hearings held on the District of Columbia crime bills this spring. (Hearings before Subcommittee No. 6 of the Committee on the District of Columbia, House of Representatives, on H.R. 1930, H.R. 5334, H.R. 5726, H.R. 1932, H.R. 1929, H.R. 5046, H.R. 5335, H.R. 5336, H.R. 1893, H.R. 4322, H.R. 678, and H.R. 5608, April 25, 30, May 1, 6, 7, and 14, 1963, pp. 160-161.)

*Section 504*

With regard to section 504 of the bill, I will rest on the comment at page 11 of Mr. Katzenbach's letter of September 13, 1963.

*Section 508*

With respect to section 508 of the bill, I speak only for the Law Enforcement Council. The Council's letter of September 12, page 3, states the principal objection to this provision. The section would magnify the punishment for false reports to the police, so as to convert that crime from a minor offense under police regulations, triable in the court of general sessions without a jury, to a misdemeanor crime that would require a jury trial under District of Columbia Code 11-715(a). Considering the frequently minor character of such offenses, the difficulties of proving intentional falsehood as distinguished from simple misinformation, and the delay and expense incident to jury trial, we do not believe that the public interest is served by the enactment of section 508.

I would appreciate it if the committee would include, as part of the permanent record of these hearings, this prepared statement, Mr. Katzenbach's letter of September 13, and my letter of September 12 on behalf of the Law Enforcement Council.