

Would you be a member?

Mr. ACHESON. Mr. Tobriner is a member. I am a member. Mr. Clemmer is a member.

The Chief of Police is a member. The Chairman of the Parole Board or a member of the Parole Board is a member. The U.S. Marshal is a member, and there are several more, such as a judge of the juvenile court.

The CHAIRMAN. You say the Law Enforcement Council is opposed to these provisions.

Does that mean that this is a unanimous decision from the Law Enforcement Council or is this a split decision?

How many members does it have?

Mr. ACHESON. Approximately 14 altogether.

The CHAIRMAN. Fourteen members?

Mr. ACHESON. And at the meeting at which we voted on this action there were, I think, 8 or 10 members there.

And I believe our action on these mandatory minimum sentences was a unanimous action.

The CHAIRMAN. Yes, I am just directing it to the mandatory minimum sentence question.

Thank you.

Mr. ACHESON. 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 this law, but we believe a highly desirable trend.

It is expressed in Public Law 85-752, approved August 25, 1958.

It is expressed with considerable elaboration in the model penal code, adopted by the American Law Institute and in that code, sections 7.01 to 7.04, the model penal code spells out the different criteria which would apply to different forms of sentencing in great detail.

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, the defendant's willingness to compensate the victim for damage or for injury, the provocation for the crime, the probability of recurrence of a similar crime, et cetera.

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 the 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 the facts. The facts are 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 the other Federal courts, and is substantially more severe than the average sentence meted out by the State courts.