

America—should be left to that type of power, as described by Justice Douglas, that heady power in the hands of a policeman, to come down and testify that he did give the magic words.

I don't agree that that will be a bulwark against the evil that it seeks to prevent.

The CHAIRMAN. Thank you.

I think I understand the position you are taking. I do appreciate your statement a great deal.

Now, Mr. Heller, we would be happy to hear from you.

Your prepared statement will be incorporated in full in the record.

In looking at it from here, I note that you are directing your attention to title III.

Mr. HELLER. That is right, Mr. Chairman.

I wonder if I might approach slightly on your time to talk about quickly two other provisions on which we did not want to send a separate witness up here; namely, you asked about mandatory minimum sentences.

We oppose them. And I think we add very little, however, to the statements that have already been made by the Justice Department particularly. We think they are very bad psychology. We do recall that Representative Whitener, in the House hearings, talked about the psychology of despair, of a man who gets a mandatory life sentence. We think this psychology works in a lesser degree or a mandatory minimum sentence.

And we think it does make prison administration harder. Of course, the ACLU is not principally concerned about prison administration from that side. But we think it is a pragmatic reason for not favoring these sentences. We think the judge ought to have discretion to view the man before him and treat him as he sees him.

Secondly, I did want to very quickly comment on section 509, which is the false report section, only very quickly.

We would hope that the committee would not act on this.

Mr. Harris' committee of our affiliate, the due process committee, is right now contemplating a study of the use of false report charges to cover up police misconduct. We don't know whether this exists or not. We have got some idea that false report charges are pressed against people who are prepared to complain about police mistreatment or brutality.

We think if it is left in the current regulations, there is authority to punish people who make false reports.

But the Commissioners will have some discretion to consider this problem more comprehensively in the future, since that seems, in our reports from individuals who complain of mistreatment, to be tied up with their charges of mistreatment by the police.

Now, then, I am not going to take a lot of your time on investigative arrests, because I heard your statement to Mr. McLaughlin, that by and large, there seems to be general agreement that this is an invalid proposal.

We certainly subscribe to that, and the written statement sets out some of the reasons. The only thing I might add to that is, we stand pretty squarely on the report and recommendations of the Commissioners' Committee on Police Arrests for Investigation, which led the Commissioners to forbid them—the so-called Horsky report.