

required to make a statement and that any statement made by him may be used against him. The third change proposed by the Commissioners is the addition of three new subsections designed to surround arrested persons with safeguards to protect their constitutional rights.

The first of these subsections requires that, prior to any interrogation, an arrested person shall be plainly advised by the police officer or officers having him in custody of his right to reasonable opportunity to communicate with counsel or with a relative or friend, and requires that the arrested person shall in fact be afforded such opportunity.

The second subsection requires that, whenever reasonably possible, each interrogation of an arrested person, and the warning and advice given him, (1) be monitored by some responsible person who is not a law-enforcement officer, or (2) be reported verbatim, be recorded by a recording device, or be conducted subject to some other means of verification. The third proposed subsection is designed to emphasize that nothing in the title is intended to supersede the requirements of rule 5(a) of the Federal Rules of Criminal Procedure respecting the right of an arrested person to be taken before a committing magistrate "without unnecessary delay."

To interpolate for a moment our views are the views of the Department of Justice, with the exception that we would eliminate that section providing for a ceiling of 6 hours on detention prior to arraignment.

If title I of H.R. 7525 be amended as I have suggested, the Commissioners would have no objection to its enactment. However, should the title not be amended along the lines I have set forth, the Commissioners, since they have reservations concerning the protection afforded an arrested person by this section, in the form in which it is set forth in the bill, would be constrained to recommend against its enactment.

Title III of H.R. 7525 consists of two sections, the first of which, patterned after the so-called Uniform Arrest Act, provides for the detention of suspects for a period not exceeding 6 hours, while the second provides for the detention of certain material witnesses.

The Commissioners are unalterably opposed to the enactment of the first of the two sections contained in title III, on the ground that the section is either unconstitutional or unnecessary, depending on the judicial interpretation of the phrase "reasonable ground to suspect" appearing in line 21 on page 14. This phrase, taken with the balance of the section, has the effect of permitting an officer or member of the Metropolitan Police Force to detain, for a period not exceeding 6 hours, any person suspected by the officer or member of committing, or having committed, or being about to commit, a crime, and who has failed to identify himself or explain his actions to the satisfaction of such officer or member.

If the phrase "reasonable ground to suspect" is interpreted as authorizing the detention of an individual on the basis of something less than probable cause, then this section, in its effect, authorizes arrests for investigation—a practice that the Commissioners firmly believe is unconstitutional in that such arrests involve the detention of a person without the requirement of probable cause, in violation of the fourth amendment to the Constitution of the United States.