

(Subsequently, the following letter was received for the record:)

UNITED STATES DEPARTMENT OF JUSTICE,
OFFICE OF THE UNITED STATES ATTORNEY,
Washington, D.C., May 29, 1968.

HON. JOHN M. McMILLAN.

*Chairman, House Committee on the District of Columbia, Rayburn Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: At the Committee hearing held on May 16, 1968, Congressman Mathias requested that I submit a list of areas for new legislation which would be helpful to prosecutions in the District of Columbia. Accordingly, I submit the following areas which merit Committee consideration:

1. The common-law rule in the District of Columbia permits an arrested person to use force to resist an illegal arrest. A like common-law rule has been changed by decision in New Jersey and by statute in six other states. In a recently argued case in the Court of Appeals an opportunity was afforded the Court to re-examine the rule, but it appears the Court will decide the case without reaching that point. Further consideration should be given to the question whether the law should require an arrested person to submit to arrest without the right to resist by the use of force or should the common-law right to resist be retained. In cases involving assaults on police officers it is common to find defendants justifying use of force to resist arrest on the theory that the officer did not have sufficient probable cause to arrest thereby claiming the arrest to be illegal.

2. It is essential that we have strict gun control legislation in the District of Columbia, and that the law cover both hand guns and long guns. Such legislation has been previously proposed by the Department of Justice. I cannot too strongly urge the Committee to re-examine this proposal.

3. Modification of the Bail Reform Act is currently being studied by a committee of the Judicial Council of this Circuit and by the D.C. Committee on the Administration of Justice under Emergency Conditions. Recommended amendments of the Act will no doubt emerge from those studies. A recent interim report of the Council Committee indicates some sentiment favoring legislation providing for pretrial detention during declared emergencies in certain civil disorder cases such as arson, possession or use of firearms, explosives and incendiary materials; there was also some indication that inciting to riot, burglary and assault with a dangerous weapon should be included. Needed legislation should probably await the reports of these on-going studies.

Please be assured of my cooperation in connection with your effort.

Sincerely yours,

DAVID G. BRESS,
United States Attorney.

cc: Hon. CHARLES McC. MATHIAS, Jr.
House of Representatives
107 Cannon Building
Washington, D.C.