

**NLWJC - Kagan**

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**Washington DC - Crime**

# Cropp Pushing Ahead On Sentencing Rules

By VANESSA WILLIAMS  
Washington Post Staff Writer

D.C. Council Chairman Linda W. Cropp said yesterday that she will call a special session next week to reverse a council committee's decision to reject new sentencing guidelines that must be in place before the federal government assumes the cost of incarcerating D.C. prisoners.

Cropp (D) scheduled the session for Tuesday and said she has warned council members that unless they approve the guidelines, the responsibility for setting guidelines will fall to Attorney General Janet Reno and Congress.

"There is no reason for the council not to take action on something so important to our citizens and let it rest in the hands of individuals who have not been elected to represent them," Cropp said. "I think most council members feel as if the council ought to make as many decisions as possible."

But council member Harold Brazil (D-At Large), who voted against the measures in committee, said Cropp was asking the council to "capitulate" to the will of federal officials. "I'm not going to operate that way . . . and she shouldn't do it either," Brazil said.

The sentencing proposals, voted down 3 to 1 Wednesday by the Judiciary Committee, were drafted by the city's Truth in Sentencing Commission, a nine-member body headed by Deputy Attorney General Eric H. Holder Jr. Congress directed the commission to recommend changes in the sentencing structure for felons, who would be absorbed into the federal prison system as part of a District financial rescue package adopted last summer.

The District traditionally has used sentencing ranges, but Congress told the commission to require fixed terms for certain crimes. The D.C. Council has until May 2 to approve the commission report and sentencing guidelines for specific crimes.

Otherwise, Reno can send her own proposal to Capitol Hill. The guidelines are scheduled to go into effect Aug. 5, 2000.

Brazil said he rejected the guidelines because he objects to Congress having transferred control of the criminal justice system from local elected officials to the federal government in exchange for picking up the tab for the imprisoning D.C. felons.

Brazil said he also objected to the dual sentencing system that would be created under the guidelines, which would cover 37 felonies, including arson, sexual abuse, murder, carjacking and aggravated assault. Other felonies would be covered by the current, local guidelines, unless the council adopts changes.

In addition to Brazil, council members Kevin P. Chavous (D-Ward 7) and Hilda H.M. Mason (Statehood-At Large) voted against the measure.

Only Jack Evans (D-Ward 2), chairman of the Judiciary Committee, voted in favor of the guidelines. Evans said he voted for the guidelines despite concern about the District losing control of its criminal justice system.

"What we had before us was the best alternatives operating within the parameters" of the federal rescue package, he said. "The ability to write our criminal justice sentencing structure for convicted felons is something clearly a local jurisdiction should do."

If the attorney general and Congress write the guidelines, Evans said, "I think we would end up with a code that is not very reflective of what the local community wants."

Brazil, a former federal prosecutor, said it is "stupid" to have some criminals covered by one sentencing system and others covered by another. "It's anomalous to have two sentencing systems," he said. "It should be all the District or all federal. I don't think it's fair to the accused or anybody else to have to operate under dual systems."

EK -  
JUST IN CASE YOU  
MISSED THIS IN TODAY'S  
METRO SECTION - DC  
SENTENCING IS STILL IN THE  
NEWS. I'LL PUT IN THE  
CALL TO DOJ TO  
CHECK ON HOW THINGS  
ARE GOING.

Joe

*District of Columbia - Crime*



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Total Pages (excluding this cover):

Additional Message:

*As discussed, Older options  
follow Ruff letter to Norton @ p. 29*

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1           **Subtitle B—Compliance With**  
2           **Truth-in-Sentencing**

3   **SEC. 311. REQUIRING COMPLIANCE WITH TRUTH-IN-SEN-**  
4           **TENCING GUIDELINES.**

5           (a) **IN GENERAL.**—In accordance with the procedures  
6 described in subsection (b), any person convicted of a fel-  
7 ony offense under a law applicable exclusively to the Dis-  
8 trict of Columbia shall be sentenced in accordance with  
9 a sentencing system which meets the truth-in-sentencing  
10 requirements applicable to a State receiving a truth-in-  
11 sentencing incentive grant under section 20104 of the Vio-  
12 lent Crime Control and Law Enforcement Act of 1994.

13           (b) **PROCEDURES FOR ADOPTION OF SYSTEM.**—

14           (1) The District of Columbia Truth in Sentenc-  
15 ing Compliance Commission or the District of Co-  
16 lumbia Council (in accordance with section 312)  
17 shall develop a sentencing system described in sub-  
18 section (a).

19           (2) The system developed shall apply with re-  
20 spect to persons convicted of a felony <sup>D.C. Code</sup> after the sys-  
21 tem is adopted.

22   **SEC. 312. TRUTH IN SENTENCING COMPLIANCE COMMISS-**  
23           **SION.**

24           (a) **ESTABLISHMENT.**—There is established as an

July 28, 1997

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1 (k) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to the Com-  
3 mission through the State Justice Institute such  
4 sums as may be necessary to carry out its purposes.

5 Such sums as are appropriated shall remain avail-  
6 able until expended.

7 SEC. 318. TRUTH IN SENTENCING MONITORING AGENCY.

8 (a) ESTABLISHMENT.—Upon the establishment of a  
9 sentencing system for the District of Columbia which  
10 meets the requirements of section 311(a), there is estab-  
11 lished in the Department of Justice the District of Colum-  
12 bia Truth in Sentencing Monitoring Agency (hereafter in  
13 this section referred to as the "Agency") which shall be  
14 composed of 3 voting members and 2 nonvoting members.

15 (b) MEMBERSHIP.—

16 (1) VOTING MEMBERS.—The Agency shall con-  
17 sist of three voting members, including a chair-  
18 person, appointed by the President by and with the  
19 consent of the Senate, who have knowledge with re-  
20 spect to criminal justice matters, including the  
21 truth-in-sentencing requirements applicable to a  
22 State receiving a truth-in-sentencing incentive grant  
23 under section 20104 of the Violent Crime Control  
24 and Law Enforcement Act of 1994.

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1 (2) NONVOTING MEMBERS.—The Agency shall  
2 be composed of 2 nonvoting ex-officio members as  
3 follows:

4 (A) The United States Attorney for the  
5 District of Columbia, or a designee of the Unit-  
6 ed States Attorney.

7 (B) The Director of the District of Colum-  
8 bia Public Defender Service, or a designee of  
9 the Director.

10 (3) TERMS.—

11 (A) IN GENERAL.—Except as provided in  
12 subparagraph (B), each member of the Agency  
13 shall be appointed for a term of 6 years.

14 (B) APPOINTMENT FOR INITIAL TERM.—  
15 As designated by the President at the time of  
16 appointment for the initial term—

17 (i) 1 member shall be appointed for a  
18 term of 2 years;

19 (ii) 1 members shall be appointed for  
20 a term of 4 years; and

21 (iii) 1 members shall be appointed for  
22 a term of 6 years.

23 (4) COMPENSATION.—Members of the Agency  
24 may not receive additional pay, allowances, or bene-  
25 fits by reason of their service to the Agency. Each

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1 member of the Agency shall receive travel expenses,  
2 including per diem in lieu of subsistence, in accord-  
3 ance with sections 5702 and 5708 of title 5, United  
4 States Code.

5 (c) MONITORING OF SENTENCING PRACTICES.—

6 (1) IN GENERAL.—The Agency shall monitor  
7 sentencing practices of the District of Columbia.

8 (2) TRANSMISSION OF CERTAIN COUNCIL ACTS  
9 TO AGENCY.—Any Act of the Council transmitted to  
10 Congress pursuant to section 602(c)(2) of the Dis-  
11 trict of Columbia Self-Government and Govern-  
12 mental Reorganization Act shall be transmitted si-  
13 multaneously to the Agency for review.

14 (3) REVIEW TO DETERMINE CONTINUED COM-  
15 PLIANCE.—If the Agency finds that an Act of the  
16 Council transmitted under paragraph (2) or a  
17 change in the truth-in-sentencing requirements ap-  
18 plicable to a State receiving a truth-in-sentencing in-  
19 centive grant under section 20104 of the Violent  
20 Crime Control and Law Enforcement Act of 1994  
21 would cause the sentencing system of the District of  
22 Columbia to fail to meet the requirements described  
23 in section 311(a), the Agency shall submit such find-  
24 ing to the President, Congress, and the District gov-  
25 ernment.

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1 (d) POWERS.—

2 (1) HEARINGS.—The Agency shall hold public  
3 hearings, review appropriate sentencing guideline  
4 models, consult with sentencing reform experts, and  
5 solicit written comments from interested members of  
6 the public, at such times as the Agency deems nec-  
7 essary or appropriate.

8 (2) DATA COLLECTION.—

9 (A) IN GENERAL.—The Superior Court of  
10 the District of Columbia, the District of Colum-  
11 bia Department of Corrections, and any other  
12 Federal agency or District of Columbia agency  
13 shall provide to the Agency any data necessary  
14 to enable it to carry out this Act.

15 (B) OFFENDERS SENTENCED IN SUPERIOR  
16 COURT.—The Superior Court shall submit to  
17 the Agency, in connection with offenders sen-  
18 tenced in the Superior Court, such information  
19 as is determined to be relevant to the sentenc-  
20 ing system. The Agency shall provide to the At-  
21 torney General such data as are requested for  
22 planning, statistical analysis or projecting fu-  
23 ture prison population levels.

24 (3) OTHER ANCILLARY POWERS.—The Agency  
25 is authorized—

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1 (A) to conduct periodic training programs  
2 of instruction in sentencing techniques for judi-  
3 cial and other personnel, and other persons con-  
4 nected with the sentencing process;

5 (B) to hold hearings and call witnesses  
6 that might assist the Agency in the exercise of  
7 its powers;

8 (C) to perform such other functions as  
9 may be necessary to carry out the purposes of  
10 this section; and

11 (D) except as otherwise provided, to con-  
12 duct business, exercise powers, and fulfill duties  
13 by the vote of a majority of the members  
14 present at any meeting.

15 (e) REPORTS TO CONGRESS.—Beginning one year  
16 after its initial establishment, the Agency shall transmit  
17 an annual report of its activities to Congress.

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Agency through  
20 the State Justice Institute such sums as may be necessary  
21 to carry out its purposes. Such sums as are appropriated  
22 shall remain available until expended.

23 SEC. 314. CERTAIN CLAIMS NOT LITIGABLE.

24 Nothing in this Act shall be construed to create a  
25 right of any person to challenge in any court a sentence

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1 imposed in a criminal case prosecuted under a law applica-  
2 ble exclusively to the District of Columbia on the grounds  
3 that such sentence is or is not similar to that of com-  
4 parable offenders convicted of comparable offenses under  
5 the United States Code or that in any other respect the  
6 sentencing system adopted under this title does not meet  
7 the requirements of section 311(a).

8 **SEC. 315. EVALUATION.**

9 Four years after any sentencing system enacted  
10 under this title takes effect, the National Institute of Jus-  
11 tice shall evaluate the sentencing system to determine the  
12 success of the sentencing system in accomplishing its pur-  
13 poses.

14 **SEC. 316. CONTINUING RESPONSIBILITY TO ENSURE COM-  
15 PLIANCE WITH THIS ACT.**

16 (a) **ATTORNEY GENERAL.**—The Attorney General  
17 shall, after the date of enactment of this Act, inform the  
18 Council of the District of Columbia, the Congress, and the  
19 Agency of—

20 (1) changes in the laws of the United States  
21 and the District of Columbia, including changes in  
22 sentencing guidelines, commentary, and policy state-  
23 ments; and

24 (2) any results of the four-year evaluation de-  
25 scribed in section 315 that require, or may require,

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- 1 amendment of the statutes or sentencing guidelines
- 2 of the District of Columbia.
- 3 (b) COUNCIL.—The Council shall develop legislation
- 4 that ensures that the requirements of this Act are met.

District of Columbia - Crime



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PART II

THE WHITE HOUSE  
WASHINGTON

July 15, 1997

The Honorable Eleanor Holmes Norton  
U.S. House of Representatives  
1424 Longworth Office Building  
Washington, DC 20515

Dear Congresswoman Norton:

This is to follow up on our conversation of yesterday evening.

As I indicated when we spoke, I recognize and appreciate your concern that the federal government's assumption of responsibility for the District's corrections system result in neither the abandonment of the core principles of home rule nor any retreat from the commitment to bring those caught up in the system back into the community with some hope of making new lives for themselves and their families. On the other hand, we all recognize that those who commit violent crimes must be punished in a manner commensurate with their offenses and that the streets of the District must be kept safe for all our residents. The President is committed to achieving all of these goals, and that commitment has guided our efforts to create a new sentencing and corrections system.

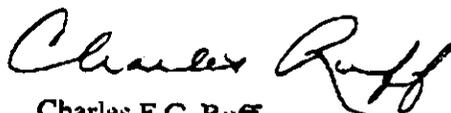
I assure you that we are prepared to work with you to find an acceptable resolution of our differences concerning the draft legislation, and I regret our failure in our earlier meetings adequately to communicate our commitment to do so. As Eric Holder and I tried to make clear when we met with your staff, although the President and the Attorney General believe strongly that the new District system must reflect the principles underlying truth-in-sentencing, we are not wedded to the specifics of our original proposal and are anxious to find an approach that offers the maximum benefit to the District while allowing the Bureau of Prisons and the Department of Justice to manage their new responsibilities in an effective manner. At the same time, we do believe that the legislation must respond meaningfully to the growing levels of violence in our community and must create a structure within which the Bureau of Prisons will be able to absorb a substantial new population of inmates, particularly the most violent offenders. In addition, the legislation must provide the Bureau with adequate resources and, perhaps most importantly, must provide certainty that adequate facilities and a new sentencing system are in place well in advance of the date on which the Bureau is expected to assume its new responsibilities.

I am convinced that we can find a way for the District to do all of this and still address what I fully recognize are your legitimate concerns. The enclosed outline describes our

The Honorable Eleanor Holmes Norton  
July 15, 1997  
Page Two

suggested approach to the new sentencing structure, and I hope that you will give me the opportunity to discuss this approach with you so that we can determine how best to develop a legislative solution that can go forward on an expedited schedule. Please call me at your earliest convenience.

Sincerely,



Charles F.C. Ruff  
Counsel to the President

Enclosure

**ELEMENTS OF PROPOSED SENTENCING SYSTEM**

- I. Violent and Other Serious Felonies
  - A. Includes felonies on attached list.
  - B. Determinate sentences within current statutory ranges (with existing mandatory minimums), plus period of supervised release.
  - C. No parole, but good time as calculated under federal law.
  - D. New system to take effect 3 years after enactment, per original proposal.
- II. Drug Offenses -- Maximizing Effectiveness of Drug Court.
  - A. Represent approximately 30% of incoming prisoners.
  - B. First offenders eligible for diversion -- no mandatory minimum.
  - C. Mandatory minimums for second (18 months) and third (36 months) offenders.
  - D. To take effect after 3 years.
- III. Other Felonies and All Misdemeanors.
  - A. Includes felonies on attached list, representing approximately 30-35% of incoming felony prisoners.
  - B. Maintain current system of indeterminate sentences and parole.
  - C. Transition of parole authority to Superior Court, per original proposal.
- V. Creating the New Sentencing System
  - A. New sentencing system for Violent and Other Serious Offenses, including Drug Offenses, to be established in this legislation.
  - B. Other necessary statutory changes to be developed by Commission and enacted by the D.C. Council by October 1, 1998.
  - C. Monitoring Agency will provide ongoing oversight; conduct impact studies; and make recommendations to Council for additional changes.

CATEGORIES OF DISTRICT OF COLUMBIA OFFENSES

Violent and Other Serious Felonies

- Murder and manslaughter
- Felony assaults (assault with intent to kill; assault with a deadly weapon, etc.)
- Cruelty to children
- Sex offenses
- Armed offenses and gun offenses
- Arson
- Burglary I
- Obstruction of justice
- Robbery
- Kidnaping
- Prison breach and escape
- Malicious disfigurement and mayhem
- Drug offenses - repeat offenders

Less Serious Felonies

- Drug offenses - first offense
- Burglary II
- Car theft
- Receiving stolen property
- Theft and fraud
- Possession of prohibited weapon
- Other property offenses

DRAFT cooper\dc2.opt 7/21/97 2:00pm

PREFERRED DOJ APPROACH (Pre-Ruff)

SUBTITLE B - SENTENCING

**SEC. 311. PAROLE ABOLISHED; REQUIREMENT OF TRUTH IN SENTENCING.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act, and notwithstanding any other law, persons convicted of any felony offense under a law applicable exclusively to the District of Columbia --

- (1) shall not be eligible for parole; and
- (2) shall have good time calculated pursuant to section 3624 of title 18, United States Code.

**SEC. 312. DETERMINATE SENTENCING REQUIRED FOR FELONY OFFENSES.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act --

(1) persons convicted of felony offenses under a law or laws applicable exclusively to the District of Columbia shall be sentenced according to a determinate sentencing system in which the judge imposing a sentence to a term of imprisonment shall prescribe a definite period of imprisonment (that does not include a lower and an upper limit) not exceeding the maximum fixed by law. The provisions of section 3583 of title 18, United States Code, relating to supervised release, shall be applicable to persons convicted of felony offenses under a law or laws applicable exclusively to the District of Columbia;

(2) the following provisions of the District of Columbia Code are repealed: D.C. Code Title 24, Chapters 2 and 8; and

(3) D.C. Code Title 33, Section 541, is amended --

(A) by adding a new subsection (c), as follows:

"(c)(1) Except as specifically provided in this subsection, any person who violates subsection (a)(1) or (b)(1) of this section shall be imprisoned for a mandatory-minimum term as hereinafter prescribed and shall not be released prior to serving such mandatory-minimum sentence.

"(A) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or Schedule II that is a narcotic or abusive drug, shall serve a mandatory-minimum sentence of not less than 18 months for the first offense, not less than 3 years for the second offense, and not less than 6 years for the third or subsequent offense.

"(B) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule I, II or III shall serve a mandatory-minimum sentence of not less than one year.

"(C) Any person who violates subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule IV or V shall, if the quantity of such substance or counterfeit substance involved in such violation shall exceed \$15,000 in retail value at the time of such violation, serve a mandatory-minimum sentence of not less than 1 year.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the court may, in its discretion, waive the mandatory-minimum sentencing provisions of subparagraphs (A) and (B) of paragraph (1) of this subsection when sentencing a person who has not been previously convicted in any jurisdiction in the United States for knowingly or intentionally manufacturing, distributing, or possessing with intent to manufacture or distribute a controlled substance included in Schedule I, II or III if the court determines that the person was an addict at the time of the violation of subsection (a)(1) or (b)(1) of this section, and that such person knowingly or intentionally manufactured, distributed or possessed with intent to manufacture or distribute a controlled substance included in Schedule I, II or III for the primary purpose of enabling the offender to obtain a narcotic drug or abusive drug which he required for his personal use because of his addiction to a narcotic drug or an abusive drug."; and

(B) in subsection (g), by striking "means" and inserting "includes the violation or violations upon which sentence is being imposed, as well as".

### **SEC. 313. ALTERNATIVE MODE OF ENACTMENT OF SECTIONS 311 AND 312.**

The provisions of sections 311 and 312 shall not be effective if, within 60 days after the date of enactment of this Act, the District of Columbia Council has amended the District of Columbia Code to enact those provisions.

### **SEC. 314. GENERAL ATTRIBUTES OF SENTENCING SYSTEM.**

(a) The courts of the District of Columbia shall ensure that the determinate sentencing system prescribed in section 312 --

(1) will result in sentences that reflect the seriousness of the offense and provide for just punishment therefor, afford adequate deterrence to potential future criminal conduct of the offender and others, and provide the defendant with needed educational or vocational training, medical care, and other correctional treatment;

(2) will provide certainty and fairness in sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct, while maintaining sufficient flexibility to permit individualized sentences;

(3) will ensure that the system is neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders; and

(4) will include provisions (i) permitting eligible defendants to elect to enter the Superior Court Drug Intervention Program or a similar program and (ii) retaining the discretion of Superior Court judges as to the sentencing of defendants who successfully complete that or a similar program.

(b) The courts of the District of Columbia may develop rules and principles for determining the sentence to be imposed upon a person convicted of a felony, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases;

(2) whether the defendant should be sentenced to a term of supervised release following completion of service of a sentence to imprisonment and if so the length thereof; and

(3) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

**SEC. 315. DATA COLLECTION.**

(a) The District of Columbia Superior Court, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) The District of Columbia Superior Court, in connection with defendants sentenced in the District of Columbia Superior Court, shall provide to the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

**COMPROMISE OPTION 1**

(Ruff Proposal to EHN; differentiates major violent/serious offenses from other offenses)

**SUBTITLE B - SENTENCING**

**SEC. 311. PAROLE ABOLISHED FOR CERTAIN OFFENSES; REQUIREMENT OF TRUTH IN SENTENCING.**

(a) Effective for major violent or otherwise serious offenses committed on or after 3 years from the date of enactment of this Act, and notwithstanding any other law, persons convicted of such offenses --

(1) shall not be eligible for parole;

(2) shall have good time calculated pursuant to section 3624 of title 18, United States Code;

(3) shall be subject to a term of supervised release as provided in section 3583 of title 18, United States Code;

(4) shall be sentenced according to a determinate sentencing system in which the judge imposing a sentence to a term of imprisonment shall prescribe a definite period of imprisonment (that does not include a lower and an upper limit) not exceeding the maximum fixed by law; and

(5) shall not be sentenced pursuant to D.C. Code Title 24, Chapters 2 and 8.

(b) For purposes of this Act, the term "major violent or otherwise serious offenses" means a violation of D.C. Code Title 22, sections 2401-2406 (relating to murder and manslaughter); 501-503, 504.1, and 505 (relating to felony assaults); 901 (relating to cruelty to children); 4102-4105, 4108-4110, 4113-4116, 4118, and 4120 (relating to sex offenses); 3201, et seq. (relating to armed offenses and felony gun offenses); 401-402 (relating to arson); 1801 (relating to first degree burglary); 721 (relating to obstruction of justice); 2901 (relating to robbery); Title 33, section 541 as amended by § 312 below (relating to recidivist drug offenders); Title 22, sections 2101 (relating to kidnapping); 2601 and 2603 (relating to prison breach and escape, and introducing contraband into penal institutions); 506 (relating to malicious disfigurement and mayhem); and 2903 (relating to carjacking).

**[SEC. 312. AMENDMENTS TO DRUG LAWS.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act --

D.C. Code Title 33, Section 541, is amended --

(A) by adding a new subsection (c), as follows:

"(c)(1) Except as specifically provided in this subsection, any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section shall be imprisoned for a mandatory-minimum term as hereinafter prescribed and shall not be released prior to serving such mandatory-minimum sentence.

"(A) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or Schedule II that is a narcotic or abusive drug, shall serve a mandatory-minimum sentence of not less than 18 months for the second offense, not less than 3 years for the third offense, and not less than 6 years for the fourth or subsequent offense.

"(B) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule I, II or III shall serve a mandatory-minimum sentence of not less than one year.

"(C) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule IV or V shall, if the quantity of such substance or counterfeit substance involved in such violation shall exceed \$15,000 in retail value at the time of such violation, serve a mandatory-minimum sentence of not less than 1 year."; and

(B) in subsection (g), by striking "means" and inserting "includes the violation or violations upon which sentence is being imposed, as well as".]

**SEC. 313. JURISDICTION OF SUPERIOR COURT REGARDING PAROLE.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act, any offender convicted of an offense for which parole is available who is sentenced to a term or terms of imprisonment of six months or more shall be released at the expiration of such sentence less good time deductions provided by section 3624 of title 18, United States Code, unless the court which imposed sentence shall at the time of sentencing provide for the prisoner's earlier release on parole (on such conditions as the court deems appropriate) after service of at least one-third of such term or terms. Supervision of paroled

offenders shall be on the same basis as that of offenders who are on supervised release under section 333(c)(2). If the court does not order the parole of the offender, the court shall impose a term of supervised release (on such conditions as the court deems appropriate) of not more than one-third of the sentence imposed, to be served following the offender's release from imprisonment.

**SEC. 314. ALTERNATIVE MODE OF ENACTMENT OF SECTIONS 311 - 313.**

The provisions of sections 311 -313 shall not be effective if, within 60 days after the date of enactment of this Act, the District of Columbia Council has amended the District of Columbia Code to enact those provisions.

**[SEC. 315. SENTENCING BOARD.**

(a) There is established as an independent agency of the District of Columbia a District of Columbia Sentencing Board (the Board), which shall consist of 7 voting members. The Attorney General, or the Attorney General's designee, shall be the chairperson of the Board and shall have the duty to convene meetings of the Board to ensure that it fulfills its responsibilities under this Act.

(b) The members of the Board shall have knowledge and responsibility with respect to criminal justice matters. Two members of the Board shall be judges of the District of Columbia Superior Court, and shall be appointed by the chief judge of that court; one member shall be a representative of the District of Columbia Council and shall be appointed by the chairperson or chairperson pro temp of the Council; one member shall be a representative of the executive branch of the District of Columbia government with official responsibilities for criminal justice matters in the District of Columbia and shall be appointed by the Mayor of the District of Columbia; one member shall be a representative of the District of Columbia Public Defender Service and shall be appointed by the Director of such Service; and one member shall be a representative of the United States Attorney for the District of Columbia and shall be appointed by the United States Attorney. A representative of the Federal Bureau of Prisons and a representative of the Office of Corporation Counsel of the District of Columbia shall each serve as a non-voting, ex officio member.

(c) Any vacancy in the Board shall be filled in the same manner as the original appointment. Members of the Board shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Board, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

**SEC. 316. GENERAL DUTIES, POWERS, AND GOALS OF BOARD.**

(a) The Board shall ensure that, consistent with sections 311-314, sentences for all offenses in violation of a law or laws applicable exclusively to the District of Columbia that are committed on or after 3 years after the date of enactment of this Act --

(1) will reflect the seriousness of the offense and provide for just punishment therefor, afford adequate deterrence to potential future criminal conduct of the offender and others, and provide the defendant with needed educational or vocational training, medical care, and other correctional treatment;

(2) will provide certainty and fairness, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct, while maintaining sufficient flexibility to permit individualized sentences;

(3) will be neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders; and

(4) will include provisions (i) permitting eligible defendants to elect to enter the Superior Court Drug Intervention Program or a similar program and (ii) retaining the discretion of Superior Court judges as to the sentencing of defendants who successfully complete that or a similar program.

(b) In fulfilling its responsibilities, the Board may develop rules and principles for determining the sentence to be imposed, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases;

(2) whether the defendant should be sentenced to a term of supervised release following completion of service of a sentence to imprisonment and if so the length thereof; and

(3) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

(c) The Board is authorized --

(1) to conduct periodic training programs of instruction in sentencing techniques for judicial and other personnel connected with the sentencing process;

(2) to hold hearings and call witnesses that might assist the Board in the exercise of its powers;

(3) to perform such other functions as may be necessary to carry out the purposes of this section; and

(4) to conduct business, exercise powers, and fulfill duties by the vote of a majority of the members present at any meeting.

(d) Recommendations of the Board for any amendments to the District of Columbia Code to further the purposes of this Act shall be adopted by a vote of not less than 6 of the members and when made shall be transmitted forthwith to the District of Columbia Council.]

**OR, alternatively, a judicial board:**

**[SEC. 315. GENERAL ATTRIBUTES OF SENTENCING SYSTEM.**

(a) The courts of the District of Columbia shall ensure that the determinate sentencing system prescribed in sections 311 through 314 --

(1) will result in sentences that reflect the seriousness of the offense and provide for just punishment therefor, afford adequate deterrence to potential future criminal conduct of the offender and others, and provide the defendant with needed educational or vocational training, medical care, and other correctional treatment;

(2) will provide certainty and fairness in sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct, while maintaining sufficient flexibility to permit individualized sentences;

(3) will ensure that the system is neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders; and

(4) will include provisions (i) permitting eligible defendants to elect to enter the Superior Court Drug Intervention Program or a similar program and (ii) retaining the discretion of Superior Court judges as to the sentencing of defendants who successfully complete that or a similar program.

(b) The courts of the District of Columbia may develop rules and principles for determining the sentence to be imposed, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases;

(2) whether the defendant should be sentenced to a term of supervised release following completion of service of a sentence to imprisonment and if so the length thereof; and

(3) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.]

**SEC. 317. DATA COLLECTION.**

(a) The Board, the District of Columbia Superior Court, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) The District of Columbia Superior Court, in connection with defendants sentenced in the District of Columbia Superior Court, shall provide to the Board and the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

## COMPROMISE OPTION 2A

(work-up of EHN legislation, plus failsafe provision)

### SUBTITLE B - SENTENCING

#### **SEC. 311. TRUTH IN SENTENCING COMMISSION.**

(a) There is established as an independent agency of the District of Columbia a District of Columbia Truth in Sentencing Commission (the Commission), which shall consist of 7 voting members. The Attorney General, or the Attorney General's designee, shall be the chairperson of the Commission and shall have the duty to convene meetings of the Commission to ensure that it fulfills its responsibilities under this Act. The members shall serve for the life of the Commission and shall be subject to removal only for neglect of duty, malfeasance in office, or other good cause shown.

(b) The members of the Commission shall have knowledge and responsibility with respect to criminal justice matters. Two members of the Commission shall be judges of the District of Columbia Superior Court, and shall be appointed by the chief judge of that court; one member shall be a representative of the District of Columbia Council and shall be appointed by the chairperson or chairperson pro temp of the Council; one member shall be a representative of the executive branch of the District of Columbia government with official responsibilities for criminal justice matters in the District of Columbia and shall be appointed by the Mayor of the District of Columbia; one member shall be a representative of the District of Columbia Public Defender Service and shall be appointed by the Director of such Service; and one member shall be a representative of the United States Attorney for the District of Columbia and shall be appointed by the United States Attorney. A representative of the Federal Bureau of Prisons and a representative of the Office of Corporation Counsel of the District of Columbia shall each serve as a non-voting, ex officio member.

(c) Any vacancy in the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

#### **SEC. 312. GENERAL DUTIES, POWERS, AND GOALS OF COMMISSION.**

(a) The Commission shall, within 180 days after the enactment of this Act, make recommendations to the District of Columbia Council for amendments to the District of

Columbia Code with respect to the sentences to be imposed for all offenses committed on or after 3 years after the date of enactment of this Act.

(b) Such recommendations shall for all offenses ensure that --

(1) an offender will have a sentence imposed that:

(A) reflects the seriousness of the offense and the criminal history of the offender; and

(B) provides for just punishment, affords adequate deterrence to potential future criminal conduct of the offender and others, and provides the offender with needed educational or vocational training, medical care, and other correctional treatment;

(2) good time shall be calculated pursuant to section 3624 of title 18, United States Code; and

(3) an adequate period of supervision will be imposed to follow release from imprisonment.

(c) Such recommendations shall for offenses described in section 315 (b) of this Act ensure that an offender will receive a sentence that requires service of at least 85% of the maximum term of imprisonment imposed by the Court.

(d) The Commission shall not have the power to recommend a sentence of death for any offense nor for any offense a term of imprisonment less than that prescribed by the D.C. Code as a mandatory minimum sentence.

(e) The Commission shall ensure that its recommendations --

(1) will be neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders;

(2) will include provisions designed to maximize the effectiveness of the drug court of the Superior Court of the District of Columbia; and

(3) will be fully consistent with all other provisions of this Act, including provisions relating to the administration of probation, parole, and supervised release for District of Columbia Code offenders.

(f) In fulfilling its responsibilities, the Commission may develop recommended rules and principles for determining the sentence to be imposed, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases; and

(2) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

(g) The recommendations of the Commission shall be adopted by a vote of not less than 6 of the members and when made shall be transmitted forthwith to the District of Columbia Council. The Commission shall cease to exist 90 days after the transmittal of recommendations to the Council or on the last date on which timely recommendations may be made if the Commission is unable to agree on such recommendations.

(h) The Commission is authorized --

(1) to hold hearings and call witnesses that might assist the Commission in the exercise of its powers;

(2) to perform such other functions as may be necessary to carry out the purposes of this section.

(3) except as otherwise provided, to conduct business, exercise powers, and fulfill duties by the vote of a majority of the members present at any meeting. and

**SEC. 313. DATA COLLECTION.**

(a) The Commission, the District of Columbia Superior Court, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) The District of Columbia Superior Court, in connection with defendants sentenced in the District of Columbia Superior Court, shall provide to the Commission and the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

**SEC. 314. ALTERNATIVE MODE OF ENACTMENT.**

If, within 270 days after the date of enactment of this Act, the District of Columbia Council has failed to amend the District of Columbia Code to enact in whole the recommendations of the District of Columbia Truth in Sentencing Commission, as provided in sections 311 and 312 of this Act, or if the Commission fails timely to make such

recommendations, the provisions of section 315, 316 and 317 of this Act shall become effective.

**SEC. 315. REQUIREMENT OF TRUTH IN SENTENCING.**

(a) Effective for major violent or otherwise serious offenses committed on or after 3 years from the date of enactment of this Act, and notwithstanding any other law, persons convicted of such offenses --

(1) shall not be eligible for parole;

(2) shall have good time calculated pursuant to section 3624 of title 18, United States Code;

(3) shall be subject to a term of supervised release as provided in section 3583 of title 18, United States Code;

(4) shall be sentenced according to a determinate sentencing system in which the judge imposing a sentence to a term of imprisonment shall prescribe a definite period of imprisonment (that does not include a lower and an upper limit) not exceeding the maximum fixed by law; and

(5) shall not be sentenced pursuant to D.C. Code Title 24, Chapters 2 and 8.

(b) For purposes of this Act, the term "major violent or otherwise serious offenses" means a violation of D.C. Code Title 22, sections 2401-2406 (relating to murder and manslaughter); 501-503, 504.1, and 505 (relating to felony assaults); 901 (relating to cruelty to children); 4102-4105, 4108-4110, 4113-4116, 4118, and 4120 (relating to sex offenses); 3201, et seq. (relating to armed offenses and felony gun offenses); 401-402 (relating to arson); 1801 (relating to first degree burglary); 721 (relating to obstruction of justice); 2901 (relating to robbery); Title 33, section 541 as amended by § 312 below (relating to recidivist drug offenders); Title 22, sections 2101 (relating to kidnapping); 2601 and 2603 (relating to prison breach and escape, and introducing contraband into penal institutions); 506 (relating to malicious disfigurement and mayhem); and 2903 (relating to carjacking).

**SEC. 316. JURISDICTION OF SUPERIOR COURT REGARDING PAROLE.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act, any offender convicted of an offense for which parole is available who is sentenced to a term or terms of imprisonment of six months or more shall be released at the expiration of such sentence less good time deductions provided by section 3624 of title 18, United States Code, unless the court which imposed sentence shall at the time of sentencing provide

for the prisoner's earlier release on parole (on such conditions as the court deems appropriate) after service of at least one-third of such term or terms. Supervision of paroled offenders shall be on the same basis as that of offenders who are on supervised release under section 333(c)(2). If the court does not order the parole of the offender, the court shall impose a term of supervised release (on such conditions as the court deems appropriate) of not more than one-third of the sentence imposed, to be served following the offender's release from imprisonment.

**[SEC. 317. AMENDMENTS TO DRUG LAWS.**

Effective for offenses committed on or after 3 years from the date of enactment of this Act --

D.C. Code Title 33, Section 541, is amended --

(A) by adding a new subsection (c), as follows:

"(c)(1) Except as specifically provided in this subsection, any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section shall be imprisoned for a mandatory-minimum term as hereinafter prescribed and shall not be released prior to serving such mandatory-minimum sentence.

"(A) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to a controlled or counterfeit substance classified in Schedule I or Schedule II that is a narcotic or abusive drug, shall serve a mandatory-minimum sentence of not less than 18 months for the second offense, not less than 3 years for the third offense, and not less than 6 years for the fourth or subsequent offense.

"(B) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule I, II or III shall serve a mandatory-minimum sentence of not less than one year.

"(C) Any person who commits a second or subsequent violation of subsection (a)(1) or (b)(1) of this section with respect to any other controlled or counterfeit substance classified in Schedule IV or V shall, if the quantity of such substance or counterfeit substance involved in such violation shall exceed \$15,000 in retail value at the time of such violation, serve a mandatory-minimum sentence of not less than 1 year."; and

(B) in subsection (g), by striking "means" and inserting "includes the violation or violations upon which sentence is being imposed, as well as".]

DRAFT mastalli\dc\DC2B.OPT 7/22/97 7:10pm

ALTERNATIVE COMPROMISE OPTION 2B

SUBTITLE B - SENTENCING

**SEC. 311. TRUTH IN SENTENCING COMMISSION.**

(a) There is established as an independent agency of the District of Columbia a District of Columbia Truth in Sentencing Commission (the Commission), which shall consist of 7 voting members. The Attorney General, or the Attorney General's designee, shall be the chairperson of the Commission and shall have the duty to convene meetings of the Commission to ensure that it fulfills its responsibilities under this Act. The members shall serve for the life of the Commission and shall be subject to removal only for neglect of duty, malfeasance in office, or other good cause shown.

(b) The members of the Commission shall have knowledge and responsibility with respect to criminal justice matters. Two members of the Commission shall be judges of the District of Columbia Superior Court, and shall be appointed by the chief judge of that court; one member shall be a representative of the District of Columbia Council and shall be appointed by the chairperson or chairperson pro temp of the Council; one member shall be a representative of the executive branch of the District of Columbia government with official responsibilities for criminal justice matters in the District of Columbia and shall be appointed by the Mayor of the District of Columbia; one member shall be a representative of the District of Columbia Public Defender Service and shall be appointed by the Director of such Service; and one member shall be a representative of the United States Attorney for the District of Columbia and shall be appointed by the United States Attorney. A representative of the Federal Bureau of Prisons and a representative of the Office of Corporation Counsel of the District of Columbia shall each serve as a non-voting, ex officio member.

(c) Any vacancy in the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

**SEC. 312. GENERAL DUTIES, POWERS, AND GOALS OF COMMISSION.**

(a) The Commission shall, within 180 days after the enactment of this Act, make recommendations to the District of Columbia Council for amendments to the District of Columbia Code with respect to the sentences to be imposed for all offenses committed on or after 3 years after the date of enactment of this Act.

(b) Such recommendations shall for all offenses ensure that --

(1) an offender will have a sentence imposed that:

(A) reflects the seriousness of the offense and the criminal history of the offender; and

(B) provides for just punishment, affords adequate deterrence to potential future criminal conduct of the offender and others, and provides the offender with needed educational or vocational training, medical care, and other correctional treatment;

(2) good time shall be calculated pursuant to section 3624 of title 18, United States Code; and

(3) an adequate period of supervision will be imposed to follow release from imprisonment.

(c) Such recommendations shall for offenses described in D.C. Code Title 22, sections 2401-2406 (relating to murder and manslaughter); 501-503, 504.1, and 505 (relating to felony assaults); 901 (relating to cruelty to children); 4102-4105, 4108-4110, 4113-4116, 4118, and 4120 (relating to sex offenses); 3201, *et seq.* (relating to armed offenses and felony gun offenses); 401-402 (relating to arson); 1801 (relating to first degree burglary); 721 (relating to obstruction of justice); 2901 (relating to robbery); Title 33, section 541 as amended by § 312 below (relating to recidivist drug offenders); Title 22, sections 2101 (relating to kidnapping); 2601 and 2603 (relating to prison breach and escape, and introducing contraband into penal institutions); 506 (relating to malicious disfigurement and mayhem); and 2903 (relating to carjacking), ensure that an offender will receive a sentence that requires service of at least 85% of the maximum term of imprisonment imposed by the Court.

(d) The Commission shall not have the power to recommend a sentence of death for any offense nor for any offense a term of imprisonment less than that prescribed by the D.C. Code as a mandatory minimum sentence.

(e) The Commission shall ensure that its recommendations --

(1) will be neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders;

(2) will include provisions designed to maximize the effectiveness of the drug court of the Superior Court of the District of Columbia; and

(3) will be fully consistent with all other provisions of this Act, including provisions relating to the administration of probation, parole, and supervised release for District of Columbia Code offenders.

(f) In fulfilling its responsibilities, the Commission may develop recommended rules and principles for determining the sentence to be imposed, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases; and

(2) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

(g) The recommendations of the Commission shall be adopted by a vote of not less than 6 of the members and when made shall be transmitted forthwith to the District of Columbia Council. The Commission shall cease to exist 90 days after the transmittal of recommendations to the Council or on the last date on which timely recommendations may be made if the Commission is unable to agree on such recommendations.

(h) The Commission is authorized --

(1) to hold hearings and call witnesses that might assist the Commission in the exercise of its powers;

(2) to perform such other functions as may be necessary to carry out the purposes of this section; and

(3) except as otherwise provided, to conduct business, exercise powers, and fulfill duties by the vote of a majority of the members present at any meeting.

**SEC. 313. DATA COLLECTION.**

(a) The Commission, the District of Columbia Superior Court, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) The District of Columbia Superior Court, in connection with defendants sentenced in the District of Columbia Superior Court, shall provide to the Commission and the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

**SEC. 314. ALTERNATIVE MODE OF ENACTMENT.**

If, within 270 days after the date of enactment of this Act, the District of Columbia Council has failed to amend the District of Columbia Code to enact in whole the recommendations of the District of Columbia Truth in Sentencing Commission, as provided in sections 311 and 312 of this Act, or if the Commission fails timely to make such recommendations, then the Attorney General, after consultation with the District of Columbia Council and within 90 days, shall promulgate amendments to the District of Columbia Code with respect to the sentences to be imposed for all offenses committed on or after 3 years after the date of enactment of this Act. Amendments promulgated by the Attorney General under this section shall be consistent with the standards set forth in section 312 in relation to recommendations of the Commission. The Attorney General shall transmit any amendments promulgated under this section to Congress, and the amendments shall take effect 30 days after such transmittal, unless otherwise provided by Act of Congress.

Wash DC-Crime

Too -

This is floating around DOJ.  
 Could you take a look?

7/25/97 4:10pm

Elean

COMPROMISE OPTION

cc: Bruce

## SUBTITLE B - SENTENCING

**SEC. 311. TRUTH IN SENTENCING COMMISSION.**

(a) There is established as an independent agency of the District of Columbia a District of Columbia Truth in Sentencing Commission (the Commission), which shall consist of 7 voting members. The Attorney General, or the Attorney General's designee, shall be the chairperson of the Commission and shall have the duty to convene meetings of the Commission to ensure that it fulfills its responsibilities under this Act. The members shall serve for the life of the Commission and shall be subject to removal only for neglect of duty, malfeasance in office, or other good cause shown.

(b) The members of the Commission shall have knowledge and responsibility with respect to criminal justice matters. Two members of the Commission shall be judges of the District of Columbia Superior Court, and shall be appointed by the chief judge of that court; one member shall be a representative of the District of Columbia Council and shall be appointed by the chairperson or chairperson pro temp of the Council; one member shall be a representative of the executive branch of the District of Columbia government with official responsibilities for criminal justice matters in the District of Columbia and shall be appointed by the Mayor of the District of Columbia; one member shall be a representative of the District of Columbia Public Defender Service and shall be appointed by the Director of such Service; and one member shall be a representative of the United States Attorney for the District of Columbia and shall be appointed by the United States Attorney. A representative of the Federal Bureau of Prisons and a representative of the Office of Corporation Counsel of the District of Columbia shall each serve as a non-voting, ex officio member.

(c) Any vacancy in the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

**SEC. 312. GENERAL DUTIES, POWERS, AND GOALS OF COMMISSION.**

(a) The Commission shall, within 180 days after the enactment of this Act, make recommendations to the District of Columbia Council for amendments to the District of Columbia Code with respect to the sentences to be imposed for all felonies committed on or after 3 years after the date of enactment of this Act.

(b) Such recommendations shall --

(1) as to all felonies listed in paragraph (h), meet the truth in sentencing standards of 20104(a)(1),

(2) as to all felonies ensure that --

(A) an offender will have a sentence imposed that:

(i) reflects the seriousness of the offense and the criminal history of the offender; and

(ii) provides for just punishment, affords adequate deterrence to potential future criminal conduct of the offender and others, and provides the offender with needed educational or vocational training, medical care, and other correctional treatment;

(B) good time shall be calculated pursuant to section 3624 of title 18, United States Code; and

(C) an adequate period of supervision will be imposed to follow release from imprisonment.

(c) The Commission shall not have the power to recommend a sentence of death for any offense nor for any offense a term of imprisonment less than that prescribed by the D.C. Code as a mandatory minimum sentence.

(d) The Commission shall ensure that its recommendations --

(1) will be neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders;

(2) will include provisions designed to maximize the effectiveness of the drug court of the Superior Court of the District of Columbia; and

(3) will be fully consistent with all other provisions of this Act, including provisions relating to the administration of probation, parole, and supervised release for District of Columbia Code offenders.

(e) The recommendations of the Commission required under subsections (a) - (d) shall be adopted by a vote of not less than 6 of the members and when made shall be transmitted forthwith to the District of Columbia Council. The Commission shall cease to exist 90 days after the transmittal of recommendations to the Council or on the last date on which timely

recommendations may be made if the Commission is unable to agree on such recommendations.

(f) In fulfilling its responsibilities, the Commission may adopt by a vote of not less than 6 of the members and transmit to the District of Columbia District Court recommended rules and principles for determining the sentence to be imposed, including --

(1) whether to impose a sentence of probation, a term of imprisonment and/or a fine, and the amount or length thereof, and including intermediate sanctions in appropriate cases; and

(2) whether multiple sentences of terms of imprisonment should run concurrently or consecutively.

(g) The Commission is authorized --

(1) to hold hearings and call witnesses that might assist the Commission in the exercise of its powers;

(2) to perform such other functions as may be necessary to carry out the purposes of this section; and

(3) except as otherwise provided, to conduct business, exercise powers, and fulfill duties by the vote of a majority of the members present at any meeting.

(h) The felonies referred to in subsection (b) (1) are those described in D.C. Code Title 22, sections 2401-2406 (relating to murder and manslaughter); 501-503, 504.1, and 505 (relating to felony assaults); 901 (relating to cruelty to children); 4102-4105, 4108-4110, 4113-4116, 4118, and 4120 (relating to sex offenses); 3201, *et seq.* (relating to armed offenses and felony gun offenses); 401-402 (relating to arson); 1801 (relating to first degree burglary); 721 (relating to obstruction of justice); 2901 (relating to robbery); Title 33, section 541 as amended by § 312 below (relating to recidivist drug offenders); Title 22, sections 2101 (relating to kidnapping); 2601 and 2603 (relating to prison breach and escape, and introducing contraband into penal institutions); 506 (relating to malicious disfigurement and mayhem); and 2903 (relating to carjacking).

### SEC. 313. DATA COLLECTION.

(a) The Commission, the District of Columbia Superior Court, the District of Columbia Department of Corrections, and other agencies as necessary shall provide to the Attorney General such data as are requested in furtherance of this Act.

(b) The District of Columbia Superior Court, in connection with defendants sentenced in the District of Columbia Superior Court, shall provide to the Commission and the Attorney General such data as are requested for planning, statistical analysis or projecting future prison population levels.

#### **SEC. 314. ALTERNATIVE MODE OF ENACTMENT.**

If, within 270 days after the date of enactment of this Act, the District of Columbia Council has failed to amend the District of Columbia Code to enact in whole the recommendations of the District of Columbia Truth in Sentencing Commission, as provided in sections 311 and 312 of this Act, or if the Commission fails timely to make such recommendations, then the Attorney General, after consultation with the Commission and within 90 days, shall promulgate amendments to the District of Columbia Code with respect to the sentences to be imposed for all offenses committed on or after 3 years after the date of enactment of this Act. Amendments promulgated by the Attorney General under this section shall be consistent with the standards set forth in section 312 in relation to recommendations of the Commission. The Attorney General shall transmit any amendments promulgated under this section to Congress, and the amendments shall take effect 30 days after such transmittal, unless otherwise provided by Act of Congress.

7-97 15:19 FROM:ACF/OPS/OMS WASH.D.C.

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## TOTAL CHILD SUPPORT COLLECTIONS

	<u>FY 92</u>	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>	<u>FY 96</u>	<u>% Change</u>
ALABAMA	\$98,140,974	\$113,272,672	\$127,908,477	\$141,212,499	\$158,000,000	61.0%
ALASKA	35,613,443	39,148,273	45,851,252	51,734,216	59,000,000	65.7%
ARIZONA	46,447,054	66,579,506	77,418,716	93,811,661	112,000,000	141.1%
ARKANSAS	42,064,579	49,147,427	55,214,883	63,875,135	79,300,000	88.5%
CALIFORNIA	653,680,905	736,854,861	811,493,194	\$57,281,903	903,000,000	38.1%
COLORADO	58,050,172	67,723,388	80,288,154	91,869,504	105,000,000	80.9%
CONNECTICUT	84,189,705	93,453,557	98,447,867	113,734,197	124,300,000	47.6%
DELAWARE	25,925,755	26,662,850	29,663,335	31,550,990	36,000,000	38.9%
DISTRICT OF COLUMBIA	19,733,231	21,798,134	24,078,544	26,040,357	27,300,000	38.3%
FLORIDA	252,472,760	289,976,526	327,296,405	374,014,543	407,000,000	61.2%
GEORGIA	174,466,971	205,565,984	229,822,363	244,367,218	260,000,000	49.0%
HAWAII	34,403,695	37,327,396	45,106,847	48,751,221	54,000,000	57.0%
IDAHO	27,845,638	32,126,889	36,941,968	40,746,653	44,000,000	58.0%
ILLINOIS	183,308,184	183,833,905	202,190,918	219,340,011	244,000,000	33.1%
INDIANA	124,614,492	141,164,475	151,625,857	174,449,919	193,300,000	55.1%
IOWA	96,046,029	109,278,257	122,704,835	136,138,188	150,000,000	56.2%
KANSAS	66,052,666	73,589,926	86,744,345	97,570,769	103,000,000	55.9%
KENTUCKY	93,901,880	103,586,853	121,426,921	130,640,118	143,000,000	52.3%
LOUISIANA	84,372,975	103,054,042	118,007,608	129,608,944	143,600,000	70.2%
MAINE	38,004,933	41,963,477	51,184,439	57,361,268	63,000,000	65.8%
MARYLAND	194,008,629	219,084,888	244,645,351	265,343,964	289,300,000	49.1%
MASSACHUSETTS	185,085,700	195,373,519	203,985,963	223,559,908	249,000,000	34.5%
MICHIGAN	782,804,209	859,543,761	898,372,484	933,399,732	967,000,000	23.5%
MINNESOTA	189,495,152	214,479,725	246,251,702	283,557,834	320,000,000	68.9%
MISSISSIPPI	48,288,943	53,504,878	62,379,114	68,205,294	84,000,000	74.0%
MISSOURI	166,339,157	189,161,094	214,362,303	238,700,287	264,000,000	58.7%
MONTANA	17,436,387	20,149,665	21,363,471	25,531,895	29,300,000	68.0%
NEBRASKA	66,177,206	71,708,099	81,082,493	90,054,555	100,000,000	51.1%
NEVADA	32,080,457	37,640,706	43,721,622	50,065,946	56,300,000	75.5%
NEW HAMPSHIRE	27,359,882	31,496,682	36,537,772	42,569,867	48,300,000	76.5%
NEW JERSEY	372,505,939	407,848,517	459,747,515	480,327,249	501,000,000	34.5%
NEW MEXICO	19,088,444	27,117,485	30,081,999	26,937,516	27,000,000	41.4%
NEW YORK	487,738,166	536,374,239	569,681,503	619,488,535	691,000,000	41.7%
NORTH CAROLINA	167,894,174	197,254,246	226,631,971	233,144,700	260,300,000	55.0%
NORTH DAKOTA	15,599,316	18,692,965	21,877,709	25,521,947	28,300,000	81.4%
OHIO	665,999,069	714,132,131	789,319,376	886,842,522	972,000,000	45.9%
OKLAHOMA	46,540,459	52,169,605	57,577,689	63,907,789	74,000,000	59.0%
OREGON	107,434,692	124,929,066	142,226,702	156,829,194	179,000,000	66.6%
PENNSYLVANIA	775,782,032	814,358,389	861,652,650	900,763,509	972,000,000	25.3%
RHODE ISLAND	24,879,996	26,670,966	29,899,608	32,634,412	35,000,000	40.7%
SOUTH CAROLINA	68,797,850	79,280,225	90,628,403	102,911,772	118,000,000	71.5%
SOUTH DAKOTA	15,881,269	18,111,700	21,556,571	24,838,160	27,300,000	71.9%
TENNESSEE	84,818,177	116,152,142	141,387,835	156,903,883	166,000,000	95.7%
TEXAS	251,157,304	309,501,931	367,170,958	448,463,425	546,000,000	117.4%
UTAH	52,610,075	56,199,496	61,135,172	63,426,174	75,000,000	42.6%
VERMONT	13,518,042	15,831,039	17,949,621	21,254,330	25,000,000	84.9%
VIRGINIA	145,113,973	151,919,323	182,786,672	226,681,596	258,000,000	77.8%
WASHINGTON	267,455,125	307,251,447	340,488,236	375,257,202	410,000,000	53.3%
WEST VIRGINIA	35,561,319	49,015,767	54,401,779	72,796,255	84,300,000	137.1%
WISCONSIN	293,459,750	332,813,885	380,584,443	427,487,251	444,000,000	51.3%
WYOMING	10,839,654	13,627,735	16,183,772	17,349,792	24,000,000	121.4%
<b>NATIONWIDE TOTAL</b>	<b>\$7,964,141,522</b>	<b>\$8,907,149,945</b>	<b>\$9,850,159,410</b>	<b>\$10,827,648,695</b>	<b>\$11,869,500,000</b>	<b>49.0%</b>



Jose Cerda III

06/25/97 02:42:25 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP  
cc: Leanne A. Shimabukuro/OPD/EOP  
Subject: DC Plan and Parole

Elena:

I sent over a fax with a memo from L.D. Acheson to the AG detailing the blow-up with Rep. Eleanor Holmes Norton last week. Here are the major points in the current debate:

1. Rep. Norton does not want to abolish parole in DC and rejects the criminal justice provisions/conditions in the DC MOU.
2. Consistent with the DC MOU, Justice wants the DC Plan legislation to include "truth-in-sentencing" (abolition of parole for felons, imposition of determinate sentencing with supervised released and good time credits of up to 15%) and mandatory minimums for certain drug offenses. As I mentioned, not only is "truth-in-sentencing" consistent with the federal prison system -- we've tried to replicate it through the state prison grants authorized in the crime bill. As for the drug mandatories, I understand that Eric Holder has advocated for them as a result of the 40% drop in DC Drug Court participants since drug mandatories were repealed.
3. DOJ is willing to give on its conditions that DC's sentencing scheme mirror federal sentencing for comparable crimes -- thus, allowing DC to determine its own sentencing.
4. Chuck Ruff has offered to help broker a compromise, but was asked by Micheal Deich of OMB and DOJ to make sure that he touched base with DPC and Rahm.

# Washington DC - Crime

6-27-92

## Latent Issue

1. Admin pos on both-in-sent - 85%
2. Mand mins / drug cts

Revo: Wants to be flexible.

Must be able to put inmates throughout system.

Need to have some comparability - no good to have some w/ parole, some not.

Abl of parole / indeterminate sent w/ out.

Ruth: ~~ways~~ - ways to ~~sent~~ distinguish b/w offenders for these purposes. - most violent v. ?

Kathy from BOP to speak w/ Church - find line

Then Church can go talk to EHO - but not go beyond line.

Revo: Keep parole/determ sent - but maybe carve out offenders w/ no comparable fed cts

3. Carve out <sup>those</sup> ~~16%~~ in min. sec. prisons

Working group

Options

1. DC Parole in non-viol<sup>^</sup> offenders - more lengthy phase-in - another 3-5 yrs
2. Syst w/ determ sentencing - but after 85%, could be parole?  
it? had all sd time, wouldn't need. Parole-imp. who have lost 5-T.

DC's parole syst - fed sent wouldn't ven.

Prison population:

Class 1 <sup>entry</sup> 18.7% → 30% in syst at any pt in time

Drugs - 55% of process - 32% <sup>drug</sup> admissions → 70% of population

6% weapons

14% property - cars

5% assault

~~Proposal on table~~

Ruth: she cares about total time served + parole  
sentencing can't process -  
she distrusts - Think they'll  
↑ amt of time spent

Poss to have some people (non-class 1) released before 85%.

what you call it  
some courts } a #s will come out like  
} who plays in process

2nd offender mand mins?



Washington DC - Crime

U.S. Department of Justice

Office of Policy Development

Office of the Assistant Attorney General

Washington, D.C. 20530

June 19, 1998

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Eleanor D. Acheson *EPA (J.T.)*  
Assistant Attorney General

SUBJECT: D.C. Revitalization Plan:  
Legislation Related Meetings with Congresswoman  
Eleanor Holmes Norton on 6/16 through 6/18, 1997

As you know, despite her earlier support of the criminal justice -- including sentencing - related -- elements of the President's D.C. initiative, last week Congresswoman Eleanor Holmes Norton advised OMB and Eric Holder that she could not support significant pieces of the sentencing-related provisions. Before this week's meeting, both Eric Holder and I had thought, based on separate conversations with Ms. Norton and OMB, that her concerns were discrete and might well be accommodated. Although Eric, Kathy Hawk and I and our respective staffs worked hard, creatively and patiently to develop possible alternative approaches to the Administration's sentencing-related provisions, it became apparent that Ms. Norton has structural, policy-based and political objections to the entirety of our plan, and, thus unfortunately, there is, in our view, no reasonable basis for accommodation.

At OMB's request, Eric Holder, Mary Harkenrider, Grace Mastalli, and I met with Congresswoman Norton and her staff on Monday, 6/16, to discuss her objections to key elements of the criminal justice section of the Administration's proposed legislation. (Kathy Hawk recommended, and Eric and I agreed, that no BOP officials should attend this meeting. However, as to this and every other set of discussions, BOP was apprised of developments and no step was taken without BOP's concurrence.) Monday night, we raised the possibility of dropping the comparability standard and sentencing guidelines developed by a Board, if Ms. Norton would support Congressional abolition of parole, imposition of determinate sentences, federal good time standards, and enactment of mandatory minimums.

On Tuesday, 6/17, Eric, Grace, Mary and Tom Kane (of BOP) met with Ms. Norton and her staff who were joined by Margaret Moore, Director of D.C. Corrections, Jim Austin of the National Council on Crime and Delinquency (NCCD), and Council staff. Ms.

Norton summarily rejected the concept raised Monday night as unsatisfactory and challenged all the Department's facts, data, fundamental assumptions and the principles underlying the overall plan. She also raised a number of new concerns, including her desire to retain parole in the District. ☐ ✕

Tuesday night, in order to avoid further contentious meetings, it was decided to put the Department's best and final offer in writing and to transmit it Wednesday. While that letter was in internal clearance on Wednesday, we learned that OMB had scheduled a meeting with D.C. Subcommittee Chairman, Tom Davis and Delegate Norton at 2 p.m. to attempt to negotiate a compromise (with the Administration's bottom line to be based upon the substance of the attached draft letter.) Eric and Grace attended on behalf of the Department. Moments into the meeting it was apparent that Eric, despite extraordinary efforts, would not even be allowed the courtesy by Ms. Norton of fully outlining the elements of the possible compromise offer. Ms. Norton made it clear that she would not accept among other things, the abolition of parole or imposition of determinate sentences whether enacted by the Council or the Congress. ☐ ✕

The OMB representatives at this last meeting, Ed DeSeve, Michael Deich and Carol Thompson Cole, agreed that the Administration should not be party to any compromise worked out by Chairman Davis and Ms. Norton which was clearly going to be unacceptable to Justice. Instead, Ed DeSeve informed Norton and Davis that the Administration would reserve the right to object to the criminal justice section of the bill and to seek amendments as necessary to address the Department's requirements after today's subcommittee markup. Consequently, it also was agreed that the Administration's interests were best served by not sending the proposed offer letter. For the record, the signed MOU and the Administration's draft legislation remain the Department's position on the plans sentencing and corrections related conditions. ☐ ✕

CC: Eric Holder  
Kathleen Hawk  
Mary Francis Harkenrider  
Grace Mastalli  
Tom Kane

DRAFT OVERCOME BY EVENTS AND NOT TO BE SENT

The Honorable Eleanor Holmes Norton  
United States House of Representatives  
1424 Longworth House  
Washington, D.C. 20515-5101

Dear Congresswoman Norton:

Pursuant to your recent conversations with Assistant Attorney General Eleanor D. Acheson, United States Attorney for the District of Columbia Eric H. Holder, and other Justice Department officials, I want to assure you that I have thoroughly considered the issues you have raised and understand the nature and scope of your concerns. Since the President announced the Administration's Revitalization Plan for the District of Columbia in January, we have been engaged in consultation and negotiations about the criminal-justice-related elements of the plan with you, the Mayor, the D.C. Council, representatives of the D.C. Corporation Counsel, Corrections and Court systems, the Public Defenders Service, and Pretrial Services Agency, among others.

We believe that the May 14, 1997, Memorandum of Understanding and the Administration's draft implementing legislation represent a fair and careful balance of important competing interests that, if implemented along with planned D.C. Revitalization Plan Phase II initiatives, will help substantially to reduce crime and improve public safety in the District of Columbia. I am committed to working with you and other members of Congress to achieve enactment of the key elements of this plan.

In response to your important concerns about respecting Home Rule, we offer for your consideration the following possible modifications to the criminal justice section. We propose that the implementing legislation provide the District Council up to 60 days in which to enact the sentencing changes set forth in the legislation, including truth-in-sentencing (i.e., abolition of parole, imposition of determinate sentencing with supervised release and good time credits of up to 15 percent), and mandatory minimums for drug offenses. The Council action would need to include a commitment to maintain such changes without subsequent amendment. Should the Council choose not to enact the specified changes, the Congressional enactment would become effective.

Congresswoman Eleanor Holmes Norton  
Page 2

Certainty, fairness, and consistency are essential elements of a criminal sentencing system, and they are important to reducing inmate unrest and misconduct. We have nonetheless noted your concerns about requiring sentence comparability with federal offenses when it is unclear how much of the District's crime is comparable to federal crime. Consequently, we have offered to drop the comparability standard and allow the District and the local judiciary to determine the desirability of sentencing guidelines. We believe that the fundamental goals of certainty, fairness, and consistency can be achieved through the implementation of truth-in-sentencing as described above. Moreover, for the reasons we have discussed with you, we also believe that mandatory minimum drug sentences are critical to maximizing the District Drug Court's ability to help as many as possible substance-abusing offenders into effective treatment and productive lives.

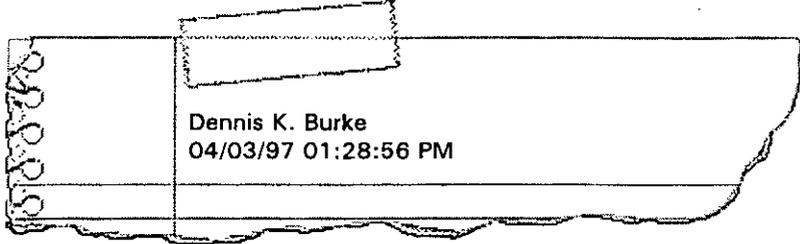
You also raised the profound problems facing juvenile justice in the District. We share your concern and are fully committed to working with you, OMB, the Congress and District officials to address these important issues. I believe the recent \$1,502,767 supplemental award to the District to fund the replacement of Oak Hill with facilities that provide an appropriate continuum of care for youth assigned to both secure detention and committed care is a first step in that direction.

I hope that we can continue working cooperatively in moving the President's Plan forward.

Sincerely,

Janet Reno

File: Wash DC -  
Crime.



Record Type: Record

To: Bruce N. Reed/OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: 3-1-1

I talked to OMB about 3-1-1 in the District MOU. They told me that they are trying to finalize the current MOU but that in Raines' meeting with the President last month, he told Raines that he wanted him to now focus on crime and education. ]

So, they are now drafting a proposal on those issues that will be part of a second MOU. Supposedly, Raines is going to send a letter to relevant Cabinet officials in the next few weeks, telling them to review the proposal and make their changes. Then he is going to set up meetings with the President so that the Cabinet heads can present their proposals to him.

I told them that we wanted 3-1-1 in Raines' draft proposal -- and they are going to add it.

Do you think we should go for broke -- add crime mapping, police youth academies, etc to the MOU?

*Why not?*

MEMORANDUM TO DISTRIBUTION

From: Michael Deich

Re: DC Rollout Briefing Package

Attached are draft Q&A for the various elements of the DC plan. If you'd like to provide comments, please e-mail, fax (5-4639), or phone them to me by 2pm Sunday. We'll distribute final copies Sunday night and first thing Monday.

Elena -

Does this mean we can  
make DC a laboratory for  
our get-tough crime policies?  
We should give it some thought.

BR

Bruce -

Not entirely. The fed govt, under this plan,  
will take responsibility for the prison system -  
so it seems that <sup>that</sup> system can serve as a  
laboratory. The fed govt also will <sup>help to</sup> fund the DC  
courts - but we have made a specific commitment  
that the courts will continue to be "self-managed."  
And as far as I can see, the plan does not give us any  
greater control over DC's police system.

Elena