

1980 WL 120919 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 9, 1980

*1 Ms. Frieda Bernstein
President
Missouri Committee for Firearms Safety
Project Awareness Director
303 S. New Ballas Road
St. Louis, Missouri 63141

Dear Ms. Bernstein:

Your letter of October 2, 1980, requests information concerning the enactment and promulgation of the South Carolina Armed Robbery Statute as amended in 1975. A copy of that Act and of the Act requiring publication of the penalty provisions are enclosed herewith. The two Acts are codified as Sections 16-11-33, 340, Code of Laws of South Carolina (1976).

I personally am not convinced that mandatory sentencing provisions are the best way to improve the administration of criminal justice. The reason for this, briefly, is that this can more appropriately be left to judicial discretion which can consider the many varying circumstances that exist in the many cases which come before the courts. This has been demonstrated in several instances of which I have knowledge in this State, such as mandatory provisions for punishment, for driving while one's driver's license has been suspended, or those offenses relating to escape of prisoners from custody. Commonly, these mandatory sentences appear to be disregarded in varying circumstances by the courts—both at the magisterial level, as well as in trial courts of general jurisdiction.

The statute providing for a minimum penalty of seven years' service actually provides a period of less than the time required in the last few years by the sentences imposed in the circuit courts. This conclusion is based on slight evidence because there were few cases of armed robbery in the statistics gathered earlier by this Office which concern sentences for armed robbery.

There is a general feeling among police officers that the posting of signs in various mercantile establishments does have an inhibiting effect and this may be correct. I believe, however, that an educational policy or program is more effective than any other procedure. I have seen this clearly demonstrated with respect to the manufacture of illicit liquors where concentrated programs by TV broadcast and other media approaches were utilized to demonstrate the danger that can come from drinking alcoholic beverages manufactured under insanitary conditions, primarily by using an old automobile radiator as an evaporator, thereby producing deleterious lead salts. This, coupled with concentrated enforcement programs, as well as financial pressures which sapped the bootlegging industry, also could have been the primary cause of the general cessation of bootlegging in this area.

In my view the enactment of a mandatory law and its publication and promulgation may have had some detrimental affect, but I view this conclusion with some reservation.

Very truly yours,

Daniel R. McLeod
Attorney General

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