FIFTY-YEAR HISTORY

Evolution of the Section. The history of the American Bar Association’s involvement with criminal justice prior to the creation of the Section of Criminal Law is sketchy. Probably the best summary is Edson R. Sunderland’s “History of American Bar Association.” He reports:

Nothing of a systematic character had been done by the Association in the field of criminal law during the Saratoga Era. As the period of National Expansion opened there was no section or standing committee assigned to that subject, and the only existing unit of the Association working in that field was a Special Committee on Penal Laws and Prison Discipline. That committee had just reported in favor of the establishment at Washington of a laboratory for a study of the criminal, pauper and defective classes, and the causes of social evils, and had been requested to report on the proper punishment for professional criminals. In 1906 it recommended the establishment in Washington of a Bureau for the Identification of Criminals, for the keeping of records of the personal appearances of all persons under arrest as criminals, whether under process of state or federal courts, and this recommendation was approved by the Association. Nothing further was referred to the committee, and after 1907 it disappeared from the committee list.

The need of the Association, however, for an organized unit for systematically dealing with the problems of criminal law, was for a number of years in large measure supplied by the establishment, in 1909, of the American Institute of Criminal Law and Criminology. This organization, while legally independent of the American Bar Association, became very closely associated with it. From 1910 to 1919 it held its meetings at the same time and place as the Association, even when the Association met in Montreal in 1913, and during those years notice of the meetings of the Institute were given in the Association programs and the proceedings of the Institute were published by the Association in its Annual Reports. The Institute thus served in many ways as a substitute for a Section of the Association. In 1920 the Association formed its own Section of Criminal Law and Criminology.¹

Creation of the Section of Criminal Law. The constitution and by-laws of the American Bar Association, which were adopted at the 42nd Annual Meeting at Boston, Massachusetts, on September 5, 1919, record the
fact that the Section of Criminal Law and Criminology was to be one of the Sections of the Association.  

Nearly a year later, the first officially documented meeting of the Association was held on August 24, 1920, in the Circuit Court of Appeals Room, Federal Building, St. Louis, Missouri. Edwin M. Abbott, of Philadelphia, presided as Chairman of the Special Committee on Organization. Bylaws were adopted for submission to the Executive Committee of the Association (later to become the Board of Governors). Ira E. Robinson, of Charlestown, West Virginia, was elected Chairman, and Roscoe Pound, Dean of the Harvard University Law School, was elected Chairman of the Council. Dean John H. Wigmore of Northwestern University Law School made a motion which resulted in the creation of the Section's first two Committees—one on Criminal Law, the other on Criminal Procedure. Tax evasion, prohibition, and illegal disposition of drugs were among the first chronicled primary concerns of the Section.  

A Flavor of Criminal Justice in the Early 1920's.  

The reports of the programs and discussions of the fledgling Section of Criminal Law reflect a variety of concerns. During the initial meeting, one member recommended that in all criminal cases the verdict of a jury would be sufficient if nine or more members agreed. Also, he recommended that no delay in criminal trials should be allowed for more than 30 days "unless for illness of indispensable parties." Another participant talked about interstate extradition for crimes. Edwin M. Abbott presented a paper on "Modern Penology," characterizing the present system as truly modern in contrast to Blackstone's day when more than 150 crimes were punishable by death. He said, in sum, that the old theory of "an eye for an eye" was supplanted by the realization that "mankind is his brother's keeper." He extolled the benefits of probation laws which some states had enacted, urged the Congress to speedily enact similar legislation for the federal system, and praised the recent parole system in sentencing. Interestingly, he stated about parole:

\[T\]he records prove that throughout this country over 75 percent of paroled prisoners never again resort to criminal careers. In Pennsylvania, the statistics show over 95 percent discharged from two state penitentiaries never again have been arrested, and such a record proves the merit of this system . . . .  

At the 1921 Association meeting, there were discussions ranging from indeterminate sentencing, to the increase in penalties for different crimes, to the fact that punishment following a crime should be swift with all unnecess-

sary delays eliminated. It was emphasized that there should be a higher ethical system in handling trials, particularly among lawyers, and that the better class of lawyers should not shirk their duties. They were urged to go into the criminal courts more often. There was an extensive address on whether verdicts in criminal cases should be unanimous. Capital punishment was discussed with one speaker asserting that “[w]hile capital punishment may not reduce murders, it will reduce murderers.”

At the same meeting, four addresses dealt with the enforcement of law—one on “Unenforceable Law,” another on “Illegal Enforcement of Criminal Law,” a third on the “Adjustment of Penalties,” and the fourth on “The Spirit of Lawlessness.”

These addresses so pleased the Association that a Special Committee on Law Enforcement was created to study the subjects and make recommendations the next year as to “what they deem proper to be adopted as the sense of the American Bar on these subjects.”

Streamlining and Updating a Myriad of Laws. In 1922, the Section asserted that:

[the time is ripe for a comprehensive restatement of the criminal law. . . . We therefore urge the preparation of a uniform code of criminal law and procedure and suggest that this Section cooperate for this purpose with the National Conference of Commissioners on Uniform State Laws, with the American Institute of Criminal Law and Criminology, and with other bodies.]

In 1923 Chairman Floyd E. Thompson acquainted the Section with the vast divergencies in the states’ criminal codes. Over 40,000 laws were on the nation’s statute books. The same crimes were treated variously, since procedure, punishments, and definitions varied. The thrust of the 1923 meeting was reflected in this comment:

Above everything else we should get back of this movement for the uniformity of state laws, and not only in the matter of substantive law but in the matter of procedure as well. The 48 varieties of laws that we have throughout the United States are one of the greatest handicaps we have in protecting our people. We have thrown too many delays around the enforcement of the law.

Early Recognition and Growing Pains. Because the 1920’s was an era of law-making and law-breaking, and because the Section was exerting great efforts to lend its expertise in unraveling the knots posed by the era, the Section received some recognition from the A.B.A. membership. Although

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5 46 A.B.A. Rep. 71-72, 584-86 (1921).
many were initially enthusiastic because of the novelty of the Section and its ambitious plans for the future, most meetings of the Section were sparsely attended and received little support, despite the fact that an increased number of lawyers were then trying to understand the criminal laws and their related problems. Between annual sessions, the Section was virtually non-existent except for a Chairman, a Vice-Chairman and a Secretary. In 1926, to overcome the growing pains and to stimulate expansion, the Section decided to create a formal Council composed of the officers and five additional members to be appointed by the Chairman. The Council constituted a body created to carry on the work of the Section between regular sessions of the Association.8

Recognizing the Need for Adequate Crime Statistics. The Section's law reformers recognized the power of public opinion. Society's voice was forceful and effective only when its demands were intelligent and its criticisms were just and based upon proper possession of facts. The need was for adequate information.

In 1925, the Section submitted a resolution which the Association adopted, calling for action:

to secure better and more uniform information and statistics as to crime and criminal procedure, and, if possible, to secure a survey of the whole field of the administration of criminal justice, to determine at what points the present system is defective, and in order to enable the Association to determine to what defects it shall give its particular attention . . . .9

Advocating this resolution, Section Chairman Oscar Hallam, of Minnesota, suggested "that this is by far the most important and urgent task now before the American Bar . . . ." Mr. Hallam emphasized the fact that no state kept accurate or comprehensive statistics of crime and that no attempt had been made to gather nationwide information as to any crime, with the possible exception of homicide. Yet even these figures, which had been partially collected by the Census Bureau, were misleading due to the varying nomenclatures used. The following year the Director of the Bureau of the Census advised that a conference had met in Washington, D.C. on April 28, 1926. Although it discussed statistics of penal institutions and other criminal statistics, the conference's conclusion was that "by reason of the more readily obtainable data, it would be better to start the annual inquiry with the collection of statistics of penal institutions alone. . . .," but even then that it would "attempt to get figures only from the State prisons and reformatories, leaving for later development the possible collection of statistics from city and county jails and workhouses . . . ."10

Growing Interest in Law Enforcement. The 1926 Section proceedings highlighted increasing interest in crime and law enforcement throughout the country. Chairman Hallam summarized the mushrooming of crime commissions and law enforcement associations throughout the country. He felt that this was both discouraging and encouraging. On the one hand, it signified a growing conviction that the official instrumentalities were either inadequate or not meeting expectations, and hence, a feeling that private effort was necessary. On the other hand, it displayed increased community interest and willingness to help meet the challenges for better government and improved law enforcement. Significantly, he noted that "[a] National Crime Commission, countrywide in its scope, has been formed to study crime as a national problem to devise means by which citizens may study law enforcement, and to propose and urge legislation." 11 This was the famous Wickersham Commission, known as the National Commission on Law Observance and Enforcement, created by the Second Deficiency Bill, approved March 4, 1929, "for the purpose of a thorough inquiry into the problem of enforcement of prohibition under the provisions of the Eighteenth Amendment of the Constitution and laws enacted in pursuance thereof, together with the enforcement of other laws . . . ." 12

In 1927, the Section reported its first comprehensive survey of law enforcement activities of bar associations, legislatures, and others throughout the nation. One of the most serious needs revealed was for the reclassification and restatement of substantive criminal law comparable to the American Law Institute's activity in drafting a model code of criminal procedure. The Section also noted activity in several states to revise codes of criminal procedure. It was suggested that the Section might periodically repeat such nationwide surveys in order to "put in perspective the activities . . . throughout the country." It was recommended further that such publication would "suggest other means of approach . . . in the reform of criminal law and procedure; and in states where nothing is being done, it might provide an inspiration." 13 The A.B.A. approved a recommendation growing out of this nationwide survey and urged the American Law Institute to undertake the restatement of the substantive criminal law. 14

The Section Changes Its Emphasis. Although not forsaking its interest in procedural and substantive law, the Section began to redirect its energies by intensifying cooperation with non-legal professional associations. In 1926, the Executive Committee referred to the Section a communication from the American Psychiatric Association. Dr. Karl A. Menninger, Chairman of its Committee on Legal Aspects of Psychiatry, urged the Section to

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look to psychiatrists for aid in understanding and explaining criminal behavior. No action was taken that year, but in 1927 the Section began to refer to itself as the "Section of Criminal Law and Criminology." Included in that year's programs were presentations by Herman M. Adler on "Biological and Pathological Aspects of Behavior Disorders," Karl A. Menninger on "Medical-Legal Proposals of the American Psychiatric Association," and William A. White on "Need for Cooperation Between the Medical and Legal Professions in Dealing with Crime."

The Section named a committee to work with the American Psychiatric Association regarding medical-legal problems. The 1928 recommendations of the Section, approved by the A.B.A., included resolutions: (1) encouraging cooperation between the Section and other important research agencies; (2) authorizing the appointment of a committee to cooperate with the Social Science Research Council; and (3) recommending the continuance of the Committee on Psychiatric Jurisprudence for further cooperative work with the American Psychiatric Association.

As an indication of the momentum which this medical-legal activity attained, the keynote address of Chairman Justin Miller in 1929 was entitled "The Scientific Development of Criminal Law." He observed that everyone was impressed with the work of scientists in the fields of engineering, chemistry, physics and public health, "while the work of those, in whose hands rests the building and administration of the Criminal Law, is meeting condemnation. . . ." He explained that the Section was anxious to secure for society the application of the best methods of science to these problems. He proudly reported that in two years the Section had established active cooperation with the American Medical Association, the American Psychiatric Association, and the Social Science Research Council, and was negotiating with other organizations for the same purpose.\footnote{54 A.B.A. Rep. 53-54, 527 (1929).}

The Association approved recommendations of the Section which included endorsement of the principle that a psychiatric service be available to every criminal and juvenile court, and penal or correctional institution; that no criminal be sentenced for any felony where the judge has discretion as to the sentence without a psychiatric report being filed as part of the record; and that a psychiatric report be filed on every prisoner convicted of a felony before he is released.

The 1930's: The Informative, Searching Years. Justin Miller and the Section were not willing to accept easy solutions to the riddles inherent in criminal behavior. One theory of the day was that the cure-all rested in the hands of the legislators. Miller noted this, but observed that the haphazard, inexpert mass production of laws had itself largely contributed to the difficulties that besieged the orderly administration of criminal justice.

A second current theory was that certainty and severity of punishment
deterred crime. The Section knew that England’s experience with strict punishment was said to be successful. But even assuming the factual accuracy of that “formula,” the Section speculated that:

[our unwillingness to torture, to disembowel, to mutilate and disfigure, as well as our increasing abandonment of capital punishment may be due in some measure to the fact that this country was largely settled by people who were exported from England as a part of her wholesale process of certainty and severity of punishment.]

Dismayed by the apparent inability of most to view the problems in toto and disheartened by suggestions of easy solutions, the Section continued to urge a scientific study of the problem at large. Its programs continued to invite assistance from sociologists, police, psychiatrists, physicians and lawyers. Thus began a process of instilling in others an awareness that criminal law involved more than servicing the criminal lawyer. Indeed, it involved all of the coordinate branches of society. Only by observing this fundamental concept grow and strengthen during its evolution for the next several decades, is it possible clearly to understand the importance of the Section's open adoption in 1967 and 1968 of the “umbrella concept” whereby the Section is genuinely a forum for all members and groups concerned with any segment of criminal justice.

In 1931, Chairman Miller reported to the Association that the appointment of the Wickersham Commission had given “expression to the Section’s program of the past several years which urged a scientific study of the problems of crime.” He highlighted the Section’s emphasis on cooperation with outside groups, including the American Law Institute, the Association of American Law Schools, and the medical and psychiatric groups mentioned previously.

Resolutions of the Section approved by the American Bar Association that year included: (1) the appointment of a committee to recommend ways and means for the better training and selection of personnel in the administration of criminal justice; (2) the renewal of the resolution urging restatement of the law of crimes and preparation of a code of criminal law; (3) the creation of the office of “Federal Criminologist” in the Department of Justice to gather information on crime, recommend legislation, and serve as a clearinghouse for all law enforcement personnel; and (4) the establishment of “Criminologic Institutions” under state supervision.

The Committee on Lawless Enforcement of the Law. The Committee on Lawless Enforcement of the Law completed its work in 1931. After heated deliberation, repeated redraftings, and severe opposition by district attorneys, a resolution, very much ahead of its time, was presented and ap-

proved. It contained such farsighted concepts as prompt arraignment of persons taken into custody, the right to counsel, rights of the accused, condemnation of tactics denying due process, and opposition to comments by the prosecution on the defendant's failure to take the stand as a witness. Miller referred to this set of standards as illustrating the dual character of the administration of criminal justice—to convict the guilty, but also to protect the innocent.

Public Opinion and Demands Cause a Section Dilemma. In 1932 the Section found itself in a dilemma. Chairman Miller explained:

Unlike other Sections and Committees which may work quietly and in greater or less isolation from the rest of the Association, our Section works in a field which draws the constant comment and inquiry of the Bar Association as a whole. Each presidential address discusses, among other things, the crime problem and its solution. Each President and each Executive Committee asks our Section each year, 'Please do something convincing about crime.' But, unfortunately, the Association generally, and the President and Executive Committee particularly, know very little about our work, opinions, or our proposals.

It was further observed that:

[The anomalous situation persists of speakers stating many supposed principles of criminal law administration, in the general Association meetings, while almost a complete repudiation of those supposed principles is taking place in the Section meetings . . .]

[Have you stopped to consider the anomaly which is involved in the fact that in spite of all the A.B.A. speeches and resolutions which have been made for years past, the statement attributed to Chief Justice Taft, that the administration of criminal justice is a disgrace to civilization, is as true today as it ever was? 17]

Underlying this dilemma was a general contradiction in basic philosophies between the average lawyer in the Association and those who were knowledgeable in, and actively concerned with the work of the Section of Criminal Law. In many respects the Section reflected ideas ahead of its time in an effort to face realistically the weaknesses and shortcomings in the administration of criminal justice and to attempt sincerely to propose solutions. The fact that many colleagues in the Association had not yet acquired an equal degree of reform spirit merely underscored the need for persistence and continuing missionary activity by the Section's members.

According to Miller, for example, the Section did not believe that a man twice convicted should never be released on parole. Most others did. The

Section believed that the number of felony convictions was too arbitrary a way to determine parole. Most others did not share this feeling. The Section did not believe that the number of felony convictions of an individual should be a major yardstick by which to sentence a person to life imprisonment. Most others did. The Section believed that capital punishment for kidnapping was unwise because it might encourage the killing of kidnapped victims. The Section believed that racketeering was closely connected with American methods of doing business and that politics and racketeering were closely related—hence, the inevitability of racketeering. Most others did not agree. The Section was concerned about overcrowding in prisons and inadequate facilities. At the same time many in the Association were advocating still more incarcerations.

**Inadequate Personnel for the Administration of Criminal Justice.** The gross ineffectiveness of personnel compounded by a generally impotent system of criminal justice administration was cited as “one of the greatest difficulties crying loudest for relief.”¹⁸ The Section understood that one of the most important needs was the upgrading of personnel in all branches of criminal justice and that willingness in the past to staff these positions on a basis of political preference was a serious contributing cause to such weak administration.

**National Bar Program of the American Bar Association.** The 1934 meeting was a milestone in the life and work of the Section of Criminal Law and the American Bar Association. After a year of intensive discussion and deliberation centering around a National Bar Program, the Section of Criminal Law made a number of landmark proposals to improve and strengthen criminal law and its enforcement. These were approved by the Association.¹⁹ They were predicated on the recognition of the serious criminal disorder in the United States and the desire of the nation’s attorneys to respond to the challenge.

The scope and thrust of these recommendations is noteworthy:

1. To urge each Governor to establish a permanent Committee on Criminal Justice, of lawyers and laymen, to systematically follow, improve and criticize criminal law enforcement; and to maintain close contact with state and local bar associations, police, prosecutors and United States Department of Justice.

2. To urge each state and local bar association to establish a Committee on the Reform of Criminal Procedure and a Committee on Police and Prosecution; responsibilities of the former to include adopting the model code of criminal procedure approved by the American Law Institute; the latter to be charged with dealing with

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criticisms of police and improving the personnel, qualifications, training, and methods of police and prosecutors; both committees to work closely with the American Bar Association Section of Criminal Law and International Association of Chiefs of Police.

3. To urge each state to create a State Department of Justice to direct and supervise every district attorney, sheriff and law enforcement agency; to include a central criminal bureau with a records system and investigative staff comparable to the United States Department of Justice; to ask the National Commissioners on Uniform State Law to draft an act to guide states in establishing such Departments of Justice.

4. To urge state and local bar associations to focus actively on ridding the profession of dishonest and unethical practitioners; and to make the subject of disciplinary proceedings part of the National Bar Program and programs of state and local bar associations for the next year.

5. To urge each state bar association to formulate improvements in criminal law and procedure for submission to courts, legislatures, and the public; and work to implement them.

The Section had subordinated all of its other activities during the year to essential background work leading to these recommendations. This included the preparation of a questionnaire which was sent out to state and local bar associations concerning the crime problem. Approval of the recommendations would "provide a splendid answer to our critics and to those honest citizens who ask what is the American Bar going to do about it." 20

It was emphasized that the function of the Association was not to take the place of state and local associations, but rather that state and local associations had a right to expect advice and suggestions to help them solve their problems, as they still do.

Significantly, it should be noted that the Section's program at the 1934 Annual Meeting included such participants as Sanford Bates, Director of the Federal Bureau of Prisons, O. W. Wilson of the International Association of Chiefs of Police, J. Edgar Hoover, Director of the Federal Bureau of Investigation, and Thomas W. S. Parsons, Assistant Commissioner of the British Columbia Police. The next two years were spent in actively working to implement the National Bar Program, including the Section's participation in the United States Attorney General's Crime Conference, held in Washington, D.C., in December, 1935. In addition, a special committee of the Section was set up to study the Hauptmann trial involving the Lindbergh kidnapping and the resulting publicity. But since the case was pending appeal in New Jersey, the report was deferred.

Firearms Acts. Rollin Perkins, Section Chairman in 1937, declared:

It seems to me that there is a risk that the Bar Association may be

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20 Id. at 119.
too timid in taking a stand upon matters of vital concern to the citizens of the country. I believe that we are far behind England and Canada and most of the other countries in the matter of regulating the use, ownership, transportation and registration of firearms, and it seems to me that it would not be a dangerous thing but a very wise thing for us to recommend that we go farther and include more adequate regulations of pistols and revolvers.\textsuperscript{21}

Under Perkins' leadership, the Section endorsed additional legislation with respect to pistols and revolvers.

This was but the beginning of many long and sometimes heated debates in the Association in connection with gun control legislation. In fact, James V. Bennett, who was to become the Section's Chairman in 1966, thereafter became President of the National Council for a Responsible Firearms Policy, Inc., formed in February, 1967, to urge "the adoption of firearms policies throughout the United States that adequately serve the overall public interest."\textsuperscript{22}

\textit{Federal Rules of Criminal Procedure.} In 1937, the Section resumed its focus on streamlining and coordinating the procedural criminal law in the United States. The A.B.A. recommended to the Congress the enactment of a statute which would grant the Supreme Court the authority to prescribe rules for pleading, practice and procedure in criminal cases before federal courts. The Criminal Rules Act became law on June 29, 1940. Although the Federal Rules of Criminal Procedure later resulted in an overall federal project, the concept was first advanced by the Section of Criminal Law, then under the chairmanship of James J. Robinson.

Commenting in 1940 on the significance of the Section's accomplishment, Chairman Robinson reported to the House of Delegates:

One advantage of the Act is that it will be of real service to all of you who take part in state bar association work, because the Supreme Court Criminal Rules when drafted under the Act, will provide useful models for adoption or adaptation in your respective states. The Act, in fact, marks the beginning of a new epoch in criminal law administration in the United States. The ideal of equal and efficient criminal justice throughout this country has been brought much nearer to realization by the Section's action under your authorization and with the benefit of your official and personal interest and assistance.\textsuperscript{23}

Commenting in 1953, at the 75th Annual Meeting of the A.B.A. on the

\textsuperscript{22} Statement of Basic Objectives, National Council for a Responsible Firearms Policy, Inc., Washington, D.C.
\textsuperscript{23} 65 A.B.A. Rep. 326 (1940).
accomplishments of the Section, Arthur J. Freund, Section Chairman from 1946 to 1954, said:

The Section assumed leadership in the preparation of the Federal Rules of Criminal Procedure, and our past Section Chairman, James J. Robinson, was the Reporter for the Committee which formulated the Rules and presented them to the Supreme Court for promulgation. The simplicity, efficiency and directness of the Rules have stimulated many of the states to use them as a model for their own rule revision.

**Military Justice.** Not satisfied to rest after this major contribution, the Section moved forward with other dynamic, progressive programs. Military justice became an emotionally charged issue during World War II, although the Section had always, in fact, shown deep concern in this area. At the 68th Annual Meeting in Cincinnati in 1945, a conference was called which gathered together the highest ranking members of the judge advocate departments of all the armed services in order to discuss the strengths and frailties of our courts-martial system. This was the first time that such a joint public discussion was ever held. As a result of this meeting, the President of the Association appointed a committee with the Chief Justice of the New Jersey Supreme Court, Arthur T. Vanderbilt, as its chairman to draft a new code. The committee did outstanding work and while all of its recommendations were not accepted by the Congress, the essentials of its recommendations and the body of its draft were enacted into our present law.

**Punishment of War Criminals.** According to Arthur J. Freund, the Section was among the first to perceive the problems which would arise in connection with the punishment of war criminals. A detailed plan to this end was presented and discussed. It considerably predated the recognition by the press and the public at large that there would, in fact, be such a problem. No such treatment of those responsible for war and its consequent atrocities had ever before arisen in modern history. Mr. Freund reported that “[t]he determination to hold such trials, the general framework of the indictments and the method and mode of trial and punishment, followed substantially that discussion, led by Professor Max Radin and his colleagues.”

**Traffic Court Awards.** In 1947, the A.B.A. approved a resolution declaring that “the Section of Criminal Law [is] authorized to award each year in the name of the American Bar Association a citation to the city making the most progress in the improvement of its traffic court practice and

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procedure under rules to be promulgated by the Council of the Section.” 25
Thus began the Traffic Court Awards which have attained such prominence
today. Arthur Freund commented:

It has been a fundamental concept of the Section, that most of our
citizens form their views of the entire administration of justice
from their own personal experiences in a court. The volume of
citizens who come into contact with our police courts, traffic
courts and courts of inferior jurisdiction is enormously greater
than all of our other courts. We have constantly striven to im-
prove the administration, dignity and the quality of these courts,
of transcendent importance insofar as numbers of persons are con-
cerned, though of relatively small importance with respect to the
legal nature of the causes determined.26

To this end the Section, under the leadership of James Economos of Chicago
(now Director of the A.B.A. Traffic Court Division) as Director, and
Evelle J. Younger of the California Bar as Chairman, conducted institutes
for police and traffic court judges, prosecutors, police officers and local
officials. These institutes, still held each year in the various parts of the
country under the auspices of the A.B.A. Traffic Court Division, are of
great assistance in improving the quality of justice and administration in
these courts.

The News Media and Criminal Justice. In the late 1940’s the Section
became the center of national publicity when it focused attention on the
portrayals of crime and human degradation in motion pictures, radio, tele-
vision, comics; and the effects of such portrayals upon human behavior and
the administration of justice. In a speech given in 1953 before the Section
of Criminal Law, Arthur J. Freund had this to say:

Our initial views on this subject remain unchanged. They are
that outside of the classroom, the home and the church—the mo-
tion picture, television, the radio, the comics and the comic strips
constitute the most powerful existing educational influences upon
the mental growth of the child, the adolescent and the impres-
sonable.

We have aroused national and international interest in this im-
portant undertaking. Lawyers, judges, social scientists, psycholo-
gists, psychiatrists, legislators, parents’ groups, educators and lay-
men generally have been greatly moved by what we have done.
Meetings have been held by us with responsible persons in the vari-
ous agencies of the mass media business to determine if some form
of effective control could be achieved, if such controls were neces-

26 Freund, supra note 24.
uous. Publications of our Section Committee on the subject have received the widest attention of the press, magazines, and of many scholarly publications. Our views have been translated into European and Asiatic languages for publication abroad and a tremendous amount of correspondence has been had on the subject by the Section, both from this country, Canada and overseas. The views expressed and the articles written as a result would, in themselves, make an interesting and informative publication of large dimension.

Upon the request of the Section, the Board of Governors appointed a special committee to study this problem, the first step to determine if an over-all, scientific study of the subject was feasible, and the second, if it was found that research was feasible, to have a design prepared for the research to be undertaken. Responses from leading social scientists and others skilled in studies of this character convinced us that the study was feasible. A number of research departments of leading universities became interested in conducting the research.

The quest for funds was arduous, time-consuming but interesting, although to date unsuccessful. It now appears probable, to our great regret, that the research so badly needed and so greatly desired by so many interested persons will not go forward under our auspices and direction because of our inability to find a suitable source to finance the work.27

Great interest in the problem had been stimulated. Interestingly, former Section Chairman Justin Miller became head of the National Association of Broadcasters some years after the Section had become involved with the media. The bold and progressive leadership provided by the Section in this crucial area continues to inspire others to carry forward this struggle for more effective standards and practices in an industry which holds such awesome power over our morals.

The Section Tackles Organized Crime. At the 1949 Annual Meeting in Washington, D.C., the Section conducted a major session on “The Menace of Organized Crime.” This was during the period when the Senate Committee to Investigate Crime in Interstate Commerce, under the chairmanship of Senator Estes Kefauver, was revealing shocking crime conditions in many parts of our country. At this session, Governor Adlai E. Stevenson, Senator Estes Kefauver, Senator Herbert O’Connor, Mr. Justice Jackson, and others participated.

As a result of recommendations by the Section of Criminal Law, the American Bar Association, on September 14, 1950, established the Commission on Organized Crime authorizing it to cooperate with the Special Senate Committee to Investigate Organized Crime in Interstate Commerce,
and to make studies in the field of criminal law, criminal procedure, law enforcement, sentencing practices, and habitual offender laws, with a view of finding more effective means of dealing with organized crime. The Honorable Robert P. Patterson of New York was designated Chairman, and following his untimely death on January 22, 1952, the chairmanship thereafter passed to Walter P. Armstrong, Jr., who also served as Section Chairman from 1953 to 1956. Other active Section members who helped to make up the Commission include former Chairmen James V. Bennett and Arthur J. Freund, and Laurance M. Hyde, Chief Justice of the Missouri Supreme Court. Rufus King, who became Chairman of the Section in 1957, served as counsel for the Kefauver Committee. This Commission produced a monumental work entitled *Organized Crime and Law Enforcement*.\(^2\)

Significantly, many of the Commission's findings and observations are painfully true today.

In addition to its voluminous findings, the Commission drafted four model acts which were submitted to the National Conference of Commissioners on Uniform State Laws, and subsequently approved by the A.B.A. at the 1952 Annual Meeting with recommendations for passage by state legislatures. These Acts were: (1) The Model Anti-Gambling Act; (2) The Model Department of Justice Act; (3) The Model Police Council Act; and (4) The Model Witness Immunity Act. The Association also approved termination of the Commission on December 31, 1952, and instructed the Section of Criminal Law and several appropriate A.B.A. Committees to endeavor to have the model legislation implemented.

This was not the last of the Section's deep concern with the complexities and menace of organized crime. During subsequent years of the Section's history, numerous proposed federal laws were analyzed by the Section and made the subject of reports and recommendations to assist the House of Delegates in establishing Association positions on them for the guidance of Congress. One of the most outstanding examples was the Organized Crime Control Act of 1970. Through the efforts of our Section, the Association endorsed the findings and purpose of this major piece of legislation and was successful in having Congress accept significant recommendations for improving the Act. The Section's activity in this regard was fully reported in a feature issue of the *American Criminal Law Quarterly*.\(^2\)

In furtherance of the objectives of the Organized Crime Control Act of 1970, which was approved October 15, 1970 (P.L. 91-452, 91st Congress), the Section's Committee on Organized Crime submitted four major recommendations which were approved by the Council on May 8, 1971, and submitted for endorsement by the Association with a request for Section authority to implement them. They recommended: (1) endorsing the creation of a Corruption Control Unit in every State; (2) accelerating the establishment

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28 *Organized Crime and Law Enforcement* (M. Ploscowe, ed.).

of a Commission on the Review of the National Policy Toward Gambling as provided for in the Organized Crime Control Act of 1970, and accelerating the final reporting date for such Commission from four to two years; (3) urging the President to broaden representation on the National Council on Organized Crime which he established; and (4) urging the establishment of a Presidential Commission on White Collar Crime.\textsuperscript{30}

\textit{Prisons, Probation and Parole.} Realizing that it does little good to strengthen the processes of detection, apprehension, prosecution and conviction without paying equal attention to the sentencing and corrections end, the Section pressed forward with its concern over prisons, probation and parole. In 1952, the Section recommended a comprehensive study and survey of the effects and values of probation. Commenting on this, Section Chairman Freund stated:

While all of us accept probation as an invaluable asset in the administration of criminal justice to rehabilitate offenders, there is a surprising lack of authentic information of the actual value and efficiency of the probation process. Does it really accomplish what we expect of it; how has probation succeeded or failed? ... We believe it to be a primary obligation of our profession to concern itself with the offender after he has been sentenced to prison. While the federal penal system is admirably administered and conducted, most of the states have failed in their treatment of the men, women, and children entrusted to their penal care. Lack of proper and adequate classification, training, occupation, housing, food, recreation, educational facilities, psychiatric care and medical attention and personnel adequate in number, integrity, capacity, compensation and character have made the prisons an outstanding disgrace in far too many of our states. Prison riots catch the conscience of the public in a measure sufficient to give some heed to these sorry conditions, but we of this Section believe that correction and prison reform should come before a riot occurs with its frightful losses of life, limb and property. Repression may prevent prison riots for a time, but the steady and ceaseless improvement of conditions is the more civilized method. We of the bar administer the law which sends the offender to prison; we owe the continuing responsibility to concern ourselves with what happens to the convicted offender after final judgment of the court has been entered. As a corollary, the wide disparity of sentences by the same character of offender raises problems of major proportion. This is also an important subject being given far too little attention by the bench and bar, though a number of studies have been made of the subject.\textsuperscript{31}


\textsuperscript{31} Freund, \textit{supra} note 24.
The Section's request to solicit funds for the survey preceded a similar survey which was initiated under the leadership of Chief Judge Bolitha J. Laws of the District of Columbia.

In the 1950's, the Section went on record as favoring appellate review of sentences on appeal by defendants in federal cases and recommended passage of congressional bills to that end. In 1956, the Section reaffirmed its desire for appellate review of sentences, first voiced in 1954, when the United States Solicitor General Simon E. Sobeloff addressed the Section. He noted that England had followed this concept for 50 years and the English system benefitted greatly by it. Frivolous appeals were discouraged by a provision that an appellate court be empowered to increase a sentence, as well as reduce it.32

In 1958, the Section obtained A.B.A. endorsement of the following additional recommendations to strengthen and improve probation: (1) endorsing probation service as essential to courts in sentencing and supervising offenders, including an adequate number of qualified and trained personnel; (2) urging state and local bar associations to become aware of the extent of local probation services, and where necessary, to support needed improvements; and (3) endorsing congressional legislation to promote the study of sentences in federal courts.33

These activities of the Section were forerunners of the mammoth project begun by the Association in 1964, Standards for the Administration of Criminal Justice, which included Standards Relating to Probation, Sentencing Alternatives and Procedures, and Appellate Review of Sentences.

Section Placed on Dues-Paying Basis. At the 1954 Annual Meeting, Chairman Armstrong obtained A.B.A. approval of a resolution to establish Section dues at $2.00 per year.34 They were increased to $3.00 in 1962, to $5.00 in 1964, and to $10.00 in 1971.

Survey on the Administration of Criminal Justice. Perhaps one of the most significant achievements of the Section in the 1950's was its influence in bringing about a comprehensive study of the administration of criminal justice in the United States.

At the 75th Annual Meeting of the Association in San Francisco on September 17, 1952, the House of Delegates took cognizance of the numerous requests dealing with various phases of criminal law and its relationship to the administration of criminal justice which had been made to the Association in recent years. The House referred the entire matter to the Committee on Scope and Correlation of Work for a report on a program for improvement of the administration of criminal justice.35

The following year at its Midyear Meeting in Chicago, in February, 1953, the Association approved the following recommendation:

[T]hat there be created a special committee of the Association, consisting of seven members, to be known as the Special Committee on the Administration of Criminal Justice, which committee shall be charged with the duty of submitting to the House of Delegates recommendations with respect to (a) minimum standards of procedure and administration of the criminal law and (b) appropriate means for bringing about the adoption of such standards as shall be approved by the House of Delegates; and that the committee, in its study, shall consider and report upon the desirability of the establishment of an Institute of Criminal Law Administration. (Emphasis added.)

The Special Committee consisted of seven members with Robert H. Jackson as Chairman, and Walter P. Armstrong, Jr., Chairman of the Section of Criminal Law, as Secretary. In the preliminary statement of its proposed work and aims, the Special Committee reported:

The study will be confined to police, prosecution and judicial procedure and practices. The study is of law enforcement techniques and will not enter the fields of sociology and psychology, which are being studied by various other groups. We will not undertake to inquire as to why we have crime, or so much crime, or particular crime, but begin with the fact that we do have offenses against the law and trace the results through the hands of police, prosecutors and judges until the matters are dropped or they end in punishment. We will not duplicate the work of the American Law Institute which is preparing a model penal code that would reclassify and redefine crimes. The Committee will seek to co-operate with all other professional or lay agencies at work in related fields. We will not seek to determine what acts should or should not be criminal, except where the nature of the offense creates special problems of procedure.

The foregoing study is not to be confused with the project initiated by the Association in 1964 known as the A.B.A. Project to Formulate Standards for the Administration of Criminal Justice.

New York-London Meeting. The 1957 London portion of the 80th Annual Meeting records extensive activity by the Section. The formal program included three days of sessions whose theme was an overall view of the work of the English criminal courts and their law enforcement activities. Participants included high-ranking members of the British bench
and bar, as well as New Scotland Yard and the Metropolitan Police of London. A luncheon was highlighted by an address from United States Attorney General Herbert Brownell, Jr.

The Section also prepared and distributed to all at the A.B.A. London meeting an attractive pamphlet to orient the American bar to the English judicial system and English law, emphasizing a descriptive comparison of English and American criminal procedures and the more common offenses. The Section sponsored a similar program in 1971 when the London portion of the Annual Meeting was devoted to tracing “A Criminal Case in England: From Arrest to Appeal.”

Section Publications. The Section published and distributed its first newsletter in July, 1959. It consisted of a mere two pages, and its stated purposes was “to keep members advised of our projects and committee work, as well as to call attention to interesting developments in the field.” The newsletter did not become a regular activity because the Section was to launch a more formal publication a few years later.

In November, 1962, the first issue of the Criminal Law Quarterly was published as a joint venture of the Section and the School of Law of the University of Southern California during the chairmanship of Evelle J. Younger. In 1963, the title was changed to American Criminal Law Quarterly, and its co-sponsorship was transferred to the University of Kansas School of Law at Lawrence, Kansas, under the editorship of Kane Professor of Law Paul E. Wilson. The Quarterly remained headquartered there until 1970, when Professor Wilson advised that he had to relinquish the editorship in view of plans to go on sabbatical leave. In the Spring of 1971, the publication became the American Criminal Law Review, and its home office was transferred to Georgetown University Law Center, under the faculty advisorship of the Immediate Past Section Chairman, Professor Samuel Dash. Law students serve as editors of the Review.

Another publication produced by the Section was a valuable booklet entitled, Bar Leadership and Civil Disorders. Sparked by the summer riots of 1967, this was the Section’s response to the national emergency. A committee on Criminal Law Problems in Civil Disorders was created and subsequently obtained A.B.A. approval to stimulate local bar leadership in helping effectively plan for control and prevention of civil disorders. The Committee, chaired by Thomas R. Sheridan, distributed over 15,000 copies of the booklet, and has planned another printing.

Alcoholism. Reports of the Section’s proceedings document its early concern with alcoholism as a critical factor in the problems of law enforcement and the administration of criminal justice. For example, in 1954 Chairman Armstrong endeavored, without success, to have the A.B.A. en-

dorse the “principle of chemical testing of body substances for determining the degree of alcoholic influence and the impairment of driving ability and the admissibility into evidence of the results of such tests in prosecutions of driving while under the influence of intoxicating liquors where such tests are lawfully conducted.” He withdrew the recommendation after the Board of Governors recommended its postponement in the belief that the accuracy and reliability of such tests were still uncertain.

The Section has had a standing Committee on Alcoholism since the early 1960's, and until his untimely death on June 5, 1971, it was headed by the Honorable Gerald S. Levin, Section Chairman during the 1966-67 Association year. He provided outstanding leadership in this national cause. His Committee worked closely with its counterpart committee in the American Medical Association, and together they drafted a “Joint Statement of Principles Concerning Alcoholism.” At the Annual Meeting in Dallas in August, 1969 the A.B.A. unanimously endorsed this joint statement and authorized the Section to represent the Association in the nationwide implementation of its principles. Since then, Judge Levin’s Committee has been actively urging some 1,500 state and local bar associations to appoint committees on alcoholism where none exist, to establish working relationships with their counterpart medical associations, to acquaint the community with problems of alcoholism, to encourage the development and funding of adequate community facilities, and to advocate model state legislation.

Currently, the Section is cooperating with the National Conference of Commissioners on Uniform State Laws in finalizing a draft of a proposed “Uniform Alcoholism and Intoxication Treatment Act.”

Narcotics. During the chairmanship of Rufus King (1957-1960), the Section became actively involved in studying narcotics traffic and related problems and in cooperating with the Joint American Bar Association-American Medical Association Committee on Narcotic Drugs. In view of the finding by that joint committee that “a great dearth of knowledge existed in several areas which needed exploring before any final recommendations were made,” the Section obtained A.B.A. approval of resolutions which had the effect of: (1) referring further action on this matter to the Section of Criminal Law and the American Bar Foundation; and (2) having the A.B.A. go on record as recognizing “an urgent need for full and free inquiry and the accumulation of reliable factual data with respect to the narcotic drug traffic and related problems, and [calling] upon agencies of the bar, public officials, and other interested persons and organizations to cooperate fully to this end.” On behalf of the Section, Rufus King attended and reported upon the White House Conference on Narcotic Drugs convened by President Kennedy, September 27-28, 1962, in Washington, D.C.
Upgrading the Administration of Criminal Justice. Several actions taken by the Section during the chairmanship of Rufus King, Charles L. Decker, and Evelle J. Younger were specifically designed to improve the image of criminal justice and strengthen its administration. At the 1962 Midyear Meeting, Chairman Decker submitted an amended report and recommendation after deleting the following recommendation which had been rejected by the Board of Governors in October, 1961: "[t]he Association at its next annual meeting, should make the subject of the administration of criminal justice, a major theme of the meeting, and the Association should provide for a presentation of the problems of criminal justice on its general assembly program." 42

The Association approved the amended report. Because of its vision and long-range importance, it is being quoted here in full:

WHEREAS, The administration of criminal justice affects more people than does any other branch of the law, and will continue to do so to an even greater extent because of the constantly increasing crime rate; and

WHEREAS, The public at large, and many members of the legal profession as well, have not been sufficiently aware of the seriousness of the current problems involved in the administration of criminal justice; and

WHEREAS, The organized bar has neglected this most important branch of the law; and

WHEREAS, The teaching of criminal law and criminal procedures in our law schools should always be assigned to one of the most highly qualified members of the faculty; and

WHEREAS, The concept of the "rule of law" can hardly be exported abroad until it is effectively applied at home,

BE IT RESOLVED THAT:

1. Greater attention must be focused by the organized bar on the administration of criminal justice, and more lawyers must interest themselves, as citizens as well as members of the bar, in the administration of criminal justice and in the actual practice of criminal law, even though it be to a much lesser extent than the criminal law specialist.

2. It must be generally recognized that the defense of a criminal case is a respectable and honorable undertaking, regardless of the character of the accused or the nature of the offense itself; and toward that end the American Bar Association

should devote specific attention to recognizing the status of the criminal law practitioner, both as regards the prosecuting officer as well as defense counsel.

3. The Association should continue to sponsor and encourage research projects and studies regarding criminal justice, and particular attention should be devoted to the ethics of prosecution and defense, and the responsibilities of the judiciary with respect to criminal trials.

4. In the selection of judges on all levels, important consideration should be given to the experience, interest, and participation in the administration of criminal justice of those under consideration for judicial office.

5. The Association should encourage the law school teaching profession to devote greater attention to the teaching of criminal law and criminal procedure, and to the development of programs in the field of criminal justice, and to accord to the teaching of criminal law and criminal procedure an important status in the law school curriculum.

At the Annual Meeting the same year, the Section obtained A.B.A. ratification of the Uniform Interstate Agreement on Detainers which had been drafted by the Council of State Governments in 1956 and was then effective in seven states. Rufus King felt that this agreement was "an effective solution to a very vexing and difficult problem—the speedy and effective administration of justice for a prisoner who is serving a sentence in one state and has against him one or more detainers in other states." The resolution approved by the Association supported efforts to make every state and the federal government a party to this agreement, and urged each state bar association to petition its state legislature to adopt the agreement.43

At the same Annual Meeting, the Section obtained A.B.A. approval for the appointment of a special committee of the Association "to study present practices and to initiate, coordinate and accelerate efforts to assure the adequacy of defense provided indigent persons accused of crime..." 44

At the 1963 Annual Meeting, the Section obtained A.B.A. authorization to participate in a study of bail-bond practices throughout the United States as part of a joint grant from the United States Department of Justice and the Vera Foundation.

The Section of Criminal Law was also authorized to cooperate "in gathering data, participating in the National Conference on Bail and Criminal Justice and taking such other action as it considers desirable to encourage the improvement of bail practices in the administration of the criminal laws..." 45

44 Id. at 468.
Some of the remarks from the address of A.B.A. President Sylvester C. Smith, Jr., to the 1963 Annual Meeting illustrate the Section's impact:

Should criminal law and criminal procedure be required in an approved law school? Certainly the lawyers of the future, if they are able to perform their public service, will have to be prepared to render legal service to indigent persons accused of crime.

One of the older sections is the Section of Criminal Law. Unfortunately, there is a tendency on the part of lawyers to avoid criminal law and practice in the criminal courts. However, the defense of unpopular causes and indigent defendants is one of the great traditions and credits of the profession. Where does the Criminal Law Section go from here? It should have many more members.

The profession, if it is to improve its image, can no longer ignore the alarming increase in the incidence of crime throughout the United States. J. Edgar Hoover has repeatedly stated the cost of crime in the United States goes into billions. Both the Section of Corporation, Banking and Business Law and the Section of Insurance, Negligence and Compensation Law have a vital interest in the better enforcement of the criminal law. To my knowledge there has never been a joint program between these Sections, in which matters that have a great effect on the cost of doing business and the cost of insuring against losses in business by reason of criminal law violation might be discussed. A broadening of the viewpoint of these Sections can produce joint programs at annual meetings that will have great interest and value to the lawyers and to the public.

As a part of the Association's work for improving criminal administration, we have this year undertaken the big job of trying to make real the constitutional right under the Sixth Amendment of assistance of counsel to indigents accused of crime. Our members have appeared before the committees of the Congress urging the enactment of laws for a paid defense counsel and paid investigation costs in the federal courts where persons accused cannot pay counsel. The Senate and House committees have both reported out bills. After many years of urging action, the American Bar Association hopes that this Congress will enact a law that will improve this constitutional right in the federal system with fairness to the bar.

In the state field we have advisory committees aiding the Special Committees on the Defense of Indigents Accused of Crime in the research as to what is being done in the fifty states, the District of Columbia and the Commonwealth of Puerto Rico. The Section of Criminal Law, the Standing Committee on Legal Aid and
the Junior Bar Conference have been most helpful in their interest and support of this program. That should continue. . . .

A.B.A. Standards for Administration of Criminal Justice. The foregoing activities and programs of the Section of Criminal Law make it easy to appreciate the climate which resulted in launching the A.B.A. project to formulate "minimum" standards for the administration of criminal justice in 1964.

At the time of the annual meeting of the A.B.A. in August 1963, the Sections of Criminal Law and Judicial Administration had already discussed the timely need for a project to formulate standards for the administration of criminal justice, analogous to the A.B.A. project of more than 25 years earlier which resulted in "Minimum Standards of Judicial Administration." The Section of Criminal Law appointed a committee (Charles A. Bellows, Chairman of the Section in 1964; Kenneth J. Hodson, who became Section Chairman in 1965; and former Section Chairman Rufus King) to confer with the Institute of Judicial Administration and a counterpart committee of the Section of Judicial Administration on how the project could be launched. At a meeting held on December 10, 1963, at the New York University Law Center, their conference concluded that the project would be worthwhile, although costly, and would require several years. It was also agreed that the first step should be a pilot study.

At the 1964 Midyear Meeting, the Board of Governors authorized the Sections of Criminal Law and Judicial Administration to undertake the pilot project. At the Annual Meeting the same year, the Association authorized the Special Committee on Standards for the Administration of Criminal Justice to be composed of 12 members appointed by the A.B.A. President, four representing the Board of Governors, four to be appointed on recommendation of the Criminal Law Section, and four to be appointed on recommendation of the Section of Judicial Administration. The Chairman of these Sections were ex officio members of the Committee. The specific mandate of the Special Committee was to "proceed to make such studies and investigations as it deems necessary or desirable and to formulate and recommend minimum standards for the administration of criminal justice, all with the view towards improving the fairness, efficiency and effectiveness of criminal justice in state and federal courts . . . ."

Implementation of the A.B.A. Standards for Criminal Justice. In 1968, under the joint leadership of Section Chairman William F. Walsh and Chairman-Elect Louis B. Nichols, the A.B.A. entrusted to the Section of Criminal Law the awesome responsibility for coordinating the nationwide implementation of all of the Standards to be formulated by the A.B.A.

48 Id. at 422.
project, with the exception of the *Standards Relating to Fair Trial and Free Press*. The latter, because of their special nature, were assigned to the Legal Advisory Committee on Fair Trial and Free Press, a Subcommittee of the A.B.A. Standing Committee on Public Relations.

The Section of Criminal Law welcomed this responsibility. It had observed too many instances where valuable past reports had been permitted to gather dust on the shelves for want of implementing action. The Section realized that if these *Standards* were to be effective they would have to be adopted at federal, state and local levels through processes of legislation, court rule, or community acceptance. To enable it to discharge this new responsibility, the Section obtained authority from the Budget and Administration Committees, and the Board of Governors, to solicit outside funding to be channelled through the A.B.A. Fund for Public Education. Mr. Nichols was instrumental in raising substantial funding from the Dorothy H. and Lewis Rosentiel Foundation to initiate planning and pilot programs to provide feedback to support the nationwide effort. Subsequently, contributions from the J. Edgar Hoover Foundation and grants from the American Bar Endowment were added to the effort.

The Section also created a blue ribbon standing committee, known as the Committee to Implement Standards for the Administration of Criminal Justice. Headed since its inception by retired Justice Tom C. Clark, and staffed with other nationally prominent leaders of the bench and bar, this Committee has operated under the Section Chairman with the coordination of Louis B. Nichols, who became Consultant for Implementation to the Section Chairman in August, 1969.

The Section selected Arizona, Florida, and Texas as pilots to provide essential planning and feedback experience in order to develop guidelines to assist other states. Arizona permitted implementation by court rule. Texas required implementation through legislative enactment. Florida’s criminal procedure required a combination of both.

Florida prepared an excellent comparative analysis which revealed the extent to which its criminal justice system already complied with the *A.B.A. Standards*. Other states, through the aid of law schools, professors and students, have been preparing similar analyses. Some states have obtained valuable funding assistance through their Criminal Justice Planning Agencies, which administer funds available under the federal Safe Streets Act and the Law Enforcement Assistance Administration. The Section has also made limited funding available to help states with specific aspects of their projects and has donated many sets of the *Standards* for use in workshops and seminars.

In short, the Section has been fostering the following procedural steps to implement the *Standards* throughout the nation: (1) a comparative analysis by each state to measure its laws with the *Standards*; (2) the creation of a statewide implementation committee to plan and coordinate every stage of
the implementation process, insuring that implementation will actively relate to other criminal justice planning and action programs; (3) intensive and continuing education, including implementation seminars, conferences and workshops; and (4) active involvement of all appropriate individuals, groups, and associations in a vast cooperative network to provide familiarity with the Standards and to adopt them wherever feasible.

The Standards are being cited with increasing frequency and favor in many appellate court decisions at both state and federal levels. This, in turn has caused other appellate courts to take notice of the Standards, and consequently there is an increasing trend on the part of both the prosecution and the defense to cite the Standards in their briefs. Through the missionary efforts of Mr. Justice Clark, trial judges at all levels have been encouraged to use the Standards as “desk books,” citing them in rulings and exhorting the trial bar to use them.

Largely as a result of the fantastic progress in the three pilot states, implementation efforts have already begun in a dozen or more other states. Kansas, for example, enacted new codes of criminal law and procedure in July, 1970, implementing about 80 percent of the Standards. The Section of Criminal Law, by actively cooperating with these state efforts, has provided a wide range of assistance, including substantial funding. The Section has supplied expert assistance to help states organize implementation committees, workshops and educational programs. It has provided expert speakers from all parts of the nation to participate in educational programs, seminars and judicial conferences, and has supplied a wide variety of educational materials.

By participating with an unusually large group of other organizations, the Section has already compiled a record of high achievement in reforming the substantive and procedural weaknesses in the administration of criminal justice throughout the nation.

Section Chairmen Louis B. Nichols (1968-69), H. Eugene Breitenbach (1969-70), and Samuel Dash (1970-71) have made implementation the major thrust of their administrations. Together with present Chairman William H. Erickson, former Chairman Kenneth J. Hodson, and Mr. Justice Clark, they have constituted the nucleus of a team which has devoted countless hours and undertaken nationwide travel, at great personal sacrifice, for this important undertaking. It is becoming increasingly apparent that the A.B.A. Standards are directly related to updating and improving criminal justice. When people like the Chief Justice of the United States emphasize the need drastically to reform criminal justice, stressing such things as speedier trials, ridding the courts of serious backlogs and reforming the corrections and rehabilitation institutions and programs, it is inevitable that the A.B.A. Standards will be looked to for practical answers to these difficult problems.

Preparing for Increased and Long-Range Responsibilities.
FIFTY-YEAR HISTORY

Assumption of responsibility for nationwide implementation of the *A.B.A. Standards for Criminal Justice* and other major programs required substantial administrative strengthening of the Section. The groundwork for this was laid during the chairmanship of William F. Walsh and his successor, Louis B. Nichols. In the 1967-68 Association year, the Section focused on structuring, filling, and actively involving the three top command positions (Chairman, Chairman-Elect and Vice-Chairman) through long-range planning, thereby assuring maximum continuity of policy and program activity. Where matters of embarking on long-range programs were concerned, especially those involving considerable outside funding, the Section provided for administrative continuity and an accountability essential to inspiring confidence.

In addition, the Section obtained A.B.A. approval at the 1968 Midyear Meeting to increase the governing Council from 12 to 16 elected members, adding impetus to the umbrella concept. Interestingly, a primary motivating consideration of the Section in increasing its Council was to encourage young lawyers to join the Section and participate more actively. This policy was extended to the Law Student Division under Section Chairman Louis B. Nichols (1968-69) when he appointed an ad hoc committee under Professor Livingston Hall to insure the integration of all Law Student Division members of the Section into active involvement in the Section's committees and programs; under Section Chairman H. Eugene Breitenbach (1969-70), when the Section of Criminal Law became the first in the A.B.A. to designate a Law Student Division member as liaison to its governing Council; and under Section Chairman Samuel Dash (1970-71), when the Section obtained A.B.A. authority to amend its bylaws to provide for a voting Law Student Division member on every Section committee.49

Effective March 1, 1969, the Section hired its first full-time Staff Director and set up permanent offices in Washington. This was made possible largely by a grant from the Sarah Mellon Scaife Family, of Pittsburgh, Pennsylvania, and the sanction and assistance of the Association's Budget and Administration Committee and Board of Governors. Thus, for the first time in its 50-year history, the Section was able to provide year-round service to its membership, to begin to build a permanent filing system, and to embark on programs with the assurance that there would be complete continuity from year to year.

Membership in the Section has responded to this administrative strengthening. On October 31, 1971, regular membership stood at an all-time high of almost 6,200. Law student membership—approximately 1,300—not only was at a peak, but far ahead of all other A.B.A. Sections.

The Role of Law in Educating Youth for Citizenship.

One of the

49 See Appendix A for a complete listing of the Chairmen of the Section of Criminal Law of the A.B.A.
most exciting programs of the Section, which was instituted under the chairmanship of Louis B. Nichols in 1968, was designed to evaluate and define the proper role of lawyers in imparting to school children a real understanding of the role which the law plays in our free society. Specifically, a program was conceived to explore how lawyers and legal scholars could encourage and support elementary and secondary school teachers in imparting to students a better understanding of: (1) the law system in an open society; (2) how law safeguards the individual, protects civil rights and provides for orderly, democratic change; (3) the extent, causes and consequences of crime; (4) the differences between legitimate dissent and insurrection, heresy and conspiracy, freedom and anarchy; and (5) the need to balance civil rights and civic responsibility. The Section solicited and was granted funds by the Scaife Family, subsequently supplemented by contributions from the J. Edgar Hoover Foundation, for planning and pilot teacher training activities. Realizing that any plan to teach students must inevitably embrace plans for teaching teachers, the Section participated in a number of carefully structured pilot teacher training institutes. One was conducted at San Francisco during the chairmanship of H. Eugene Breitenbach, and another at Los Angeles during the chairmanship of Samuel Dash. Both were of eight weeks duration, in-service in character, and involved some 300 teachers from public and parochial schools. Following basic ground rules developed by the Section, both were jointly sponsored by the respective local bar associations, the unified school districts, and the Section of Criminal Law through its Committee on Teacher Training Institutes. The Section assisted in planning the program, and supplied expert speakers representing lawyers, educators, and behavioral scientists, thus insuring a multi-disciplinary approach to the problem. The Los Angeles conference was followed by an all-day evaluation session.

In addition to these examples of pilot teacher training institutes, the Section helped structure a program for the American Personnel and Guidance Association, which represents thousands of counsellors offering guidance to students, dropouts and employees. Since 1968, other planning activities have included compiling an inventory of various programs of this nature throughout the country; establishing communications with educators, social and behavioral science experts; participating in the 1970 White House Conference on Children and Youth; and establishing cooperative relationships with the Association of American Law Schools' Committee on Teaching Law Outside of the Law Schools, the High School Program Committee of the Young Lawyers Section of the A.B.A. and the Law Student Division.

The Annual Report of Chairman Samuel Dash for the 1970-71 Association year relates that planning efforts climaxed in February, 1971 when the Section convened a three-day conference in cooperation with the National Education Association, the National Council for Social Studies, and the Federal Office of Education. Representatives also attended from the Young
Lawyers Section, the Law Student Division, and the Association of American Law Schools. More than 30 prominent educators, lawyers, psychologists and other behavioral scientists were involved, representing most major programs in the nation in teacher training and teaching law outside of law schools. Thus, the Section was able to gain an interdisciplinary insight into the entire field. Under the excellent and dynamic chairmanship of Ephraim R. Gomberg of Philadelphia, Pennsylvania, who has a broad background in law, education, and urban problems, and who served with distinction as Director of the 1960 White House Conference on Youth, the Section's Committee on Teacher Training Institutes has conclusively demonstrated that there is definitely an urgent challenge for the legal profession in fulfilling its traditional role of national and community leadership, and in serving as catalyst and coordinator to bring together leaders of the various disciplines in a national effort to demonstrate the relevance of law to youth. The case has been aptly stated:

Until lawyers and those in society for whom there is some small residue of respect take it upon themselves to secure the assent of the young . . . there is small possibility of winning back those others who act illegally out of fear, hate, disappointment and failure. . . . Until lawyers, in association with others who value reason and order, can conceive of new ways of reaching the young, there is the prospect of a more terrible kind of disorder than any that existed in the Nineteenth Century. . . . We are in the midst of an upheaval no less serious than any that has occurred in other countries where revolution and repression were the final solutions for such massive discontents.50

Significantly, in October, 1970 the A.B.A. Board of Governors created the A.B.A. Special Committee on Youth Education for Citizenship. In 1971, this Committee was activated and A.B.A. President Leon Jaworski indicated that its mission would constitute a major thrust of his presidency, and that the A.B.A. Special Committee would coordinate its efforts with the extensive work which had been done in this area by the Section of Criminal Law.

National College of District Attorneys. June 14, 1970, marked the opening of the first session of the National College of District Attorneys at the University of Houston College of Law.61 The Section of Criminal Law played a major role in pioneering, coordinating, and furnishing financial support to extensive planning and fund raising activities which led to the launching of this institution. The project was the joint venture of the A.B.A., the National District Attorneys Association, the American College of Trial

50 Address by Stephen R. Granbard Before the American Assembly on Law and the Changing Society. The Year 2,000: A Time of Civil Disorder?
Lawyers, and the International Academy of Trial Lawyers. The National College of District Attorneys is designed to become a "West Point" for prosecutors. It is envisioned as an institution where career minded prosecutors can be trained, as a center for effective research to aid the office of prosecutor, as a focal point for the valuable testing and exchange of ideas, as a site for specialized training, and as the coordinator of regional seminars for prosecutors to be scheduled periodically throughout the country.

Grant for Public Benefit Programs. Through the generosity of the Ford Foundation, the Section of Criminal Law was the recipient of a $75,000 grant in 1970. This funding for a period of eighteen months was earmarked to support selected studies relating to the administration of justice and the strengthening of the public's confidence in the legal process. The Section was thus able to conduct timely programs which had heretofore lacked funds, to carry on selected studies and to make well-informed recommendations to its governing Council. Priority subject matter areas included alcoholism, drug abuse, constitutional rights, defense services, legal research and criminal justice planning, and organized crime.52

52 For details, see Section Chairman's Annual Report for 1970-71.