

THE DIRECTOR'S LETTER

Our New Projects *By Richard L. Revesz*

With nine months under my belt as Director, I am very excited about all of our new activity. During its October and January meetings, the Council approved seven new projects (the terrific Reporters who will lead these projects are indicated in parentheses). Two of these projects are Restatements in areas in which we have worked throughout most of our history: Conflict of Laws (Kermit Roosevelt) and Property (Henry Smith). Both are ripe for re-examination.

Two others are Restatements in areas that are new to the ALI: Copyright (Christopher Sprigman) and Children and the Law (Elizabeth Scott). At first glance, Copyright might appear to be an odd project for us because it is governed by a detailed federal statute. But the statute leaves to judicial discretion important matters, such as the boundary between copyrightable expression and uncopyrightable ideas, the standard for and defenses to copyright infringement, and remedies. The Restatement will principally focus on these matters. Guiding judicial discretion is at the core of the ALI's mission. We can do that equally well in the federal statutory context as in the state common law context.

As to Children and the Law, the ALI's leadership, and particularly the Projects Committee (formerly the Program Committee) wonderfully chaired by Judge Lee Rosenthal, decided that children, rather than families, were the preferable organizing concept. As the prospectus for the project notes: "For some purposes, children today are rights-bearing persons, and parental authority has become more limited. ... But the basis for recognizing children's autonomy interests and limiting parental and state authority has not been well articulated. Nor is there clarity about the conditions under which the law should, and should not, recognize children's rights." Those are the fascinating challenges that await us.

Our remaining three new projects seek primarily to give guidance to institutions other than the courts and deal with matters that have significant legal components and great social salience. We believe that each will benefit from the careful, exacting process undertaken by our Reporters and Associate Reporters, the sustained scrutiny of a very broad group of expert Advisers representing a broad spectrum of the legal profession, the further attention of our Members Consultative Group, and finally, the intense focus of our two approval bodies: the Council and the membership attending our Annual Meeting.

Principles of Compliance, Enforcement, and Risk Management for Corporations, Nonprofits, and Other Organizations (Geoffrey Miller) will focus on issues that have been central to the business community since the financial crisis of 2008. Highly publicized, multi-billion settlements of government enforcement actions against major institutions are only the most visible markers of the dramatic growth in compliance activities. Other indicators of the importance of our endeavor include dramatic increases in compliance positions, significant governance changes at the board level, and governmental

focus on the importance of internal controls. We hope to find consensus on best practices for both for-profit and nonprofit entities.

Principles of Police Investigations (Barry Friedman) will deal with topics such as eyewitness identification, forensic evidence gathering, interrogation, and searches and seizures. The intended audience for our advice will be policing agencies, executive officials, and legislatures with the authority to regulate police action. Living in New York City and traveling around the country, I am continuously reminded of the significance of this topic and of the need to find common ground. I understand the challenge we are undertaking but am cautiously optimistic that we will be able to find such common ground on some significant issues.

Finally, our Project on Sexual and Gender-Based Misconduct on Campus: Procedural Frameworks and Analysis (Vicki Jackson) will tackle the many procedural challenges faced by colleges and universities in responding to reports of sexual and gender-based misconduct. We have been working for some time on the Model Penal Code: Sexual Assault and Related Offenses, but that project focuses on criminal provisions, while our new one will seek to determine "best practices" for procedural responses to reports of sexual and gender-based misconduct, including approaches to disciplinary hearings, in colleges and universities. To give you a sense of the interest in this project, within two weeks 100 members signed up for the Members Consultative Group, which I believe is a record response in the history of the ALI.

With these seven new undertakings, we now have 20 ongoing projects, which is roughly our capacity. My hope is that we will complete multiple projects at the 2016 Annual Meeting, and that we will undertake some new projects in 2015-2016. In particular, I would very much like to add the projects that will be necessary for us to finish the Restatement Third of Torts.

Recruiting Reporters has been one of the ALI activities that I have enjoyed the most! The goal is to identify the very best person for each project and to persuade that person to take on a very significant commitment. The challenge with recruiting Reporters is that individuals of that distinction already have a full plate of interesting projects. I was very gratified that for each of our seven new projects, I approached the academics who I thought would carry out the work with the most distinction, and in the end each one agreed (and were subsequently approved by the Council). And we also were able to recruit an enormously distinguished group of 27 Associate Reporters. Altogether, 21 law schools are represented. Our ability to enlist all these individuals is an extraordinary testament to the esteem in which the ALI is held in the academy and the legal profession.

I continue to be awed by the extraordinary work that so many ALI members do to move forward our mission to "simplify and clarify" the law and very much look forward to seeing you at the Annual Meeting, where this work is most intense!