Principles of the Law, Police Investigations: The Advisers

Advisers play a key role in each ALI project. They are specialists in the project’s area who meet at least annually with the Reporters to discuss drafts of particular Sections. Although the Advisers have no formal voting role, their advice is quite influential. Advisers are typically judges, academics, and lawyers in private practice, or representing government agencies or public interest organizations. But one of our seven new projects—Principles of Police Investigations—has a quite different lineup, reflecting its subject matter. I thought that telling you a bit about these Advisers would give you an informative perspective on this project, which had its first Advisers meeting in March 2016.

The Principles of Police Investigations is somewhat of an unusual undertaking for the ALI. Anyone watching the news over the past two years realizes how important this project is, and yet how sensitive the topic and thus how difficult it might be to obtain widespread consensus. In addition, because it is a “Principles” project, the goal is not to synthesize judicial precedent. Rather, the Reporters are working to develop best practices for issues concerning policing that have significant legal underpinnings. Our work is informed by a variety of sources including existing policies and practices in various jurisdictions, social science research, and constitutional norms. Finally, the audience for the project is quite broad, including legislatures, policing agencies, bodies that regulate or conduct oversight on policing, the public, and also, in some instances, the courts.

Given the nature of the Principles of Police Investigations project, we selected a slate of Advisers with wide experience in and around law enforcement, on all sides of these sometimes contentious issues. They range from police chiefs and prosecutors, to activists, public interest leaders, and experts on the technology of policing. And, of course, we also have the more traditional complement of prominent judges, academics, and lawyers.

A significant proportion of the Advisers for this project come from law enforcement. This high-profile group of police officials with long experience in the field is invaluable in guiding our efforts. Among the Advisers is Charles H. Ramsey, Co-Chair of the President’s Task Force on 21st Century Policing and former Philadelphia Police Commissioner, who widely is recognized as one of the foremost authorities on community policing. (The other Co-Chair of the Task Force, George Mason University Professor Laurie Robinson, also is an Adviser to the project.) Among our Advisers, we have current and former police chiefs Art Acevedo from Austin, TX; Hassan Aden from Greenville, NC; Jim Bueermann from Redlands, CA; Robert C. Haas from Cambridge, MA; George Gascón from San Francisco, CA (now the District Attorney); Sylvia M. Moir from Tempe, AZ; Darrel Stephens from Charlotte-Mecklenburg; and Scott Thomson from Camden, NJ. We have the Executive Director of the Washington State Criminal Justice Training Commission (and President’s Task Force member and former Sheriff of King County, Washington), Sue Rahr; Philadelphia Police Department Deputy Commissioner of Organizational Services, Strategy, and Innovation and Chief Administrative Officer, Nola Joyce; and two academy instructors, from Chicago and Sacramento. The Director and Chief Legal Counsel of the Illinois Police Benevolent and Protective Association, Sean Smoot, yet another member of the President’s Task Force, also is an Adviser. We also have leaders from Major Cities Chiefs Police Association, the Police Executive Research Forum, and the Police Foundation.

At the same time, we thought it essential to include individuals from organizations that have expressed concern about policing. Thus, we are fortunate to have among our Advisers the Black Lives Matter activist and one of the founding members of Campaign Zero, Brittany Packnett, and longtime civil rights activist and co-founder of the L.A. Advancement Project, Connie Rice. We have also representatives from major civil liberties organizations, including Christopher Soghoian, the Principal Technologist at the ACLU, and NAACP Legal Defense and Educational Fund President Sherrilyn Ifill. On the defense bar side, we have Norman L. Reimer, Executive Director of the National Association of Criminal Defense Lawyers; Jeff Adachi, San Francisco Public Defender; and Deidre von Dornum who is the Attorney-in-Charge of the Eastern District office of the Federal Defenders of New York.

That still does not cover all the areas from which we have drawn Advisers. We have Gary, Indiana, Mayor Karen Freeman-Wilson, and former Nashville Mayor, Karl F. Dean. We have a former state Attorney General, a city District Attorney, and a current U.S. Attorney. And we have Advisers from Google, the Heritage Foundation, the Joyce Foundation, and the Criminal Division and the Civil Rights Division of the U.S. Department of Justice.

As one would expect given the high caliber and diversity of the individuals involved, the first Advisers meeting—at which the Reporters presented introductory Principles from various Chapters—was notable for its lively and candid conversation. At the same time, we reached a great deal of consensus on core principles of policing—on matters from consent searches to witness identification—proving a promising start for the project. The Advisers and Reporters came closest to resolution on one of the major issues of the day, dealing with the use of force. This important topic might be the first portion of the project to go to the Council and then to the membership for approval.