

AMERICAN BAR ASSOCIATION PROJECT ON  
STANDARDS FOR CRIMINAL JUSTICE

STANDARDS RELATING TO

*The Administration of  
Criminal Justice*

*Compilation with Index*

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## Method of Citation

It is recommended that citation of the standards be to the title and section number of the particular set of standards involved, rather than to the title of this book, and to the year they were approved by the American Bar Association, rather than to the year of this publication. For example: ABA Standards, Pleas of Guilty § 2.1 (1968). If there is need to cite this particular book, the recommended citation is: ABA Standards (or ABA Standards Relating to the Administration of Criminal Justice), Compilation, p. — (1974).

## *Preface*

THIS IS THE eighteenth—and final—volume in a series of reports by committees of the American Bar Association setting forth standards for the administration of criminal justice. Each of the other volumes deals with a specific topic within the spectrum of the general subject and contains considerable commentary and supporting material. This volume simply brings together in one book all of the standards as approved by the ABA House of Delegates, with only the introductions from the original reports. For a full understanding of the standards, therefore, one should consult the relevant report on the topic of interest. A list of the Project's publications may be found on the inside back cover of this volume.

The principal new material here is a comprehensive index to all of the standards. It is keyed only to the standards, however, and not to the commentary in the other volumes. The standards themselves are, in effect, an index to what may be found in that commentary. The index contains greater detail than the usual index and thus serves as a summary analysis of the contents of the standards, as well as a guide to what one is looking for.

Also new are the cross-references to related standards inserted at the end of each section where appropriate. These cross-references are limited to related standards outside the title of the standards being referenced, since standards within a title are integrated and their relationship can be seen from the table of contents at their beginning.

No effort has been made in this volume to bring the standards up-to-date other than to cite the few instances where it appears that a Supreme Court decision of constitutional dimensions rendered subsequent to the approval of a standard may have an effect upon it. These citations will be found at the end of the appropriate section, in some instances at the end of the cross-references also located there. Current

information about the status of the standards may be obtained from the ABA Section of Criminal Justice, which is in charge of the project to implement the standards, at 1705 DeSales St., N.W., Washington, D.C. 20036. Both the West Publishing Company and Shepard's have undertaken to list citations to the standards.

For those not familiar with the manner in which these standards were developed, the ABA project on Standards for Criminal Justice formally began with the appointment of the Committee on Minimum Standards for the Administration of Criminal Justice in August 1964 and ended with approval of the last of its reports by the House of Delegates in February 1973. (The word "minimum" was dropped from the title in August 1969.) The Special Committee supervised and coordinated the work of seven Advisory Committees, each of which was composed of federal and state trial and appellate judges, prosecutors, defense and other practicing lawyers and law professors. Each Advisory Committee was assisted by one or more reporter-law professors, who were responsible for the research and initial drafting, and most Advisory Committees produced more than one report. The standards were published and widely circulated for comment in tentative-draft form, amended when deemed desirable and recommended by the Special Committee to the Sections of Judicial Administration and Criminal Law, the Board of Governors and House of Delegates for approval. The Institute of Judicial Administration, which had recommended the project to the ABA, served as its secretariat. More detailed information about the persons involved and the history of the reports may be found in the appendices in this volume.

—June, 1974

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# *The Urban Police Function*





## *The Urban Police Function\**

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\*Approved by ABA House of Delegates, February 1973. For publication history, see Appendix B, *infra*.

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## *Introduction*

THESE STANDARDS are offered in the belief that greater understanding of the function of police in a democratic society is necessary if there is to be needed improvement in the quality of police service.

Although titled the *Urban Police Function*, much of what is recommended in these standards is applicable also to the police of the smaller community, who share many problems with their urban counterparts. The use of the phrase "urban police function" is meant only to stress the fact that police problems in the large city are most critical and that some of the solutions, *e.g.*, a police legal advisor on the staff of the department, are not feasible in the small police agency. Even so, a proposal such as that of a police legal advisor does have significance for the smallest of departments. They also need good legal advice. But it must be furnished by different institutional arrangements as, for example, through the district attorney of the county or the attorney general of the state. In brief, the basic principles advocated in these standards are applicable to all police; some of the specific recommendations, however, are directed to the critical problems of the urban police.

The police in this country have suffered from the fact that their role has been misunderstood, the fact that demands made upon them have been so unrealistic, and the fact that the public has been so ambivalent about the function of police. It has taken a period of rapid social and political change—with all of the resulting demands that have been placed upon the police—to make the public more conscious of the importance and the complexity of the police function. But this has been a mixed blessing. The fact that the police have played so central a role in the recent tumult has also resulted in their having become a symbol in the polarization that currently marks our society—their being the

subject of scorn and derision in some quarters and the subject of praise and exaltation in others. This development has greatly complicated the task of meeting current needs more effectively—and has made it more important than it has ever been in the past for a greater number of citizens to have a comprehensive, dispassionate understanding of the complex role that the police play.

The central message of the standards which follow is expressed well by the Chief Justice of the United States, Warren E. Burger, in a recent address to local and state police administrators upon their graduation from the FBI Academy. In his address the Chief Justice said in part:

It is often overlooked that no public officials in the entire range of modern government are given such wide discretion on matters dealing with the daily lives of citizens as are police officers. In the broad terms of public administration, I think it would be a safe assumption that the scope of discretion enlarges as we look upward in the hierarchy of government. In other words, the higher the rank, the greater is the discretion. But this is not true in police work. The policeman on the beat, or in the patrol car, makes more decisions and exercises broader discretion affecting the daily lives of people, every day and to a greater extent, in many respects, than a judge will ordinarily exercise in a week. . . . No law book, no lawyer, no judge can really tell the policeman on the beat how to exercise this discretion perfectly in every one of the thousands of different situations that can arise in the hour-to-hour work of the policeman. Yet we must recognize that we need not choose between no guidelines at all and perfect guidelines. There must be some guidance by way of basic concepts that will assist the officer in these circumstances.

Basically, as I suggested, it is a matter of common sense and sound judgment, and yet we know that one man's common sense may be another man's mistake. Hence this need for carefully devised basic standards to guide the exercise of this discretion and, second, for careful and comprehensive training of officers before they are thrust into situations that would often baffle the wisest judge.

The standards that follow and the commentaries that support them are addressed to the legal profession, to the police profession, and to a wide range of other groups which, like the legal profession, should have a special interest in and responsibility for the improvement of the police service. Included among the latter are state legislatures, city councils, mayors, city managers, civil service agencies, personnel ad-

ministrators, public and private funding agencies, and educational institutions that currently have or are contemplating programs relating to the police. The standards and commentaries are also addressed to various groups active in educating the citizenry, such as the League of Women Voters and the instructors of high school civics courses, in the belief that improvement in the quality of policing is ultimately going to require much more understanding support from the entire community.

The legal profession has a special responsibility. The impact of the lawyer upon police is great. Lawyers acting collectively and as individual legislators, judges, district attorneys, city attorneys, and defense counsel, often have occasion to deal with important aspects of what police do. The impact of the legal profession can either be a positive or a negative one. In the past it has been too often an uninformed and largely negative reaction. The leading writer in the field of administrative law has recently said:

The police are among the most important policy-making agencies, despite the widespread assumption that they are not. . . .

Despite the extensive policy-making by the police, the continuing assumption by the community and by the police themselves has been that the police do not make policy.\*

This lack of understanding about the nature of the police task is, unfortunately, shared by most of the legal profession. Where police administrators have tried to acknowledge their important policy-making responsibility and to do something constructive about it, the principal obstacles have, more often than not, been lawyers, including some city attorneys and some judges. Where police administrators have tried to get the desperately-needed staff legal assistance, the principal opponents have customarily been lawyers. This opposition to positive, needed change has for the most part reflected a lawyer's failure to fully appreciate the important and complex governmental responsibility which the urban police have today. Without this understanding by the legal profession, it seems unlikely that the most able police administrator can successfully make basic improvements in the quality of police service.

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\*K. DAVIS, *DISCRETIONARY JUSTICE* 81, 83 (1969).



The standards are in fact "standards" in the loosest sense of the term. Some are merely descriptive of an aspect of the police function. Some urge acceptance of a viewpoint or urge that increased attention be given to a specific problem. Some call for the development of new statutory or police guidelines for the police, or for administrative rules and regulations. Some call for experimentation and further exploration in testing basic changes in personnel and organizational structure and in the reallocation of priorities to better fulfill the nature of the police responsibility. Some call for further research and the development of model legislation or regulations and policies. Others point out that in many cases improvements in police service are directly related to improvements in systems of which the police are an integral part, such as the criminal justice system and the public and mental health systems. Very few are set forth in such terms as to constitute model procedures that can be implemented immediately on a national basis. Rather, for the most part, these standards represent an approach for dealing with the critical problems and needs confronting urban police agencies.

This varied use of "standards" is to a great extent a reflection of the underdeveloped character of the police field. It is far more important, today, that there be more widespread acceptance of the realities and complexities of police work (*e.g.*, that the police constitute an important administrative agency charged with the exercise of broad discretion) than it is that there be agreement with regard to the mechanics of running a police agency (*e.g.*, that police officers should be 5'6" tall and be of a weight proportionate to their height). But the fact that so little attention has been given to the broad underlying problems makes it impossible to speak to them with anything approaching the specificity with which one can address the more traditional concerns in the operation of a police department. It is hoped, however, that these standards will stimulate broadly-based discussion and debate; will result in new efforts to identify specific needs and programs for the police throughout the country; and, ultimately, will play a part in the implementation of the many changes that are so desperately needed if the police are to fulfill effectively their function in society.