



Morris "Sandy" Weinberg Jr.

My chair year is rapidly winding to a close. It has been an exciting year that has included the White Collar Crime Institute in London, the Fall Meeting in DC with an address from Deputy Attorney General Rod Rosenstein and a highlight white collar crime town hall regarding the Mueller investigation, the 32nd White Collar Crime Institute in San Diego with keynote speeches from Deputy Attorney General Rosenstein and David Green, the director of the UK Serious Fraud Office, and the Criminal Justice Section (CJS) Spring Meeting in Tampa with memorable programs including a panel led by Sixth Circuit Judge and our past chair Bernice Donald reflecting on the 14th Amendment on its 150th anniversary and the 50th year since the assassination of Reverend King. Meanwhile the Section initiated task forces on lawyer mental health, immigration, border searches of digital devices, and federal marijuana enforcement and the clash with state legalization.

The Section continues to be a leader in the ABA regarding policy resolutions. In the past year, CJS has had a diverse group of resolutions pass the ABA House of Delegates, including ABA policy that opposes mandatory minimum sentences in any criminal case, a policy urging the US Department of State to preserve the Office of Global Criminal Justice and the role of the War Crimes Ambassador, a policy in favor of release on personal recognizance bonds or unsecured bonds and no pre-trial detention due solely to the inability to pay, a juvenile justice policy to cease the use of bail/bond in the juvenile justice system, a policy to prohibit the use of solitary confinement of children and youth under the age of 18, a policy urging DOJ to reconsider the Sessions charging memorandum and to restore prosecutorial discretion in choosing charges to pursue, a policy urging the courts to extend *Batson v. Kentucky*

to prohibit discrimination against jurors on the basis of sexual orientation or gender identity, and a policy to urge Congress to protect the Dreamers, as well as the adoption of our Criminal Justice Section standards relating to dual jurisdiction youth and the *Standards for Criminal Justice: Prosecution Function and Defense Function*. This represents an amazing amount of work from our members and many committees.

The diversity and vitality of the Section were on full display in Tampa for the Spring Meeting. The Section was welcomed to Tampa by the federal and state bench and the local bar. We had the public defender and the state attorney on a panel regarding the direct file of minors as well as the state attorney from Orlando on a panel regarding her battle with the governor over her decision not to further seek the death penalty. We also had several local federal judges on panels and were the guests of US District Judge Virginia Covington for a reception and Latin-themed dinner at her beautiful home on Tampa Bay. We started our programs on Thursday with a White Collar Crime Town Hall featuring a panel of national lawyers regarding strategy in high-profile white collar investigations and trials. All of our events were incredibly well attended and were complimentary as a result of a number of local law firms who generously co-sponsored the events. My personal highlight was a Saturday evening reception and dinner at my house for the Council members, CJS leadership, and local judges and lawyers.

The DOJ Dialogue Group, chaired by Jack Selden, recently met with Attorney General Sessions and Deputy Attorney General Rosenstein. Our discussion focused on the implementation of the May 2017 new attorney general charging policy, the potential changes or updates to the Yates Memorandum, and the potential impact of the Rachel Brand Memo of January 2018 on criminal prosecutions. We had an opportunity to express our concerns about each of these important policies and had a productive dialogue with the attorney general and the deputy attorney general. These opportunities for dialogue are invaluable, and we are grateful to the Attorney General and his staff for the willingness to meet with CJS.

The rest of this last column I want to focus on the remarkable contributions of three extraordinary lawyers

CONTINUED ON PAGE 27

MORRIS "SANDY" WEINBERG JR. is chair of the ABA Criminal Justice Section. He is a partner with Zuckerman Spaeder LLP in Tampa, Florida.

over the past 30-plus years to the Criminal Justice Section. Professor Stephen Saltzburg, Neal Sonnett, and Ray Banoun stand alone in their continuous service to our Section. They are the heart and soul of the Section and have each contributed thousands of hours of service to the Section in their careers. As chair, I know firsthand that I am able to call on Steve, Neal, and Ray at any time for assistance and counsel. We are incredibly fortunate that they are each going strong and continuing to work with the Section. I sympathize with the chair who is in place when they decide to retire. I don't know what I would have done without their help.

As any new member of Council learns at his or her first Council meeting, the Council resolutions are routinely reshaped and refined by the brilliant guidance of Steve Saltzburg. No chair can operate without the historical perspective of Neal Sonnett. And everyone who is engaged in the Section will forever be indebted to Ray Banoun for our crown jewel—the White Collar Crime Institute. The Section is what it is today in large part because of the unselfish contributions of lawyers such as Steve, Neal, and Ray.

Former Section Chair Michael Pasano summed up his views on Steve, Neal, and Ray:

Steve has been a beacon. Best and brightest. He and Neal for years gave CJS a respected voice in the ABA House of Delegates. I often watched them argue CJS positions and persuade the disinclined. Two wonderful statesmen who steered CJS away from the rocks. Ray grew the White Collar Crime Institute from nothing. His vision, his hard work, his constant networking, all the while maintaining a law practice, is truly amazing. Dauntless in his commitment. Incredibly invested in the huge hours he gives every year. Ray is an amazing person. My two cents.

Steve Saltzburg is the Wallace and Beverley Woodbury University Professor of Law at George Washington University. He has been a law school professor since 1972, first at the University of Virginia School of Law from 1972 to 1990 and thereafter at George Washington University Law School. He began his law professor career after a clerkship on the Supreme Court with Justice Thurgood Marshall. In addition to his academic career, he also served as an associate counsel, Office of Independent Counsel, and as the Deputy Assistant Attorney General, Criminal Division at the Department of Justice (DOJ). He has served on countless committees and task forces regarding the judiciary and the executive branch.

Steve has been a delegate from the Criminal Justice Section to the ABA House of Delegates since 2001 and served as chair of our Section in 2007–2008. Steve has worked hard to assure that CJS “actually is the voice of all participants in the criminal justice system.” Through his efforts and outreach to the National District Attorneys Association, Steve gained the participation of district attorneys from across the nation to become active members in the Section. Our most recent prosecution chairs Mat Heck from Ohio and Matt Redle from Wyoming are glowing examples of Steve's efforts.

After Justice Anthony Kennedy spoke to the House of Delegates in San Francisco at the Annual Meeting on August 9, 2003, challenging lawyers to reform criminal justice, the first African American ABA President, Dennis Archer, turned to Steve to chair the ABA Justice Kennedy Commission. Justice Kennedy was extremely concerned that at the time 25 percent of the world's prison population resided in US prisons and almost 65 percent of those imprisoned in the United States were people of color. Justice Kennedy challenged the ABA to investigate whether the criminal justice system disproportionately disfavored minorities. President Archer reflected that the Kennedy Commission Report produced six resolutions passed by the House of Delegates that addressed the difficult issues raised by Justice Kennedy.

President Archer recalled watching both Steve and Neal for years in the House of Delegates and that “there was no one more effective in their arguments on tough issues.” He said that both “have conducted themselves with class and are always prepared on the House floor and that they are outstanding, ethical, and high in character and proud to call them my friend.”

Neal Sonnett is an ABA legend. His work with the Criminal Justice Section dates to the mid-1980s. After a tour in the US Attorneys' Office for the Southern District of Florida as an AUSA and the chief of the criminal division, he has had a 46-year career as one of the leading criminal defense attorneys in the nation. While maintaining a successful and active criminal trial practice, Neal has been a leader in the legal profession on the local, state, and national levels. He has won countless awards and served on more ABA committees and task forces than probably any other ABA member in history. But it is his work with our Section that I want to highlight.

Neal was first a member of the ABA House of Delegates in 1986 and has been a continual member since 1996. He has served as our Section delegate from 1996 to 2009 and from 2013 to the present. Along with Steve Saltzburg, Neal has more historical knowledge about our Section and the ABA in general than almost anyone else. He served as Section chair in 1992–1993 and has been a member of the CJS Executive Committee since 1996. Neal and longtime member Albert Krieger formed the original DOJ Dialogue Group around 1990 as part of a joint effort at the time with the National Association of Criminal Defense Lawyers (NACDL).

In gathering materials at my request for this article, Neal came across a copy of a June 1991 letter he wrote to Robert Mueller, who was the assistant attorney general in charge of the DOJ criminal division. The letter was written following one of the early DOJ Dialogue meetings. At the time, Neal was concluding his service as the president of NACDL and was just starting as the chair-elect of CJS. In addressing his “changing hats” from his more partisan role as NACDL president to chair-elect of CJS, he made the following sage comments about CJS in his “Dear Bob” letter:

I have always believed strongly, as I mentioned in our meeting, that the Criminal Justice Section must strive for a stable balance that reflects its distinct constituencies, and that the Section's leaders must be open, receptive and sensitive to that diversity. Please know that I take

those responsibilities most seriously, and that I intend to do everything in my power to foster a better and fairer relationship among all interests in the Section, and to work hard for the improvement of every aspect of our profession and the administration of justice.

Neal took his comments to heart and has spent the last 25 years ensuring that CJS represented all of the constituencies of the criminal justice system, including prosecutors (and law enforcement), defense lawyers (public defenders and private attorneys), judges (state and federal), and academics. Our Council meetings are living proof of Neal's vision with the amazing collaboration of those constituencies in dealing with a variety of domestic and international criminal justice issues. Our membership on Council is divided among those constituencies and we have a chair rotation of defense counsel, prosecutor, and "other" (judge or academic). This rotation system has worked amazingly over the years and ensured that the words of Neal years ago ring true today. I will be followed as chair by Professor Lucian Dervan, who will be followed by Kansas Prosecutor Kim Parker.

Former Chair Mat Heck has the utmost respect for Steve and Neal and remarks that both "are well respected by the ABA House of Delegates and their guidance, support, and reputation are the reasons why the CJS resolutions are so successful and adopted by the HOD as ABA policy." And CJS's retired long-time director Jack Hanna reflects that Steve has "the remarkable ability to find the intellectual sweet spot during policy debates on Council or in the ABA House of Delegates brings divergent points of view into alignment for the betterment of the field. His sharp edged refinement of various Criminal Justice Standards and other guidelines is a major reason the ABA Criminal Justice Section successfully produces more substantive policy than any other ABA entity." As for Neal, Jack reflects that "Neal Sonnett is the time honored Criminal Justice Section ambassador to the ABA. He has opened many ABA doors for the Section and thankfully closed a few as well."

Ray Banoun is a long-time white collar criminal attorney who began his career in the DC US Attorneys' Office, where he ultimately was chief of the fraud section. He also served three years as a special assistant to the US Attorney for the Central District of California. He has been a Criminal Justice Section member since 1984 when he became one of the original members of the CJS White Collar Crime Committee, which he went on to chair in 1986-1987. And it was as chair of the White Collar Crime Committee that he, with a few other colleagues, started in 1987 the National Institute on White Collar Crime, which is now in its 32nd year.

Ray is affectionately known as the father of the ABA Criminal Justice Section White Collar Crime Institute. The White Collar Crime Institute is the crown jewel of all the many Section programs. The Institute has taken on a life of its own and has become a don't-miss event annually for the white collar bar. The Institute regularly draws from 1,200 to 1,500 participants and has two and a half days of some of the best CLE programming anywhere. The receptions and functions at the Institute are legendary. The Institute annually produces critical funds for the Section that enables us to continue to do important work to improve the criminal justice system.

Two years ago, we celebrated the 30th anniversary of the Institute in San Diego. During that celebration, Ray reflected on the 30 years

and how the Institute had been the idea of Ray and a small band of the original white collar lawyers in DC and NYC. The first Institute was in Miami in 1987 and was attended by about 45 lawyers. My firm, Zuckerman Spaeder, sponsored a lunch that was undoubtedly a tray of sandwiches! Oh how things have changed, including the food at Zuckerman Spaeder's annual reception at the Institute.

I have attended almost all of the 32 Institutes and have participated in the planning and programming over the years. I have observed how much time and effort Ray has devoted to making the Institute so incredibly successful. His work begins in May with the Planning Committee calls regarding the next year's program. Throughout the summer, all the topics, panels, moderators, and panelists are designated. The Program goes to press by October and the marketing for the Program begins immediately. Ray has been passionate about the quality of the Institute materials and book, which is completed by January. Ray personally stays on top of the moderators to ensure the panels are well-prepared and interesting. While the Institute in its early years largely consisted of panelists from DC and NYC, the panels today have attorneys from across the country. In recent years, the Institute has included many foreign panelists and the topics have included cross-border issues. Through Ray's efforts, the Institute has been supported by the DOJ, the SEC, and other law enforcement agencies with top-level government attorneys appearing as panelists and speakers. And Ray has worked hard to have ethnic, racial, and gender diverse panels and young lawyers as well as senior lawyers.

My partner Roger Zuckerman reflects on Ray:

Without meaning to embarrass Ray, the White Collar Crime Institute has been around for a longer period than some of the current attendees have been alive. It is by far the largest and most successful program that the ABA puts on. And it is all due to the work of one man: Ray. The first conference was scheduled for the Boca Raton Hotel, in toney Boca Raton. The hotel was called and told that the participants, probably no more than about 50, wished to book the hotel for a conference on "white collar crime." The hotel quickly rejected the idea and rejected the conference. Since the early conferences in Miami, the Institute has contributed mightily to the intellectual life and the spiritual cohesion of the white collar bar. It is really a signal event in the yearly life of many white collar practitioners. And one cannot imagine the immensity of the logistics in putting together dozens of panels, rooms, meals, and entertainment for well over a 1,000 guests and participants. It requires creativity, commitment, diligence, tact, and chutzpah—all of which Ray possesses in great supply. It's hard to imagine, but Ray has built this edifice by continuously attending to it for a period of over 30 years. It is an accomplishment virtually unparalleled in the lives that we in this generation of lawyers have led.

We in the Criminal Justice Section are indebted to Steve Saltzburg, Neal Sonnett, and Ray Banoun for their years of service to the Section and dedication to criminal justice.■