

Foreward: Why Wickersham?

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WICKERSHAM COMMISSION SYMPOSIUM

FOREWORD: WHY WICKERSHAM?

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Early in his presidency, before the economic woes that would overtake both him and his legacy, President Herbert Hoover thought to examine problems in law enforcement that Prohibition either caused or revealed indirectly. He acted in his characteristic way: he invested hope in scientific objectivity. Hoover appointed a commission of eminent scholars and criminal justice professionals to study crime and law enforcement on a national scale, and to publish its findings and recommendations. He chose a former Attorney General, George W. Wickersham, to chair the commission. The group then went about its work, overshadowed almost entirely by the Great Depression.

In early 2011, ignoring for the moment the better things we had to do, the three of us spent a few minutes asking whether the 80th anniversary of the completion of work by this overlooked commission yet might be worth marking. The intervening eighty years had seen remarkable shifts in criminal justice, many of which seemed anticipated by the commission's work: from a negligible federal role to multifaceted and substantial federal roles; from disconnected local police efforts to highly interconnected policing in which local information

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often is shared nationally; and from an era in which data-gathering was spotty and even haphazard to a time of massive, regular collection of data that feed the work of thousands in the social sciences. We noted also that subsequent blue-ribbon commissions and panels, many widely remembered, in fact might have followed the Wickersham commission's dusty template. These include most notably the National Commission on Law Enforcement and the Administration of Justice (Katzenbach Commission) and the National Advisory Commission on Civil Disorders (Kerner Commission), and arguably the Attorney General's Commission on Pornography (Meese Commission). Finally, we knew that the United States Supreme Court had recalled the Wickersham Commission at especially important junctures, *Chambers v. Florida*, *Culombe v. Connecticut*, and *Miranda v. Arizona*. In fact, the Supreme Court has cited the commission's work as recently as 2008.¹ Perhaps our simple inquiry—Is the Wickersham Commission still relevant?—was worth further exploration.

With the generous support of Dean Joseph Kearney, Marquette Law School hosted our proposed Wickersham conference in October 2012. We wish to express our gratitude to Dean Kearney; to the many members of the Law School staff and administration who made the conference possible, especially Christine Wilczynski-Vogel and Carol Dufek; and, of course, to our distinguished speakers, whose thought-provoking presentations have been translated into the papers published in this volume.

As you would expect when first-rate scholars fix their sustained attention on such a topic, it turns out that the complexity of the Wickersham Commission's legacy far exceeds the basic musings that the three of us shared on a winter day. That, indeed, is all we could have hoped for any academic conference. If the parsimony of a question is lost in the rich messiness of the answer, that is by operation of what we call "life." And now more than eighty years later, the Wickersham Commission very much remains woven subtly, even unnoticeably, into our national life. It remains, in that sense, vital.

1. *Dada v. Mukasey*, 554 U.S. 1, 11 (2008).