Advocating for Change: Maddy deLone and the Innocence Project

By Tricia Bushnell

UNDERSTANDING THE NECESSITY of continued oversight and third-party review of our criminal justice system, the Midwest Innocence Project (MIP) is delighted to learn that Maddy deLone, the Executive Director of the Innocence Project, will be the keynote speaker at NACOLE’s 20th Annual Conference in Kansas City.

Founded in 1992 by Barry Scheck and Peter Neufeld, the Innocence Project—the first project of its kind—is a non-profit organization dedicated to freeing innocent inmates convicted of crimes they did not commit, often as a result of unfair or erroneous procedures. The Innocence Project’s influence has grown to the creation of an entire Innocence Network, comprised of over 65 projects committed to the cause of freeing innocent prisoners around the world by re-investigating cases and litigating legal claims. In the Kansas City region, the MIP plays that role.

Serving a five-state area, including Missouri, Kansas, Iowa, Nebraska and Arkansas, the MIP and other projects serve to act as an additional check on the criminal justice system. Through their work and the examination of exoneration cases, the projects have identified leading causes of wrongful convictions, and continue to lead the charge on recommendations for policy, legislation, and best practices designed to prevent further incarceration of the innocent. Currently, there have been over 300 DNA exonerations—cases where convictions were overturned because DNA evidence established that another individual committed the crime. Of these cases, approximately 75% included eyewitness misidentifications, often as a result of suggestive lineup procedures; more..

The History of Oversight in Kansas City

ON A LATE, COLD NIGHT IN Kansas City, Missouri on February 5, 1967, an African-American male, Mr. John Smith,* was travelling home from work when he was detained by an officer of the Kansas City, Missouri Police Department (“Department”) for traffic infractions. The results of this police contact resulted in Mr. Smith being beaten, hospitalized and cited for careless driving, failure to obey a lawful police order and resisting arrest.

At this time in our history, the citizens of Kansas City had no form of redress against alleged misconduct by an officer. Each time an incident of this nature would occur, it would create racial tension, bitterness and disharmony between the police and in the minority community. Additionally, there had been many allegations of improper treatment, brutality or excessive force or other wrongful conduct by the police towards minorities, especially African-Americans. The Kansas City, Missouri Board of Police Commissioners (“Board”), a group of

*Please turn to “History of Oversight in Kansas City,” page 11

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Building Community, Broadening Oversight

The theme of this year’s 20th Annual Conference, Building Community, Broadening Oversight, challenges us to consider opportunities for true public participation in oversight through direct sharing of data and openly engaging with community-based organizations that are focused on police accountability and reform.

NACOLE and practitioners of civilian oversight have long viewed the community as one of the most, if not the most, important consumers and beneficiaries of our work. As evidence of that fact, the NACOLE Code of Ethics, adopted by the Board of Directors in 2006, explicitly references our obligation to the community. Civilian oversight has continued to evolve, and so too have practitioners’ efforts and ability to build the capacities of communities to promote fair and impartial policing.

Although our ability as practitioners to better support communities has grown over time, oversight must still maintain the appropriate balance between over-identification with the community and over-identification with the police and over-identification with the community. It also means balancing competing priorities: public safety; the rights of officers; and the rights, needs, and demands of the community. Oversight must not pander to public opinion; rather, we must constantly demonstrate absolute impartiality and independence of thought and action. We talked at length about the importance of this balance during last year’s conference in Salt Lake City.

Through the development of oversight, oversight practitioners have come to be at the forefront of investigating, reviewing, auditing, and analyzing individual cases or patterns of police misconduct; police management and supervision practices; and potential civil rights violations in areas such as racial profiling, biased policing, use of deadly force, illegal searches, excessive force, and unlawful arrests. Civilian oversight is also a critical component to reducing a municipality’s exposure to risk from lawsuits claiming unlawful actions by individual officers or departmental failures to supervise or train officers.

Transparency in policing and police oversight is important, but transparency by itself is not enough. The idea here isn’t just to pull back the curtain; it’s to push open the doors to government (i.e., the police and police oversight agencies) in order to achieve a greater good.”

These have all been important developments, but can we do more to directly engage communities in our work? Can we broaden the idea of oversight? I think it’s clear that we can, and that we know what it looks like. An emerging example of building community and broadening oversight comes from New York where direct sharing of government data by many New York City agencies is an argument for what could happen—indeed, what may happen—were civilian oversight to join the open government transformation that is happening all across the country.

New York City’s Open Data (Local Law 11, passed in 2012) makes public data generated by various New York City agencies and other City organizations available for public use.

Currently, there are over 1,100 datasets available in NYC Open Data, including the NYPD Stop, Question and Frisk Report Database. (Click HERE to access NYC Open Data. Click HERE to access the NYPD Stop, Question and Frisk Report Database.) Stop data for the years 2003 through 2012 are available. Anyone can download the data, including the code books for each year’s data, and perform their own independent analyses. New York City has several existing layers of police oversight, including the Citizens Complaint Review Board (CCRB) and a newly created Inspector General for the NYPD, but this gives the public a real opportunity to participate as well. Could the CCRB or Inspector General partner with the public to analyze the stop data? They could, and arguably they should. NYC Open Data is part of the City’s overall initiative to improve the accessibility, transparency, and accountability of City government, and should serve as a model for cities and governments nationwide.

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My Story

By Theresa Smith

My name is Theresa Smith, and I am the mother of Caesar Cruz who was shot and killed by Anaheim, California Police Department (APD) officers on December 11, 2009.

On that fateful day, I received a call no one ever wants to get. The phone call was from my niece, who called me frantic that she heard that my son Caesar had been shot in the parking lot of Wal-Mart by APD officers. Most of what transpired after that became a blur and a nightmare for me.

I went to the scene where I was told my son had been shot. Upon arriving, I was approached by a police officer who told me that my son had been transported to the hospital. My thought at that moment was “he’s still alive, he’s a survivor.” When I arrived at the hospital, I was told I could not see my son as his shooting was under investigation. They had me wait almost 3 hours before some officers came out and asked to speak with me. Their treatment in telling me my son was DEAD was very harsh and cruel.

The following day, Saturday, I had a vigil for my son at the site where he had been shot and killed. That Sunday, I started protesting in front of the police department and I continued to do so for over 2½ years. During that time, other families who had been affected by officer-involved shootings joined me and we became known as the “Anaheim Cruzaders.”

I became more involved with families and other communities and came to realize that there had to be a change—a change within the APD. So I decided to meet with elected officials, the police, and people from different communities to see how we could move forward to make these changes happen. I started an organization called the Law Enforcement Accountability Network (LEAN) to connect and collaborate with other families and organizations to share information, stories, and ideas regarding police brutality and accountability. Some good would come out of my tragedy.

Last year, a group of concerned citizens and I started meeting to discuss how we could put a proposal together for police oversight in Anaheim. We met regularly, brainstorming and researching how other police oversight committees were working in other cities. After months of getting together, we finally drafted a proposal and delivered it to the Mayor. We met with him and discussed some of our ideas; he stated he would give our proposal to the City Manager. We never received any response from the City Manager. A couple of months later, the City Manager presented a pilot project called the “Public Safety Board” at a City Council meeting. We have continued to ask questions about this Board as the project is very vague and questionable, and to date we have not had any response.

I will continue to make every effort in getting effective police oversight in Anaheim that will be beneficial to the community and the police. This has been a long and sometimes trying effort, but I know I can’t and won’t give up. It has become my passion to make this change happen not only because of my personal loss but also for the future of our youth. •

Theresa Smith is the founder and lead organizer for the Law Enforcement Accountability Network in Anaheim, California.

Civilian Oversight: Meeting the Expectation

By Gillian Lucky

The merit of civilian oversight of law enforcement is self-evident and there is a growing momentum worldwide to establish independent bodies to investigate and/or review allegations of police propriety, particularly in instances of fatalities, corrupt activity, and excessive use of force. It is a step in the right direction to see that interest in establishing independent civilian oversight bodies is being shown by governments and administrations around the globe, to ensure that those who are given powers to exercise control over the life, limb and liberty of citizens are subject to maximum scrutiny. Provided the civilian oversight bodies established are committed to the highest standards of transparency and accountability, then the growth of such organizations is absolutely justifiable in any society that has a proper respect for the rights and freedom of individuals.

However, there is great societal expectation that civilian oversight bodies will positively transform the police service in the jurisdiction(s) in which they operate, enabling the oversight body to gain public trust and confidence. Strictly speaking, that is an objective that is best achieved by those who hold the management positions within the law enforcement body. Unless those who hold key positions in the police service are prepared to take seriously the findings and recommendations made by civilian oversight bodies, and implement measures to improve the service, poor police performance will result in an automatic indictment for ineffectiveness laid against the oversight body.

Civilian Oversight of Policing: Governance, Democracy and Human Rights, a book edited by Andrew John Goldsmith and Colleen Lewis (Hart Publishing, 2000), states “Realism as well as contextual sensitivity are crucial to define progress. Aiming high in terms of improvement sought but remaining realistic given constraints applicable in the local setting, is one way to move forward. If ultimately an improvement is achieved which is less than might ideally have been realized, it is nonetheless a significant positive step forward towards reducing police abuses, this ought to be an acceptable performance indicator when assessing progress in these areas” (p. 13). It appears that the authors are suggesting that consideration be given to the “deterrent factor” as “an acceptable performance indicator.” Civilian oversight’s role in deterring police misconduct is an important factor under such circumstances.

In those jurisdictions in which civilian oversight is a relatively new concept or the respective oversight bodies are just getting off the ground, without the compromise of the core functions of such bodies, some emphasis should be placed on specific strategies that can be used to send the powerful message to the police that it is not sim-
Coaching by Police Supervisors: Civilian Oversight Innovation Impacts Police Performance

By Michael K. Browne and Ryan Patrick

As part of the restructuring of the civilian oversight system in Minneapolis, the Office of Police Conduct Review ("OPCR") gained access to a wealth of information previously only available to police personnel. One key set of documents consists of supervisor evaluations of low-level misconduct, known as "A-level" violations. These coaching documents, as they are collectively described, detail internal performance management and access to these documents has provided another layer of transparency and civilian oversight in the disciplinary process.

First, a brief explanation of the coaching process and its history is necessary. An "A-level" violation, such as minor inappropriate language or violations of normal vehicle operation rules, would not generally result in formal discipline in Minneapolis. In many circumstances, the alleged infraction designated to be "coached" is too serious to be dismissed, but does not rise to the level of necessitating the slower response and intensity of investigative resources. When coaching occurred prior to the creation of the OPCR, the officer’s supervisor would be notified for coaching purposes, and the case would no longer reside with the civilian oversight agency. No further information was returned when the supervisor completed the case. Further complicating the issue, because of the length of investigations due to overburdened civilian investigators and a review board with cross purposes (case review and policy development), A-level violations would often be submitted to an officer’s supervisor months after the initial incident, thus lessening the impact of the advice and wisdom that is shared in a coaching/counseling session.

Under the current process, potential A-level violations are submitted to supervisors just weeks after the initial incident with instructions to conduct a brief inquiry into the merit of the allegations, and if the allegations are supported by a preponderance of the evidence, to document any policy violations and/or corrective action taken. Generally, the corrective action consists of coaching, guidance by the supervisor to the employee and options for how best to handle a similar situation in the future. If multiple A-level violations are found within a certain timeframe, coaching is no longer an option as A-level violations become more serious violations that can lead to formal discipline.

Innovation comes after completion. The supervisor returns the document to the highest ranking officer in the precinct or division (in Minneapolis, it is an inspector or commander). The division head reviews the document and approves it, assuming it meets standards. Upon approval, the document is sent back to the OPCR’s joint supervisors (the civilian OPCR director and the commander of the Internal Affairs Unit) for final approval. When the joint supervisors determine that the coaching documentation is accurate, complete, and of sufficient quality, the complaint is closed. The civilian oversight agency is now the custodian of the results.

In 2013, 110 coaching documents were returned to the OPCR. Never before had a civilian oversight agency in Minneapolis had such unprecedented access to interactions between supervisors and their officers. Receipt of the documents did not come without some challenge. Since quick response to complaints is an OPCR priority, the Office set a 45-day performance standard for coaching document turnaround, and this standard was adopted by the Minneapolis Police Department (MPD). However, in June of 2013, not one of the five precincts operated within the 45-day standard. With few documents being returned, any evaluation of the coaching program would be inaccurate.

The OPCR took several steps to address the problem with police leadership. First, the OPCR visited each precinct and discussed the process and expectations with the precinct head and command staff. They learned that many of the supervisors were somewhat unfamiliar with the new process, and this was causing delay. Second, OPCR staff set up regular check-ins with precinct supervisors to ensure they were accurately tracking the actions of their subordinates. The Office conveyed monthly deadlines which helped supervisors prioritize their activities. Third, the OPCR released public data concerning coaching timelines. Local news outlets picked up on the information, and it became a public issue that necessitated a response by command staff. The official reports can be found online at the Office of Police Conduct Review homepage reports section.

The efforts of the OPCR resulted in behavioral changes. By the end of 2013, three precincts had no outstanding documents older than 45 days. Supervisors continue to return documents in an efficient manner, and as the documents return to the office, they provide a more robust picture of supervisor activities and the manner in which complaints are addressed and lead to changes in the process. For example, early on in the process, it became clear that supervisors were coaching some officers even in circumstances where policy violations were not found. The coaching documents noted the activity but did not capture this information in a measurable format. Thus, the OPCR recommended that the document be changed to reflect the practice. Now, supervisors are encouraged to coach when necessary and document the coaching session.

As the data flow continued, it became clear to the Police Conduct Oversight Commission that a more comprehensive study into MPD coaching practices was necessary. By motion in the February 2014 regular meeting, the Commission initiated a program of research including performance audit and study with the documents themselves as a starting point. The study is underway, and updates will be publicly available on the Commission webpage (http://www.ci.minneapolis.mn.us/civilrights/conductcomm/rs/WCMS1P-119338).

The OPCR continues to weave innovative layers of civilian oversight into all levels of the Minneapolis Police Department. Coaching represents an opportunity to not only address misconduct, but to address supervisor responses to misconduct. As such, the OPCR will continue to use it as a tool to improve transparency, accountability, and efficiency in dealing with misconduct in the City of Minneapolis.

The efforts of the OPCR resulted in behavioral changes.
Building Community, Broadening Oversight

The 20th Annual Conference of the National Association for Civilian Oversight of Law Enforcement

September 14–18, 2014

Highlights

In 2014 we celebrate our 20th annual NACOLE Conference. We are excited to be coming back to Kansas City for this milestone conference—NACOLE held its 5th Annual Conference in Kansas City in 1999. Kansas City is important to oversight for many reasons, not the least of which is it is home to one of the oldest continuously operating oversight agencies in the country, the Office of Community Complaints (OCC). In fact, this year is the 45th anniversary of the OCC, which was created in 1969 in part as a result of the riots following the assassination of Dr. Martin Luther King, Jr. The history of civilian oversight and NACOLE are deeply rooted in the Civil Rights movement, and Kansas City provides an opportunity for us to revisit those themes at the conference.

We hope that you will join us in Kansas City as we, once again, bring together the growing community of civilian oversight practitioners, community members, law enforcement officials, journalists, elected officials, students and others to meet and exchange information and ideas about issues facing civilian oversight of law enforcement. This year’s schedule of panels, workshops and plenary speakers will reflect the high standards set by the previous nineteen conferences. It will also provide the momentum needed to launch us into the next twenty.

This year we welcome Maddy deLone, Executive Director of the Innocence Project as our Keynote Luncheon speaker. Since 2004, Ms. deLone has led the Innocence Project at the national level, continuing to work to exonerate those wrongfully convicted through the use of DNA testing. Her organization has also worked tirelessly to bring reform to the justice system. An example of this is the recent announcement that the Innocence Project, International Association of Chiefs of Police, and the U.S. Department of Justice will be partnering to address wrongful convictions. In addition to this work, she has been a part of the Executive Session on Policing and Public Safety at Harvard University’s Kennedy School of Government since 2011.

Continuing the tradition of the past several years, our welcoming reception will be held on Sunday, September 14th at 6:00pm. A special gathering for our first-time attendees, new members and those who participate or are interested in the NACOLE mentoring program will follow this event. Details of the location of all of these events will be included in pre-conference materials sent to all registrants.

As mentioned previously, we will continue to provide training that will help conference attendees in their day-to-day work in oversight. These training workshops and panels will include topics such as Planning & Prioritizing Investigations, How to Manage the Media, Measuring Law Enforcement Performance, and Cultural Competencies: Working with LGBTQ Victims of Police Misconduct.

Each year we see new and emerging trends in the field of civilian oversight. Presenting and discussing these topics helps us all to navigate those issues as they begin to affect us within our own communities. This year we will be discussing these types of topics through sessions such as Body Camera Policy Workshop, New York City Administrative Prosecution Unit, Difficult Conversations: Mediating the “Hard” Cases, and Using Litigation to Enhance Police Accountability.

Based on positive feedback, we will continue our panel which presents legal updates affecting civilian oversight of law enforcement on Monday, September 15th. Legal Forecast, a panel that will discuss emerging trends that affect policing issues and the work of civilian oversight practitioners and the case law that is driving these trends will follow.

Added to this year’s schedule is the session How to Develop and Grow an Effective Oversight Agency: Lessons Learned from Small Agencies that have Managed to Survive and Thrive. This workshop will engage participants with actual scenarios experienced by agencies to provoke small group discussion on tactics that can be applied to real-life oversight problems.

Our conference will conclude with the session Strategies to Address the Practice and Perception of Biased Policing: A Multi-Tiered Approach. Over the past twenty years, NACOLE has presented many session on this topic. This year we look to send attendees back to their communities with information regarding approaches to addressing complaints of discriminatory policing to help them continue their work advancing police reform.
## Daily Schedule

### Sunday, September 14th

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<tr>
<th>Time</th>
<th>Event</th>
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<tr>
<td>2:00 p.m.</td>
<td>Community Forum: Building Community Voice for Law Enforcement</td>
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<tr>
<td>6:00 p.m.</td>
<td>Opening Reception</td>
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<td>8:00 p.m.</td>
<td>First Time Attendee, New Member and Mentor Program Gathering</td>
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### Monday, September 15th

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<th>Time</th>
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<tr>
<td>7:30 a.m.</td>
<td>Continental Breakfast Begins</td>
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<tr>
<td>8:30 a.m.</td>
<td>General Session: Welcoming Remarks — Brian Buchner, NACOLE President</td>
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<td>8:45 a.m.</td>
<td>General Session: How History &amp; Politics Created Oversight—The Kansas City Story</td>
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<tr>
<td>10:30 a.m.</td>
<td>General Session: Featured Speaker — To Be Determined</td>
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<tr>
<td>12:00 p.m.</td>
<td>Lunch on Your Own</td>
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<tr>
<td>1:45 p.m.</td>
<td>Concurrent Session: Policing Officer-Involved Domestic Violence</td>
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<tr>
<td>1:45 p.m.</td>
<td>Concurrent Session: Legal Updates</td>
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<tr>
<td>3:30 p.m.</td>
<td>Concurrent Session: Oversight’s Role in Police Training</td>
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<td>3:30 p.m.</td>
<td>Concurrent Session: Legal Forecast</td>
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### Tuesday, September 16th

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<th>Time</th>
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<tr>
<td>7:30 a.m.</td>
<td>Continental Breakfast Begins</td>
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<tr>
<td>8:30 a.m.</td>
<td>Concurrent Session: Planning &amp; Prioritizing Investigations</td>
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### Wednesday, September 17th

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<th>Time</th>
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<tr>
<td>7:30 a.m.</td>
<td>Continental Breakfast Begins</td>
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<tr>
<td>8:30 a.m.</td>
<td>Concurrent Session: New York City Administrative Prosecution Unit</td>
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<tr>
<td>8:30 a.m.</td>
<td>Concurrent Session: Body Camera Policy Workshop</td>
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<tr>
<td>10:15 a.m.</td>
<td>Concurrent Session: Measuring Law Enforcement Performance</td>
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Hotel

Kansas City Marriott Country Club Plaza
4445 Main Street
Kansas City, MO 64111
Phone: 816.531.3000

Rates & Reservations

NACOLE has arranged for a block of rooms at a special rate for those attending the NACOLE Conference at the Kansas City Marriott Country Club Plaza. Reservations may be made by calling their reservation line at 800.228.9290 or clicking on the following direct reservation link: BOOK YOUR GROUP RATE ROOM NOW.

In order to receive the preferred rate, please make your reservations prior to August 24, 2014, and let them know that you are a member of the 2014 NACOLE Conference. Please note that, although we will make every effort to assist, NACOLE cannot guarantee the group rate after the room block has filled or after the reservation cut-off date of August 24th, whichever comes first.

Single/Double Occupancy Rate: $126.00 per night

This rate will be extended three nights prior to and following the conference and does include complimentary guestroom internet. Guestrooms that are requested for dates other than those listed or above our contracted room block will be on a rate-available basis.

Room rates in Kansas City, MO, are subject to applicable state and local taxes. This tax rate is currently 15.85%, but note that this tax rate may change without notice.

Parking & Transportation

The Marriott County Club Plaza is located approximately 23 miles from the Kansas City International Airport and does not offer a shuttle service. However, there are several methods of transportation available. Although cab fares from the airport can average $65.00, there are several additional, less expensive options. For further information, please visit the Kansas City International Airport’s website.

Local Information

An energetic city forged by a rich history, Kansas City is brimming with activities to keep you entertained—eclectic cuisine, swinging jazz, one-of-a-kind museums, a thriving arts scene and fantastic shopping. Part of the city’s charm lies in its network of parks and boulevards and of course, exquisite fountains. The world-renowned jazz legacy continues today in clubs throughout the city. For barbeque lovers, the city’s signature food can be found at nearly 100 barbeque establishments, but visitors also delight in restaurants of every ethnic origin. For more information about all that Kansas City has to offer, visit www.visitkc.com.
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N MAY 2010, THE VILLAGE VOICE published a series, penned by then staffer Graham Rayman, about widespread crime statistic manipulation, routine police officer intimidation, and broad corruption within the New York City Police Department. In August 2013, a mere week before Federal Judge Shira Scheindlin’s Floyd v. City of New York decision, which declared the NYPD’s stop and frisk imposition of quotas. Included in the information found on Schoolcraft’s tapes is a “shocking” revelation about the lengths to which superiors at the 81st precinct, the Internal Affairs Bureau, and One Police Plaza went to keep Schoolcraft obedient and, once his recordings were ultimately discovered, silent.

To be clear, The NYPD Tapes is not a book about Adrian Schoolcraft. Indeed, Rayman does not do enough to humanize Schoolcraft. There is no moment—not even when Schoolcraft is forcibly detained by his superiors, without reason or representation, and committed to a psychiatric ward where he spends hours handcuffed to a bed—when the reader sympathizes with him. Perhaps, however, sympathizing with Schoolcraft is not the point. This is less a book about Adrian Schoolcraft than it is about the history of NYPD’s use of quotas and the similar experiences of other whistleblowing rank-and-file NYPD officers. Using Schoolcraft’s audio, Rayman weaves together the praiseworthy beginnings of the widely heralded NYPD program now known as CompStat and the resulting system that has produced NYPD’s unconstitutional stop and frisk culture.

In The NYPD Tapes, Rayman documents what, in his view, is the history of CompStat, corruption, and NYPD police culture. Rayman’s literary style is captivating and authentic, lacking overt activism but embracing gritty storytelling. Some characters appear appropriately larger than life, while others appear mundane, though important nonetheless. A compelling and concise read. •

Nicole S. Junior is an attorney at the New York City Civilian Complaint Review Board (CCRB), where she prosecutes police officers pursuant to allegations of excessive force, abuse of authority, discourtesy, and offensive language.

The NYPD Tapes: A Shocking Story Of Cops, Cover-Ups And Courage

Reviewed by Nicole S. Junior, Esq.
Balko provides a historical review of American policing, with a richly detailed focus on changes beginning in the 1960s. Balko asserts that Daryl Gates, then an inspector with the Los Angeles Police Department (and LAPD Chief from 1978 to 1992), created a phenomenon that “… would change the face, the mind set, and the culture of US policing from the late 1960s on, through today, and probably into the foreseeable future. He started America’s first SWAT team” (p. 53). Gates asked the military for guidance following the Watts riot, which he described as involving “guerilla warfare,” and incorporated military tactics and training at LAPD to respond to future uprisings. Balko writes that the SWAT (Special Weapons and Tactics) concept was easily sold as America’s Police Forces

Radley Balko’s Rise of the Warrior Cop: The Militarization of America’s Police Forces (Public Affairs, 2013) is a well-written and persuasive examination of how policing in the United States has moved to a militaristic model of law enforcement. Balko provides a historical review of American policing, with a richly detailed focus on changes beginning in the 1960s. He argues that police militarization began in earnest with the Civil Rights movement, flourished with the War on Drugs, and has been perpetuated in the name of “community policing” into the present day. Rise of the Warrior Cop concludes with a list of recommended reforms to address concerns about the current militarized state of law enforcement.

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The NACOLE Review

The NACOLE Review provides an in-depth examination of the conference and its impact on the field of police strategy and tactics.

**NOTICE**

The 2014 NACOLE Annual Membership meeting will be held during the 20th Annual NACOLE conference on Wednesday, September 17 at the Marriott Country Club Plaza in Kansas City, Missouri. More details will be available in the summer newsletter or by visiting www.nacole.org.
than 50% included unvaluated or improper forensic "science," where either the entire forensic discipline used is not based upon scientific principles or wherein an analyst used improper procedures; nearly 25% included false confessions or incriminating statements, typically resulting from duress, anxiety, youth, mental impairment, or fear; and 16% include the use of jailhouse informants or snitches, who have incredible incentive to create their testimony. All of these external factors occur in conjunction and addition to simple bad lawyering. Considering that DNA exonerations make up but a fraction of the faulty convictions that have been corrected (the National Registry of Exonerations reveals over a thousand more exonerations that occurred without the aid of DNA evidence), it is clear that continued oversight and recommended changes must be made to prevent and remedy these issues.

It is precisely that kind of change that Maddy deLone has advocated in her work as Executive Director of the Innocence Project and throughout her career. Maddy joined the innocence movement in 2004, and for the last 10 years has served as an invaluable resource not only to the Innocence Project, but to every member organization of the network. Her advocacy to better the criminal justice system has impacted many areas, not just innocence work. Maddy began her career working in jails and public health systems in New York City, where she held positions at the Department of Juvenile Justice and the Health and Hospitals Corporation. She also served as Deputy Director of the New York City Board of Corrections, an oversight agency for the City jails. It was during her time there, while working with prisoners at Rikers Island and New York’s Secure Juvenile Detention Facility, that Maddy learned that the law could be used to change the conditions inmates are subjected to in jails and prisons throughout the United States, and she subsequently applied to law school. Maddy attended and graduated from the New York University School of Law, where she was an Arthur Garfield Hays Civil Rights and Civil Liberties Fellow, further exemplifying her commitment to change for the greater good. After law school, Maddy practiced as a civil rights attorney with the Prisoner’s Rights Project of the Legal Aid Society and Children’s Rights, Inc., before joining the Innocence Project.

It is clear that underlying the work of both Maddy and innocence projects around the world is the idea that no system is without error. No procedure is immune from mistakes and only proper oversight and improved policies can prevent them. Like NACOLE members, the review provided by innocence projects serves not only a corrective function, but a preventative one. From the information learned through the DNA exonerations and the advocacy spearheaded by Maddy, innocence projects continue to further advocate for legislation, policies and best practices that seek to improve the criminal justice system and prevent future wrongful convictions. We are delighted to hear Maddy share her vast experience at NACOLE’s annual conference in September and hope you will join us.

Tricia Bushnell is the Legal Director of the Midwest Innocence Project, based in Kansas City, Missouri.

Meeting The Expectation

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ply “business as usual.” Civilian oversight bodies which are merely given a review function, even if coupled with the power to make recommendations for improved policing services, are performing at a significant disadvantage because such organizations cannot mandate the transformation of the police service which they oversee. The public needs to appreciate the limitations placed on such oversight bodies which, despite fulfilling their mandate, may still be viewed as “ineffective” because their recommendations have not been taken on board or properly implemented. Unfortunately, the dilemma faced by such institutions is that if an explanation of their limited powers is explained to and understood by the public, there is a real risk that they will be deemed “toothless bulldogs” undeserving of state funding.

While some may argue that the success of a civilian oversight body is best determined by crunching the numbers and analyzing the results of the cases determined by the organization, such an approach without regard to whether the organization and its work (however limited) has directly or indirectly forced the police to “buck-up,” means that civilian oversight bodies that lack sufficient resources to deal with mounting piles of reports of police abuses will automatically be deemed failures. The suggestion is not to turn a blind eye to an increasing workload that has the potential to stretch the organization beyond its capacity; but, while the matter of implementing measures to reduce the backlog of cases is being addressed, the oversight body must do all it can within its power to use whatever resources are available to keep the pressure on law enforcement officials to act in accordance with their oaths of office. This can be achieved by a sustained public education campaign about the powers and functions of the oversight body and “...another deterrent for real or potential errant police officers is the knowledge that their leaders and seniors are in favor of civilian oversight...” informing the public about matters relevant to the proper exercise of police powers. By doing this, the civilian oversight body can never be accused of dropping the ball.

Yet another deterrent for real or potential errant police officers is the knowledge that their leaders and seniors are in favor of civilian oversight and are prepared to give full cooperation to civilian oversight bodies in their jurisdiction. When the top of an organization signals its willingness to fall in line, it makes it easier for the rank and file to follow. The work of civilian oversight is meant to result in positively transforming the police service and ridding it of rogue and negative elements. But public expectation of civilian oversight bodies must be realistic and performance indicators must be relative to societal constraints and support from law enforcement leaders.

If the existence of a civilian oversight body serves as a deterrent for errant officers, forcing them to “think twice” before embarking on any act of police impropriety, and ensures that police officers are aware that they are accountable to an independent body and that their actions will be subject to intense public scrutiny, that is sufficient justification for the continued support of such an organization. The primary objective, therefore, of any civilian oversight body should not be to undertake the Herculean task of performing its function beyond Olympic proportions but rather, at the very least, to prove itself a worthy competitor determined to make spectators take note of its commendable contribution to determining police misconduct.

However, there is always room for improvement, and oversight bodies must continue to set the bar higher as knowledge and experience is gained. Additionally, oversight bodies must meet and exceed public expectations in order to survive and thrive, with on-going outreach to educate the public about oversight powers and limitations.

Gillian C.I. Lucky is the Director of the Police Complaints Authority in Trinidad. She is also a columnist for the Trinidad and Tobago Guardian newspaper and an attorney at law.
and legal battles to overcome, he successfully defended Mr. Smith where the prosecutor dismissed the charges and the subject officer was disciplined. Even though he had won Mr. Smith’s case, he knew this issue would surface again and again (and it did—Kansas City had riots in the spring of 1968) until some mechanism was put into place to adequately handle complaints of police abuse and misconduct. Attorney Willens undertook the project of researching and studying grievance machinery in other cities. After many long hours, he came up with a detailed set of recommendations to establish a civilian complaint review board to which the individual could register a complaint against an officer. In a letter dated February 26, 1969, which accompanied his resignation, Attorney Willens summarized the considerable dissatisfaction in the manner in which the Department responded to citizens’ complaints.

The innovative mechanism proposed by Attorney Willens stirred a great deal of controversy in Kansas City. Since there were so many diverse opinions about the complaint concept, the Board held public meetings to allow input from the entire community. Many citizens and civil rights organizations endorsed the complaint process and perceived it as a means to abate the racial tension and bridge the ever-widening gap between the community and the police. However, some citizens, including members of the Department, were against the proposal because they thought it was unnecessary and would negatively affect the morale of the officers. This debate went on for months, with some citizens even advocating that a public referendum be held to decide the matter.

Nevertheless, on September 5, 1969, the Board voted and adopted Attorney Willens’ proposal and several procedures established by the New York City Civilian Employees Complaint system as the new complaint process for Kansas City. At this time, the Board described the general composition of the entity which would handle the complaints—the Office of Citizen Complaints. After the Board held two additional public meetings, the Office of Citizen Complaints officially opened its doors on September 25, 1969.

The history of the Office of Citizen Complaints probably mirrors that of other civilian review systems, in that it was a turbulent and arduous undertaking. However, those in Kansas City who challenged the Department and the Board felt it was important to effectuate a complaint process because over the years it has assisted in facilitating understanding and conciliation between citizens and the police. Furthermore, forty-five (45) years ago, those pioneers believed the complaint process restored the citizens’ confidence in the Department and reduced the racial tension which was plaguing Kansas City.

Today, the Office of Citizen Complaints continues to be free of police control and operates under the authority of the Board. The Office utilizes the same approach which was implemented in 1969 to impartially review complaints. Additionally, the Office changed its name from the Office of Citizen Complaints to the Office of Community Complaints in 2004, to ensure all persons, regardless of their legal status in the community, had the ability to file a complaint. Further, the Office remains committed to its primary purpose and mission: to protect citizens from the possibility of abuse of conduct on the part of police officers, and at the same time protect police officers from unjust and unfair allegations which may be made.

Currently, the Office is made up of eight employees: Executive Director Pearl Fain, Deputy Executive Director Merrell Bennekin, Senior Legal Analyst Johnnie Ann Crawford, Senior Legal Analyst Michael Walker, Senior Legal Analyst Karen Williams, Community Outreach Liaison Alexis Bush-Bailey, Office Manager Ora Rogers, and a soon-to-be-filled Administrative Assistant position. The Office is charged with the processing of complaints which fall into the categories of Bias-Based Policing, Discourtesy, Excessive Use of Force, Harassment, Improper Member Conduct, or Improper Procedure. The Office reviews an average of 400 complaints per year and makes recommendations to the Chief of Police, who has the responsibility of deciding on appropriate disciplinary action. A recommendation can be one which sustains the complaint against the department member or one which exonerates him.

The Office guarantees the Kansas City community that all complaints will be expeditiously mediated, conciliated, or investigated, fairly and thoroughly analyzed and properly remedied when there is a violation by an officer. This impartial resolution of complaints is meant to assist in maintaining the creditable public image characteristic of the Department and to improve the relationship between the Department and the community it serves.

The Office is preparing to celebrate its forty-fifth anniversary in September 2014. We are very proud of the Office’s history and are grateful to Attorney Willens for his commitment to create a fair and impartial mechanism for redress of grievances for all members of the community. The Office of Community Complaints looks forward to welcoming attendees to the 20th Annual NACOLE Conference and to many more years of oversight in Kansas City, Missouri. •

* Fictitious name
I am pleased to announce that NACOLE has entered into a collaborative agreement with the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE). CACOLE is an organization of individuals and agencies involved in the oversight of police officers in Canada. CACOLE is “dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad.”

Established in 1997, CACOLE is governed by an all-volunteer Board of Directors, which includes oversight representatives from agencies in each province, as well as First Nations and the Federal Government. They also have a part-time Executive Director. CACOLE’s members and supporters represent organizations from across Canada, including municipal and provincial police boards and commissions; First Nations, provincial, and federal oversight agencies; ombudsman offices; police associations; and professional standards bureaus, as well as justice, rights, and advocacy agencies and representatives of community agencies and police services. More information about CACOLE is available on its website, www.cacole.ca.

CACOLE and NACOLE hold particularly important positions within the oversight communities of Canada and the United States. Notwithstanding differences in our models and approaches to oversight, we are unquestionably united in advancing the principles and practice of civilian oversight, and are uniquely positioned to do so. This partnership is, I believe, an important step in the relationship between the two organizations, which represent the premier law enforcement oversight agencies throughout the world.

In furtherance of this relationship, and on behalf of NACOLE and its Board of Directors, I attended and spoke at the 2014 CACOLE Conference from May 5–7, 2014, in Victoria, British Columbia. The theme of this year’s conference was “Oversight: Building Confidence and Trust.” CACOLE had asked me to participate on an international panel, along with representatives from oversight in Trinidad & Tobago and Hong Kong. I spoke about challenges to civilian oversight in Los Angeles and across the United States, and also discussed NACOLE and its membership, programs, and vision for the future. The entire conference program was rich with information, insight, and discussion around issues facing Canadian policing and oversight. Next year’s conference will be held in Ottawa, Ontario, Canada’s capital city. The dates will be posted on CACOLE’s website.

I hope you will join me in supporting CACOLE and this important partnership between our agencies.