

NACOLE Review

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

www.nacole.org

Summer 2008

NACOLE'S 14th Annual Conference in Cincinnati, Ohio, Set for October 27-30

This year's theme: Impacting Policy & Practice

NACOLE'S FOURTEENTH ANNUAL Conference, to be held in Cincinnati, Ohio, October 27 – 30, will bring together speakers, panelists and conference-goers from around the United States and the world to address the latest developments and best practices on a wide range of police accountability issues.

The focus of this year's conference will be on empowering oversight agencies to impact law enforcement policies and practices that have important effects on communities. Panel discussions, workshops and plenary sessions have been scheduled that will interest not only those working directly in the citizen oversight

field, but will also appeal to a wider audience that recognizes the benefits to society of reducing police misconduct. As a result, this year's gathering will also include elected officials, representatives from law enforcement, civil rights advocates and community activists.

Among the topics to be addressed in Cincinnati: how to review use-of-force incidents; auditing investigations of citizen complaints;

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▲ The National Underground Railroad Freedom Center in Cincinnati, whose apt mission includes the pursuit of freedom and justice, will be the site of a NACOLE reception.

Breaking Down Language Barriers

Stakeholders in San Francisco join forces to develop policy recommendation

by Samara Marion

IN THE LAST DECADE, THE OFFICE of Citizen Complaints (OCC) in San Francisco received a growing number of complaints about inadequate police services because of language barriers.

The complaints were compelling — a domestic violence victim arrested instead of the perpetrator, a physical assault mistakenly written up as a verbal confrontation, a shooting where an officer yelled commands in English to a mentally ill, non-English speaker.

Complainants were victims of crimes as well as criminal defendants. In each case individuals complained that because an interpreter or an officer speaking the person's primary language was not provided, the accuracy of the information obtained and the police service given were deficient.

Almost ten years ago, the OCC advised the



▲ Community press conference with (left to right) SFPD Chief Heather Fong, Asian Law Caucus attorney Angela Chan, Samara Marion and ACLU attorney Mark Schlosberg.

San Francisco Police Department (SFPD) that it needed a language access policy. Initially, SFPD resis-

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Greetings From the President

by Dr. Eduardo I. Diaz

IN THE FALL, WE WILL HAVE THE opportunity to come together as an oversight community in Cincinnati, to learn from each other and to be inspired by the significant and progressive police accountability partnerships developing in our host city on the banks of the Ohio River. Please do whatever you can to join us in this historic location that played a very important part in the Underground Railroad for those seeking liberty from the bonds of slavery.

Our kind of work requires a tough skin and the ability to stand up to power, and we rarely have the chance to relax amidst the likeminded. The NACOLE annual training conference is the place to refuel from exposure to conflict, so that you can return to your local community recharged and ready to confront the naysayers and other potential obstacles to a firm but fair public safety system.

Our predecessors paved the path to our success and we look forward to honoring them, and thanking some of them personally at our opening reception. We who currently hold positions of authority in the police oversight field

have the responsibility to nurture those of you just getting started or already demonstrating early career leadership qualities. We need you to help “grow the movement” successfully. Towards that end, the Conference Committee and the NACOLE board have worked hard to offer you a conference program that will serve both those new to the field and veterans of oversight struggles.

This will be the last newsletter message you read from me as your president. Serving you is an honor that I will relish for life. Elections will be held at the conference and I will then continue on the board in a new role as immediate past-president. Please come to Cincinnati with your organization to engage with others,



▲ Current members of the Miami Dade Independent Review Panel with the executive director and NACOLE president, Eduardo Diaz (seated at right).

offer your energy and ideas, and exercise your membership right to vote.

Dr. Eduardo I. Diaz is the president of NACOLE's board of directors. He is also the executive director of the Miami-Dade County Independent Review Panel. ■

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The NACOLE Review

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Who We Are: Cincinnati

Agency established in the wake of lawsuits and a federal investigation

by Kenneth E. Glenn

I WOULD LIKE TO THANK NACOLE for selecting Cincinnati as the host city for its 2008 annual training conference. I am sure that you will enjoy your visit and we are working hard to put together a program that will make your visit a memorable one. There are a lot of great attractions, places to go and things to see.

The Citizen Complaint Authority (CCA) is the host agency. One of the unique things you will witness is the support from the city administration and the professional relationship we have developed with the police department. As is common in citizen oversight work, there have been disagreements between the CCA and the Department; however, with a supportive city manager and continuous communication, we have been able to resolve the majority of our differences.

CCA was established as the result of multiple lawsuits and the demand from many in the African American community for a Department of Justice (DOJ) investigation following racially charged riots in 2001 stemming from the shooting death of an unarmed black man by police on a foot pursuit. The former mayor of Cincinnati, Charlie Luken, requested that the DOJ review the Cincinnati Police Department's (CPD) use of force policy. The mayor's request was a major step in promoting police integrity and demonstrating the city's commitment to minimizing the use of excessive force in the police department. In response to that request, the DOJ conducted an investigation pursuant to



▲ Board members of Cincinnati's Citizen Complaint Authority stand ready to welcome police oversight professionals from around the United States and the world, October 27 - 30.

its authority under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. Section 14141.

To affirm the commitment, the city entered into a Collaborative Agreement and a memorandum of Agreement. The parties to the first agreement were the Black United Front, which subsequently asked and received permission to be released from the agreement, the American Civil Liberties Union (ACLU) and the

Fraternal Order of Police (FOP).

The purpose of the Collaborative Agreement was to resolve social conflict, improve police community relations, reduce crime and disorder and foster an atmosphere throughout the community of mutual respect and trust among community members, including the police. The parties

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Vera Institute of Justice Kicks Off National Prison and Jail Oversight Project

Sites targeted for further study and development in Colorado, Florida and Maryland

by Julie James

IN 2006, THE NATIONAL COMMISSION on Safety and Abuse in America's Prisons concluded that transparency, oversight and accountability were prerequisites for well-run prisons and jails. Yet, many jurisdictions fail to live up to these standards, either because of insufficient oversight plans or too few resources.

To help officials address the first of these two challenges, the Vera Institute of Justice, which helped create the Commission, has launched a new project with support from the JEHT Foundation and philanthropist Robert Wilson.

Vera has partnered with four jurisdictions –

Colorado, Maryland, Miami-Dade County and Baltimore – for its two and a half year Improving Oversight and Accountability for Jails and Prisons project. As part of this project, Vera will conduct a series of site visits and working group sessions in which participating government and community leaders can explore key



▲ The team, from left to right, is Sarah Tynan, project coordinator; Alex Busansky, director, Vera DC; Julie James, senior policy associate; Michela Bowman, project director; and Allison Hastings, senior policy analyst.

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Obama and McCain – Where They Stand on Policing the Police

Voting records and public statements shed light on the candidates' views



Americans will head to the polls on November 4 to elect a new president. Most people know where Senator John McCain (R-Arizona) and Senator Barack Obama (D-Illinois) stand on the major issues involving the Iraq War, the economy and the environment.

But the NACOLE Review wondered: What are their views on citizen oversight of the police?

Little is known about what the two senators think about independent police review. That's not surprising given that citizen oversight, at least in the U.S., exists only at the state and local government levels.

However, in some other countries, there are national police oversight schemes. In Canada, for example, citizen boards have been created at the federal level to provide for the external review of complaints filed by the public against the Royal Canadian Mounted Police and the Military Police.

Although there are dozens of federal law enforcement agencies in the U.S., not a single one has a regularized and independent system to review officer conduct similar to the growing movement in large, medium-size and small cities throughout the country. As a result, citizen oversight of the police has not emerged on the campaign trail as a national issue requiring presidential attention.

Nevertheless, it is possible to glean at least

some of the candidates' views on police accountability issues that are addressed by citizen oversight agencies, based on the voting records and public statements of the two senators.

Barack Obama

In August 2007, the National Association for the Advancement of Colored People sent questionnaires to the presidential candidates. The form included the following question: "If elected President, what, if anything would you do to address the issue of police misconduct?" Senator Obama answered: "I will direct my Attorney General to have the Justice Department work closely with state and local law enforcement to ensure the effective implementation of standards for use of force."

In addition, Senator Obama co-sponsored the End Racial Profiling Act of 2007. If enacted, that bill would ban racial profiling by federal law enforcement agencies and provide federal incentives to state and local police departments to prohibit the practice. The act prohibits federal and local law enforcement from using race, ethnicity, national origin or religion dur-



ing investigatory activities, unless there is reliable information linking a person to an identified incident or scheme. The bill was referred to the U.S. Senate Committee on the Judiciary on December 13, 2007. Two prior versions of the bill were introduced and died in the Senate prior to Obama's election in 2004.

The senator also addressed the problem of racial profiling while serving in the Illinois state legislature from 1997 to 2004. As a state senator, he introduced a bill, subsequently enacted in 2003, that requires the Illinois Department of Transportation to record the race, age and gender of all drivers stopped by Illinois state and local law enforcement officers for traffic violations.

In March, Senator Obama weighed in on the acquittals of New York City police officers charged with fatally shooting Sean Bell, the unarmed black Queens man, on the night before his wedding. "Well, look, obviously there was tragedy in New York. I said at the time, without benefit of all the facts before me, that it looked like a case of possible excessive force. The judge has made his ruling, and we're a nation of laws, so we respect the verdict that came down."

John McCain

Senator John McCain has more than 25 years of experience

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whether saturation patrols and the use of "stop and frisk" tactics are effective and lawful policing strategies; emerging trends in the use of Tasers; creative methods to combat racial profiling; ensuring fair and consistent discipline of officers who engage in police misconduct; in-custody deaths; the increasing oversight of jails and prisons; and whistleblowing through the perspective of Jane Turner, a former FBI special agent who sounded the alarm on her superiors.

The conference will also feature a civilian review showcase that will highlight the organizational strengths, authority and priorities of a diverse array of citizen oversight agencies, all the while offering practical guidance about the challenges they face and, more importantly, how to overcome them.

In response to requests from attendees, NACOLE will also provide space for oversight

practitioners to gather at the start of the conference. Participants will be able to break up into small groups and meet with colleagues from similar agencies to discuss issues pertinent to their particular model of oversight. It is hoped that these meetings will form the basis of ongoing forums and caucuses that could also take place during the year between NACOLE conferences.

A program has also been developed to shed light on and learn from Cincinnati's experience in building greater trust between the police and the public following race-related disturbances in 2001. One morning will be devoted to exploring the impact of the Collaborative Agreement entered into by the city and several groups to resolve police-community tensions. Presentations will be made by Kenneth Glenn, director of the Citizen Complaint Authority, Thomas Streicher, Jr., the Cincinnati chief of police, and others involved in the establishment

and implementation of the Collaborative Agreement.

To round out this discussion, we are pleased to have as our keynote speaker the Honorable Susan J. Dlott, a federal district court judge with the Southern District of Ohio. Judge Dlott presided over the negotiations and supervised the six-year implementation of the Collaborative Agreement.

Finally, NACOLE is pleased to announce that professional development training certification will be available for oversight professionals, law enforcement personnel and others. In order to receive certification, conference attendees must attend a minimum of three sessions designated as "Training Sessions," plus two additional conference sessions of their choice. For further information about the entire conference and the certification program, please visit our website at www.nacole.org.

See you in Cincinnati!

Puerto Rico May be Next to Establish Police Oversight

ACLU conference highlights tensions between police and communities on the island



CITIZEN OVERSIGHT OF PUERTO Rico's 18,500-member police force may soon come to this semi-autonomous territory of the United States. If that happens, Puerto Rico's review body would have jurisdiction over more police officers than any other American oversight agency except for New York City's Civilian Complaint Review Board.

Puerto Rico has been rocked recently by a wave of police corruption allegations and high-profile incidents involving police misconduct.

Last August, Puerto Ricans were shocked by a video clip that captures what appears to be a police officer's execution-style shooting of an unarmed man who had been stopped for a traffic violation while driving. The man had no criminal record.

In addition, according to William Ramirez, executive director of the island chapter of the American Civil Liberties Union, the police in Puerto Rico routinely harass the homeless, blacks, gays and immigrants from the Dominican Republic.

Since the beginning of 2006, more than 80 officers have been charged with crimes ranging from obstruction of justice to murder.

The situation in Puerto Rico has even attracted the attention of the United Nations. In June, DouDou Diene, the U.N. special rapporteur on racism, toured Puerto Rico and heard testimony from alleged victims of racially biased policing.

Puerto Rico's police Superintendent Pedro Toledo disputes that corruption and police misconduct at his agency are systemic problems. He told the San Juan Star newspaper, "The perception that the police are out of control is erroneous. We've been the first to denounce corruption and to take action against it."

A recent human rights conference in San Juan, organized by Ramirez's ACLU chapter,

put the spotlight on police misconduct in Puerto Rico and in the U.S. The May symposium featured presentations and workshops led by ACLU representatives, human rights activists and civil rights attorneys working on the island and in the U.S. The conference was covered extensively by the local media.

Speakers from the ACLU included King Downing, head of the organization's national racial profiling program and Al Bronstein, director emeritus of the group's national prison project.

Participants also heard moving testimony from victims of police abuse and their family members. Abner Louima, the Haitian immigrant who was brutally assaulted and sodomized with a broomstick by New York City police officers in a notorious 1997 incident, addressed the gathering.

During another panel discussion, NACOLE president-elect Phil Eure gave an overview of the different models of citizen oversight and fielded questions about how his agency, the Office of Police Complaints in Washington, D.C., operates. The ACLU in Puerto Rico and a "commission" that it formed to study citizen review of the police had previously identified the D.C. agency as a model that could be used to provide independent review of the island's police force. Police accountability expert Sam Walker sits on that commission.

In the meantime, Police Superintendent Toledo is moving forward with his own plans to study how police oversight might work in Puerto Rico. On May 1, the 13-member citizen commission appointed by the superintendent released a report and a set of recommendations calling for police reform in a number of areas.

The report's major recommendations called for the enactment of legislation to create an



▲ William Ramirez, standing left, pictured along with panelists at a session featuring victims of police abuse at the ACLU conference in San Juan. Abner Louima is seated on the left.

independent internal affairs division as well as a new special investigations bureau that would focus primarily on investigating police corruption and civil rights violations. The internal affairs unit would be overseen by a board made up of non-police professionals, including attorneys, accountants and university professors.

The ACLU's Ramirez told the NACOLE Review that he looks forward to attending NACOLE's annual training conference in Cincinnati in October and engaging with oversight professionals about best practices in the field. ■

NACOLE SPONSORSHIP OPPORTUNITIES

NACOLE relies on sponsorships, in-kind donations and other support in addition to conference registration fees to produce successful annual conferences. We encourage our members and supporters to consider this opportunity to help ensure the success of the upcoming conference in Cincinnati.

Please contact Cameron McElhiney for more information about the benefits of sponsorship at CammeS@aol.com.

Police Assessment Resource Center Collaborates with NACOLE Members to Develop Guidelines for Monitors

U.S. Department of Justice provides funding for project

by Merrick Bobb

THE POLICE ASSESSMENT Resource Center (PARC) and some key members of NACOLE recently gathered in Denver and Los Angeles to consider national guidelines for police oversight professionals, primarily monitors and auditors. The guidelines project is pursuant to a grant by the U.S. Department of Justice's Bureau of Justice Assistance (BJA) to PARC to study the need for national guidelines for monitors and, if such need was found to exist — which it was — to draft them. PARC formed a working group in 2005 to consider topics and initial recommendations for uniform national guidelines for monitors. NACOLE members were an important part of that effort.

Pursuant to the recommendations and sug-

gestions of the working group, PARC prepared an extensive set of proposed guidelines.

Following peer review by BJA, PARC prepared an initial redraft of the document. That redraft was posted on PARC's website, www.parc.info, for comment.

In late February, NACOLE board member Richard Rosenthal hosted NACOLE board members Pierce Murphy and Andre Birotte, as well as Don Casimere from Richmond, CA, Liana Perez from Tucson, AZ, and the author for a meeting in Denver to conform the guidelines to the needs of local monitors. In March, a wider working group met at PARC's offices in Los Angeles to review and debate the proposed guidelines. Rosenthal is joining with PARC and a small group of police executives and police oversight professionals to finalize

the monitoring guidelines.

The guidelines will provide guidance to everyone working in police oversight. They will cover all facets of the monitoring process from the selection of a monitor and the formulation of the monitoring plan to the factors that should be considered in determining whether a given law enforcement agency is in compliance and following best practice. All of us in NACOLE can take pride in the contributions of our members to this effort.

Merrick Bobb is the president and founding director of PARC, and serves as Special Counsel to the Los Angeles County Sheriff's Department. ■

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implemented a strategy of community problem-oriented policing to address crime and disorder.

The two agreements also required the city to create a citizen oversight agency.

In April 2002, CCA was established as an independent citizen review agency by city ordinance with the following operating components:

- ☐ a full time director and support staff
- ☐ a team of professional investigators
- ☐ a volunteer board of seven citizens appointed by the mayor and approved by city council
- ☐ investigative authority – conducts investigations independent of the police department
- ☐ administrative authority- compels all city employees as a condition of employment to appear and answer questions
- ☐ subpoena authority: (a) board can subpoena records, documents, audio tapes, electronic files and other tangible items and (b) board can request city council to issue a subpoena to compel testimony from reluctant witnesses.

CCA investigates discharge of firearms, deaths in custody, allegations of excessive

force, racial profiling, unlawful search and seizure and improper pointing of firearms. Allegations of discourtesy, lack of service and similar complaints are referred to the police department for handling through its Citizen Complaint Resolution Process.

Complaints are received by walk-in, e-mail, telephone and from the police department's Employee Tracking System (ETS). The ETS data base captures all of the information pertinent to officer conduct. It tracks complaints, employee history (e.g., red flags, problem officers), training, active investigations, and so on. CCA investigators and staff have unimpeded access and can access the system from our desktop computers. The only restrictions are active criminal investigations being conducted by the police department's internal affairs unit.

Once complaints are received, they are assigned to an investigator. The investigation must be completed within 90 days as mandated by the Collaborative Agreement. The internal affairs unit also conducts a parallel investigation of the same complaint. The recommended findings are based upon the police department's policies, procedures, training and the preponderance of evidence standard. Once both investigations are concluded, the director meets with the internal affairs captain to discuss any differences in the recommended findings. After this

meeting, all of the completed CCA investigations are forwarded to the CCA board for its monthly meeting. This is a public meeting held in city council chambers and can be viewed on the city's cable network.

The respondent officers' and complainants' names are not shielded, as the Ohio public record laws allow disclosure. The board can concur with the director's recommendation, ask for additional information or issue its own recommendations.

CCA's director and the internal affairs captain have a standing monthly meeting with the city manager. Any differences in the recommended findings of the two agencies are discussed, and the city manager makes the final decision. There is no appeal of this decision.

We look forward to seeing you at our 2008 conference in Cincinnati.

Kenneth E. Glenn is the director of the Citizen Complaint Authority in Cincinnati. For more information about this agency, please visit CCA's website at: <http://www.cincinnati-oh.gov/ccapages/-5509/> ■



▲ Kenneth E. Glenn

“Barriers,”

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ted the agency’s recommendation for a Department language access policy. The police department responded that a written procedure could not address the multitude of law enforcement interactions where an interpreter or bilingual officer could assist.

Instead of continuing to negotiate with the police department alone, the OCC joined together with several community groups, city agencies and commissions. Many of these organizations provide direct services to immigrant and monolingual communities, and thus had first hand accounts of the language barriers their clients faced. Several of the organizations have attorneys experienced in litigating discrimination and language access issues.

Relying upon each other’s community networks, the coalition combined areas of expertise and divided up tasks. Next, members of the group researched the language access protocols of other law enforcement agencies, talked with interpreters, academics and law enforcement experts, and ultimately drafted a detailed language access policy.

Calling itself “Language Access Coalition,” the group met with San Francisco Police Chief Heather Fong, presented her the draft proposal and obtained the chief’s commitment to the basic principles of the policy. For the next year and a half the coalition was persistent in meeting regularly with SFPD to negotiate the exact provisions of the policy. Equally important were its efforts to keep other interested community groups, government officials and the public informed about the progress of our negotiations.

Pursuant to the collaborative efforts of the Language Access Coalition and the police department, in October 2007, the San Francisco Police Commission, which oversees both the OCC and SFPD, adopted a comprehensive language access policy. Under the new policy, SFPD officers are required to provide free language Assistance to Limited English Proficient (LEP) individuals. The policy establishes a preference for direct communication between LEP persons and qualified bilingual officers, followed by the use of qualified non-police interpreters and language-line interpreters. The policy prohibits officers from using children, bystanders, family members and minors as interpreters unless exigent circumstances exist. Officers must also interview victims and witnesses in their primary language. Officers are required to interrogate suspects in their primary language and to record interrogations of LEP suspects. A language liaison officer is tasked with overseeing the implementation of the policy, including its training, data collection and public reporting requirements.

The Language Access Coalition’s first year

and a half of collaborative policymaking has included valuable lessons about negotiation strategy and community building. The Coalition has now moved into phase two: officer training and public education. In collaboration with SFPD, it is writing scenarios for an officer training video and putting together a “Know Your Language Rights” brochure for the public.

Many details of the new policy still need to be worked out. However, OCC is convinced of one thing: having participated in the rewards and success of collaborative policymaking, it is nearly impossible to imagine returning to a negotiation table alone.

For more information about this department general order and other OCC policy recommendations, please visit the agency’s website at www.sfgov.org/occ.

Samara Marion is an attorney and policy analyst for the Office of Citizen complaints in San Francisco. She can be reached at samara.marion@sfgov.org. ■

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issues in prison and jail oversight.

Over the course of the past few months, representatives of Vera have met with a number of NACOLE members around the country to gain insights into the police accountability world that may have relevance to prison oversight issues.

The Vera project, which will generate oversight strategies for each of the four participating groups, is expected to be a model for other jurisdictions. Plans also call for Vera to develop a body of research on the subject of correctional oversight.

More than 2.3 million people are incarcerated on any given day in the United States, and 95 percent of these people will eventually return to our communities. This makes the need for transparency and accountability in jails and prisons increasingly important, as what happens inside jails and prisons does not stay inside jails and prisons.

People who are incarcerated in facilities that are unsafe, unhealthy or inhumane carry the effects of those conditions home with them upon release. Similarly, people who work under such conditions frequently bring home the effects of these conditions at the end of each shift.

“The Commission on Safety and Abuse uncovered a huge opportunity for thoughtful administrators and officials to improve the performance of our nation’s jails and prisons,” says Alex Busansky, director of Vera’s Washington, D.C., office. “This project represents the next step in ensuring that jails and prisons operate as the public and good corrections professionals expect them to.”

At the upcoming NACOLE conference in

Cincinnati, Vera will put on a workshop that addresses oversight issues relating to jails and prisons.

For more information about the project, please contact the author at jjames@veradec.org. To learn more about the Vera Institute of Justice, visit www.vera.org. The website of the Commission on Safety and Abuse in America’s Prisons is www.prisoncommission.org.

Julie James is a senior policy associate at the Vera Institute of Justice in Washington, D.C. ■

“Candidates,”

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in Congress, first as a member of the U.S. House of Representative from 1983 to 1987 and then as a U.S. senator from 1987 until the present.

Although Senator McCain did not co-sponsor the End Racial Profiling Act of 2007 or any of the predecessor versions of the bill, he has recently confronted the issue.

In fact, a biased policing dispute surfaced earlier this year in the senator’s home state of Arizona. During the winter, Maricopa County Sheriff Joe Arpaio became embroiled in controversy and

accused of racial profiling after conducting numerous “crime-suppression operations” in predominantly Latino neighborhoods. These efforts resulted in nearly 200 arrests for various crimes, at least 84 of which were related to persons who were in the country illegally.

While not directly addressing the issue of racial profiling, Senator McCain blamed the federal government — due to its inaction on immigration reform — for forcing the sheriff to solve the problem at the local level.

In the area of human rights, Senator McCain has been a critic of the current U.S. administration’s support for the use of some harsh interrogation techniques against detainees in Guantanamo Bay, Afghanistan and Iraq. The senator, who was tortured and placed into solitary confinement while a prisoner of war in North Vietnam, has repeatedly opposed the practice of water-boarding.

The senator also successfully fought to get the Detainee Treatment Act passed in 2005. An amendment offered by Senator McCain bars the use of cruel, inhumane and degrading treatment of any detainee under the control of U.S. Department of Defense personnel.

Alpha Griffin, an attorney who is a senior investigator with the Office of Police Complaints in Washington, D.C., provided research for this article. ■



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"IMPACTING POLICY & PRACTICE"

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