



GEORGIA APPLESEED™

Center for Law & Justice

SEEKING THE BELOVED COMMUNITY: FOSTERING CRUCIAL CONVERSATIONS ABOUT RACE, LAW ENFORCEMENT & THE LAW

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Our Premise--All Georgians should live in communities that are safe and where we engage each other with the highest level of mutual dignity, respect and responsibility without regard to race or ethnicity. The recent highly publicized incidents of police encounters with citizens -- most often men and women of color -- nationally and in several Georgia communities (and the unrest that often followed) set the stage for crucial conversations and collaborative action. Such action must be designed to ensure that such tragedies are avoided to the fullest extent possible and that, if they do occur, the ensuing investigation and charging decision process is fair.

Our Process--In the Spring of 2015, the Georgia Appleseed Center for Law & Justice ("Georgia Appleseed") began a process designed to seek the views of community members throughout Georgia--law enforcement personnel; prosecutors, defense lawyers, neighborhood associations, faith leaders, political leaders, nonprofits and others---to help in assessing the nature of police-community relations in our state and to seek recommendations for changes to law as well as policies and practices that could improve or enhance them.

Georgia Appleseed brought to this effort a firm commitment to objective, data driven assessment, a deep respect for the extraordinarily difficult, important and oftentimes dangerous service that law enforcement personnel provide to our society and an abiding belief that all of Georgia's citizens must be afforded the rights to which they are entitled under the federal and state constitutions.

Preliminary research identified critical issues to be addressed based upon recommendations made by law enforcement community relations experts from around the country. These issues encompassed two broad areas of concern. First, what changes to law or policy would most likely improve law enforcement community relations in ways that would significantly reduce the likelihood of future encounters resulting in death or severe bodily harm to community members? Second, what law or policy reforms may be necessary to assure that investigations and criminal charging decisions triggered by any such future incidents are fair and also are perceived to be fair by the community?

Detailed legal and factual research was undertaken to understand the current state of law, policy and practice in Georgia in the identified critical issue areas. Approximately 140 individual stakeholder interviews were carried out to obtain the views of a broadly diverse group of Georgians on these critical issues. A stakeholder forum was held to foster further crucial conversations on these topics.

The research efforts and stakeholder input were compiled in a comprehensive report to be published on <https://gaappleseed.org/initiatives/race-law-enforcement-and-the-law>.

Our Findings and Recommendations

- Standard Operating Procedures (“SOPs”): The Georgia Association of Chiefs of Police (“GACP”) and other collaborating law enforcement agencies manage the voluntary Georgia Law Enforcement Certification Program, which includes a requirement for adopting and maintaining compliance with a wide range of SOPs. However, only a relatively small percentage of Georgia law enforcement agencies have sought and obtained certification.

The General Assembly should assess the extent to which Georgia law enforcement agencies have in place SOPs that are substantially equivalent to those recommended by the GACP. To the extent that it is determined that a significant number of agencies do not have adequate policies in place, the General Assembly should consider options designed to ensure that such deficiencies are corrected. This could potentially include mandating participation in the Georgia Law Enforcement Certification Program.

- Public Access to SOPs: The General Assembly should enact legislation requiring each law enforcement agency that maintains a website to provide public access to copies of all standard operating procedures on such website. To the extent that a department does not maintain a website, the law should require that such department make copies of its SOPs available at a public location such as a public library. The law should allow departments to withhold from public access those operating procedures the disclosure of which may put the safety of law enforcement personnel or the public in jeopardy.

- Clarifying Use of Force Law: Each Georgia law enforcement agency must have a clearly articulated policy on the use of deadly force. The GAPC Sample Policy on this topic and the individual departmental use of force SOPs that we have reviewed employ different language but the basic thrust of the policies is the same--deadly force may only be used if the police officer reasonably believes that the officer or a third party is immediately threatened with death or serious bodily injury.

Code Section 17-4-20(b) dealing with suspected felons, however, authorizes the use of deadly force in broader circumstances. In addition, Code Section 17-4-20(d) prohibits law enforcement agencies from adopting “...any rule, regulation, or policy which prohibits a peace officer from using that degree of force to apprehend a suspected felon which is allowed by the statutory and case law of this state.”

The General Assembly should evaluate Code Section 17-4-20(b) to determine if such a statute is necessary in light of the existing “self-defense” statutory provisions. If the General Assembly concludes that such a law is necessary, then we recommend that amendatory language be developed to clarify the scope of this law so that it does not authorize the use of deadly force except in circumstances when the officer reasonably believes that the suspect poses an immediate threat of death or great bodily injury to the officer or others.

- Officer Training Curriculum Review and Revision: While having comprehensive modern SOPs is very important, it is even more critical that police officers receive the necessary level of training in implementing these procedures.

The General Assembly should enact legislation directing the Georgia Peace Officers Standards and Training Council to review and revise the basic and annual law enforcement required training to

assure that the course content and educational delivery methods will assure that Georgia's law enforcement officers will be trained to meet the challenges critical to modern policing while assuring officer safety and wellness. Focus training topics should include, but not be limited to (1) use of force including utilizing modern interactive simulation tools, (2) conflict management and de-escalation techniques and (3) implicit bias and cultural responsiveness. The legislation should also create a multidisciplinary advisory council similar to the Crisis Intervention Training Advisory Council to participate in the assessment process. The review should be completed promptly so that any revised training requirements will be in place and effective as soon as practicable .

- Expanded Collection of Detention Information: Internal management oversight and external accountability for law enforcement agencies are critically dependent upon the use of accurate performance data. Substantial arrest data is currently being collected and reported. Incidents of concern, however, can often be an outgrowth of detentions that are short of arrest. In addition, there is worry that these detentions may have adverse impacts on community relations if they are, or are perceived to be, disproportionately imposed on minority men and women.

Recognizing that there may be logistical and cost challenges associated with expanding requirements for detention related data collection and reporting, we recommend that the Criminal Justice Reform Council assess the feasibility and cost of expanding law enforcement data collection requirements to provide for a more comprehensive collection and reporting of -and public access to- demographically disaggregated data on citizen detentions.

- Reporting Incidents of Concern: All law enforcement agencies prepare "use of force" reports on incidents in which community members suffer death or severe bodily injury ("incidents of concern"). No current law requires that this information be compiled and reported on a state-wide basis.

The General Assembly should enact legislation mandating immediate (effective 7-1-16) monthly reporting, including detailed data on all incidents of concern and require the publication of reports of such incidents on a state-wide basis and for each individual department every six months with the first report (for July-December 2016) due on or before February 1, 2017. The data could be collected and reported by GCIC, by the Administrative Office of the Courts, or another entity as determined by the General Assembly.

- Department Demographics: The existence of a diverse police force does not guarantee positive community trust and engagement. A wide discrepancy between a police department's diversity and that of the community it serves, however, has the potential to generate mistrust.

The General Assembly should enact legislation requiring that each law enforcement agency annually report and make publically available personnel demographics (age, race/ethnicity and gender) for the department as a whole and for senior leadership beginning by no later than December 31, 2016.

- Disclosure of Incident Information: Effective community engagement is vitally important in the immediate aftermath of an incident of concern. Prompt and transparent disclosure of information to the public can on the one hand foster trust in the fairness of the investigative response. On the other hand, premature disclosure of information can lead to charges of an unwarranted "rush to judgment."

We suggest that the GACP consider developing a model policy for the certification program that outlines best practices for disclosure of critical incident information to the public as well as to the family of the deceased or injured community member. Engaging prosecutors, representatives of the media and community members in the discussion could greatly enhance such an effort.

- Independent Investigations and Charging Decisions: We recognize that police departments can objectively investigate incidents of concern involving one of their own officers. We also recognize that local district attorneys can be capable of making objective charging decisions involving law enforcement officers that serve the prosecutor's jurisdiction. We are convinced though that the community perception of an inherent conflict of interest in these situations poses too much of a risk of undermining the necessary trust that community members should have in our justice system.

The General Assembly should enact legislation requiring that incidents of concern be investigated by an independent, uninvolved law enforcement entity and that charging decisions in these cases be made by an independent special district attorney.

- Peace Officer Grand Jury Participation: Georgia is the only state that provides extensive grand jury participation rights to peace officers charged with a crime allegedly committed in the course of duty. The stated rationale for this expansion of grand jury participatory rights is the potential for frivolous charges which could embarrass the officer and the officer's family.

The purpose of the grand jury is to decide whether there is probable cause to believe that a crime has been committed so that the accused must face trial on the ultimate question of guilt or innocence. The current law essentially can convert the grand jury proceeding into a proceeding in which the accused peace officer can powerfully assert innocence in the last words the jurors hear before deliberations without being subject to cross examination or rebuttal. We must conclude that any risk of a high volume of frivolous prosecutions (especially for incidents of concern) is so remote that these concerns and those of potential personal embarrassment cannot today justify providing these unique grand jury participatory rights to peace officers. Accordingly, we recommend that the General Assembly repeal Code Section 17-7-52.