

# In Search of the Beloved Community

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This Article describes the process by which the Georgia Appleseed Center for Law & Justice (Georgia Appleseed) has engaged Georgians in crucial conversations about critical issues concerning the relationship among law enforcement officers and the community members they serve. We also discuss how Georgia Appleseed is working to have the content of these conversations foster change to law and policy designed to enhance police community relations.

This is a story half told. As of the date of publication of this Article, the fact-gathering and legal research described below will have been completed and public advocacy for change will have commenced. Time will tell the rest of the story.

## I. THE CALL

The litany of names is now sadly familiar—Michael Brown, Walter Scott, Freddie Gray, and Sandra Bland. Less familiar names but closer to home in Georgia are Nicholas Thomas of Smyrna and Anthony Hill of DeKalb County. These recent deaths following police encounters with community members—most often men and women of color—and the subsequent unrest tragically highlight the need for action.

“But what can we do?” This is the question that plagued many concerned citizens, including the staff of Georgia Appleseed beginning in

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the late summer of 2014. At least a partial answer came in a call from a Georgia mayor asking our organization to assist in a police community relations outreach in the mayor's community. Honored by that request but recognizing the statewide scope of these issues, Georgia Appleseed decided to engage the community on a much broader scale.

Thus, in the spring of 2015, Georgia Appleseed began a process designed to seek the views of Georgia community members—law enforcement personnel, prosecutors, defense lawyers, neighborhood associations, faith leaders, political leaders, nonprofits, and others—both to help in assessing the nature of police community relations in our state and to seek recommendations for changes to laws, policies, and practices that could improve or enhance them.

## II. THEORY OF CHANGE

Georgia Appleseed is a nonprofit, nonpartisan, public interest law center with the mission to increase justice in Georgia through law and policy reform. We seek a Georgia where the voices of poor people, children, and marginalized people are heard and where injustices that no one should endure are resolved. In this effort, we magnify the capacity of our very small organization by leveraging the volunteer services of lawyers and other professionals. Hundreds of lawyers, accountants, consultants, paraprofessionals, and support staff have donated thousands of hours to projects such as our multi-year effort to support a total rewrite of the Georgia Juvenile Code<sup>1</sup> and our in-depth assessment of student discipline practices in Georgia's public schools.

Georgia Appleseed works to resolve injustices through a theory of change that focuses on collaborative advocacy.<sup>2</sup> We employ a three-phase methodology by which we (1) investigate, (2) disseminate, and (3) advocate. In Phase 1, we engage with our pro bono partners in comprehensive legal research and fact-finding stakeholder interviews to investigate and understand the law and policy issues at hand and to determine if change is necessary. In Phase 2, we disseminate our findings and recommendations through the publication and broad distribution of a detailed report. In Phase 3, we advocate for any necessary systemic change at the state and local levels.

This Article summarizes our Phase 1 efforts focused on law enforcement community relations in Georgia.

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1. O.C.G.A. ch. 15-11 (2015).

2. To learn more about Georgia Appleseed's theory of change, see GA. APPLESEED, <https://www.gaappleseed.org> (last visited Mar. 7, 2016).

### III. SETTING THE GOALS

Georgia Appleseed staff determined at the outset that the goal of this initiative should be to increase public confidence and trust in the fairness of police interactions with community members and of prosecutorial charging decisions without regard to race or ethnicity. Much has been written about the necessary elements of effective policing and how best to build positive, trusting relationships between law enforcement personnel and the members of the communities they serve. We quickly determined that a comprehensive assessment of this highly complex subject would be well beyond the scope of this initiative.

We, therefore, set out to identify a limited number of critical issue areas that have the potential to trigger crucial conversations among diverse segments of the Georgia community and could lead to concrete near-term action steps for law or policy reform. In identifying these critical issues, we were particularly influenced by very recent analyses carried out in direct response to the Ferguson, Missouri incident and several other highly publicized events that followed shortly thereafter. For example, the United States Department of Justice carried out a comprehensive investigation of the Ferguson Police Department and issued a report in March 2015, which included a number of recommendations for changes in policies and practices.<sup>3</sup> More recently, the Ferguson Commission, an independent body appointed by the Governor of Missouri, issued a detailed report and call to action.<sup>4</sup>

In December 2014, President Obama created the Task Force on 21st Century Policing (Task Force). The Task Force held multiple listening sessions throughout the country and heard from over 100 individuals from a wide variety of stakeholder groups. The Task Force issued an interim report in March 2015,<sup>5</sup> followed by a final version in May,<sup>6</sup> making dozens of recommendations, including the creation of a National Crime and Justice Task Force.<sup>7</sup> Our review of these materials reaffirmed the complexities associated with addressing this challenge in a

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3. *Investigation of the Ferguson Police Department*, U.S. DEP'T OF JUST. CIVIL RIGHTS DIV. (Mar. 4, 2015), available at [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

4. *Forward Through Ferguson—A Path Toward Racial Equality*, FORWARD THROUGH FERGUSON (Oct. 14, 2015), available at <http://forwardthroughferguson.org/report/executive-summary/clarifying-our-terms/>.

5. Interim Report of The President's Task Force on 21st Century Policing (Mar. 2015), available at [http://www.cops.usdoj.gov/pdf/taskforce/Interim\\_TF\\_Report.pdf](http://www.cops.usdoj.gov/pdf/taskforce/Interim_TF_Report.pdf).

6. Final Report of The President's Task Force on 21st Century Policing (May 2015), available at [http://www.cops.usdoj.gov/pdf/taskforce/TaskForce\\_FinalReport.pdf](http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf).

7. *Id.* at 7.

comprehensive manner, but our review also allowed us to identify important areas of law and policy that could serve as starting points for crafting at least some near-term reforms in Georgia.

#### IV. CRITICAL ISSUES

The issues we identified 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? These changes might be viewed as “preventive measures.” 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, as importantly, are perceived to be fair by the community?

##### A. *Law Enforcement Community Relations*

Our efforts on the “preventive measures” goal were focused on four key areas:

**1. Key Policies.** It is important that law enforcement agencies have clear and comprehensive policies on matters that involve direct engagement with the public. We, therefore, examined the extent to which the policies in place in Georgia address (a) use of deadly force, (b) stop, search, and arrest, and (c) engagement with vulnerable populations such as youth, the mentally ill, and the developmentally disabled.

**2. Training.** The Task Force noted: “As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for expanded and more effective training has become critical.”<sup>8</sup> Critical areas for training include: “implicit bias and cultural responsiveness, policing in a democratic society, procedural justice, and effective social interaction and tactical skills.”<sup>9</sup> We evaluated the current training requirements for Georgia police officers to see how they address these critical areas of concern.

**3. Data Collection & Transparency.** It is often said that you measure what you care about, and you care about what you measure. Public policy should, whenever possible, be developed and assessed based on comprehensive, accurate data. We explored the extent to which law

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8. *Id.* at 3.

9. *Id.* at 4.

enforcement agencies in Georgia collect and make available to the public demographic data on stops, frisks, searches, service of summons, and arrests, including but not limited to those resulting in death or severe bodily harm. We also examined whether law enforcement agencies make publically available data concerning the demographic composition of their departments.

**4. Community Engagement & Outreach.** The Task Force also asserted that law enforcement culture “should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy both within agencies and with the public.”<sup>10</sup> Community engagement and outreach are key elements in such an approach to policing. We examined the extent to which police departments in Georgia seek to engage community members. We also considered whether effective mechanisms are in place to address citizen complaints concerning police activities.

#### *B. Responding to Critical Encounters*

Our second main area of inquiry focused on law enforcement reaction to future incidents of concern. We considered what law or policy reforms may be necessary to ensure that investigations and criminal charging decisions triggered by violent police encounters with community members are fair and also are perceived to be fair by the community.

**1. Investigation Responsibility.** We examined the current law and practice in Georgia regarding the investigation of an incident of concern and asked whether there should be any change in current law or policy to avoid any appearance of conflict of interest arising out of a law enforcement agency participating in an investigation of the actions of one of its officers.

**2. Making the Charging Decision.** Similarly, we examined the criminal charging decision-making process in Georgia that occurs following the completion of an investigation. We evaluated current law and practice and asked whether any changes are in order to avoid potential conflict of interest concerns when a district attorney makes the decision whether to seek an indictment against a police officer who is employed by a department with which the district attorney works regularly. We also examined the special grand jury participation rights afforded peace officers in Georgia.<sup>11</sup>

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10. *Id.* at 1.

11. See O.C.G.A. § 17-7-52 (2013); O.C.G.A. § 45-11-4 (2002 & Supp. 2015).

**3. Crucial Conversations.** The Atlanta office of Nelson, Mullins, Riley & Scarborough LLP served as the lead pro bono law firm on this project.<sup>12</sup> Several lawyers with the firm carried out the very extensive research necessary to evaluate the critical issue areas outlined above. This research effort was critical, not only to informing our understanding of the current legal and policy setting in Georgia but also setting the stage for our outreach to community stakeholders from around the state.

We began the stakeholder interview process by identifying community members who could bring diverse perspectives to the issues being reviewed. Over 500 individuals across the state were contacted by Georgia Appleseed. The stakeholders were identified through contact with community and business leaders, faith based groups, law enforcement groups, attorneys, elected officials, universities, and by recommendations made by other stakeholders.

Georgia Appleseed created questionnaires to be used in the stakeholder interviews. A survey professional reviewed those questionnaires to ensure that the questions were clear and as free of bias as possible. Use of the questionnaires in the interview process promoted consistency and allowed responses to be input into a searchable database.

Law firms donated the time of their lawyers, paralegals, and other administrative staff members to conduct the interviews.<sup>13</sup> Most interviewers participated in a one-hour training session conducted by Georgia Appleseed to ensure consistency in the process. Ultimately, 140 interviews were conducted.

The stakeholder interviewees fell into one of two groups. The "General Public Group" consisted of elected officials, lawyers (including the criminal defense bar), and members of Georgia's business, nonprofit, faith based, and educational organizations. There were almost an equal number of men and women in this group. Fifty percent of stakeholders in the General Public Group were African-American, forty percent were Caucasian, and ten percent were other minorities. Sixty percent of the stakeholders were located in Metro Atlanta counties, while forty percent were located in other locations around Georgia.

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12. Georgia Appleseed gratefully acknowledges the major contributions made by the lawyers, paralegals, and staff from the Nelson Mullins firm under the leadership of partner Taylor Daly.

13. Nelson Mullins also provided significant leadership in coordinating the interview process. In addition, we acknowledge the special contributions of the law firms of Alston & Bird, Hunton & Williams LLP, Kilpatrick, Townsend & Stockton LLP, and King & Spalding LLP, and of the Atlanta Bar Association.

The second group was the “Law Enforcement Group,” which consisted of currently employed law enforcement officers and administrators, law enforcement association representatives, and current or former prosecuting attorneys. Eighty-five percent of the stakeholders in the Law Enforcement Group were male; one-third of these responders were African-American, and two-thirds were Caucasian. Approximately two-thirds of the members of this group were located in Metro Atlanta while the others worked in various locations throughout Georgia.

While the stakeholders interviewed reflect a broad and diverse group of Georgia citizens from all over the state, the number of participants was not large enough to reflect a statistically significant representation of the views of all Georgians. That was not our intent. We believe, however, that this collection of views provides a solid starting point for evaluating possible law and policy changes.

The issues addressed in the interviews tracked the crucial questions identified above. Thus, interviewees provided their thoughts and recommendations on actions that might be taken to improve law enforcement community relationships and to reduce the likelihood of future tragic encounters between law enforcement and community members. In addition, the stakeholders provided their views on how law enforcement should respond to incidents of concern in the investigation and charging processes.

The stakeholders provided valuable and candid comments about what is working well, and what could be improved, in community law enforcement relations in Georgia. The individuals interviewed held a range of views on the issues. They expressed mixed opinions regarding the role and quality of services that law enforcement provides regarding police-involved incidents with citizens. Some stakeholders expressed high satisfaction with the state of community law enforcement relationships in Georgia, while others expressed dissatisfaction with that relationship. Irrespective of their opinions on the state of the relationship, the majority of stakeholders expressed the view that changes could be made to improve the relationship.

**4. Draft Report.** The interviews were conducted from June through September 2015. In early October, Georgia Appleseed prepared a draft report. This document contained a detailed summary of the legal research on the critical issues and summarized the views of the stakeholders expressed in the crucial conversations interview process. In addition, the draft report offered preliminary findings and recommendations. The draft report was then circulated, on a confidential basis, to all participants in the interview process to obtain their input. On

October 28, 2015, a stakeholder forum was held in Macon, Georgia to allow further discussion of the draft.

**5. Next Steps.** As of the time of the preparation of this Article, Georgia Appleseed is in the process of preparing the final report and recommendations and developing plans for Phase 2 dissemination, as well as Phase 3 advocacy.

#### V. CONCLUSION: IN SEARCH OF THE BELOVED COMMUNITY

Georgia Appleseed undertook this effort because we believe that 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. Georgia Appleseed brings 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 federal and state constitutions.

The spirit of collaboration and receptivity to change reflected in the enthusiastic efforts of our volunteers and the willing cooperation of community stakeholders to engage in crucial conversations on these critical issues reminded us of the words that Dr. Martin Luther King, Jr. uttered sixty years ago:

But the end is reconciliation; the end is redemption; the end is the creation of the beloved community. It is this type of spirit and this type of love that can transform opposers into friends. It is this type of understanding goodwill that will transform the deep gloom of the old age into the exuberant gladness of the new age. It is this love which will bring about miracles in the hearts of men.<sup>14</sup>

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14. Dr. Martin Luther King, Jr., *Facing the Challenge of a New Age*, reproduced in THE PAPERS OF MARTIN LUTHER KING, JR., VOL. III-BIRTH OF A NEW AGE, DECEMBER 1955-DECEMBER 1956 (Clayborn Carson et al., eds., 1997), [https://swap.stanford.edu/20141218223303/http://mlk-kpp01.stanford.edu/kingweb/publications/papers/vol3/561203.000-Facing\\_the\\_Challenge\\_of\\_a\\_New\\_Age\\_annual\\_address\\_at\\_the\\_first\\_annual\\_Institute\\_on\\_Nonviolence\\_and\\_Social\\_Change.htm](https://swap.stanford.edu/20141218223303/http://mlk-kpp01.stanford.edu/kingweb/publications/papers/vol3/561203.000-Facing_the_Challenge_of_a_New_Age_annual_address_at_the_first_annual_Institute_on_Nonviolence_and_Social_Change.htm)