



Contact: Claire Guthrie Gastañaga
804-523-2146
Claire@acluva.org

Restoring and Enhancing Trust Through Transparency and Accountability
Claire Guthrie Gastañaga, Executive Director, ACLU of Virginia
May 18, 2015

Trust is dependent on the culture in the community and within the law enforcement agency. Technology won't solve problems like racial profiling, excessive use of force or police abuse. The primary focus must be on policies and practices that enhance transparency and accountability.

Community Culture

Public safety should be seen as a core function and fundamental expense of government, not a revenue stream.

- Police departments and their jurisdictions (state or local) should not create, facilitate or allow the development of a dependence on financial returns from policing (asset forfeiture, "million dollar mile," red light cameras vs. extended yellow, success measured by increased arrests, tickets, summonses vs. increase safety outcomes). *Investigation of the Ferguson Police Department*, Civil Rights Division, USDOJ, March 4, 2015, http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report_1.pdf
- The Commonwealth and its communities must commit to funding public safety as a priority recognizing that underpaid and undervalued police compromise our safety.

Public safety/law enforcement cannot solve community problems arising from poverty, drug use and other social ills.

- We can't arrest our way out of a public health problem or school discipline issue. There must be a holistic approach to education, health care and drug treatment and economic health programs. See, e.g., *The War on Marijuana in Black and White*, <https://www.aclu.org/report/war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white> See, also, *Right on Crime*, <http://rightoncrime.com/statement-of-principles/>

Law Enforcement Culture

There must be a culture of service.

- Police department personnel must reflect the community they serve. *Racially Biased Policing: A Principled Response*, Police Executive Research Forum(PERF), COPS, 2001, pp. 7-8, <http://ric-zai-inc.com/Publications/cops-w0172-pub.pdf>
- Department personnel must see the people not as the "policed" but as the public they serve.

There must be a culture of transparency.

- The default should be openness vs. secrecy. Police departments should release as much information as possible not release as little information as possible.
 - Virginia Freedom of Information Act, §2.2-3700. Policy. The provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made

exempt pursuant to this chapter or other specific provision of law. This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth.

- Civil Rights and Law Enforcement Intelligence, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1206&issue_id=62007
- There should be a willingness to engage the public in setting departmental policies on “use of force” and other policies directly affecting the people being served.

There must be a culture of accountability.

- Citizen authority should be paramount.
- There should be a willingness to collect and report data that permits departmental and public evaluation of departmental practices, see, e.g., Charlottesville Police Department, http://www.roanoke.com/news/virginia/charlottesville-stop-and-frisk-cases-percent-black-percent-white/article_97c52064-d59a-11e3-b84c-001a4bcf6878.html
- There must be openness to independent external citizen-involved evaluation of outcomes good and bad.

There must be a culture of constitutionality.

- Police must see themselves as the guardians of the constitution.
- Constitutional policing should be the paramount value in hiring, evaluation, training, policies and procedures, including policies on “consent searches,” pretextual stops, and use of body-worn cameras and other technologies.