



Sept. 26, 2017

Col. W. Steven Flaherty
Superintendent
Virginia State Police
P.O. Box 27472
Richmond, Va. 23261

Col. Flaherty:

I am writing to relate to you serious concerns the ACLU of Virginia has regarding certain actions of Virginia State Police officers during protests and demonstrations in Richmond on Sept. 16.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF VIRGINIA
701 E. FRANKLIN ST.
SUITE 1412
RICHMOND, VA 23219
T/804.644.8080
F/804.649.2733
WWW.ACLUVA.ORG

ACLU of Virginia Legal Observers witnessed numerous on-duty Virginia State Police officers who had placed black tape over the name strips affixed to their uniform shirts (photo enclosed). As you were present at the demonstrations on Sept. 16 and would have observed or interacted with many of your officers, I assume that you were aware of this action and chose to take no steps to correct the officers at the time.

Virginia State Police “utility uniform” policy addresses the issue of name badges as follows:

Administration 3.00 Uniforms, Equipment and Supplies

*10. **Utility uniforms issued to authorized sworn employees will include** rank insignia when appropriate, regulation shoulder patches on each shirt sleeve, a cloth badge centered above the left breast pocket and **a cloth name strip immediately above the right breast pocket.** Personnel assigned to tactical teams, canine, motor carrier enforcement, commercial vehicle enforcement, or as a bomb technician are authorized a cloth strip denoting their specialty. The specialty cloth strip is to be worn immediately above the left breast pocket below the badge.*

While this policy technically does not prohibit an officer from obscuring the required name strips with tape, any such action is in clear violation of the spirit of the policy requiring officers to wear a uniform with a cloth name strip. Such a policy is designed to ensure that the public knows by whom they are being policed. On-duty law enforcement officers should never attempt to hide their identities from the public they are policing.

Our understanding from news reports on this subject is that officers said that they covered their name strips to conceal their identities from visual observation because they fear being “trolled” online. This is ironic, because at the same Sept. 16 event, four people were arrested and charged with a felony based on a questionable state law - § 18.2-422 – that prohibits the wearing of masks in public with the intent to conceal one’s identity. They now face possible prison time and life long bans on voting for those acts, even though their intent – to be

anonymous and avoid harassment – was the same as that cited by your officers (whose faces also were partially obscured by their helmets and face shields).

Sept. 16 certainly will not be the last time the Virginia State Police will be deployed to police the public at protests and demonstrations in our Commonwealth. Before they are deployed again, the ACLU of Virginia urges you to act to ensure that your officers adhere to the intent of the department's uniform rules and revise your policy to make explicit what is not implicit – that it prohibits your officers from “masking” their identities in public by obscuring required name strips on their uniforms. It is not sufficient to say that a member of the public can ask the officer to identify themselves. Among other things, this requirement can discriminate against people with hearing or speech disabilities. Public officials performing their duties in public should be readily identifiable on sight by the members of the public they serve.

Lack of transparency and accountability that encourages an atmosphere of secrecy and anonymity in policing only serves to undermine trust between the public and law enforcement. This is especially true where, as here, officers concealed their identities in circumstances where it is a felony for members of the public to conceal theirs for similar reasons.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION
OF VIRGINIA
701 E. FRANKLIN ST.
SUITE 1412
RICHMOND, VA 23219
T/804.644.8080
F/804.649.2733
WWW.ACLUVA.ORG

Very truly yours,



Claire Guthrie Gastañaga
Executive Director

P.S. In case you missed it, Richmond Times-Dispatch columnist A. Barton Hinkle addressed this subject thoroughly in a Sept. 23 op-ed titled, “Wearing a Mask in Public Shouldn’t be a Crime” (enclosed).

Enclosures