

Bill No. 1-19
Concerning: Police – Officer Involved
Death – Independent Investigation
Revised: 4/12/2019 Draft No. 7
Introduced: January 15, 2019
Enacted: May 7, 2019
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsors: Councilmembers Rice, Riemer, Council President Navarro, Councilmember
Albornoz, Council Vice President Katz, Councilmembers Friedson, Glass, and Hucker

AN ACT to:

- (1) require an independent investigation of an officer involved death;
- (2) establish qualifications for an independent investigation of an officer involved death;
- (3) require the independent investigators to submit a final written report to the State's Attorney;
- (4) make the written report public under certain circumstances; and
- (5) generally amend the law governing investigations of an officer involved death.

By amending

Montgomery County Code
Chapter 35, Police
Section 35-2

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 35-2 is amended as follows:**

2 **35-2. [Reserved] Law Enforcement Trust and Transparency Act.**

3 (a) Definitions. As used in this Section:

4 Department means the Montgomery County Department of Police.

5 Law enforcement agency means a government agency charged with
 6 enforcing Federal, State, or County law.

7 Officer involved death means the death of an individual resulting from an
 8 action by a police officer or while the individual is in police custody.

9 Police officer means a sworn officer employed by the County Department
 10 of Police.

11 State’s Attorney means the State’s Attorney for Montgomery County.

12 (b) Independent investigation required. [[The]] Except as provided in
 13 subsection (f), the Executive must ensure that an independent
 14 investigation is performed for each officer involved death. The
 15 independent investigation must be [[performed]] led by at least 2 sworn
 16 independent investigators:

17 (1) who are not employed by the County or the State’s Attorney;

18 (2) who have significant experience and expertise in conducting
 19 [complex criminal] homicide and law enforcement officer use of
 20 force investigations; and

21 (3) work for a:

22 (A) local law enforcement agency located outside of the
 23 County;

24 (B) Federal law enforcement agency; or

25 (C) State law enforcement agency.

26 (c) Report. The independent investigators must submit a final written report
 27 to the State’s Attorney.

- 28 (d) Publication of the investigation report.
- 29 (1) [[If no criminal charges are filed against the police officer,]]
- 30 Except as provided in paragraph (2), the written report must be
- 31 released to the public to the extent permitted by law:
- 32 (A) if no criminal charges are filed against the police officer; or
- 33 (B) after the conclusion of any criminal case against the police
- 34 officer.
- 35 (2) The custodian of the report may deny inspection of any part of the
- 36 written report if it would:
- 37 (A) interfere with a valid and proper law enforcement
- 38 proceeding;
- 39 (B) deprive a person of a right to a fair trial or an impartial
- 40 adjudication;
- 41 (C) constitute an unwarranted invasion of personal privacy;
- 42 (D) disclose the identity of a confidential source;
- 43 (E) disclose an investigative technique or procedure;
- 44 (F) prejudice an investigation; or
- 45 (G) endanger the life or physical safety of an individual.
- 46 (3) This subsection must apply to a written investigation report
- 47 prepared by the independent investigators or a report prepared by
- 48 the Department if the Executive is unable to obtain an independent
- 49 investigation.
- 50 (e) Internal [[administrative review]] investigation. This Section must not
- 51 be interpreted to prohibit:
- 52 (1) an internal administrative review of the incident by the Department
- 53 for possible discipline of a police officer pursuant to the Law

54 Enforcement Officers' Bill of Rights, MD Public Safety Code, §§3-101
55 to 3-113, as amended or;

56 (2) the Department from:

57 (A) responding to the crime scene to perform routine police
58 duties to protect members of the public and members of the
59 Department; or

60 (B) providing support and assistance to the independent
61 investigators leading the investigation as requested by the
62 independent investigators.

63 (f) Reporting. If, after making good faith efforts, the Executive is unable to
64 enter into an agreement with another law enforcement agency to perform
65 the required independent investigation, the Executive must submit:

66 (1) a report to the Council on or before January 1, 2020:

67 (A) explaining all efforts made to secure an agreement with
68 another law enforcement agency; and

69 (B) recommending changes to the law to support its goals; and

70 (2) updates to the Council every 90 days beginning on April 1, 2020
71 explaining continuing efforts to secure an agreement.

72 **Sec. 2. Effective date.**

73 This Act must take effect on January 1, 2020. The amendments in Section 1
74 must apply to each officer involved death occurring after the Act takes effect.

Approved:



Nancy Navarro, President, County Council

5/9/19

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Megan Davey Limarzi, Esq., Clerk of the Council

Date