

Committee: N/A

Staff: Susan J. Farag, Legislative Analyst
Carlos Camacho, Legislative Analyst

Purpose: To introduce agenda item – no vote expected

Keywords: #Police,#CountyExecutive,#PoliceAudit,#ELE4A

AGENDA ITEM #4L

November 30, 2021

Introduction

SUBJECT

Special Appropriation to the County Government's FY22 Operating Budget, Office of the County Executive - \$250,000, and Amendment to the FY22 Operating Budget Resolution 19-872, Section G, FY22 Designation of Entities for Non-Competitive Contract Award Status: Effective Law Enforcement for All, Inc. (ELE4A) (Source of Funds: General Funds Undesignated Reserves).

EXPECTED ATTENDEES

None.

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Council will introduce a special appropriation to the Office of the County Executive's FY22 Operating Budget in the amount of \$250,000 to fund the ongoing work of ELE4A related to the audit of the Montgomery County Police Department and the Task Force to Reimagine Public Safety. The public hearing is tentatively scheduled for December 7, 2021. The special appropriation has been referred to the Joint Public Safety and Government Operations & Fiscal Policy Committee.

DESCRIPTION/ISSUE

Last year, the County Executive established the Task Force to Reimagine Public Safety (TFRPS).¹ Shortly thereafter, he requested a \$550,000 supplemental appropriation to conduct racial equity audits of both the Fire and the Police Departments, and provide consultant support to the TFRPS. The Council passed a modified version of this request, appropriating \$350,000 for the Police Department audit and the consultant support for TFRPS. The Fire Department audit was delayed until the Executive could provide a scope of work, and funding for the audit was appropriated in the Fire and Rescue Service FY22 Operating Budget.²

The Executive contracted with Effective Law Enforcement for All (ELE4A) to produce a comprehensive audit of the Police Department. Their preliminary audit findings were released last spring.³ ELE4A continues to work on the final audit, and the Executive has requested to broaden the original scope of work to include additional community and stakeholder

¹ [Reimagining Public Safety Dashboard](#)

² [Council Action, Supplemental Appropriation, September 20, 2020](#)

³ [Review of the Montgomery County Police Department, ELE4A, June 30, 2021](#)

engagement, technical assistance, strategic planning, crisis response coordination, reporting, on-call advisory services, management guidance related to the recent officer involved shooting, and a formal independent After Action Review of the July 16, 2021 officer involved shooting/lethal force incident.

<u>This Staff Report Contains:</u>	<u>©</u>
County Executive Transmittal Memo for the Special Appropriation	1-2
Chief Administrative Officer Transmittal Memo (FY22 Operating Budget Amendment)	3
Office of Racial Equity and Social Justice Analysis	4-6
Draft Resolution	7-8

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

November 10, 2021

TO: Tom Hucker, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Special Appropriation #22-28 to the FY22 Operating Budget
Montgomery County Government and
Amendment to the Fiscal Year 2022 Operating Budget
Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for
Non-Competitive Contract Award Status
Office of the County Executive, \$250,000

I am recommending a special appropriation to the FY22 Operating Budget of the Office of the County Executive in the amount of \$250,000 for a non-competitive contract with Effective Law Enforcement for All, Inc. (ELE4A). This appropriation will fund ongoing work on both the independent audit of the Montgomery County Department of Police and organization of the work of the Reimagining Public Safety Task Force.

This increase is needed for ELE4A to continue its review of the County's Department of Police, and to provide additional work including community and stakeholder engagement, technical assistance, strategic planning, crisis response coordination, reporting, on-call advisory services, management guidance related to the recent officer involved shooting, and a formal independent *After Action Review* of the July 16, 2021 officer involved shooting/lethal force incident. In addition, this action will update Resolution 19-872, Section G, FY22 Designation of Entities for Non-Competitive Award Status to allow the Office of the County Executive to establish a new contract with ELE4A to provide the work as described above.

I recommend that the County Council approve this supplemental appropriation in the amount of \$250,000 and specify the source of funds as General Fund Undesignated Reserves. This supplemental will reduce County General Government Fund Reserves by \$250,000 and is consistent with the fund balance policy for tax supported reserves.

Special Appropriation #22-28 to the FY22 Operating Budget
November 10, 2021
Page 2 of 2

I appreciate your prompt consideration of this action.

ME:es

Attachment: Special Appropriation #22-28 the FY22 Operating Budget
Montgomery County Government and
Amendment to the Fiscal Year 2022 Operating Budget
Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for
Non-Competitive Contract Award Status

Cc: David Kunes, Chief of Staff to the Council President
Julio Murillo, Chief of Staff to the Council President
Fariba Kassiri, Deputy Chief Administrative Officer
Earl Stoddard, Assistant Chief Administrative Officer
Avinash G. Shetty, Director, Office of Procurement
Jennifer R. Bryant, Director, Office of Management and Budget



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

Richard S. Madaleno
Chief Administrative Officer

MEMORANDUM

November 10, 2021

TO: Tom Hucker, President
County Council

FROM: Richard S. Madaleno, Chief Administrative Officer *Richard Madaleno*

SUBJECT: Amendment to the Fiscal Year 2022 Operating Budget
Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for
Non-Competitive Contract Award Status for Special Appropriation #22-28

The County Executive has recommended to amend the Fiscal Year (FY) 2022 Operating Budget Resolution 19-872, Section G, and the FY22 Designation of Entities for Non-Competitive Contract Award Status as described below:

Named Entity	Purpose	Award
Effective Law Enforcement for All, Inc.	To provide for ongoing work on both the independent audit of the Montgomery County Department of Police and organization of the work of the Reimagining Public Safety Task Force.	\$250,000

I have determined that this action serves a public purpose and is in the public interest. Therefore, I recommend that the Council amend the Miscellaneous Provision in Section G of Resolution 19-872 for the FY22 Designation of Entities for Non-Competitive Award.

RM:rpm

Enclosure: Amendment to Section G, FY22 Designation of Entities for Non-Competitive Contract Award

Cc: Fariba Kassiri, Deputy Chief Administrative Officer
Avinash G. Shetty, Director, Office of Procurement
Jennifer R. Bryant, Director, Office of Management and Budget
David Kunes, Chief of Staff to Council President



OFFICE OF THE COUNTY EXECUTIVE


Marc Elrich
County Executive

Tiffany Ward, Director
Office of Racial Equity and Social Justice

MEMORANDUM

November 4, 2021

To: Jennifer Bryant, Director
Office of Management and Budget

From: Tiffany Ward, Director
Office of Racial Equity and Social Justice 

Re: Special Appropriation: Effective Law Enforcement for All #22-28

- I. **FINDINGS:** The Office of Racial Equity and Social Justice (ORESJ) finds that Special Appropriation #22-28 is likely to advance racial equity and social justice in the County by funding Effective Law Enforcement for All, Inc. (ELE4A) to support the continuation of the County's efforts to reimagine public safety. Engaging ELE4A will strengthen the County's ability to operationalize recommendations identified by the Reimagining Public Safety Taskforce. This, in turn, will better position the County to make policy, practice, and systems changes that address racial and ethnic disparities and disproportionalities in local policing.
- II. **BACKGROUND:** The purpose of Special Appropriation #22-28 is to increase funding to ELE4A to support the continuation of its review of the County's Department of Police, and to provide additional work including community and stakeholder engagement, technical assistance, strategic planning, crisis response coordination, reporting, on-call advisory services, management guidance related to the recent officer involved shooting, and a formal independent *After Action Review* of the July 16, 2021 officer involved shooting/lethal force incident.

Racial and ethnic disparities and disproportionalities in policing in the US are well documented¹. These disparities are evident in police-public interactions ranging from traffic stops to use of force, and ultimately are reflected in higher rates of incarceration among

¹ Lynne Peeples. nature. "What the data say about police brutality and racial bias—and which reforms might work". June 19, 2020 (updated May 26, 2021). Available at: <https://www.nature.com/articles/d41586-020-01846-z>.

Black and Latino people compared to White people. The overrepresentation of Black and Latino people in prison compared to their representation in the population overall is stark. The Sentencing Project reports that Black Americans are incarcerated at 4.8 times the rate of White Americans, while Latino individuals are incarcerated at 1.3 times the rate of White Americans². Further, studies have concluded that people of color face a higher likelihood of being killed by police than do White men and women³. In the County, Black residents make up 18% of the population, but represent 32% of Montgomery County Police Department (MCPD) traffic stops in 2018; 44% of MCPD arrests in 2017; and 55% of MCPD use of force cases compared to 2018⁴. As with other racial inequities, the root cause of these disparities is complex and includes historical and current policies and practices that extend beyond the realm of the criminal legal system. The Sentencing Project describes how an enduring legacy of racial subordination and structural disadvantages perpetuate disparities⁵; other research expands upon this pointing to “austerity in social welfare and public health programs that has led to police and prisons becoming catch-all responses to social problems”⁶.

In July 2021, The County’s Reimagining Public Safety Task Force with support from ELE4A released the Montgomery County Reimagining Public Safety Task Force Recommendations Report. In the report, the taskforce co-chairs explain how the taskforce “attempted to produce a strategy for public safety that prioritized social and economic development over punishment and that fosters public safety regardless of ethnicity or economic background”⁷. The report included insights from 45 community members and 31 Montgomery County department, agencies, and union representatives, and resulted in 87 recommendations, which fall under five categories and involve a mix of policy, practice, and structural changes. Overarching themes that emerged from the report include⁸:

- Shifting certain responsibilities from police to County agencies and community organizations
- Implementing and/or expanding alternative responses to crime

² Ashley Nellis, Ph. D. The Sentencing Project. *The Color of Justice: Racial and Ethnic Disparity in State Prisons*. October 13, 2021. Available at: <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

³ Frank Edwards, Hedwig Lee, and Michael Esposito. Proceedings of the National Academy of Sciences of the United State of America. “Risk of being killed by police use of force in the United States by age, race–ethnicity, and sex.” August 20, 2019. Available at: <https://www.pnas.org/content/116/34/16793>.

⁴ Elaine Bonner-Tompkins Natalia Carrizosa. Office of Legislative Oversight. Montgomery County, Maryland. Local Policing Data and Best Practices. Report Number 2020-9. July 21, 2020. Available at: <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLOReport2020-9.pdf>.

⁵ Ashley Nellis, Ph. D.

⁶ Frank Edwards, Hedwig Lee, and Michael Esposito.

⁷ Reimagining Public Safety Task Force. Montgomery County, Maryland. 2021 Reimagining Public Safety Task Force Recommendations Report. February 2021. Available at: <https://ele4a.org/wp-content/uploads/2021/08/rps-task-force-recommendations-report.pdf>.

⁸ Reimagining Public Safety Task Force.

- Revising law enforcement recruitment, training, and public encounters with civilians to enhance accountability and innovation
- Changing law enforcement culture so that it's collaborative; transparent; culturally competent; and embodies a "guardian" no "warrior" role

This report builds on existing work in the County to understand and address bias in policing. One year prior, in July 2020, the Office of Legislative Oversight (OLO) produced a report documenting existing MCPD data policies and practices and how they compare to national best practice, particularly as they relate to policing disparities by race and ethnicity. The emphasis on high-quality policing data is echoed by scholars and policymakers alike, as the absence of it prevents rigorous study, ultimately masking disparate outcomes and perpetuating ineffective and often biased policies and practices. Currently MCPD's detention, police-public interactions, and police complaints data and processes partially align with best practices; there are several documented gaps and areas of weakness. Addressing these gaps will involve a number of systemic, policy, and practice changes—constituting a structural transformation. Many of OLO's findings were highlighted and discussed in the Public Safety Task Force Report. For example, Recommendation #38 in the Task Force Report relates specifically to the data collection practices outlined in OLO's report.

Next steps identified in the report involve developing a plan for implementation, including discussing programmatic details and obtaining community input. Given the recommendations identified in the report and the ways in which implementation would require both structural and practice change, there will likely be need for additional technical expertise. During the next phase of this project, it will be important to consider the work produced by the Center for Policing Equity and the policy plans and toolkits it has produced to support national, state, and local governments in developing a just and safe policing systems. A 2019 Center for Policing Equity and Yale Law School Justice Collaboratory report titled *Re-imagining Public Safety: Prevent Harm and Lead with the Truth*⁹ recommends trust-building, dignity, parsimony, and equity as central tenets of any effort to reimagine public safety. Embedding these principles allows public safety systems to: increase cooperation and trust between individuals and the state; recognize and address inequalities in wealth and power that produce and exacerbate racial disparities; reduce criminal justice exposure; and identify racial inequities across the criminal justice system.

cc: Ken Hartman, Director, Strategic Partnerships, Office of the County Executive
Dr. Monifa McKnight, Interim Superintendent, Montgomery County Public Schools
Nicole Gyapong, Administrative Coordinator, Office of the County Executive

⁹ Phillip Atiba Goff, Elizabeth Hinton, Tracey L. Meares, Caroline Nobo Sarnoff, Tom R. Tyler. Yale Law School The Justice Collaboratory and Center for Policing Equity. Available at: https://policingequity.org/images/pdfs-doc/reports/re-imagining_public_safety_final_11.26.19.pdf.

Resolution No: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Special Appropriation #22-28 to the FY22 Operating Budget
Montgomery County Government and
Amendment to the Fiscal Year 2022 Operating Budget
Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for
Non-Competitive Contract Award Status
Office of the County Executive, \$250,000

Background

1. Section 308 of the Montgomery County Charter provides that a special appropriation: (a) may be made at any time after public notice by news release; (b) must state that the special appropriation is necessary to meet an unforeseen disaster or other emergency or to act without delay in the public interest; (c) must specify the revenues necessary to finance it; and (d) must be approved by no fewer than six members of the Council.
2. The County Executive has requested the following FY22 Operating Budget appropriation increase for the Office of the County Executive:

<u>Personnel Services</u>	<u>Operating Expenses</u>	<u>Total</u>	<u>Source of Funds</u>
\$0	\$250,000	\$250,000	General Fund Undesignated Reserves

3. This increase is needed for Effective Law Enforcement for All, Inc. (ELE4A) to continue its review of the County's Department of Police, and to provide additional work including community and stakeholder engagement, technical assistance, strategic planning, crisis response coordination, reporting, on-call advisory services, management guidance related to the recent officer involved shooting, and a formal independent *After Action Review* of the July 16, 2021 officer involved shooting/lethal force incident. Continuing the services ELE4A provides is in alignment with the County Executive's priorities to determine if there are systemic and/or racial biases present within the County's Department of Police and to provide community engagement to support any findings and develop recommendations.
4. The County Executive has requested a special appropriation to the FY22 Operating Budget in the amount of \$250,000 for a contract with ELE4A and specifies that the source of funds will be General Fund Undesignated Reserves.

5. Section 11B-14 (a)(4) of the Montgomery County Code states that “a contract may be awarded without competition if the Chief Administrative Officer makes a written determination that the contract award serves a public purpose and proposed contractor has been identified in a grant or appropriation resolution approved by the Council.” The result of this action is to amend the Fiscal Year (FY) 2022 Designation of Entities for Non-Competitive Contract Award status resolution to include the entity below:
6. The Chief Administrative Office has determined that funding for this contract with this entity serves a public purpose and that such an expense would be in the public interest.
7. The Office of the County Executive will add an award to Effective Law Enforcement for All, Inc. “To provide for ongoing work on both the independent audit of the Montgomery County Department of Police and organization of the work of the Reimagining Public Safety Task Force.”
8. The public was notified by a news release.

Action

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

1. A special appropriation to the FY22 Operating Budget of the Office of the County Executive is approved as follows:

<u>Personnel Services</u>	<u>Operating Expenses</u>	<u>Total</u>	<u>Source of Funds</u>
\$0	\$250,000	\$250,000	General Fund Undesignated Reserves

2. The Council approves an amendment to the Designation of Entities for Non-Competitive Contract Award and thereby amends Resolution 19-872, Section G, FY22 Designation of Entities for Non-Competitive Contract Award. The Chief Administrative Officer has recommended this action and stated that this action serves a public purpose and is in the public interest. The FY22 Designation of Entities for Non-Competitive Contract Award Status resolution is amended to add an award to Effective Law Enforcement for All, Inc., in the amount of \$250,000 for the purpose: “To provide for ongoing work on both the independent audit of the Montgomery County Department of Police and organization of the work of the Reimagining Public Safety Task Force.”
3. The County Council declares that this action is necessary to be acted upon without delay in the public interest.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council