

## **M E M O R A N D U M**

July 19, 2021

TO: Public Safety Committee

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 18-21, Police – Internal Affairs Procedures and Reporting Requirements

PURPOSE: Worksession – Committee recommendation expected

### **Expected Attendees**

Representatives of the County Executive and MCPD

Bill 18-21, Police – Internal Affairs Procedures and Reporting Requirements, sponsored by Lead Sponsor Council President Hucker and Co-Sponsors Councilmembers Jawando, Riemer, Glass, Navarro, and Rice, was introduced on May 18, 2021.<sup>1</sup> A public hearing was held on June, 22, 2021. A Public Safety Committee worksession is scheduled for July 22 at 9:30 a.m.

Bill 18-21 would:

- require the issuance of body-worn cameras under certain circumstances;
- require the internal random review of certain body-worn camera recordings;
- require review by the Internal Affairs Division of certain body-worn camera recordings;
- require the internal reporting of certain investigations to the Chief of Police;
- require the reporting of certain investigations, investigative files, and body-worn camera recordings to the County Executive, the County Council, and the State's Attorney; and
- require maintenance of a log of each time a body-worn camera recording is accessed or redacted.

### **PURPOSE**

The purpose of Bill 18-21 is to improve police accountability through the random review of body-worn camera, and through the prompt reporting of serious Internal Affairs Division (IAD) investigations.

### **BILL SPECIFICS**

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#BodyCamReview #MCPDTransparency

The bill would make several additions to the law related to the use and transparency of body-worn camera recordings. First, the bill would require the provision of a body-worn camera to an officer whenever the officer is on-duty wearing a uniform or prominently displaying insignia. This would ensure that officers who normally work in plain clothes have body-worn cameras when they are required to work in uniform in *ad hoc* situations. Currently, a plainclothes officer called to serve in uniform, for example during the Capitol riots, does not necessarily have access to a body-worn camera.

Second, the bill would mandate internal random reviews of body-worn camera recordings to evaluate officer performance and compliance with police rules. The bill would distinguish this “random” review from reviewing the recordings of a particular officer without cause. The routine review of an officer’s body camera footage without cause is precluded by the Department’s current collective bargaining agreement with the Fraternal Order of Police (FOP). The Department does not currently conduct random reviews without cause to discover misconduct.

Third, the bill would require that certain types of potential administrative misconduct discovered on body-camera recordings be investigated by the IAD. These would include instances of:

- a use of force under Section 35-22;
- a child under the age of 18;
- a potential criminal offense by a Department employee;
- a fatality or serious bodily injury; or
- potential discrimination or harassment by an employee on the basis of race, ethnicity, national origin, sex, sexual orientation, gender expression, gender identity, disability, or religion.

Regarding IAD investigations in general, the bill would require the IAD to brief the Police Chief on its investigations at least monthly. The following types of investigations would need to be reported to the Chief immediately:

- a use of force under Section 35-22;
- a child under the age of 18;
- a potential criminal offense by a Department employee;
- a fatality or serious bodily injury; or
- potential discrimination or harassment by an employee on the basis of race, ethnicity, national origin, sex, sexual orientation, gender expression, gender identity, disability, or religion.

The Police Chief, in turn, would be required to inform the County Executive and the County Council about the above-mentioned types of IAD investigations within 24 hours. If the County Executive or County Council requests a copy of an investigative file or a body-worn camera recording, then the file or recording must be provided within 7 days of the request. Currently, the Police Department engages in internal reporting; the bill would set up specific standards for the reporting and specify a timeline for sharing information.

Another requirement of the bill would be that the Police Chief would be required to inform the State's Attorney's Office, within 7 days, upon becoming aware of a potential criminal offense by a Department employee. Thus, the bill would help ensure that the State's Attorney has notice of a potential crime before the applicable statute of limitations has run.

Additionally, the bill would require a log of each instance that an individual accesses or redacts a body-worn camera recording. Lastly, the bill would require the Chief, on a quarterly basis, to report to the County Executive and County Council on any IAD investigations that have been pending for more than 180 days. Under current law, the Chief is not required to report to the Council on a quarterly basis, although the Department does issue annual IAD reports, [IAD reports page, MCPD, Montgomery County, MD \(montgomerycountymd.gov\)](#).

### **SUMMARY OF THE PUBLIC HEARING**

At the public hearing on June 22, five speakers testified regarding Bill 18-21. On behalf of the County Executive, ACAO Caroline Sturgis supported the bill and noted that a preliminary external audit of the Police Department was forthcoming. Mr. Holland, on behalf of the FOP Lodge 35, stated that the union supports the bill as written. He stated that the bill aligns with the current Collective Bargaining Agreement, and that the bill would improve the timeliness of internal affairs investigations.

Ms. Blackburne, on behalf of the NAACP, expressed support for the bill, but asked that language regarding the "random" review of body camera recordings be clarified. Two organizations – the Silver Spring Justice Coalition (SSJC) and Jews United for Justice – expressed significant concerns about the bill. Both organizations stated that they oppose the bill unless a number of amendments are adopted to increase transparency.

In the Racial Equity and Social Justice Impact Statement, the Office of Legislative Oversight (OLO) has stated that the bill is likely to have a positive effect and recommended amendments (*see* discussion below, Issues ## 7 and 8).

According to the Fiscal Impact Statement, a supplemental appropriation of approximately \$1 million would be needed to implement Bill 18-21 in FY22. Costs over a 6-year period would be approximately \$3.3 million.

### **ISSUES FOR THE COMMITTEE'S CONSIDERATION**

#### **1. New State Laws**

Under provision of the Maryland Police Accountability Act of 2021, changes to state law regarding body-worn camera recordings will take effect on July 1, 2022. Under those changes, the Montgomery County Police Department will be required – by July 1, 2025 – to mandate the use of body-worn cameras by officers, and to adopt a policy on body-worn cameras that is consistent with policies of the Maryland Police Training and Standards Commission. [2021 Regular Session - Senate Bill 71 Chapter \(maryland.gov\)](#).

The current policies of the Maryland Police Training and Standards Commission regarding body-worn cameras, [Body-Worn Camera Policy.pdf \(mdle.net\)](#), provide general guidance to

local police departments about the various components that a body-worn camera policy should cover. Much of the detail of the policies is left to local departments.

Once the County is subject to the new state laws on body-worn cameras in 2025, the County will not be permitted to “negate or alter any of the requirements or policies established in accordance with” the new state law “through collective bargaining.”

## **2. Initial External Audit of MCPD**

The preliminary external audit of MCPD, issued on June 30, 2021, [ELEFA MCPD Preliminary Report | June 30 2021 \(montgomerycountymd.gov\)](#), contains the following observations and recommendations regarding body-worn cameras, some of which would be addressed, at least in part, by Bill 18-21:

- *MCPD does not...provide guidance to the investigating force officials on circumstances when to elevate less serious uses of force to Internal Affairs or a Force Team to initiate a formal investigation. (page 14).*
  - Bill 18-21 would address this issue in part by requiring that certain types uses of force discovered through random BWC review would be investigated by the Internal Affairs Division (IAD).
- *MCPD does not issue BWCs to SAT (Special Assignment Teams). These officers work on the front line and often engage with the public. When force is used, no video is available to provide Departmental for review when warranted. Further, officers working off duty employment are not required to wear a BWC. (page 15)*
  - Bill 18-21 would require a BWC to be issued to an officer whenever the officer is on duty and wearing a uniform or a badge (or other prominent insignia identifying themselves as an officer). The bill would not address the issue of BWC for off-duty officers.
- *MCPD should consider initiating a process for conducting an internal random audit of videos so as to get ahead of and identify any possible training issues. The random auditing can also provide an internal mechanism that can potentially provide guidance to supervisors on how to conduct their video reviews and assessments. (page 15)*
  - Bill 18-21 requires random audits of BWC. Certain types of uses of forces discovered by the review would have to be elevated to IAD.
- *There is no requirement for Sergeants to audit BWC after each shift, including those that were identified as having a mental health component. This is important not only for overall accountability and coaching, but also to assess CIT skills utilized, and resources accessed. (page 28).*
  - Bill 18-21 does not require the automatic review of certain incidents by supervisors. The Committee might wish to ask the Police Department to

comment upon this recommendation, as it relates to current practices as well as the Collective Bargaining Agreement.

### **3. Scope of Mandatory Reviews by IAD**

The Silver Spring Justice Coalition (SSJC) has recommended that IAD reviews of certain incidents be made mandatory under Bill 18-21, regardless of whether the incidents are discovered through the random review of BWC recordings. Currently, the bill requires mandatory IAD review of certain incidents that are discovered through periodic, random review of BWC.

Requiring supervisors to refer certain types of incidents to IAD automatically is part of a larger discussion about the use of force, which is beyond the sponsor's intended scope of this legislation. It is unclear what changes would be needed to IAD staffing, or to the Collective Bargaining Agreement, to achieve the recommendation.

The Committee might wish to ask staff to conduct further review of this recommendation and, potentially, to wrap the review into the larger discussion of future Council bills that will be necessary to implement the Maryland Police Accountability Act of 2021.

### **4. Scope of Mandatory Internal Reporting**

The SSJC also has recommended expanding the scope of the types of incidents internally reported from IAD to the Chief on a monthly basis. In addition to the incidents already covered under the bill, SSJC suggests that the IAD should provide a statement to the Chief, each month, "regarding Division compliance" with the requirements for BWC reviews.

The SSJC also has recommended specifying the types of demographic information that must be reported to the County Executive and County Council, with regard to the incidents that the Chief is required to report to them within 24 hours. The demographic information would include, at a minimum, race, ethnicity, and gender information. Potential amendments include:

- (e) Monthly internal affairs reports to the Chief. At least once a month, the Internal Affairs Division must report to the Chief regarding the status of each pending investigation. For each investigation, the report must include, at a minimum[[.]]:
- (1) the nature of the allegation[[.]];
  - (2) the date of the complaint, the name or each employee involved[[. and]];
  - (3) the name of the investigating officer; and
  - (4) the source of the investigation, including whether the investigation arose from a random review under subsection (c).

\* \* \*

- (g) Required reports to the County Executive and the County Council. Within 24 hours after receiving a report of an investigation under subsection (f), the Chief must

notify the County Executive and the County Council of the existence and nature of the investigation, including:

- \* \* \*
- (4) demographic information, including race, ethnicity, and gender information, regarding residents involved the matter under investigation; and

**Decision point:** whether to adopt the amendments described above regarding mandatory internal reporting to the Chief.

## **5. Mandatory Reports to the State's Attorney**

Under the bill as originally drafted, the Chief would be required to report to the State's Attorney, within 7 days, any potential criminal action of a Department employee. The Committee might wish to alter the 7-day timeline; the SSJC has recommended shortening the timeline to 48 hours.

(h) Required reports to the State's Attorney. The Chief must notify the State's Attorney regarding the existence and nature of an incident or investigation within [[7 days]] 48 hours after the Chief:

- (1) receives a report under subsection (e) that involves a potential criminal offense by a Department employee; or
- (2) otherwise becomes aware of a potential criminal offense by a Department employee.

The Committee might wish to ask the Police Department to comment upon an appropriate timeline for reporting incidents to the State's Attorney.

**Decision point:** whether to amend the bill to shorten the time period in which the Chief reports certain information to the State's Attorney from 7 days to 48 hours (or some other time period).

## **6. Defining "Random" Review of BWC Recordings**

The NAACP, and other advocates, have recommended giving greater specificity to the term "random review" under the bill. One option would be to define "random review" as follows:

Random review means reviewing, at regular intervals, statistically valid samples of a set, in which each item of the set has an equal opportunity of being chosen for a sample.

**Decision point:** whether and how to define “random review”.

## **7. Civilian Oversight**

In the RESJ Statement, OLO has recommended that the bill be amended to provide for civilian oversight over IAD investigations. Central staff would recommend folding the issue of civilian oversight into the larger discussion of amending the Code in response to the Maryland Police Accountability Act of 2021. Under that Act, the County will need to form a police accountability board and administrative charging committee related to civilian complaints and potential police misconduct. [2021 Regular Session - House Bill 670 Chapter \(maryland.gov\)](#).

## **8. Access of Complainants to BWC Footage**

The RESJ Statement also recommended amending the bill to allow for civilian complainants to have access to certain BWC recordings. While this is a critically important issue, it is beyond the intended scope of the bill’s lead sponsor. As originally drafted, the focus of the bill is on internal reporting as opposed to residents’ access to BCW footage.

Council central staff would recommend that the issue of civilian access to BCW recordings should be considered in the context of implementing the State’s new “Anton’s Law,” which takes effect on October 1, 2021. [2021 Regular Session - Senate Bill 178 Chapter \(maryland.gov\)](#).

Under Anton’s law, a police department will be permitted to deny the inspection of records related to investigations of police misconduct only in certain narrow circumstances; the records will no longer be considered “personnel records” exempt from disclosure under the Public Information Act.

## **9. Collective Bargaining**

The SSJC has recommended adopting an amendment to exempt the requirements of the Bill 18-21 from collective bargaining. The Committee might wish to hold this issue pending *Fraternal Order of Police, Montgomery County, Lodge 35, Inc. v. Montgomery County, Maryland*, Circuit Court for Montgomery County, Civil Action No. 485763V.

## **10. Use of Body-Worn Cameras by Undercover Officers**

The SSCJ has recommended that the bill should be amended to require the use of body-worn cameras by plainclothes and undercover officers. However, the Maryland Wiretapping and Electronic Surveillance Act permits audio-recording without consent only in certain circumstances, including if an officer is wearing a uniform or otherwise prominently displaying a badge or other insignia identifying the officer as law enforcement. *See* Md. Code Ann., Courts & Judicial Procedure § 10-402 (permitting a law enforcement officer in the course of the officer’s regular duty to intercept an oral communication with a body-worn digital recording device or an electronic control device capable of recording video and oral communications only if certain conditions are met, including that “[t]he law enforcement officer is in uniform or prominently displaying the officer’s badge or other insignia”).

In addition to this legal impediment under the Wiretap Act, requiring undercover officers to use body-worn cameras might pose safety and logistical issues that would require further study.

## **11. Technical Edits**

The Office of the County Attorney has several technical edits:

We suggest the Council amend the term “review” in line 38 to “investigate,” because this more accurately describes the role of IAD....

The word “in” should be inserted between “involved” and “the” in line 80. We also suggest that the phrase “if known” be inserted in line 80, after “demographic information,” because demographic information may not be available to the Department.

**Decision point:** whether to adopt the technical amendments recommended by OCA.

**Next Steps:** Committee recommendation on whether to enact Bill 18-21, including any amendments described above.

### **This packet contains:**

Bill 11-21  
Legislative Request Report  
Sponsor’s Memorandum  
RESJ Impact Statement  
Economic Impact Statement  
Fiscal Impact Statement  
Executive Testimony  
Office of the County Attorney Memorandum  
Public Testimony

### **Circle #**

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Bill No. 18-21  
Concerning: Police – Internal Affairs  
Procedures and Reporting  
Requirements  
Revised: 5/11/2021 Draft No. 3  
Introduced: May 18, 2021  
Expires: November 18, 2022  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Hucker  
Co-Sponsors: Councilmembers Jawando, Riemer, Glass, Navarro, and Rice

### AN ACT to:

- (1) require the issuance of body-worn cameras under certain circumstances;
- (2) require the internal random review of certain body-worn camera recordings;
- (3) require review by the Internal Affairs Division of certain body-worn camera recordings;
- (4) require the internal reporting of certain investigations to the Chief of Police;
- (5) require the reporting of certain investigations, investigative files, and body-worn camera recordings to the County Executive, the County Council, and the State's Attorney;
- (6) require maintenance of a log of each time a body-worn camera recording is accessed or redacted; and
- (7) generally amend the law governing policing, body-worn camera recordings, and police internal affairs.

By amending

Montgomery County Code  
Chapter 35, Police  
Section 35-9

<b>Boldface</b>	<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 35-9 is amended as follows:**

2   **35-9. [Reserved.] Internal Affairs Procedures and Reporting Requirements.**

3       (a)   Definitions. For purposes of this Section, the following terms have the  
4           meanings indicated.

5           Administrative misconduct means alleged misconduct by a Department  
6           employee that, if true, could result in discipline against the employee.

7           Body-worn camera recording or recording means a video or audio  
8           recording obtained through a camera system worn on the person of an  
9           employee of the Department.

10          Chief or Police Chief means the Chief of the Department or the Chief's  
11          designee.

12          Department means the Montgomery County Police Department.

13          Internal Affairs Division or Division means the division or unit of the  
14          Department with primary responsibility for investigating administrative  
15          misconduct by a Department employee if the investigation could result in  
16          disciplinary action against the employee.

17          Investigation means an investigation conducted by the Division into  
18          allegations of administrative misconduct by an employee of the  
19          Department.

20       (b)   Mandatory issuance of body worn cameras. The Department must issue  
21           a body worn camera, for the use of an on-duty employee of the  
22           Department, whenever the employee:

23           (1)   is in uniform; or

24           (2)   prominently displays a badge or other insignia.

25       (c)   Mandatory random review of body-worn camera recordings.

(1) The Department must conduct periodic, random reviews of body-worn camera recordings to assess:

(A) employee compliance with legal requirements and Department policy;

(B) employee performance; and

(C) consistency between employees' written reports and recordings.

(2) Except when performing a random review under paragraph (1), the Department must not review body-worn camera recordings, without cause, to discover acts of misconduct or instances of poor performance.

(d) Mandatory review by the Internal Affairs Division. The Internal Affairs Division must review, in addition to any matter it is required to review by the Chief or under Department policy, any body-worn camera recording identified under subsection (c) that:

(1) relates to potential administrative misconduct by an employee of the Department; and

(2) involves:

(A) a use of force under Section 35-22;

(B) a child under the age of 18;

(C) a potential criminal offense by a Department employee;

(D) a fatality or serious bodily injury; or

(E) potential discrimination or harassment by an employee on the basis of race, ethnicity, national origin, sex, sexual orientation, gender expression, gender identity, disability, or religion.

(e) Monthly internal affairs reports to the Chief. At least once a month, the Internal Affairs Division must report to the Chief regarding the status of each pending investigation. For each investigation, the report must include, at a minimum, the nature of the allegation, the date of the complaint, the name or each employee involved, and the name of the investigating officer.

(f) Immediate reporting of certain investigations to the Chief.

(1) The Internal Affairs Division immediately must report to the Chief regarding any investigation that involves:

(A) a use of force under Section 35-22;

(B) a child under the age of 18;

(C) a potential criminal offense by a Department employee;

(D) a fatality or serious bodily injury; or

(E) potential discrimination or harassment by an employee on the basis of race, ethnicity, national origin, sex, sexual orientation, gender expression, gender identity, disability, or religion.

(2) Within 48 hours of submitting a report under paragraph (1), the Division must provide to the Chief any body-worn camera recordings associated with the investigation.

(g) Required reports to the County Executive and the County Council. Within 24 hours after receiving a report of an investigation under subsection (f), the Chief must notify the County Executive and the County Council of the existence and nature of the investigation, including:

(1) the date of any complaint that precipitated the investigation;

- (2) the date and location of the incident under investigation;
- (3) the general nature of the allegations under investigation;
- (4) demographic information regarding residents involved the matter under investigation; and
- (5) the category of the investigation under paragraph (1) of subsection (f).

(h) Required reports to the State's Attorney. The Chief must notify the State's Attorney regarding the existence and nature of an incident or investigation within 7 days after the Chief:

- (1) receives a report under subsection (e) that involves a potential criminal offense by a Department employee; or
- (2) otherwise becomes aware of a potential criminal offense by a Department employee.

(i) Copies of investigative files and recordings.

(1) If the County Executive, the County Council, or the State's Attorney requests a copy of an investigative file or a body-worn camera recording associated with an incident or investigation under subsections (g) or (h), the Department must provide the requested copy within 7 calendar days, unless a state or federal law:

- (A) requires an earlier disclosure; or
- (B) prohibits the disclosure.

(2) The recipient of an investigative file or a body-worn camera recording under paragraph (1) must not redisclose the file or recording except in accordance with the Maryland Public Information Act or other applicable law.

(j) Log of access to body-worn camera recordings.

(1) The Department must maintain a log that records each instance that a person accesses or redacts a body-worn camera recording.

(2) The log must include, at a minimum, the time and date of the access or redaction, and the identity of the person accessing or redacting the recording.

(k) Prompt completion of internal investigations. At least once every 3 months, the Chief must report to the County Executive and the County Council regarding:

(1) each investigation that is not complete within 180 days;

(2) the reasons for the delay; and

(3) an estimate of when the investigation will be complete.

## LEGISLATIVE REQUEST REPORT

Bill 18-21

*Police – Internal Affairs Procedures and Reporting Requirements*

<b>DESCRIPTION:</b>	Bill 18-21 would: <ul style="list-style-type: none"><li>• require the issuance of body-worn cameras under certain circumstances;</li><li>• require the internal random review of certain body-worn camera recordings;</li><li>• require review by the Internal Affairs Division of certain body-worn camera recordings;</li><li>• require the internal reporting of certain investigations to the Chief of Police;</li><li>• require the reporting of certain investigations, investigative files, and body-worn camera recordings to the County Executive, the County Council, and the State’s Attorney; and</li><li>• require maintenance of a log of each time a body-worn camera recording is accessed or redacted.</li></ul>
<b>PROBLEM:</b>	Improving accountability and oversight regarding body-worn camera recordings and Internal Affairs Division (IAD) investigations.
<b>GOALS AND OBJECTIVES:</b>	<i>See above.</i>
<b>COORDINATION:</b>	
<b>FISCAL IMPACT:</b>	Office of Management and Budget
<b>ECONOMIC IMPACT:</b>	Office of Legislative Oversight
<b>EVALUATION:</b>	
<b>EXPERIENCE ELSEWHERE:</b>	To be researched
<b>SOURCE OF INFORMATION:</b>	Christine Wellons, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	N/A
<b>PENALTIES:</b>	N/A



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

**TOM HUCKER**  
Council President

Member, Public Safety Committee  
Chair, Transportation & Environment Committee

**M E M O R A N D U M**

TO: Councilmembers

FROM: Tom Hucker, Council President

DATE: May 13, 2021

SUBJECT: Bill 18-21 – Police – Internal Affairs Procedures and Reporting Requirements

Dear Colleagues,

Next Tuesday, I will introduce legislation to bring transparency to our police body worn camera policy, to ensure serious incidents involving police are investigated judiciously and expeditiously, and that these incidents are elevated to the Chief, County Executive, State's Attorney, and County Council.

In March, we all watched with horror and disgust a nearly hour-long video of two patrol officers accosting and abusing a five-year-old child at East Silver Spring Elementary School. Beyond the egregious and disturbing conduct displayed by the officers involved, it is unacceptable that this incident, which generated international news, was not reported by MCPD to either the County Executive and the County Council until over a year after it occurred, and the video was not shared with us for many weeks despite requests from Councilmembers. If it were not for an intrepid reporter who happened to spot the case on a court docket, we might never have even found out about it. And we do not currently have visibility into the other incidents involving police use of force that result in investigations. Absent this legislation, serious incidents like the one at ESS can continue to be hidden from oversight and public view, further eroding community trust, undercutting our goals of increasing public confidence in MCPD, and making it very difficult to perform our oversight role.

We have worked with many County staff and community stakeholders on this proposal. The legislation provides a roadmap to enhanced police transparency and public accountability by instituting mandatory periodic and random reviews of body worn cameras and by requiring mandatory and timely reporting of certain incidents resulting in investigations - those involving use of force, a child under 18, alleged discrimination or harassment, potential criminal offenses, or fatalities or serious bodily injuries - to the County Executive and County Council.

Further, the bill requires that the State's Attorney's Office be notified within seven days when potential criminal offenses are committed by an employee. In addition to notification, the police department would also be required to provide certain investigative files and body-worn camera recordings to the County Executive, County Council, and State's Attorney within seven days, upon request. The bill increases transparency by requiring MCPD to make body cameras available to any officer who is called into uniform. Finally, the bill requires that the police department submit to the County Executive and County Council a quarterly report on ongoing investigations that exceed the 18c-day period recommended as a best practice by the Department of Justice.



When we initiated the body worn camera pilot program in 2015, we set public expectations that it would provide significant transparency into policing practices for elected officials, community stakeholders and the general public, resulting in greater public confidence in and awareness of the work of our officers. Our current body worn camera policy has not yet achieved that and needs this reform.

I urge you to support and to cosponsor this legislation that will bring needed sunlight into our body worn camera program. We should not have to wait until a lawsuit is brought or rely on media reports to hear about such unacceptable behavior by a member of law enforcement.

Please feel free to reach out with any questions or suggestions.

# BILL 18-21: POLICE-INTERNAL AFFAIRS PROCEDURES AND REPORTING REQUIREMENTS

## SUMMARY

OLO anticipates that Bill 18-21 will favorably impact racial equity and social justice (RESJ) in Montgomery County. This impact could be further improved if it includes amendments to (1) increase civilian oversight of internal affairs investigations, and (2) make body-worn camera recordings available to civilian complainants.

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## BACKGROUND

Bill 18-21, Police - Internal Affairs Procedures and Reporting Requirements, was introduced to the County Council on May 18, 2021. The purpose of Bill 18-21 is to improve police accountability through the random review of body-worn camera (BWC) footage, the use of BWC footage to launch Internal Affairs Division (IAD) investigations, and through the prompt reporting of serious IAD investigations to County leaders. To achieve these goals, Bill 18-21 would require the following changes to County law:

- The issuance of body-worn cameras whenever an officer is on-duty wearing a uniform or prominently displaying insignia;
- The internal random review of certain body-worn camera recordings to evaluate officer performance and compliance with police rules;
- The internal reporting of IAD investigations to the Chief of Police monthly;
- Across the following five categories, IAD will investigate potential administrative misconduct discovered on BWC recordings and report investigations to the Chief of Police immediately:
  - Use of force,
  - Children,
  - Potentially criminal offenses by MCPD employees,
  - Fatality or serious bodily harm, or
  - Potential discrimination or harassment by a MCPD employee;
- The reporting of certain investigations, investigative files, and BWC recordings for the above-mentioned types of IAD investigations within 24 hours to the County Executive, County Council, and the State's Attorney;
- If the Executive or Council request a copy of the investigative file or body-worn camera footage, then the file or recording must be provided within seven days;
- The maintenance of a log of each time a body-worn camera recording is accessed or redacted; and
- The Chief to report to the Executive and County Council quarterly any IAD investigations that have been pending for more than 180 days.

The overarching goal of Bill 18-21 is to increase the transparency and accountability of BWC footage to address policing misconduct. Other jurisdictions have implemented similar policing reform practices that use BWC footage to audit policing practices, including the Los Angeles Police Department.<sup>1</sup>

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## CRIMINAL JUSTICE, BODY-WORN CAMERAS, AND RACIAL EQUITY

The War on Drugs and the system of mass incarceration that primarily impacts Black people is essential for understanding the potential impact of Bill 18-21 on racial equity and social justice in Montgomery County.

Racial equity occurs when race no longer predicts life outcomes and each racial group has the power to determine their own agency. Yet, as noted by Michelle Alexander, the War on Drugs has increased the number of people in the criminal justice system and exacerbated racial inequities in the system in three ways.<sup>2</sup> Alexander refers to this process of creating second-class citizens among Black people in the criminal justice system as the “New Jim Crow.”

- The first phase is the **Roundup** where the police conduct drug operations primarily in poor communities of color and sweep vast numbers of people into the criminal justice system. The police are rewarded for rounding up as many people as possible; they can stop, interrogate, and search anyone they choose for drug investigations, provided they get “consent.” Because there is no meaningful check on the exercise of police discretion, racial biases are granted free rein. In fact, police are allowed to rely on race as a factor in selecting whom to stop and search (even though people of color are no more likely to be guilty of drug crimes than Whites) – effectively guaranteeing those who are swept into the system are primarily Black and Brown.
- The second phase is **Conviction** where defendants, once arrested, are generally denied meaningful legal representation and pressured to plead guilty whether they are or not. Prosecutors are free to “load up” defendants with extra charges, and their decisions cannot be challenged for racial bias. Once convicted, due to the Drug War’s harsh sentencing laws, drug offenders spend more time under the criminal justice system’s formal control – in jail or prison, on probation or parole - than drug offenders anywhere else in the world. This period may last a lifetime, even for those convicted of extremely minor, nonviolent offenses, but the vast majority of those swept into the system are eventually released.
- The final phase is **Invisible Punishment** where individuals experience criminal sanctions after they have served their time. These sanctions, which are largely outside of public view, are imposed by the operation of law rather than the decisions of a sentencing judge. The collateral damages of invisible punishment can have a greater impact on individuals than the time spent incarcerated, denying individuals to fully mainstream back into society. The legal discriminations that manifest as invisible punishment include; denied employment, housing, education, and public benefits. Unable to surmount these challenges, most will eventually return to prison and then be released again, caught in this never-ending cycle that reinforces their marginality and second-class citizenship.

Within this mass incarceration context, body cameras are viewed as a key police reform to help interrupt the disproportionate entry of Black and Latinx people into the criminal justice system. The implied theory of action for Bill 18-21 is that greater transparency of police misbehavior documented by body-worn cameras will lead to greater accountability for constitutional policing that diminishes racial and ethnic inequities in the criminal justice system. BWC are viewed as a strategy to interrupt the biased “roundup” and “conviction” stages of the mass incarceration pipeline. Yet, the available research to date offers at best mixed results on whether BWC affect policing or improves accountability for policing misconduct in ways that improve racial equity.<sup>3</sup>

For example, a recent summary of research on body-worn cameras by the CCJ Task Force on Policing finds that the use of BWC can be effective at reducing public complaints as a tool to support investigations, prosecutions, and public defense cases.<sup>4</sup> Research from the University of Chicago suggests that BWC can reduce police use of force.<sup>5</sup> Research from the federal monitor for the New York City Police Department finds that the use of BWC compels officers to provide a more accounting of their pedestrian stops.<sup>6</sup>

Yet, there is no research finding that the use of BWC has diminished racial disparities in policing.<sup>7</sup> Moreover, Black residents are not as confident as White residents that BWC will improve police-community relations, narrow racial disparities, or improve officer accountability. Some Black residents fear that BWC footage can generate more harm than good by re-traumatizing Black residents with repeated views of state-sanctioned violence against their communities.<sup>8</sup> These findings align with research demonstrate the disparate treatment of Black residents among BWC equipped officers who (a) spoke less respectfully to Black community members in one study and (b) engaged in more unlawful stop and frisk encounters among Black and Latinx residents in another study.<sup>9</sup>

The Leadership Conference on Civil and Human Rights and Upturn note that whether BWC make police more accountable, or simply intensify police surveillance of communities, depends on how the cameras and footage are used.<sup>10</sup> The CCJ Task Force on Policing recommends that police departments employ strong accountability structures – training, supervision, appropriate policies, and oversight – to respond to misconduct revealed by video evidence.<sup>11</sup> The CCJ Task Force also notes that if BWC video is used routinely in officer trainings, performance reviews, BWC footage, supervisory audits, and misconduct investigations, BWC can uncover officer misconduct and enhance officer accountability. Enhanced accountability to address officer misconduct is required for BWC footage to impact disparities in policing by race and ethnicity.

The operation of internal affairs within police departments is also essential to promoting accountability for addressing allegations of police misconduct. Best practice recommends that internal affair functions focus on a broad range of concerns, rather than solely adjudicating individual cases.<sup>12</sup> Ideally, this should include a review of whether deficiencies in departmental policies, procedures or training have contributed to problematic policing behavior.<sup>13</sup> Toward this end, the Building Trust Internal Affairs Promising Practices Guide offers three promising practices for enhancing accountability measures through internal affairs:

- Implement a citizen review or advisory function to reassure the community of the accountability of the department. This could include the use of:
  - Citizen review board as a panel of citizens that handles every aspect of the citizen compliant continuum;
  - Police review/civilian oversight where the police department handles every aspect of the compliant continuum, but citizens review their actions;
  - Police review/citizen-police appeal board where the police department handles every aspect of the compliant continuum, but the complainant may appeal the outcome to a board comprised of officers and citizens; and
  - An independent citizen auditor where the police department handles every aspect of the compliant continuum, but a citizen serves as an auditor.
- Use data systems to track complaints and assess departmental climate.
- Disseminate summary complaint and investigation outcomes to the public on a regular, consistent basis

## DEMOGRAPHIC DATA

A review of data demonstrates racial and ethnic disparities in the “roundup” phase of the criminal justice system in Montgomery County. While Black people accounted for 18 percent of County residents, they comprised:

- 32 percent of Montgomery County Police Department (MCPD) traffic stops,
- 44 percent of MCPD arrests, and
- 55 percent of MCPD use of force cases.<sup>14</sup>

Among those experiencing traffic stops by MCPD:

- Black men were three times as likely as White men to receive any traffic violations (46% v. 17%),
- Latino men were nearly twice as likely (32% v. 17%), and
- Other men were more than twice as likely (42% v. 17%).<sup>15</sup>

A review of state data also demonstrates racial disparities in the “roundup” and “conviction” phases of the criminal justice system. While Black people accounted for 29 - 30 percent of the state’s population, they accounted for:

- 54 percent of arrests for marijuana use across Maryland;<sup>16</sup>
- 71 percent of Maryland’s correctional population;<sup>17</sup>
- 77 percent of Maryland’s maximum-security correctional population and prisoners serving life sentences;<sup>18</sup> and
- 100 percent of exonerated individuals across the state.<sup>19</sup>

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## ANTICIPATED RESJ IMPACTS

Bill 18-21 aligns with the research recommending greater accountability in the use of BWC footage to identify and sanction police misconduct. As such, OLO anticipates that Bill 18-21 will reduce racial inequities in policing and policing outcomes by holding more police officers accountable for misconduct and racially biased policing in particular.

To date, the greater transparency of policing behavior available with BWC footage has been used to improve the tactical functions of police departments aimed at collecting evidence for court, investigate support, social control (e.g. mass demonstrations) and protecting officers in the line of duty. These goals benefit officers, but not as much as the communities that police are sworn to protect and serve. To achieve the later requires an accountability infrastructure aimed at using BWC footage to investigate and hold police officers accountable for misconduct.

The key provisions of Bill 18-21 require the random review of BWC footage to identify serious incidents of alleged misconduct and to increase reporting of internal affairs investigations. These key provisions align with policy expert recommendations for improving policing equity and accountability for police misconduct. Given this alignment, OLO anticipates that Bill 18-21 will reduce instances of racial misconduct in local policing and, in-turn, help diminish disparities by race and ethnicity in criminal justice outcomes across the County.

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## METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

OLO reviewed several sources of information to develop this RESJ impact statement, including the following:

- Internal Affairs Division Annual Report, Montgomery County Department of Police, 2020
- Justin Ready and Jacob Young, The Unfulfilled Potential of Police Body Cameras in the Era of Black Lives Matter, Slate, October 1, 2020
- Ashley Southall, Police Body Cameras Cited as ‘Powerful Tool’ Against Stop and Frisk Abuses, New York Times, November 30, 2020
- Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement, 2009
- CCJ Task Force on Policing, Body-Worn Cameras, Policy Assessment, April 2021
- The Leadership Conference on Civil and Human Rights and Upturn, Policy Body Worn Cameras: A Policy Scorecard, November 2017
- PBS NewsHour, Body Cameras Are Seen As Key to Police Reform. But Do They Increase Accountability? June 25, 2020
- Cheryl Corley, Study: Body-Worn Camera Research Shows Drop in Use of Force, NPR Criminal Justice Collaborative, April 26, 2021
- Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice, Community Oriented Policing Services, U.S. Department of Justice, 2008
- Sunyoung Pyo, Do Body-Worn Cameras Change Law Enforcement Behavior? A National Study of Local Police Departments, The American Review of Public Administration, December 27, 2020
- Rob Voigt, et al, Language From Police Body Camera Footage Shows Racial Disparities in Officer Respect, PNAS, June 20, 2017
- Erin M. Kerrison, Jennifer Cobbina, and Kimberly Bender, Stop-Gaps, Lip Service, and Perceived Futility of Body-Worn Police Officer Cameras in Baltimore City, Journal of Ethnic and Cultural Diversity in Social Work, June 8, 2018

OLO also reviewed Racial and Equity Impact Notes authored by Jasmon Bailey of the Maryland Department of Legislative Services for the 2021 Maryland General Assembly for three criminal justice bills: HB 3, HB 32, and HB 742.

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## RECOMMENDED AMENDMENTS

To further enhance accountability to identify and address police misconduct, OLO recommends the Council consider amendments to Bill 18-21 that increase citizen oversight of internal audit investigations and provide citizen complainants access to relevant BWC footage.

As noted in the Building Trust Internal Affairs Promising Practices Guide, the use of citizen reviews and advisory functions can improve departmental accountability for policing misconduct and reassure the community about the accountability of the department.<sup>20</sup> One of four common approaches - citizen review board, police review with citizen oversight, police review with citizen-police appeal board, or an independent citizen auditor - should be considered as recent changes to state law that now allow civilian oversight of police misconduct investigations.

Another best practice for advancing accountability in policing as noted by the Leadership Conference on Civil and Human Rights and Upturn is making BWC footage available to individuals filing complaints.<sup>21</sup> While MCPD officers can access BWC footage to file initial police reports and statements, civilians accusing police officers of misconduct do not have this same right.<sup>22</sup> To improve both accountability and equity and to identify and address instances of misconduct, civilian complainants, like police officers, should be able to access BWC footage to help inform their complaints.

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## CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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## CONTRIBUTIONS

OLO Senior Legislative Analyst Dr. Elaine Bonner-Tompkins authored this RESJ impact statement.

<sup>1</sup> Haley Samsel, Los Angeles Police Plan to Review Body Camera Footage for Instances of 'Biased Policing', Security Today, November 8, 2019

<sup>2</sup> See pages 185-6 of Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, The New Press, 2012

<sup>3</sup> PBS NewsHour, Body Cameras Are Seen As Key to Police Reform. But Do They Increase Accountability? June 25, 2020

<sup>4</sup> CCJ Task Force on Policing: Body-Worn Cameras, Policy Assessment, April 2021

<sup>5</sup> BWC Research Shows Drop in Police Use of Force, Cheryl Corley, NPR, April 26, 2021

<sup>6</sup> New York Times, Ashley Southall, Police Body Cameras Cites as "Powerful Tool" Against Stop-and-Frisk Abuses, November 30, 2020

<sup>7</sup> CCJ Task Force on Policing and Sunyoung Pyo, December 27, 2020

<sup>8</sup> Lawrence, Peterson, and Thompson, 2018 cited in CCJ Task Force on Policing and Erin Kerrison, Jennifer Cobbina, and Kimberly Bender, *Journal of Ethnic and Cultural Diversity in Social Work*, 2016

<sup>9</sup> Rob Voigt et al, *Journal of Psychological and Cognitive Sciences (PNAS)*, June 20, 2017 and Ashley Southall, New York Times, November 30, 2020

<sup>10</sup> The Leadership Conference on Civil and Human Rights and Upturn, *Police Body Worn Cameras: A Policy Scorecard*, November 2017

<sup>11</sup> CCJ Task Force on Policing

<sup>12</sup> *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement*, 2009

<sup>13</sup> *Protecting Civil Rights*, 2006, cited in *Building Trust Between the Police and the Citizens*.

<sup>14</sup> OLO Report 2020-9, Local Policing Data and Best Practices,

<https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLOReport2020-9.pdf>

<sup>15</sup> Ibid

<sup>16</sup> Race and Equity Note for HB 32, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2021rs-HB32-REIN.pdf>

<sup>17</sup> Race and Equity Note for HB 3, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2021rs-HB3-REIN.pdf>

<sup>18</sup> Ibid

<sup>19</sup> Race and Equity Note for HB 742, <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2021rs-HB742-REIN.pdf>

<sup>20</sup> *Internal Affairs Promising Practices Guide for Local Law Enforcement*

<sup>21</sup> *Police Body Worn Cameras: A Policy Scorecard*

<sup>22</sup> Ibid

## Bill 18-21

# Police – Internal Affairs Procedures and Reporting Requirements

### SUMMARY

The Office of Legislative Oversight (OLO) believes that enacting Bill 18-21 would have insignificant impacts on economic conditions in the County.

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### BACKGROUND

The purpose of Bill 18-21 is to improve “accountability and oversight regarding body-worn camera recordings and Internal Affairs Division (IAD) investigations.” The bill would attempt to do so by requiring the following: “the issuance of body-worn cameras under certain circumstances; ... the internal random review of certain body-worn camera recordings; ... review by the Internal Affairs Division of certain body-worn camera recordings; ... the internal reporting of certain investigations to the Chief of Police; ... the reporting of certain investigations, investigative files, and body-worn camera recordings to the County Executive, the County Council, and the State’s Attorney; and ... maintenance of a log of each time a body-worn camera recording is accessed or redacted.”<sup>1</sup>

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### METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

No methodologies were used in this analysis. The assumptions underlying the claims in subsequent sections are based on OLO staff judgment.

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### VARIABLES

Not applicable

<sup>1</sup> Montgomery County Council, Bill 18-21, Police – Internal Affairs Procedures and Reporting Requirements, introduced on May 18, 2021. See Introduction Staff Report, [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2709\\_1\\_14442\\_Bill\\_18-21\\_Introduction\\_20210518.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2709_1_14442_Bill_18-21_Introduction_20210518.pdf).



## IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

### Businesses, Non-Profits, Other Private Organization

OLO believes that Bill 18-21 would have no economic impacts on private organizations in the County in terms of the Council's priority indicators, namely business income, workforce, operating costs, capital investments, property values, taxation policy, economic development, and competitiveness.<sup>2</sup>

### Residents

OLO does not believe that Bill 18-21 would significantly affect County residents in terms of the Council's priority indicators.

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## DISCUSSION ITEMS

Not applicable

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## WORKS CITED

Montgomery County Code. Sec. 2-81B. Economic Impact Statements.

Montgomery County Council. Bill 18-21, Police – Internal Affairs Procedures and Reporting Requirements. Introduced on May 18, 2021.

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## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

<sup>2</sup> For the Council's priority indicators, see Montgomery County Code, Sec. 2-81B. Economic Impact Statements, [https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md/0-0-0-80894](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894).

**Fiscal Impact Statement**  
**Bill 18-21, Police – Internal Affairs Procedures and Reporting Requirements**

**1. Legislative Summary**

Bill 18-21 requires the use of body-worn cameras by on-duty officers in uniform or wearing identifiable police insignia, an internal random review of those recordings, investigations of misconduct by the Internal Affairs Division under certain circumstances, mandatory reporting to the County Executive, County Council and the State’s Attorney regarding specific investigation types, and documentation of each time body-worn camera footage is accessed or redacted.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

By Montgomery County Police Department (MCPD) policy, each active duty officer is assigned two Body-Worn Cameras (BWCs), and in each 24-hour period approximately 1,320 BWCs are in use or being re-charged (see table below).

Shift	Average Number of Active Officers <sup>i</sup>	Number of Cameras in Use
Daywork	280	560
Evenings	260	520
Midnight	120	240

MCPD has an inventory of 1,850 AB3<sup>ii</sup> cameras, with an additional 295 AB3 cameras reserved as emergency replacements. Approximately 600 new cameras would be needed for officers that only occasionally wear uniforms and for other non-patrol uniformed officers that have not been issued a camera. BWCs are unique to each officer and have a specific ID number so that recorded footage can be assigned to a particular individual. The purchase of additional BWCs to implement this Bill would include the one-time costs of the camera, camera mounts, docking stations, and the ongoing costs for licensing, storage, and software updates.

600 Body-Worn Cameras	Estimate
Onetime Unit Costs <sup>iii</sup>	398,430
Annual Cost of Licensing for New Users <sup>iv</sup>	331,200
Docking Stations <sup>v</sup>	106,502
Network Connectivity <sup>vi</sup>	33,750
Total	869,882

MCPD currently has two Information Technology Specialist positions, one of which is vacant, that are responsible for reviewing and redacting BWC footage in accordance with the Maryland Public Information Act (MPIA). MCPD processes over 100 requests monthly which originate from residents, attorneys, and the media. Although the number of requests received by the department are a significant cost factor, the department's ability to fill the IT Specialist vacancy is a greater factor in determining the speed of fulfilling these requests and controlling overtime costs.

In addition to outside requests, MCPD reviews BWC recordings as part of evidence reviews, administrative inquiries, training assessments, and for any official investigation involving a personnel complaint, criminal activity, or civil infraction.

The random reviews stipulated by the Bill will likely be made the responsibility of MCPD's Professional Accountability Division (PAD). As a result, PAD would need additional resources that may come from shifting existing resources or from the addition of an Administrative Specialist I, Grade 21.

Regarding the Bill's requirement for IAD investigations resulting from the random reviews, an increase is possible but not expected. Note that in the FY22 approved budget, the Internal Affairs Division will add two additional Sergeants to the Division.

### 3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

	FY22	FY23	FY24	FY25	FY26	FY27	6-Year Total
Administrative Specialist (PAD)	\$125,027	\$127,545	\$130,632	\$133,819	\$137,085	\$140,429	\$794,568
Additional Body-Worn Cameras	\$538,682	-	-	-	-	-	\$538,682
User Licenses	\$331,200	\$331,200	\$331,200	331,200	331,200	331,200	\$1,987,200
<b>Total:</b>	<b>\$994,939</b>	<b>\$458,745</b>	<b>\$461,832</b>	<b>\$465,019</b>	<b>\$468,285</b>	<b>\$471,629</b>	<b>\$3,320,450</b>

- 4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Bill 18-21 does not authorize future spending.

- 7. An estimate of the staff time needed to implement the bill.**

Although it is not mandated by the Bill, implementation could result in an increase in the requests for BWC footage, the frequency of BWC reviews, and the number of Internal Affairs investigations. More information is needed about these possibilities; however, an additional Administrative Specialist within the PAD will be needed.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

The residual impact of this Bill's implementation on existing responsibilities will depend on the unpredictable increase in requests for BWC footage from the public, and investigations by the Internal Affairs Division.

- 9. An estimate of costs when an additional appropriation is needed.**

Approximately \$994,940 in additional FY22 appropriation is expected for this Bill's implementation to accommodate the additional costs of BWCs, and for the personnel costs of an Administrative Specialist that would be assigned to complete random reviews of camera footage.

- 10. A description of any variable that could affect revenue and cost estimates.**

Requests for BWC footage must be reviewed and redacted to comply with the privacy requirements established in the Maryland Public Information Act. These requests originate from residents, attorneys, and the media. A significant increase in requests is possible, but not expected. Given that MCPD currently receives over 100 requests monthly, any increase in requests will result in the need to shift responsibilities from existing resources in the department to meet the new demand or for an additional Information Technology Specialist within the Information Management Division. Pursuing the option of reallocating existing resources may create resource and capacity issues within MCPD, while the additional salary and benefits costs of an additional IT Specialist, Grade 23, is approximately \$136,000.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

The Bill's implementation is expected to cost \$3.3 million over a six-year period. With the inclusion of an additional Information Technology Specialist within the Information Management Division, the six-year estimate would increase to \$3.47 million.

In FY22, costs would increase from \$994,940 to \$1,130,990.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Not applicable.

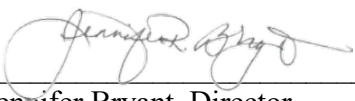
**13. Other fiscal impacts or comments.**

Article 71 of the Collective Bargaining Agreement with the Fraternal Order of Police establishes several restrictions on when BWC footage can be viewed. In particular, BWC footage can be viewed following a specific incident of a pursuit, use of force resulting in injury, collision of a police vehicle, an external complaint, or if there is reasonable basis to suspect an officer's criminal activity or misconduct.

Bill 18-21 would require bargaining with respect to implementation.

**14. The following contributed to and concurred with this analysis:**

Neil Shorb, Department of Police  
Taman Morris, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer Bryant, Director  
Office of Management and Budget

\_\_\_\_\_  
7/2/21  
Date

<sup>i</sup> Each shift of active duty officers includes approximately 30 executive officers.

<sup>ii</sup> These are upgraded Body-worn Cameras from the supply procured from Axon.

<sup>iii</sup> The one-time unit cost of a Body-worn Camera is \$664.05

<sup>iv</sup> Licensing costs are an ongoing expense of \$92 per month per user. This fee covers the costs of unlimited storage, the camera's warranty, software integrations, and software updates for 300 users.

<sup>v</sup> Docking stations are equipped to charge eight Body-worn Cameras at time.

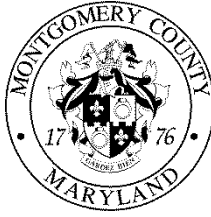
<sup>vi</sup> Network connectivity is needed for the 75 Docking Stations needed for the 600 new Body-worn Cameras.

**TESTIMONY ON BEHALF OF THE COUNTY EXECUTIVE MARC ELRICH ON BILL 18-21, POLICE –  
INTERNAL AFFAIRS PROCEDURES AND REPORTING**

Greetings Council President and Councilmembers, I am ACAO Caroline Sturgis. I appear before you on behalf of County Executive Elrich regarding Bill 18-21. The County Executive supports this bill.

The bill provides for random review of body-worn camera recordings by the Police Department, requires the Department's Internal Affairs Division (IAD) to report certain internal investigations to the Police Chief, and requires the Chief to report some of those investigations to the County Executive and County Council. Last year, the County Executive launched an independent audit of the police department and two of the areas of focus being evaluated are internal affairs and use of force. The preliminary report provides recommendations to enhance both areas, including an internal auditing protocol for body worn camera and other force related videos. The police department audit preliminary report will be available at the end of this month. The Executive is committed to implementing the recommendations offered by the independent consultant that are evidence-based and best practices.

Thank you for your time this afternoon.




OFFICE OF THE COUNTY ATTORNEY

Marc Elrich  
*County Executive*

Marc P. Hansen  
*County Attorney*

MEMORANDUM

TO: Caroline Sturgis  
Assistant Chief Administrative Officer

FROM: Edward B. Lattner, Chief   
Division of Government Operations

DATE: June 10, 2021

RE: **Bill 18-21, Police - Internal Affairs Procedures and Reporting Requirements**

Bill 18-21 provides for random review of body-worn camera recordings by the Police Department, requires the Department's Internal Affairs Division (IAD) to report certain internal investigations to the Police Chief, and requires the Chief to report some of those investigations to the County Executive and County Council. The bill is legally sufficient, but we write to highlight the relationship between the Bill's requirement for random review of body-worn camera recordings and the police collective bargaining agreement's (CBA) prohibition of routine review of those recordings. We also have some suggested edits.

**Body-Worn Camera Video**

The Bill provides as follows:

- (c) *Mandatory random review of body-worn camera recordings.*
  - (1) The Department must conduct periodic, random reviews of body worn camera recordings to assess:
    - (A) employee compliance with legal requirements and Department policy;
    - (B) employee performance; and
    - (C) consistency between employees' written reports and recordings.
  - (2) Except when performing a random review under paragraph (1), the Department must not review body-worn camera recordings, without cause, to discover acts of misconduct or instances of poor performance.

Article 72(D)(2) of the CBA provides as follows:

[Body Worn Camera System] recordings shall not be routinely reviewed for the express purpose of discovering acts of misconduct or instances of poor performance without cause. An employee's supervisor may use BWCS recordings to address performance when cause exists.

Council staff has concluded that the Bill language does not conflict with the CBA language. "The bill would distinguish this 'random' review [required by the Bill] from reviewing the recordings of a particular officer without cause [prohibited by the CBA]. The routine review of an officer's body camera footage without cause is precluded by the Department's current collective bargaining agreement with the Fraternal Order of Police (FOP)." Council Introduction Packet 2.

We believe the Council staff's conclusion is reasonable. Moreover, even if this provision of the Bill could be read to conflict with a sentence in the CBA, we do not believe this conflict rises to the level of a violation of the federal constitution's Contract Clause.<sup>1</sup>

### Technical Edits

We suggest the Council amend the term "review" in line 38 to "investigate," because this more accurately describes the role of IAD. The Bill compels the Department to conduct periodic, random "reviews" of body-worn camera recordings. IAD must then "investigate" recordings that meet the specified statutory criteria (e.g., the recording reveals potential violation of the Departmental use of force policy).

The word "in" should be inserted between "involved" and "the" in line 80. We also suggest that the phrase "if known" be inserted in line 80, after "demographic information," because demographic information may not be available to the Department.

cc: Christine Wellons, Legislative Attorney  
Dale Tibbitts, Special Assistant to the County Executive  
Marcus Jones, Police Chief  
Haley Roberts, Associate County Attorney  
Tammy Seymour, OCA

21-003444

<sup>1</sup> Despite the absolutist nature of the Clause, the Constitutional prohibition against impairing the obligation of contracts is not to be read literally. *Keystone Bituminous Coal Ass'n. v. DeBenedictis*, 480 U.S. 470, 502 (1987). The Contract Clause does not prohibit governments from impairing contracts but limits a government's right to do so. The courts employ a three-part test for harmonizing the command of the Contract Clause with the necessarily reserved sovereign power of the government to provide for the welfare of its citizens. *Baltimore Teachers Union v. Mayor and City Council*, 6 F.3d 1012, 1015 (4<sup>th</sup> Cir. 1993). A reviewing court must determine: (1) whether there has been an impairment of the contract; (2) whether that impairment was substantial; and (3) if so, whether the impairment was nonetheless a legitimate exercise of the police power. *FOP Lodge No. 89 v. Prince George's Cty.*, 608 F.3d 183, 188 (4<sup>th</sup> Cir. 2010).





**The National Association for the Advancement of Colored People (NAACP)**  
**Montgomery County Branch**  
**Testimony - Bill 18-21, Police – Internal Affairs Procedures and Reporting**  
**Requirements**  
**Tuesday, June 22, 2021**

Good afternoon Council President Hucker and Council Members. Thank you for holding this hearing to receive comments on Council Bill 18-21 – Police Internal Affairs Procedures and Reporting Requirements.

The NAACP Montgomery County Branch supports the overall aim and direction of this bill. Further, we appreciate Council President Hucker's willingness to work with us as this bill moved from idea to written product.

Over the last year, since the death of George Floyd, we have seen the important role of video recording in general and body-worn cameras in particular in providing evidence in cases involving police use of excessive force. The effective and consistent use of body-worn cameras by police officers must be an integral part of 21st century policing and may provide the kind of transparency that leads to accountability.

However, body-worn cameras are of little value in discerning the contours of police interaction with residents if the footage recorded is not routinely and randomly reviewed. Council Bill 18-21 is a commendable bill as it seeks to improve police accountability through the random review of body-worn cameras, and through the prompt reporting of serious Internal Affairs Division (IAD) investigations.

However, The NAACP Montgomery County Branch, has some concerns with the "random" review of body cam video. We are concerned that the essential component of "random review" may be undermined by the "with cause" provision. While we are sympathetic to the FOP's concern that the review of body cam videos should not be used by management to target or harass officers, we believe that the product of the reviews which reveal a failure to comply with established policy should be used to instruct, re-train and potentially discipline if a review reveals egregious conduct. Because a 'with cause standard' undermines the "random review" required in the bill we urge you to clarify the language in the bill to assure that the randomness element is not lost. Further, we recommend that the department be required to submit a plan for "random review" which involves use of an algorithm which assures a truly "random review."

The NAACP continues to be on the forefront of diminishing and promoting the de-escalation of police use of force. We believe that CB18-21 is an important step in moving towards more accountable and transparent police practices in Montgomery County.

Thank you for the opportunity to testify and we look forward to continuing to work with you on legislation that brings equity and inclusion to every aspect of county government.

**Jews United for Justice (JUFJ)**

Melissa Coretz Goemann

Silver Spring, MD

[www.jufj.org](http://www.jufj.org)



THINK JEWISHLY. ACT LOCALLY.

**Testimony in Opposition unless Amended to Bill 18-21  
Police - Internal Affairs - Procedures and Reporting Requirements  
Public Hearing June 22, 2021 - 1:30 pm**

Dear Montgomery County Councilmembers:

My name is Melissa Coretz Goemann and I am offering this testimony in opposition, unless amended, to Bill 18-21 regarding Body Worn Cameras, on behalf of Jews United for Justice (JUFJ). JUFJ represents over 2,700 Jews and allies from across Montgomery County who, based on our shared values, work to advance economic and social justice and racial equity in our local community. I am a resident of Silver Spring and have worked on juvenile justice and civil rights issues for over 15 years, currently as the Senior Policy Counsel for the National Juvenile Justice Network.

Body worn cameras (BWCs) are an important tool in uncovering police misconduct to take corrective action. An extremely disturbing incident of police officers verbally abusing and traumatizing a 5-year-old boy who had left the grounds of East Silver Elementary School recently made national news. But this horrific incident didn't come to light until one year later, when the boy's mother sued Montgomery County and local media covered the lawsuit - even the Montgomery County Council and State's Attorney were unaware of this police abuse of power.

Police abuse of residents - and especially of children - must not be allowed to happen again. We appreciate Councilmember Hucker's work to address this wrong through the proposed Bill 18-21. However, without the amendments outlined below, we are concerned that this bill will not prevent police from continuing to keep misconduct hidden from the rest of the County government and the public.

We urge you to adopt these amendments:

1) Bill 18-21 expressly limits BWCs to officers in uniform or who are prominently displaying a badge. The bill should be amended to include both plain clothes and undercover officers. This

follows the new Gaithersburg City Police Department policy, which expressly requires BWCs for undercover officers.

2) The bill contains few details regarding the random reviews of BWC footage, making it very difficult to enforce. The Office of Legislative Oversight's Racial Equity and Social Justice (RESJ) Impact Statement on this bill stresses that the random review aspect of the bill is the key provision that could help to reduce racial misconduct in local policing. It can't do this, however, unless it is easily enforceable. In addition to the need to bolster this provision, we would like to expand the random reviews of BWC footage to include officers with a history of misconduct complaints.

3) The bill should provide requirements for public reporting about misconduct investigations and release of BWC footage to victims of misconduct and to the public. The RESJ Impact Statement also recommended that civilian complainants, like police officers, be given access to BWC footage to help inform their complaints.

4) The bill should require public reporting and publishing of information about misconduct investigations to the fullest extent possible under the newly amended MPIA.

5) The bill should contain language prohibiting collective bargaining on the substance of the bill's requirements.

6) Pursuant to the recommendation in the RESJ Impact Statement, the Council should increase citizen oversight of internal audit investigations in order to promote accountability for addressing allegations of police misconduct by implementing one of the following: a citizen review board; police review with citizen oversight; police review with a citizen-police appeal board; or an independent citizen auditor.

Our Jewish faith teaches us that "When we destroy one person, we destroy an entire universe" (Mishna Sanhedrin 4:5). We must make this bill as strong as possible to help prevent police from taking actions that can severely harm and even destroy people's lives.

Respectfully submitted,

Melissa Coretz Goemann, on behalf of Jews United for Justice



Roberto Martinez  
Silver Spring, Maryland  
On Behalf of the Silver Spring Justice Coalition

**Bill 18-21 - Internal Affairs - Procedures and Reporting Requirements - Testimony in  
Opposition Unless Amended**

My name is Roberto Martinez and I am a criminal defense attorney in this County. I am testifying on behalf of the Silver Spring Justice Coalition; a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County. We envision a state and county where community and individual needs for safety are met while police harm is eliminated.

Body-worn cameras recorded officers killing Robert White and Finan Berhe, as well as officers terrorizing a 5 year old child; yet all of these officers remain on active duty. I know from my work that months after killing Mr. White, Officer Badgujar abused and illegally arrested another County resident. The case was dismissed, but Officer Badgujar is still on active duty. These cases illustrate that reviews of body worn camera footage have little impact, and we do not believe that will change with this bill, especially not in its current form.

For this reason, SSJC opposes Bill 18-21 unless it includes a number of amendments to increase transparency and accountability, such as:

- All reviews of body worn camera recordings must be conducted by the Internal Affairs Division and random reviews must have parameters beyond the word “random,” such as, a specific percent of recordings, taking place with a specified frequency, and in a specific period of time;
- Require additional random reviews of recordings of officers with prior misconduct complaints;
- Require review by IAD of the recordings of *any* alleged incident that forms the basis for *any* misconduct complaint;
- Create a mechanism for releasing body-worn camera recordings to the public; the Office of Legislative Oversight made a similar recommendation in its Racial Equity and Social Justice Impact Statement;

- The body-worn camera requirement must be consistent with the recently enacted State law and it should specify that cameras must be used by plain clothes and undercover officers;
- All information that is provided to the County Executive, County Council, and State's Attorney under the bill should also be published on a public dashboard, to the extent permitted by law; and
- The Bill's provisions cannot be subject to collective bargaining.

Only if this bill is strengthened to include far greater transparency and accountability will it have any chance of actually decreasing harm by police.

SSJC Redline

Bill No. 18-21

Lead Sponsor: Council President Hucker

Co-Sponsors: Councilmembers Jawando and Riemer

**AN ACT** to:

- (1) require the issuance of body-worn cameras under certain circumstances;
- (2) require the internal random review of certain body-worn camera recordings;
- (3) require review by the Internal Affairs Division of certain body-worn camera recordings;
- (4) require the internal reporting of certain investigations to the Chief of Police;
- (5) require the reporting of certain investigations, investigative files, and body-worn camera recordings to the County Executive, the County Council, and the State's Attorney;
- (6) require maintenance of a log of each time a body-worn camera recording is accessed or redacted; and
- (7) generally amend the law governing policing, body-worn camera recordings, and police internal affairs.

By amending

Montgomery County Code  
Chapter 35, Police  
Section 35-9

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

1     **Sec. 1. Section 35-9 is amended as follows:**

2     **35-9. [Reserved.] Internal Affairs Procedures and Reporting Requirements.**

3 (a) *Definitions.* For purposes of this Section, the following terms have the  
4 meanings indicated.

5     *Administrative misconduct* means alleged misconduct by a Department  
6 employee that, if true, could result in discipline against the employee.

7     *Body-worn camera recording or recording* means a video or audio  
8 recording obtained through a camera system worn on the person of an  
9 employee of the Department.

10    *Chief or Police Chief* means the Chief of the Department or the Chief's

11 designee.  
12 *Department* means the Montgomery County Police Department.  
13 *Internal Affairs Division* or *Division* means the division or unit of the  
14 Department with primary responsibility for investigating administrative  
15 misconduct by a Department employee if the investigation could result in  
16 disciplinary action against the employee.  
17 *Investigation* means an investigation conducted by the Division into  
18 allegations of administrative misconduct by an employee of the  
19 Department.

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20 (b) *Mandatory issuance and use of body worn cameras.*

The Department must issue

(1) ~~21~~ a body-worn camera, ~~for~~ to all law enforcement officers who  
regularly interact with members of the use of a public as part of their  
official duties;

(2) Body-worn cameras must be used by all on-duty employee of the, and  
off-duty and armed, law enforcement officers, including all plain-clothes  
and undercover officers.

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~~22~~ Department, whenever the employee:

~~23~~ (1) is in uniform; or

~~24~~ (2) prominently displays a badge or other insignia.

25 (c) *Mandatory random review of body-worn camera recordings.*

26 (1) —The ~~Department~~Internal Affairs Division must conduct periodic, random  
reviewsreview of body

~~27~~ worn camera recordings to assess:

~~28~~ (A) ~~employee~~Employee compliance with legal requirements and

(A) ~~29~~ Department policy;

(B) ~~30~~ (B) ~~employee~~Employee performance; and

~~31~~ (C) ~~consistency~~Consistency between employees' written reports and

(C) ~~32~~ recordings.

~~33~~ (2) —Except when performing aIn addition to periodic random review under  
paragraphreviews required in (1), the

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34 ~~Department must not review~~ Division shall conduct periodic random  
reviews of all body-worn camera recordings;

35 ~~without cause, to discover acts generated by law enforcement~~  
officers who have received a complaint of misconduct or instances of poor within the  
past three years;

36 ~~performance.~~

(3) Periodic, random reviews required in (1) and (2) shall be:

(A) Performed within 90 days of the date the body worn camera  
recording is stored in the Department's records.

(B) Of a statistically valid sample of all body worn camera recordings  
stored each month;

(4) The Chief shall provide, 90 days after the enactment of this Bill and within  
30 days of the beginning of each year thereafter, to the County Executive and the  
County Council a detailed description of the review process established pursuant to this  
Bill.

37 (d) *Mandatory review by the Internal Affairs Division.* The Internal Affairs

38 Division must review, in addition to any matter it is required to review by  
subsection (c), the Chief, or under Department policy, any body-worn camera recording

39 ~~the Chief or under Department policy, any body-worn camera recording~~  
40 ~~identified under subsection (e) that:~~

41 (1) ~~relates to potential administrative misconduct by an employee of~~  
42 ~~the Department; and~~

43 (21) involves:

(A) a use of force under Section 35-22;

(B) a child under the age of 18;

46 (C) a fatality or serious bodily injury;

(D) a complaint (sworn or not sworn) by an individual of police  
misconduct by any person, for which a body-worn camera recording has been  
made; or

(2) relates to possible administrative misconduct by an employee of the  
Department involving;

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46 (A) a potential criminal offense by a Department employee;

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47 ~~(D) a fatality or serious bodily injury; or or~~

48 ~~(E)~~ potential discrimination or harassment by an employee on

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49 the basis of race, ethnicity, national origin, sex, sexual

50 orientation, gender expression, gender identity, disability, or

51 religion.

(e) Except when performing a random review under paragraph (c) or mandatory review under paragraph (d), the Division must not review body-worn camera recordings, without cause, to discover acts of misconduct or instances of poor performance.

52 ~~(ef)~~ *Monthly internal affairs reports to the Chief.* At least once a month, the

53 Internal Affairs Division must report to the Chief regarding the status of

54 each pending investigation. For each investigation, the report must

55 include, at a minimum, the nature of the allegation, the date of the

56 complaint, the name of each employee involved, and the name of the

57 investigating officer. The report must also include a statement regarding Division compliance with the requirement for periodic, random reviews in subsection (c) and the mandatory reviews in subsection (d).

58 ~~(fg)~~ *Immediate reporting of certain investigations to the Chief.*

59 (1) The Internal Affairs Division immediately must report to the Chief  
60 regarding any investigation that involves:

61 (A) a use of force under Section 35-22;

62 (B) a child under the age of 18;

63 (C) a potential criminal offense by a Department employee;

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64 (D) a fatality or serious bodily injury; or

65 (E) potential discrimination or harassment by an employee on

66 the basis of race, ethnicity, national origin, sex, sexual

67 orientation, gender expression, gender identity, disability, or

68 religion.

69 (2) Within 48 hours of submitting a report under paragraph (1), the

70 Division must provide to the Chief any body-worn camera  
 71 recordings associated with the investigation.

72 (gh) *Required reports to the County Executive and the County Council.*  
 73 Within 24 hours after receiving a report of an investigation under  
 74 subsection (f), the Chief must notify the County Executive and the  
 75 County Council of the existence and nature of the investigation,  
 76 including:

77 (1) the date of any complaint, if applicable, that precipitated the investigation;  
 78 (2) the date and location of the incident under investigation;  
 79 (3) ~~the general nature~~ a description of the allegations under investigation;  
 80 (4) demographic, including racial, ethnic, and gender, information regarding  
~~residents~~ individuals involved in the matter  
 81 under investigation; and

82 (5) the category of the investigation under paragraph (1) of subsection  
 83 (f).

84 (hi) *Required reports to the State's Attorney.* The Chief must notify the  
 85 State's Attorney regarding the existence and nature of an incident or  
 86 investigation within ~~7 days~~ 48 hours after the Chief:

87 (1) receives a report under subsection (e) that involves a potential  
 88 criminal offense by a Department employee; or  
 89 (2) otherwise becomes aware of a potential criminal offense by a  
 90 Department employee.

91 (i) *Copies of investigative files and recordings.*  
 92 (1) If the County Executive, the County Council, or the State's  
 93 Attorney requests a copy of an investigative file or a body-worn  
 94 camera recording associated with an incident or investigation  
 95 under subsections (g) or (h), the Department must provide the  
 96 requested copy within 7 calendar days, unless a state or federal  
 97 law:  
 98 (A) requires an earlier disclosure; or  
 99 (B) prohibits the disclosure.

100 (2) The recipient of an investigative file or a body-worn camera  
101 recording under paragraph (1) must not redisclose the file or  
102 recording except in accordance with the Maryland Public  
103 Information Act or other applicable law.

(3) If the complainant associated with an incident or investigation under subsections (g) or (h) requests a copy of an investigative file or a body-worn camera recording, the Department must provide the requested copy within 7 calendar days, unless a state or federal law:

(A) requires an earlier disclosure; or

(B) prohibits the disclosure.

104 ~~(j)~~ *Log of access to body-worn camera recordings.*

105 (1) The Department must maintain a log that records each instance that  
106 a person accesses or redacts a body-worn camera recording.

107 (2) The log must include, at a minimum, the time and date of the  
108 access or redaction, and the identity of the person accessing or  
109 redacting the recording.

110 ~~(k)~~ *Prompt completion of internal investigations.* At least once every 3  
111 months, the Chief must report to the County Executive and the County  
112 Council regarding:

113 (1) each investigation that is not complete within 180 days;

114 (2) the reasons for the delay; and

115 (3) an estimate of when the investigation will be complete.

(m) Public access to investigations by Internal Affairs Division. To the extent permitted by applicable law, the Department shall establish and maintain a publicly accessible dashboard on the Department website listing all pending Internal Affairs Division investigations, including, but not limited to:

(A) the names and districts of the officers and districts of the officers and the offenses under investigation,

(B) the date the investigation was initiated,

(C) finding of the investigation (including interim determinations), (D) demographic information of the victim(s) of the alleged misconduct;

(E) footage of all body-worn camera recording relevant to the investigation

(n) Reporting and public disclosure by the County Attorney of litigation related to police misconduct.

(1) The County Attorney shall notify the County Executive and the County Council of any and all litigation brought against the County or any County component or employee, which involves a claim of misconduct by an employee of the Department, within 24 hours of receiving legal service of such litigation.

(2) The County Attorney shall establish and maintain a publicly accessible online website that links to and describes any and all litigation in which the County Attorney, or its designee, is properly an attorney of record for litigation involving allegations of police misconduct, as set forth herein:

(A) The website shall be publicly available within 6 months after the enactment of this Bill.

(B) The website shall list, for each such case, the names of plaintiff(s) and defendant(s), the date the case was filed, a description of the claim(s), a description (including any amounts) of any settlement or court decision in the case, and other information the County Executive or Policing Advisory Committee deems appropriate.

(D) The website shall include all cases involving allegations of misconduct by a Department employee that the County Attorney, or its designee, has been an attorney of record, that have been filed over the past 5 years. All such information shall be posted on such website within 12 months of the enactment of this Bill.

(E) The County Attorney shall update the website with new cases within 24 hours after the case has been received by the County Attorney.

All other updates shall be completed within 30 days.

(o) County Executive annual report on Internal Affairs Division investigations. The County Executive shall issue to the County Council and the public an annual report summarizing the Internal Affairs Division investigations that occurred during the previous fiscal year.

(1) The report shall be issued within 90 days after the end of the fiscal year.

(2) The report shall contain as much information as is permitted by state law, including the allegations investigated by the Division, the status of any open investigations, and any recommended policy changes based on the past year's investigations.

(3) The report shall include a statement regarding Division compliance with the requirement for periodic, random reviews in subsection (c) and the mandatory reviews in subsection (d).

(p) *Collective bargaining preempted.* The provisions of subsections (a) through (o) constitute minimum standards within the meaning of Section 33-80(c)(2) and are enacted within the scope of employer rights under Section 33-80(b)(1) - (5), and therefore are not subject to collective bargaining.