

**MEMORANDUM**

January 10, 2022

**TO:** Government Operations and Fiscal Policy and  
Public Safety Committee

**FROM:** Susan J. Farag, Legislative Analyst  
Carlos Camacho, Legislative Analyst

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

**PURPOSE:** Review and vote on the special appropriation

The Joint Committee will review the Executives request for a \$250,000 special appropriation and amendment to the FY22 Operating Budget Resolution that extends work performed by Effective Law Enforcement for All (ELEFA). Those expected to attend include:

Chief Marcus Jones, Montgomery County Police Department (MCPD)  
Dr. Earl Stoddard, Assistant Chief Administrative Officer (ACAO)  
Assistant Chief Darren Francke, Management Services Bureau (MCPD)  
Taman Morris, Office of Management and Budget (OMB)  
David Douglass, President, ELEFA  
Dr. Ashley Burns, Executive Director, ELEFA  
Mary Ann Viverette, ELEFA  
Jackie Proctor, ELEFA  
Bill Murphy, ELEFA

**Background**

In 2020, the County undertook several initiatives to examine policing. That summer, the County Executive established the Reimagine Public Safety Task Force (RPSTF).<sup>1</sup> Shortly thereafter, he requested a \$550,000 supplemental appropriation to conduct racial equity audits of both the Fire and the Police Departments and provide consultant support to the RPSTF. The

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<sup>1</sup> [Reimagining Public Safety Task Force](#)

Council passed a modified version of this request, appropriating \$350,000 for the Police Department audit and the consultant support for RPSTF. The Fire Department audit was delayed until the Executive could provide a scope of work. Funding for the audit was appropriated in the Fire and Rescue Service FY22 Operating Budget.

The Executive contracted with Effective Law Enforcement for All (ELEFA) to produce a comprehensive audit of the Police Department. Their preliminary audit findings were released June 30, 2021.<sup>2</sup> ELEFA continues to work on the final audit, and the Executive has requested to broaden the original scope of work to include additional community and stakeholder engagement, technical assistance, strategic planning, crisis response coordination, reporting, on-call advisory services, management guidance related to the recent officer involved shooting, and a formal independent After Action Review of the July 16, 2021 officer involved shooting/lethal force incident.

## **Modified Scope of Work**

When the Executive initially contracted with ELEFA, the original scope of work was quite broad.<sup>3</sup> It was refined and has produced a preliminary report on findings and recommendations related to the MCPD's use of force, internal affairs, mental health response, education and training, recruitment and hiring practices, early intervention, and an organizational overview (attached at ©9-16). These findings were included in ELEFA's preliminary audit report. ELEFA also supported the work of RPSTF, who published their final recommendations report on February 4, 2021.<sup>4</sup>

The next phase of work, for which the Executive requests the budget amendment and special appropriation, includes final recommendations, outreach, technical assistance, strategic planning, coordination leadership and reporting (attached at ©17-20). Phase 3 assumes that ELEFA will:

- lead and facilitate consensus-building on final recommendations with the RPS Task Force, identified County stakeholders, and the local community;
- provide ongoing technical assistance related to the implementation and refinement of action items;
- support leadership of the Reimagining Public Safety Initiative to help ensure progress on task force, audit, and Initiative milestones;
- coordinate the development of a strategic plan for county and MCPD crisis response related recommendations;
- advise and support the county and MCPD with the dissemination of information and communication related to final recommendations, strategic planning, milestones, and public engagement;

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<sup>2</sup> [Preliminary MCPD Audit \(June 31, 2021\)](#)

<sup>3</sup> [Scope of Work available at ©4-8 of the Staff Report for the Joint Committee's September 17, 2020 Worksession.](#)

<sup>4</sup> [2021 Reimagining Public Safety Task Force Recommendations Report](#)

- continue to provide on-call advisory and project management services to the County and MCPD, as agreed upon;
- guide MCPD, County, and community in developing understanding around MCPD's recent actions that led to lethal force, and address ELEFA's recommendations for reforms on use of force, crisis response, de-escalation, procedural justice, MCPD/crisis response training, policy and internal affairs;
- review MCPD lethal use of force since the roll out of its BWC Program, and consider ELEFA's recommendations for reforms on use of force, crisis response, de-escalation, procedural justice, MCPD/crisis response training, policy and internal affairs; and
- conduct an after-action review of the July 2021 lethal officer-involved shooting incident, provide recommendations and recommendations implementation plan.

The Executive anticipates that the final audit will be completed in the Summer of 2022.

## **Discussion Issues**

- 1) It would be helpful for the Joint Committee to understand ELEFA's after action review process for the July 21 officer-involved shooting. This use of force incident is currently being investigated by the Howard County State's Attorney's Office. Will the ELEFA's review occur after findings are released? Does MCPD still have a review group for officer-involved deaths? If so, how will these two review processes work together?
- 2) The Joint Committee may wish to ask what additional community stakeholder engagement and input will mean for the final audit. How will this input be incorporated into the final audit findings and recommendations?
- 3) Will there be an opportunity for the police department and other county government agencies/departments to comment on the audit. Will input from other county agencies/departments also be incorporated into the final audit?
- 4) Is there a framework for measuring the outcomes of audit recommendations once they are implemented? How will the auditor control for associated impacts from multiple policy changes? For example, simple before/after data for uses of force won't show the individual impact of ICAT training, issuance of BWCs, the County's new Use of Force law, the State's new Use of Force law, or modification of County mental health responses.
- 5) Is there a plan for providing front-facing dashboards that track implementation and impacts?
- 6) How were data on the use of force incidents, traffic stops, mental health/crisis response incidents, and safety incidents in schools used to inform the audit recommendations? Was the data sufficiently detailed to show the impact of MCPD polices and practices on the public safety of County residents. What, if any, are the major gaps in information

that impeded and may continue to impede ELEFA’s review, analysis, and evaluation of MCPD?

### **Council Staff Recommendation**

Council staff recommends approval as submitted.

<b><u>This packet contains:</u></b>	<b><u>Circle #</u></b>
Executive Transmittal Memo for Supplemental Appropriation	1-2
Chief Administrative Officer Transmittal Memo (FY22 Operating Budget Amendment)	3
Office of Racial Equity and Social Justice Analysis	4-6
Draft Resolution	7-8
ELEFA Summary of Progress	9-12
ELEFA Phase 1 and 2 Scope of Services	13-16
ELEFA Phase 3 Scope of Services	17-20




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

MEMORANDUM

November 10, 2021

TO: Tom Hucker, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

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

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

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

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

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

I appreciate your prompt consideration of this action.

ME:es

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

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



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

Richard S. Madaleno  
Chief Administrative Officer

MEMORANDUM

November 10, 2021

TO: Tom Hucker, President  
County Council

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

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

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

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

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

RM:rpm

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

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



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
County Executive

Tiffany Ward, Director  
Office of Racial Equity and Social Justice

MEMORANDUM

November 4, 2021

To: Jennifer Bryant, Director  
Office of Management and Budget

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

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

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

Racial and ethnic disparities and disproportionalities in policing in the US are well documented<sup>1</sup>. These disparities are evident in police-public interactions ranging from traffic stops to use of force, and ultimately are reflected in higher rates of incarceration among

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



Black and Latino people compared to White people. The overrepresentation of Black and Latino people in prison compared to their representation in the population overall is stark. The Sentencing Project reports that Black Americans are incarcerated at 4.8 times the rate of White Americans, while Latino individuals are incarcerated at 1.3 times the rate of White Americans<sup>2</sup>. Further, studies have concluded that people of color face a higher likelihood of being killed by police than do White men and women<sup>3</sup>. In the County, Black residents make up 18% of the population, but represent 32% of Montgomery County Police Department (MCPD) traffic stops in 2018; 44% of MCPD arrests in 2017; and 55% of MCPD use of force cases compared to 2018<sup>4</sup>. As with other racial inequities, the root cause of these disparities is complex and includes historical and current policies and practices that extend beyond the realm of the criminal legal system. The Sentencing Project describes how an enduring legacy of racial subordination and structural disadvantages perpetuate disparities<sup>5</sup>; other research expands upon this pointing to “austerity in social welfare and public health programs that has led to police and prisons becoming catch-all responses to social problems”<sup>6</sup>.

In July 2021, The County’s Reimagining Public Safety Task Force with support from ELE4A released the Montgomery County Reimagining Public Safety Task Force Recommendations Report. In the report, the taskforce co-chairs explain how the taskforce “attempted to produce a strategy for public safety that prioritized social and economic development over punishment and that fosters public safety regardless of ethnicity or economic background”<sup>7</sup>. The report included insights from 45 community members and 31 Montgomery County department, agencies, and union representatives, and resulted in 87 recommendations, which fall under five categories and involve a mix of policy, practice, and structural changes. Overarching themes that emerged from the report include<sup>8</sup>:

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

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

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

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

<sup>5</sup> Ashley Nellis, Ph. D.

<sup>6</sup> Frank Edwards, Hedwig Lee, and Michael Esposito.

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

<sup>8</sup> Reimagining Public Safety Task Force.

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

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

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

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

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<sup>9</sup> Phillip Atiba Goff, Elizabeth Hinton, Tracey L. Meares, Caroline Nobo Sarnoff, Tom R. Tyler. Yale Law School The Justice Collaboratory and Center for Policing Equity. Available at: [https://policingequity.org/images/pdfs-doc/reports/re-imagining\\_public\\_safety\\_final\\_11.26.19.pdf](https://policingequity.org/images/pdfs-doc/reports/re-imagining_public_safety_final_11.26.19.pdf).

Resolution No: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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

**Background**

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

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

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

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

**Action**

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

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

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

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

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.  
Clerk of the Council

**1. Can you provide the original scope of work for ELE4A, along with a summary of the objectives they have accomplished to date?**

**A. Phase 1 - POLICE AUDIT:**

◀ **Audit Data Collection & Stakeholder Engagement:** ELEFA has completed primary data collection and several rounds of stakeholder engagement during the review of the MCPD. Data collection has included relevant documents, data, incidents, complaints, discipline files, policies and practices, training materials and records:

- Contact information for key MCPD and Montgomery County points of contact
- 2015-2020 MCPD organizational chart
- Any MCPD department-wide strategic planning documents
- Any MCPD unit strategic planning documents
- Any MCPD policies that are not currently online or that have been updated
- Any SOPs
- Any training course materials and curricula
- Any field officer training materials (i.e., daily/weekly activity reports, exams, selection and exclusion criteria, evaluation forms, etc.)
- Any charter or roles and responsibilities materials for the Civilian Police Review Commission
- 2015-2020 Annual reports or MCPD audits
- Any targeted PD related customer experience surveys related to MCPD or policing/law enforcement/public safety in Montgomery County
- Any department memos, directives, etc. that outline MCPD operations (beyond policies and SOPs if applicable)
- Collective bargaining agreements with MCPD and labor
- Any reports prepared by outside consultants/organizations assessing MCPD in the last 5 years
- Local legislation relevant to MCPD police operations
- Summary of major and/or serious use of force, incidents of force with media/press within County, 2016-2020
- List of all CIT responses and statistics (i.e. How many arrested, how many deferred, how often force used by officers)
- CIT item/report numbers for those incidents where any force was used and any criminal arrest was made
- Spreadsheet of calls dispatched as Domestic Violence or Sexual Assault for a one-year period (2019 or 2018-2020) in a searchable format. And list of corresponding reports.
- All arrests at schools both by SROs and officers responding to schools who are not SROs
- Spreadsheet of calls dispatched as mental health crisis for 2018-2020 in a searchable format. And list of corresponding reports.
- Plans, reports related to community policing, community engagement, and problem oriented policing.
- To the extent not included in the above requests, documents related to traffic enforcement policies, directives, strategic plans and evaluation of traffic enforcement operations.

Data collection also included numerous interviews requested with: MCPD command-level personnel of the four major bureaus; internal affairs; and personnel who oversee the following MCPD units/functions:

## INTERNAL AFFAIRS

- Administrative Hearing Board

## FIELD SERVICES

(Special Operations)

- Crisis Response and Support
- Emergency Services Unit (ESU)

(Traffic)

- School Safety Section

## INVESTIGATIVE SERVICES

- Repeat Offender Unit
- Vice/Intelligence Unit
- Criminal Street Gang Unit

\*Drug Enforcement Section

- Major Offenders/Conspiracy Unit
- Drug Investigative Unit
- Drug Interdiction Unit
- Firearms Investigative Unit

(Special Victims)

- Child Abuse Section
- Domestic Violence/Elder Abuse Section
- Sexual Assault Unit

## PATROL SERVICES

- Community Engagement
- District Traffic
- Special Assignment (SAT)
- District Community Action (DCAT)
- School Resource Officer Program
- Duty Command

## MANAGEMENT SERVICES

(Communications 911)

(Info Management and Technology)

- Field Services
- Records
- Department Technology

(Personnel)

(Training and Education)

- Recruits
- In-service
- Programs (Citizen Academy, Leadership Development & Police Explorer)

(Policy, Planning & Assurance)

- CALEA

- Audits

CAD Clearance and traffic data was also requested for the years of 2019, 2020 and 2021 in order to review BWC footage of MCPD personnel in the community.

ELEFA's review of the MCPD is in the final phase, and ELEFA is continuing to conduct stakeholder engagement as we approach completion. These efforts will continue during the production of our final report and recommendations, including the MCPD, County Executive, RPS Task Force chairs, labor unions, County Council and other identified stakeholders.

- ◀ **Review, Assessment & Analysis of the MCPD:** ELEFA has produced a preliminary report on findings and recommendations related to the MCPD's use of force, internal affairs, mental health response, education and training, recruitment and hiring practices, early intervention, and an organizational overview. These findings were shared with the MCPD, County, stakeholders and general public during the summer of 2021. We plan to produce a final report by summer 2022, after completing a final round of stakeholder engagement and consensus building.

This review included an assessment of MCPD policing practices related to hiring, training and promotions, departmental policies and procedures, professional training and instruction, internal investigations, use of force, observing the evolution of the school resource officer program, complaints, current and critical events and MCPD's public communication.

The current and final phase of this review includes additional attention to the topics of community policing and engagement, including but not limited to procedural justice, and fair and impartial policing as organizational philosophy and practice; and assessing officer activity while performing community policing and problem solving during community interactions, and calls for service. This phase also includes review of traffic and pedestrian stops, bias free policing, and other field contact.

- ◀ **Reporting, Supplemental Research & Consensus Building:** ELEFA's preliminary and final report provide actionable recommendations that improve the MCPD's community-oriented policing practices, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and can help improve public trust of the MCPD. Throughout the review process, ELEFA has engaged various stakeholders to refine understanding of the MCPD and community. Current efforts to complete a final report include a comprehensive review of a longitudinal sample of MCPD BWC footage to support additional reporting areas and to provide more insight on MCPD supervision, accountability, and community interactions. The final report includes additional sections:

- MCPD District Overviews
- Community Policing & Engagement
  - Youth Engagement
- SSA & Bias Free Policing
- MCPD Systems & Technology (and Transparency)
- MCPD Operations & Management

Additional research has occurred related to ongoing local and state changes and updates impacting the MCPD. The BWC review also includes focused attention on crisis related, domestic violence, and traffic related officer-community interactions. For the final report, ELEFA will

provide a presentation and conduct consensus building that refines a final set of recommendations.

- ◀ **Delivery of Audit Findings:** ELEFA has provided a preliminary set of 90 recommendations, and recommended EIS procedures. The preliminary report covers ELEFA's initial review of the MCPD. Notably, during the audit period, there has been active state law, CBA, police union, and local legislative activity relevant to MCPD practices and procedures. The Final Report will be drafted by March 2022; and ELEFA will progress towards a finalized set of recommendations and publicly available report by June 2022.

**B. Phase 2 - TASK FORCE:**

- ◀ **The Task Force Organization & Engagement, Task Force Review, Assessment & Analysis, Task Force Reporting Support, and Task Force Delivery of Findings & Final Public Report phase of the scope of services was completed in early 2021.**





### **Scope of Services**

This Contract provides for conducting an independent audit of the Montgomery County Department of Police (POL) and for organizing the work of the Reimagining Public Safety Task Force (Task Force).

#### **A. Phase 1: Comprehensive Audit of POL**

The Contractor must conduct a comprehensive audit, including documentation of any potential racial bias of POL.

##### **1. STAGE 1: Data Collection & Stakeholder Engagement**

- a. The Contractor must assess and monitor pertinent information related to the audit of the POL including collecting and verifying relevant quantitative/qualitative materials such as interviews, documents, data, incidents, complaints, discipline files, policies and practices, training materials and records, from 2016 through available 2020 information.

##### **2. STAGE 2: Review, Assessment & Analysis**

The Contractor must assess the impact of enforcement operations (policing practices) on historically marginalized and discriminated against populations. The review, assessment, and analysis must include, but is not limited to, the following:

- a. Assess POL hiring, training, and promotion, including, but not limited to, assessment of personnel practices, standards, and protocols; Community engagement and diversity recruitment in hiring efforts; promotion/selection for specialized units and roles; Patterns and trends in diversity across units and ranks; Culture of performance evaluations and documentation; Internal officer complaints; and Organizational, public and supervisory communication related to these areas.
- b. Evaluate policies and procedures, including, but not limited to, use of force, crisis intervention, community engagement, use of in-car and body-worn cameras as well as monitoring, performance, supervision, misconduct, stops, searches and arrests (SSA), and transparency in reporting.
- c. Examine organizational strategies and plans for community-oriented policing, including but not limited to, assessing community-oriented policing practices such as written and unwritten policies to institutionalize community engagement, procedural justice, and fair and impartial policing as organizational philosophy; and assessing officer activity to identify the degree to which officers are performing community policing, problem solving, and non-traditional policing strategies.
- d. Review traffic and pedestrian stops and efficacy related to crime reduction and bias free policing as well as patterns and trends in encounters and outcomes with the public-particularly field contact and pedestrian stops, traffic stops, and investigatory stops, diversion, questioning, warning, frisks, searches and seizures, ticketing, arrests, and use of force.
- e. Evaluate training in community policing, problem-oriented policing, bias, cultural awareness, use of force, firearms & less-lethal weapons, crisis intervention, de-escalation, vehicle pursuits, and defensive tactics.



## Effective Law Enforcement for ALL

- f. Review of select internal investigations of critical incidents, internal affairs investigations, and uses of force, including a review of a selection of use of force incidents, which may include video footage, and evaluate incident review process, including oversight and accountability.
- g. Identify patterns and trends in use of force by geography, community, & officer demographics, departmental units, and incident factors, and consider patterns and trends in types and characteristics of incidents where force was used.
- h. Determine patterns and trends of encounters of School Resource Officers with youth in schools and assess youth engagement issues, including POL outreach to at-risk youth.
- i. Investigate transparency and public communication of policies, procedures, and POL data.
- j. Assess the internal and external complaint process including allegations and/or complaints of racial bias received by POL over the past four years including, but not limited to, POL response and investigation of those complaints. This assessment may include the consideration of roles, authority, and operational responsibilities throughout the process as well as POL remediation and disciplinary mechanisms; identifying patterns and trends in citizen and officer complaints, case processing, and outcomes to include internal and external procedural justice, consideration of practices related to the early-warning and intervention systems and processes, and the transparency and communication with all involved parties.
- k. Examine existing mechanisms for oversight, accountability, and organizational learning from citizen complaints and officer misconduct.

### **3. STAGE 3: Reporting, Supplemental Research & Consensus Building**

The Contractor will conduct supplemental research and consensus building as relevant to report aspects of identified implicit bias as well as any identified racial bias related to POL and must:

- a. Engage Task Force and community to understand both experiences and expectations of interactions with POL.
- b. Develop recommendations for reforms that improve community-oriented policing practices, transparency, professionalism, accountability, community inclusion, fairness, effectiveness, and public trust.
- c. Provide regularly scheduled audit status updates to the County Executive, County Council, Chief Administrative Officer, POL and community stakeholders including a final presentation of draft findings prior to submitting the Final Report.

### **4. STAGE 4: Delivery of Findings**

Contractor must develop a set of recommendations related to findings of the comprehensive audit of the POL and must:

- a. Provide preliminary findings report on the status of POL in the identified areas of assessment, including areas of high performance.
- b. In the preliminary findings report, the Contractor must communicate best practices and innovations in law enforcement for the areas of assessment, with specific detail applicable to improvement in the findings.



**B. Phase 2: Coordinate Efforts of County Reimagining Public Safety Task Force (RPSTF)**

The Contractor must coordinate the efforts of the County RPSTF.

**1. STAGE 1: Task Force Organization & Engagement**

As part of its role in the Task Force organization and engagement, the Contractor must support the Task Force in its development of recommendations related to reimagining public safety and must:

- a. Convene meetings and coordination for the Task Force and facilitate discussions as needed.
- b. Organize Task Force workplan and project documentation strategy.
- c. Document work progress of the Task Force.
- d. Assist in the development of template outcome report format.
- e. Support of five Task Force subgroups.

**2. STAGE 2: Task Force Review, Assessment & Analysis**

As part of its role in the Task Force organization and engagement, the Contractor must support the Task Force in its development of recommendations related to reimagining public safety and must:

- a. Manage Task Force review of 911 and 311 call data to examine community needs as Task Force evaluates 911 calls to determine law enforcement versus social services or crisis intervention calls, and to determine types of social services calls and how much time is being spent on non-policing matters.
- b. Support and facilitate Task Force's review of the County's Office of Legislative Oversight's final report on Local Policing Data and Best Practices and consideration of the final report's recommendations.
- c. Provide technical assistance as the Task Force finalizes findings of their evaluation of the POL budget and structure.
- d. Support Task Force in the dissemination and refinement of best practices applicable to the County related to their research on alternative health, social services, and crisis response systems. This will include support of the Task Force's efforts to propose alternatives based on exploration of other County departments, non-profit organizations, other agencies, and national best practices in procedures, programs, and policies related to the identified assessment areas.
- e. Facilitate Task Force documentation and inputs for ongoing reporting and analysis of factors that should lead to recommendations for alternative responses to community needs for health, social services and crisis response where POL has filled and is currently filling the gap.
- f. Facilitate the Task Force in its consideration of its proposed alternative responses through potential subject matter expert and/or technical assistance.

**3. STAGE 3: Task Force Reporting Support**

As part of its role in the Task Force organization and engagement, the Contractor must support the Task Force in its reporting of recommendations related to reimagining public safety and must:



- a. Organize Task Force subgroups as they utilize data and research to develop and communicate recommendations for additional changes and restructuring in POL.
- b. Organize support for ongoing partnerships through the Task Force with relevant County departments and stakeholders to streamline actionable, proposed non-POL led response alternatives.
- c. Ensure Task Force clearly identifies options for creating sustained support and integrated response alternatives.
- d. Review Task Force Report, including its actionable recommendations, providing feedback on potential program refinements, strategies, or resource modifications.

**4. STAGE 4: Task Force Delivery of Findings & Final Public Report**

As part of its role in the Task Force organization and engagement, the Contractor must support the Task Force in its reporting of recommendations related to reimagining public safety and must:

- a. Collaborate with Task Force on the finalization of their public report including a set of recommendations by the Reimagining Public Safety Task Force that reimagines POL and all public safety programs.
- b. Build public consensus on a June 2021 preliminary report and its recommendations developed through the convening of this Task Force
- c. Deliver a final report of the Task Force's efforts and recommendations
- d. Provide the County with a detailed Final Report of the Task Force's efforts, findings and recommendations

### **Phase 3: Final POL Recommendations, Outreach, Technical Assistance, Strategic Planning, Coordination Leadership and Reporting**

#### **1. Community & Stakeholder Engagement on Final Report Recommendations: ELEFA will lead and facilitate consensus-building on final recommendations.**

- a. As part of its role, the Contractor will engage the RPS Task Force, identified County stakeholders, and the local community in the County's reporting of final recommendations related to reimagining public safety
- b. Advise and conduct stakeholder engagement internally and externally on a Fall 2021 final report and the dissemination of its recommendations
- c. Convene meetings and coordinate and facilitate discussions as needed
- d. The County will compensate the Contractor an amount not-to-exceed \$25,000 for the public outreach as listed above in #1 a–c

#### **2. Technical Assistance on Final Report Recommendations: ELEFA will provide ongoing technical assistance related to the implementation and refinement of action items stemming from final recommendations.**

- a. Determine and help implement organizational strategies and plans for community-oriented policing, including but not limited to, community-oriented policing practices to institutionalize community engagement, procedural justice, and fair and impartial policing as organizational philosophy; and developing metrics that help monitor and support officers' performing community policing, problem solving, and community-informed policing strategies
- b. Provide technical assistance related to academy-based and re-certification training and the MCPD in community policing, problem-oriented policing, bias, cultural awareness, use of force, firearms & less-lethal weapons, crisis intervention, de-escalation, vehicle pursuits, and defensive tactics or other sensitive areas related to the audit findings; this may include lesson plan revision, instructional guidance, adult based learning approaches, and training management-sequencing, and annual training plan development
- c. Advise on the implementation of recommendations related to MCPD internal investigations of critical incidents, internal affairs investigations, and uses of force
- d. Provide technical assistance related to a technology gap analysis, with attention to transparency and public communication of policies, procedures, and POL data
- e. Convene meetings and coordination and facilitate discussions as needed
- f. The County will compensate the Contractor an amount not-to-exceed \$50,000 for technical assistance listed above in #2a–e

#### **3. Strategic Planning: ELEFA will support leadership of the Reimagining Public Safety Initiative to help ensure progress on task force, audit, and Initiative milestones.**

- a. The Contractor may develop a set of timelines for the implementation of recommendations related to findings of the comprehensive audit of the POL, in conjunction with the County's Reimagining Implementation working group
- b. The Contractor will communicate best practices and innovations in law enforcement for the areas of assessment, with specific detail applicable to implementation of key recommendations
- c. Convene meetings and coordination and facilitate discussions as needed
- d. The County will compensate the Contractor an amount not-to-exceed \$25,000 for delivery of strategic planning as listed above in #3a–c

#### **4. County Crisis Response Coordination Leadership: ELEFA will coordinate the development of a strategic plan for county and MCPD crisis response related recommendations.**

- a. The Contractor must support the County in its development and implementation of recommendations specifically related to mental and behavioral health response, including non-MCPD, County and state stakeholders
  - b. These tasks may include engagement in the revision of CIT policy, development of CIT job descriptions, development of Refresher training, and development of a robust specialized behavioral health response
  - c. Advise and support Non-MCPD, collaborative efforts to develop a emergency communications strategy: telecommunications, data alignment, training, dispatch prioritization, and alternative dispatch for non-LEO calls for service
  - d. Convene meetings and coordination and facilitate discussions as needed
  - e. Support in the dissemination and refinement of best practices applicable to the County related to their research on alternative health, social services, and crisis response systems.
  - f. Organize and develop crisis response recommendations' implementation timeline and strategy
  - g. The crisis response strategic plan will cover the continuum of crisis response coordination in the County, including mental health exclusive responses, to joint mental health and LE joint responses, through exclusive LE responses.
  - h. Document work progress of the ecosystem related recommendations for crisis response
  - i. The County will compensate the Contractor an amount not-to-exceed \$25,000 for the coordination leadership as listed above in #4a–g
- 5. County and MCPD Reporting Support: ELEFA will advise and support the county and MCPD with the dissemination of information and communication related to final recommendations, strategic planning, milestones, and public engagement.**
- a. The Contractor may support the County and the MCPD in its reporting of progress made on recommendations related to reimagining public safety
  - b. Communicate and facilitate ongoing dialogue among relevant stakeholders as they progress in implementation and outcomes to communicate recommendations for additional changes and restructuring in POL
  - c. This work may include presentations, video or other written communication tools
  - d. The County will compensate the Contractor an amount not-to-exceed \$25,000 for supporting the County's ongoing reporting of its MCPD audit efforts as listed above in #5a–c
- 6. On Call Consulting Advising Services: ELEFA will continue to provide on-call advisory and project management services to the County and MCPD, as agreed upon.**
- a. ELEFA subject matter experts will remain available for on-call or demand-based advising, strategic communication and mobilization around critical incidents and current events related to the implementation and progression of POL audit recommendations
  - b. The County will compensate the Contractor an amount not-to-exceed \$30,000 for providing the County with ongoing on-call advising services as listed above in #6a. This scope of work will be capped at 200 hours over the course of this extension.
- 7. July 2021 Officer Involved Shooting Services & Community Reconciliation: ELEFA will guide the MCPD, County, and community in developing understanding around MCPD's recent actions that led to lethal force, and address ELEFA's recommendations for reforms on use of force, crisis response, de-escalation, procedural justice, MCPD/crisis response training, policy and internal affairs.**
- a. As part of its role, the Contractor will engage identified stakeholders and the local community in understanding the impact and connections of ELEFA's reimagining public safety recommendations, the MCPD's recent OIS events and community concerns related to crisis response and use of force
  - b. Advise and conduct stakeholder and public engagement, including review of publicly accessible information (including BWC) related to the recent OIS

- c. Strategize short term and long term efforts for community reconciliation and police reform specifically addressing policies, standards, training and practices regarding lethal force and crisis response
- d. The County will compensate the Contractor an amount not-to-exceed \$20,000 for OIS advising services as listed above in #7a-c

**8. MCPD Lethal Use of Force Review: ELEFA will review MCPD lethal use of force since the roll out of its BWC Program, and consider ELEFA's recommendations for reforms on use of force, crisis response, de-escalation, procedural justice, MCPD/crisis response training, policy and internal affairs.**

- a. ELEFA's MCPD Lethal Use of Force Review reporting will seek to answer some of the following questions:
  - What is the recent history of OIS and lethal force, and police-community relations in the County?
  - Have similar incidents happened before that the department(s), agencies and/or actors involved responded to? If so, what was learned from them and what impacts have they had?
  - What happened and what was the context and environment of the incident?
  - Who was involved in the response and how and why were they involved?
  - How did the incident and response unfold?
  - How can these concerns be corrected or mitigated?
- b. The County will compensate the Contractor an amount not-to-exceed \$20,000 for lethal force advising services as listed above in #8a

**9. ELEFA After Action Review: ELEFA will conduct an after action review of the July 2021 lethal officer-involved shooting incident, provide recommendations and recommendations implementation plan. Our approach is outlined below:**

- a. ELEFA subject matter experts will conduct an independent After Action Review of the July 2021 lethal use of force incident
- b. Step 1. Refine AAR scale, purpose and scope.
  - i. Set objectives for the AAR
- c. Step 2. Conduct research on the incident, compile relevant materials, and review information.
  - i. Gain a foundational understanding of the incident and actors involved
  - ii. Review similar incidents and national standards for insight into promising practices
- d. Step 3. Identify and engage key County and community stakeholders.
  - i. Identify key stakeholders to engage
  - ii. Engage key stakeholders through individual interviews, focus groups, or roundtables as appropriate
- e. Step 4. Conduct ELEFA AAR Analysis.
- f. Step 6. Develop findings and recommendations or promising practices and lessons learned.
  - i. Develop initial findings and recommendations or promising practices and lessons learned and organize the AAR
  - ii. Develop action plan for recommendations
  - iii. Facilitate consensus-building on the draft AAR and action items
- g. Step 7. Communicate OIS findings.
- h. Step 8. Support leadership strategy to implement lessons learned and recommendations.
  - i. Develop actionable steps to implement identified recommendations
  - ii. Provide guidance and follow up on the implementation of recommendations
- i. Step 9. Finalize AAR reporting, stakeholder engagement and public outreach.
  - i. A public report will include background and methodology; incident and response description; key areas of focus; and promising practices, lessons learned, and recommendations

- ii. ELEFA's AAR reporting will seek to answer some of the following questions:
  - Who was involved in the response and how and why were they involved?
  - How did the incident and response unfold?
  - What equipment was used during the response?
  - What complications occurred during the response?
  - How did the incident and response relate to this focus area of ELEFA's June 2021 MCPD audit findings?
  - What national standards apply to the incident response in this focus area?
  - How do national standards suggest the incident response should have been handled?
  - What could have been improved upon in the response to the incident?
  - What parts of the incident response went well and why? What did the MCPD/ MoCo response do well or not well in this focus area?
  - What are useful promising practices, lessons learned, and recommendations of note and what are the actionable steps to learn from this incident and observations?
- j. Step 10. Follow up on Implementation and Organizational Improvement
- k. The County will compensate the Contractor an amount not-to-exceed \$30,000 for After Action Review and Report as listed above in #9a-j.