

Introduced by: Mr. Carter, Mr. Hollins,
Mr. Street, Ms. Durham
Date of Introduction: June 23, 2020

SUBSTITUTE NO. 1 TO ORDINANCE NO. 20-076

**AMENDING NEW CASTLE COUNTY CODE CH. 20 (“LAW ENFORCEMENT”)
REGARDING NEW CASTLE COUNTY POLICE OFFICERS AND
THE DUTY TO INTERVENE AND REPORT IN RELATION TO
UNAUTHORIZED OR EXCESSIVE USE OF FORCE**

WHEREAS, New Castle County Police Department (the “Department”), as a whole, and its officers, individually, are situated in a unique position to serve all citizens of New Castle County; and

WHEREAS, the Department has implemented a broad range of efforts that systematically promote high standards of policing and serve to improve community-police relations including, among other things, de-escalation training of officers, a ban on shooting at moving vehicles, use of body cameras, the comprehensive reporting and tracking of use of force by officers, community policing, and other actions; and

WHEREAS, in serving the public, the Department must satisfy high standards; and

WHEREAS, to ensure that all members of the Department are meeting these high standards requires that each member constantly assess that they and the other members of the Department are acting consistent with these high standards; and

WHEREAS, the Department must continually update its policing policies and directives to safeguard our officers and all citizens, while also strengthening public trust and confidence; and

WHEREAS, County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 20 (“Law Enforcement”) is hereby amended by adding the material that is underscored as set forth below.

Sec. 20.01.004. – Duty to intervene and report.

A. Each police officer of the Department, on-scene and regardless of tenure or rank, has an affirmative duty to attempt to safely intervene by verbal and physical means when the officer believes based on an objectively reasonable standard that another police officer of the Department is using unauthorized or excessive force, or is using force that is inappropriately applied, no longer needed, and/or inconsistent with divisional training and policy. After taking such action to safely intervene and safely attempt to stop such use of force, the officer must immediately report the incident, while still on scene, to the supervising officer or their

supervisor's superior. Failure to attempt to safely intervene or to report an incident involving the above-identified uses of force, if sustained, will result in disciplinary action to the same severity as if the officer him- or herself engaged in the prohibited use of force.

B. Consistent with the above, by September 1, 2020, the Department shall adopt a written duty to intervene and report policy. Thereafter, the Department shall promptly provide training on the duty to intervene and report, and such training shall continue on not less than an annual basis.

Section 2. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C.* § 1156.

Adopted by County Council
of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
of New Castle County

SYNOPSIS: This Ordinance, if passed, would require that each police officer of the New Castle County Police Department, on scene and regardless of tenure or rank, attempt to safely intervene by verbal and physical means when the officer reasonably believes based on an objectively reasonable standard that another member of the Department is using unauthorized or excessive force, or is using force that is inappropriately applied, no longer needed, and/or inconsistent with divisional training and policy. In addition, where an on scene officer observes and believes based on an objectively reasonable standard that another officer of the Department is using a use of force described above and that officer fails to attempt to safely stop or intervene during the use of such force or fails to report such incident, if sustained, the officer would be subject to disciplinary action as described in the Ordinance. Finally, the Ordinance provides for the adoption of Departmental Directives consistent with this Article.

This Substitute No. 1 to Ordinance No. 20-076 clarifies the uses of force in question to include use of force that is inappropriately applied, no longer needed, and/or inconsistent with divisional training and policy under which the duty to safely intervene takes effect. The Substitute Ordinance also makes certain non-substantive clarifications to the Ordinance.

FISCAL IMPACT: There is no discernible fiscal impact.