



## POLICING ADVISORY COMMISSION

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September 30, 2022

The Honorable Marc Elrich  
Montgomery County Executive  
Executive Office Building  
101 Monroe Street  
Rockville, MD 20850

**RE: Information Request regarding MCPD-FOP Agreement regarding Disclosures under Anton's Law**

Dear County Executive Elrich:

On August 26, 2022, the Washington Post reported <sup>1</sup> that the County Executive Marc Elrich signed an agreement with the Fraternal Order of Police Lodge "early this year." As noted by the article, this agreement provides that disclosures of police officer disciplinary records to the public (authorized by the state law known as Anton's Law) will be withheld for 10 business days to enable the union to review the disclosure.

Further, despite provisions in Anton's Law which provide for judicial relief to prevent or challenge release of certain information, this agreement reportedly provides an additional avenue of court intervention that may not have been envisioned by state law. We understand that this issue is currently in litigation.<sup>2</sup>

Because we understand that press reports may not capture the nuances of complex legal agreements, we are seeking clarification on several points due to the potential ramifications this agreement may have on the work of the Policing Advisory Commission. Therefore, please provide the following information no later than October 30, 2022:

- 1) A listing of any external (non-county group) entity MCPD consulted regarding this agreement;

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<sup>1</sup> Steve Thompson, "Sensitive police files get union eyes first, Montgomery deal allows review of disciplinary records before release," <https://www.washingtonpost.com/dc-md-va/2022/08/26/montgomery-police-union-review/>, posted online on August 26, 2022

<sup>2</sup> Steve Thompson, "When She Sought Answers about an Officer, This Maryland Police Union Sued," <https://www.washingtonpost.com/dc-md-va/2022/09/05/when-she-sought-answers-about-an-officer-this-md-police-union-sued/>, posted online September 5, 2022.

- 2) A listing of any internal entity with MCPD oversight jurisdiction (including but not limited to the Policing Accountability Board and the County Council) consulted by MCPD regarding this agreement;
- 3) A written narrative explaining the rationale underlying the decision to employ the 10-day review process to challenge the release of certain information (as outlined in the Washington Post Article) rather than the process permitted in Anton's Law to achieve the same goal; and
- 4) The database of 228 complaints noted in the Washington Post article.

Further, it has come to our attention that in 2021, the Office of Legislative Oversight discovered that many supplemental documents, "side letters" and other agreements which touch upon and concern the County's Collective Bargaining Agreement (CBA) with the law enforcement community were not readily available to the public in the same manner as the current CBA.<sup>3</sup> OLO recommended that all CBA related documents be readily accessible to third-party readers in a public online format. Therefore, we ask that these documents be placed in a publicly available online format in accord with the OLO recommendations. If you believe that legislative action by the County Council would be required to provide such a public posting, we request that you transmit such a request to the County Council.

Thank you for your prompt attention to this matter. The Policing Advisory Commission looks forward to receiving your responses and would welcome the opportunity to discuss any questions or concerns you may have regarding this request.

Sincerely,

Cherri L. Branson, Chair

Policing Advisory Commission

CC: County Council

Richard Madaleno, Chief Administrative Officer  
Chief Marcus Jones, Montgomery County Police Department  
Marlene Michaelson, Executive Director, Office of the County Council  
Dr. Earl Stoddard, Assistant Chief Administrative Officer

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<sup>3</sup> **Labor Agreements with Montgomery County Police Officers**, Office of Legislative Oversight, Report 2021-1, January 2021.

Policing Advisory Commission

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