

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

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, 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, regardless of tenure or rank, has an affirmative duty to attempt to safely intervene by verbal and physical means when they reasonably believe, as determined from an objective standard, that a police officer of the Department is using or is about to use unauthorized or excessive force, including knee holds and chokeholds, in violation of this Article, and after taking such action to prevent or stop the excessive force must immediately report the incident while still on scene to the Commanding Officer or their Commander’s superiors. Failure to attempt to safely intervene or to report an incident involving

the use of unauthorized or excessive 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.

1. The policy must include, at a minimum, the following:

a. A police officer in the employ of the Department who reasonably believes, as determined from an objective standard, that another police officer of the Department is using or is about to use unauthorized or excessive force has an affirmative duty to attempt to safely intervene by verbal and physical means to prevent or stop such use of unauthorized or excessive force. After taking such action to intervene, the officer must immediately report the incident while still on scene to the Commanding Officer or their Commander's superiors

b. The Department shall take appropriate disciplinary action against a police officer of the Department who observes the use or attempted use of unauthorized or excessive force by another police officer of the Department and fails to attempt to safely intervene or fails to report the incident, if sustained.

2. The Department shall provide a copy of the policy required hereunder to each police officer in its employ. In addition, 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 would require that each police officer of the New Castle County Police Department, regardless of tenure or rank, attempt to safely intervene by verbal and physical means when the officer reasonably believes, from an objective viewpoint, that another member of the Department is using or is about to use unauthorized or excessive force in violation of this Article. In addition, the Ordinance would enable the Department to impose certain disciplinary actions in instances of an officer's failure to attempt to safely stop or intervene during the use of excessive force or fails to report such incident. Finally, the Ordinance provides for the adoption of Departmental policy consistent with this Article.

FISCAL IMPACT: There is no discernible fiscal impact.