

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

**EXPEDITED DEPARTMENT OF POLICE – PENSION AND DRSP
BILL 19-23: ADJUSTMENTS**

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 19-23 will have a minimal to small, negative impact on racial equity and social justice (RESJ) in the County, as it would potentially reallocate \$1.3 to \$4.8 million annually in funding for programs benefitting all residents to Montgomery County Police Department (MCPD) employees who are disproportionately White. To improve the RESJ impact of this Bill, the Council can consider adopting policy options for enhancing the racial and ethnic diversity of MCPD personnel that reflect Department of Justice recognized best practices.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 19-23

The Employees' Retirement System (ERS) is one of five retirement plans offered to County employees.³ The ERS is a defined benefit plan, which provides a fixed, pre-established benefit for employees at retirement.⁴ Within the County ERS, Group F employees include sworn police officers.⁵

The goal of Bill 19-23 is to implement provisions in the Memorandum of Agreement negotiated between the County Executive and the Fraternal Order of Police (FOP), Montgomery County Lodge 35, Inc. Bill 19-23 proposes the following changes to retirement plans for sworn police personnel in Group F:⁶

- Amend the Discontinued Retirement Service Plan (DRSP) to replace the age and length of service eligibility requirements with eligibility based upon the employee's normal retirement date. The DRSP is a voluntary program that allows an employee to collect monthly retirement pension payments in an investment account while actively employed for up to three years.⁷ Currently, sworn police personnel in Group F who are at least 46 years old and have at least 25 years of credited service are eligible to participate in the DRSP.
- Increase pension multipliers for Group F members in the Integrated Retirement Plan. Pension multipliers, which are set by law at a fixed percentage, are one of several factors used in determining an employee's pension.

The proposed changes would increase County expenditures by approximately \$1.3 million in FY24, increasing annually to \$4.8 million by FY29. County revenues would not be impacted.⁸

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Expedited Bill 19-23, Department of Police – Pension and DRSP Adjustments, was introduced by the Council President on behalf of the County Executive on April 11, 2023.

POLICE OFFICERS AND RACIAL EQUITY

Modern policing in the U.S. emerges from a legacy of racial inequity. The earliest policing efforts, slave patrols, charged White men with policing free and enslaved Black people to instill fear and deter slave revolts, ultimately for protecting the financial interests of White plantation owners.^{9,10} Post-Civil War, slave patrols evolved into southern police departments, monitoring the behavior of Black people and enforcing segregation through the Black Codes and Jim Crow laws.¹¹ The criminalization of inconsequential activities such as vagrancy worked to further control Black people through convict leasing and chain gangs.¹²

The first municipal police forces, largely originating in northern cities in the 19th century, were principally focused on using brute force and brutality to control immigrants.¹³ In the 20th century, as the Great Migration saw millions of Black migrants fleeing violence and oppression in the South, northern police forces tolerated and actively engaged in White hostility and violence against Black people.¹⁴ Today, the legacy of inequitable policing is reflected in persistent racial disparities in police interactions. For instance, while Black constituents account for 18 percent of the County's population, they account for 30 percent of MCPD traffic stops, 44 percent of MCPD arrests, and 55 percent of MCPD use of force incidents.^{15,16,17}

For much of history, police departments were largely dominated by White men.¹⁸ However, the state of racial diversity in police departments today is more nuanced. Nationally, among employed people 16 years of age and older: ¹⁹

- 6.7 percent were Asian compared to 2.5 percent of police officers.
- 12.6 percent were Black compared to 16.7 percent of police officers.
- 77.0 percent were White compared to 78.3 percent of police officers.
- 18.5 percent were Latinx compared to 13.1 percent of police officers.

While Black people are overrepresented nationally among police officers, inequitable policies and practices continue to lock them out of positions in police leadership.²⁰ Nationally, among employed people 16 years of age and older: ²¹

- 6.7 percent were Asian compared to 0.4 percent of first-line supervisors of police and detectives.
- 12.6 percent were Black compared to 4.9 percent of first-line supervisors of police and detectives.
- 77.0 percent were White compared to 88.0 percent of first-line supervisors of police and detectives.
- 18.5 percent were Latinx compared to 18.6 percent of first-line supervisors of police and detectives.

Further, national data does not fully capture the reality of police departments at the local level. A 2020 article from the New York Times profiled how hundreds of police departments continue to be White dominated in contrast to the demographics of the communities they serve.²² Montgomery County is one such community where White people are overrepresented in the police force. Locally, among constituents 18 years or older: ^{23,24}

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- 15.9 percent were Asian compared to 4.0 percent of sworn MCPD personnel.
- 17.7 percent were Black compared to 12.0 percent of sworn MCPD personnel.
- 43.4 percent were White compared to 75.0 percent of sworn MCPD personnel.
- 18.6 percent were Latinx compared to 9.0 percent of sworn MCPD personnel.

ANTICIPATED RESJ IMPACTS

Expedited Bill 19-23 would effectively increase pension benefits for certain Group F members in the County ERS. To consider the anticipated impact of Bill 19-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of sworn MCPD personnel in the County, as they would benefit from the increased pension proposed in this Bill. As previously described, local data suggests White people are overrepresented among sworn MCPD personnel, while Black, Indigenous, and Other People of Color (BIPOC) are underrepresented.

For the second question, OLO considered how the Bill could affect representation in MCPD, given the underrepresentation of BIPOC in the department. While improving diversity within police departments by itself will not address racial inequities in policing, it can be an important step for building trust with BIPOC communities, making departments more open to cultural and systemic changes, helping BIPOC community members access stable economic opportunities in public safety, and improving policing practices and services.²⁵

The increased pension could generally attract more people to sworn police officer roles in the County. However, absent changes to recruitment strategies, hiring and promotion practices, and organizational culture, it is unlikely this incentive alone would attract/retain sufficient BIPOC to reduce existing disparities.

Taken together, OLO anticipates Bill 19-23 will have a negative impact on RESJ in the County, since it would disproportionately benefit White MCPD employees and likely not address existing racial disparities among MCPD personnel. Given the estimated cost of the Bill, OLO anticipates the negative RESJ impact will be minimal to small.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁶ OLO anticipates Expedited Bill 19-23 will have a negative impact on RESJ in the County.

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In 2016, the U.S. Department of Justice Equal Employment Opportunity Commission published “Advancing Diversity in Law Enforcement,” which outlines strategies for improving diversity in law enforcement agencies based on extensive outreach with law enforcement stakeholders, national policing organizations, and community stakeholders. To improve the RESJ impact of this Bill, the Council can consider adopting policy options that reflect best practices for recruitment, hiring, and retention offered within this report (summary included in Appendix). The report notes three common themes among successful practices:²⁷

- Ensuring the agency's organizational culture is guided by community policing (a strategy of policing that focuses on police building ties and working closely with community members); procedural justice (the idea of fairness in the processes that resolve disputes) and cultural inclusivity (welcoming and including all people).
- Engaging stakeholders - both from within and outside the law enforcement agency - to play a role in creating a workforce that reflects the diversity of the community.
- Being willing to re-evaluate employment criteria, standards, and benchmarks to ensure that they are tailored to the skills needed to perform job functions, and consequently attract, select, and retain the most qualified and desirable sworn officers.

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.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Below is a summary of promising practices for increasing diversity in law enforcement agencies from the U.S. Department of Justice Equal Employment Opportunity Commission report, “Advancing Diversity in Law Enforcement.” A detailed description of each practice can be found on [this page](#).

Recruitment:

- Proactive and targeted community outreach efforts can help encourage people from diverse populations and walks of life to consider careers in law enforcement.
- Building partnerships with educational institutions and providing young people with internship programs creates a robust pipeline of potential applicants while also helping to address historically negative perceptions or experiences diverse communities have had with law enforcement.

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- The effective, innovative use of technology and social media is critical to communicate and connect with all members of the community.

Hiring:

- Agencies are increasingly adopting a holistic view of what skills and strengths an applicant brings to a law enforcement agency, in part by willing to reevaluate information revealed during background checks, including previous drug use.
- Law enforcement agencies have expressed a willingness to reconsider selection criteria and written or physical examinations that do not correspond to job-related duties, and that disproportionately screen out individuals from underrepresented populations.
- In their efforts to diversify their workforces, law enforcement agencies have streamlined and made more transparent their hiring and selection procedures. Some agencies have offered assistance and preparation materials to help applicants prepare for examinations.
- Law enforcement agencies have involved community members in the hiring process as a way to develop workforces that reflects the diversity of their communities.

Retention:

- Mentorship programs and leadership training are critical to providing new officers - particularly those from underrepresented populations - with the support, guidance, and resources they need to succeed on the job, enjoy their careers, and earn promotions.
- Community partnerships and stakeholder engagement can help retain officers of color and women by better understanding the unique challenges they face in the profession.
- Incentives - providing temporary housing, allowing officers to work towards college credit while on the job, and providing financial bonuses for language skills - can help retain officers with diverse experiences and backgrounds.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ About Montgomery County Employee Retirement Plans, Montgomery County Employee Retirement Plans.

<https://www.montgomerycountymd.gov/mcerp/about.html>

⁴ Defined Benefit Plan, Internal Revenue Service, Updated June 15, 2022. <https://www.irs.gov/retirement-plans/defined-benefit-plan>

⁵ Summary Description for Sworn Police Personnel in Retirement Group F, Montgomery County Employee Retirement Plans, August 2021. https://www.montgomerycountymd.gov/mcerp/Resources/Files/GroupF%20Sworn%20Police-8_2021.pdf

⁶ Introduction Staff Report for Expedited Bill 19-23, Montgomery County Council, Introduced April 11, 2023.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230411/20230411_8A.pdf

⁷ Employees’ Retirement Plan – Group F (Police), Montgomery County Employee Retirement Plans.

https://www.montgomerycountymd.gov/mcerp/Resources/Files/Police%20DRSP_2022.pdf

⁸ Introduction Staff Report for Expedited Bill 19-23

⁹ Michael A. Robinson, “Black Bodies on the Ground: Policing Disparities in the African American Community—An Analysis of Newsprint From January 1, 2015, Through December 31, 2015,” Journal of Black Studies, April 7, 2017.

<https://journals.sagepub.com/doi/10.1177/0021934717702134>

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¹⁰ Rund Abdelfatah, et. al., “VIDEO: History Of Policing: How Did We Get Here?,” NPR, July 8, 2020.

<https://www.npr.org/2020/07/08/888174033/video-history-of-policing-how-did-we-get-here>

¹¹ Connie Hassett-Walker, “How You Start is How You Finish? The Slave Patrol and Jim Crow Origins of Policing,” Human Rights Magazine, American Bar Association, January 11, 2021.

https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/how-you-start-is-how-you-finish/

¹² Andrea Flynn, Susan Holmberg, Dorian Warren and Felicia Wong, The Hidden Rules of Race: Barriers to An Inclusive Economy, 2017

¹³ Robinson

¹⁴ Abdelfatah, et. al.

¹⁵ Natalia Carrizosa, OLO Memorandum Report 2022-12, Analysis of dataMontgomery Traffic Violations Dataset, Office of Legislative Oversight, October 25, 2022. https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLORReport2022-12.pdf

¹⁶ Elaine Bonner-Tompkins and Natalia Carrizosa, OLO Report 2020-9, Local Policing Data and Best Practices, Office of Legislative Oversight, July 12, 2020. <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLORReport2020-9.pdf>

¹⁷ MCPD 2021 Annual Use of Force Report, Montgomery County Police Department.

<https://www.montgomerycountymd.gov/pol/Resources/Files/Annual-Reports/UseOfForce/2021%20MCPD%20Use%20of%20Force%20Report.pdf>

¹⁸ Advancing Diversity in Law Enforcement, U.S. Department of Justice Equal Employment Opportunity Commission, October 2016.

<https://www.eeoc.gov/advancing-diversity-law-enforcement>

¹⁹ Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity, Bureau of Labor Statistics, U.S. Department of Labor, 2022. Note: Latinx people are included in multiple racial groups for this data point. <https://www.bls.gov/cps/cpsaat11.htm>

²⁰ Advancing Diversity in Law Enforcement

²¹ Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity

²² Lauren Leatherby and Richard A. Opiel Jr., “Which Police Departments Are as Diverse as Their Communities?,” The New York Times, September 23, 2020. <https://www.nytimes.com/interactive/2020/09/23/us/bureau-justice-statistics-race.html>

²³ Table P4: Hispanic or Latino, and Not Hispanic or Latino by Race for the Population 18 Years and Over, 2020 Decennial Census, Census Bureau. Note: for comparison, Latinx people are not included in other racial groups for this data point.

²⁴ 2021 Annual Report on Crime and Safety, Montgomery County Police Department. Note: OHR tracks Latinx as a distinct racial category, thus Latinx people are not included in other racial groups for this data point.

<https://www.montgomerycountymd.gov/pol/Resources/Files/Annual-Reports/CrimeandSafety/2021%20MCPD%20Annual%20Report%20on%20Crime%20and%20Safety.pdf>

²⁵ Advancing Diversity in Law Enforcement

²⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

²⁷ Advancing Diversity in Law Enforcement