

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **BILL 43-23: CRISIS INTERVENTION TEAM – ESTABLISHED**

### **SUMMARY**

The Office of Legislative Oversight (OLO) finds the anticipated impact of Bill 43-23 on racial equity and social justice (RESJ) is indeterminant. Black community members would be disproportionately impacted by the establishment of a co-responder team model for mental health crisis response in the County. However, research evidence is mixed on the effectiveness of co-responder models to improve outcomes. Further, there are several unknown factors in how the new Crisis Intervention Team (CIT) program would minimize reliance on law enforcement for mental health crisis response, which is necessary for advancing RESJ.

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### **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.<sup>1</sup> 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.<sup>2</sup>

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### **PURPOSE OF BILL 43-23**

Mental Health America lists lack of alternatives to law enforcement among several widespread problems in mental health and substance use crisis response. They note that shortcomings in crisis response could have serious consequences for someone experiencing a behavioral health crisis, including:<sup>3</sup>

- ending up in confrontations with law enforcement personnel which have tragic outcomes;
- being transported to emergency rooms and being admitted or committed to inpatient psychiatric facilities when these outcomes are unnecessary and may be harmful to the person; and
- being transported to a jail and subjected to ongoing involvement in the criminal justice system when these outcomes are unnecessary, are harmful to the person and do not lead to increased public safety.

Recognizing the limitations of law enforcement, local jurisdictions throughout the country have considered alternative models for mental health crisis response.<sup>4</sup> These include models that do and do not involve police. As described by the Congressional Research Service, the co-responder team model in particular “pair[s] law enforcement officers with trained clinicians who together respond to emergency calls involving individuals experiencing a mental health crisis.”<sup>5</sup>

The purpose of Bill 43-23 is to establish a CIT program that would implement the co-responder team model for mental health crisis response in the County. The CIT would be jointly staffed and operated by the Montgomery County Police Department (MCPD) and the Department of Health and Human Services (DHHS).

If enacted, Bill 43-23 would require CIT members from MCPD and DHHS to be co-located throughout the County. Other law enforcement agencies could also participate in the CIT subject to written agreements with the County. The CIT would be required to:<sup>6</sup>

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- develop a plan for the County to divert individuals experiencing a mental or behavioral health crisis or substance use disorder crisis from the criminal justice system and into treatment; and
- respond to “incidents involving acute mental health, behavioral health, or substance abuse crisis events where there is a significant risk of danger for the individual in crisis or others as a result of the crisis.”<sup>7</sup> Otherwise, the primary response for someone experiencing a crisis should be mobile crisis or emergency medical services clinicians.

Bill 43-23 would also create a 15-member Advisory Committee on Crisis Intervention that would advise the CIT and County officials on best practices for crisis intervention in the County. The committee would also prepare an annual report on the CIT by January 31 of each year.

The County Council introduced Bill 43-23, Crisis Intervention Team – Established, on December 5, 2023.

In August 2023, OLO published a RESJIS for Bill 33-23, Voluntary Registry for Emergency 911 Calls – Established.<sup>8</sup> OLO builds on this RESJIS for this analysis.

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## MENTAL HEALTH CRISIS RESPONSE, LAW ENFORCEMENT, AND RACIAL EQUITY

Reliance on law enforcement for mental health crisis response and the resulting consequences are a widespread concern throughout the country. According to Serving Safely, a national initiative led by the Vera Institute of Justice in collaboration with the Bureau of Justice Assistance, “[c]onservative estimates show that at least 10 percent of calls to police involve people who have serious mental illnesses, and that a third to a half of all use-of-force incidents involve an individual with some type of disability.”<sup>9</sup>

Locally, OLO found that between September 2017 and May 2020, police responded to an average of 19 mental health situations each day.<sup>10</sup> According to MCPD, mental illness was a contributing factor in 33 percent of use-of-force incidents in 2022.<sup>11</sup> Emergency Evaluation Petitions<sup>12</sup> – which arise in more serious mental health situations – increased by 9.5 percent from 2,207 in 2020 to 2,417 in 2022. In 2022, 24 percent of all uses-of-force by MCPD involved an Emergency Evaluation Petition.<sup>13</sup>

The intersection of policing inequities by race, ethnicity and disability compound challenges experienced by Black, Indigenous, and Other People of Color (BIPOC) with disabilities, including BIPOC with mental health conditions, during law enforcement interactions. For instance:

- A study published in 2017 of a nationally representative dataset found that more than half of Black people with disabilities were arrested by age 28.<sup>14</sup>
- A study published in 2021 of the Washington Post’s database of police-involved shootings found that “police are more likely to shoot and kill unarmed Black men who show signs of mental illness than [W]hite men who exhibit similar behaviors.”<sup>15</sup>

Disparities in law enforcement interactions among BIPOC emerge from a legacy of racial inequity in policing, where the earliest policing efforts, slave patrols, were charged with policing free and enslaved Black people.<sup>16</sup> Today, racial inequities in policing persist with harsher treatment of BIPOC in the criminal justice system, mass incarceration, and the collateral punishment of incarceration on BIPOC families and communities.<sup>17,18</sup> Locally, while Black constituents account for 18 percent of the County’s population, they account for 30 percent of traffic stops, 44 percent of arrests, and 59 percent of use of force incidents by MCPD.<sup>19,20,21</sup>

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The Fountain House report, “From Harm to Health: Centering Racial Equity and Lived Experience in Mental Health Crisis Response,” offers a comprehensive framework for addressing mental health emergencies that shifts “from a reactive system driven by public safety goals and procedures, to a preventative, health-first approach that centers racial equity, lived experience, systemic challenges, and cultural competency.” The report identified the following eight principles for crisis response systems, based on a landscape analysis of existing approaches and engagement with subject matter experts, including BIPOC and people with lived experience:<sup>22</sup>

- Crisis systems should center racial justice and equity.
- Crisis response should be embedded within a holistic, integrated health care and public health system with high quality, accessible and equitable services.
- Individuals in crisis should have all possible opportunities to maximize self-determination and autonomy in defining when they are in crisis and in shaping the response when one is activated.
- Crisis responders should focus on creating person-to-person connections and trusting relationships with the person in crisis.
- Law enforcement should not be the default or primary responders for mental health crisis.
- The role and expertise of Peers should be centered in crisis response, recovery, and prevention.<sup>23</sup>
- Alternatives to emergency departments should be prioritized when possible.
- Every community should have a standard, universal, and publicly supported response to mental health emergencies on par with the response to other health emergencies.

Minimizing reliance on law enforcement is a widely accepted best practice for effective mental health crisis response. As found in OLO Report 2021-4, “Public Safety Responses to Mental Health Situations,” “[f]ederal guidance calls for communities to develop behavioral health crisis care systems that reside outside of the criminal justice system and avoid overreliance on law enforcement to respond to mental health situations.”<sup>24</sup>

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## COUNTY’S CURRENT MENTAL HEALTH CRISIS RESPONSE

Understanding the potential RESJ impact of implementing the co-responder team model requires understanding how mental health crisis response currently works in the County.

Two County entities primarily respond to mental health situations in the community: the Mobile Crisis Outreach Team via the Crisis Center Hotline and MCPD via 911. Other community hotlines (e.g., 988 Suicide and Crisis Lifeline and MC311) connect community members to the Mobile Crisis Outreach Team and/or MCPD if comprehensive help is needed for a mental health related situation.

The remainder of this section describes the Mobile Crisis Outreach Team and MCPD’s response to mental health situations, based mostly on OLO staff conversations with DHHS Crisis Center leadership in December 2023 and OLO Report 2021-4, “Public Safety Responses to Mental Health Situations.”<sup>25</sup>

**Mobile Crisis Outreach Team Response.** The Mobile Crisis Outreach Team (MCOT) is part of DHHS’s 24-Hour Crisis Center. Community members who need help with a mental health crisis can reach MCOT by calling the Crisis Center Hotline at 240-777-4000.

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The Crisis Center operates 24 hours a day 7 days a week across three sites located in Silver Spring, Germantown, and Rockville. During periods of high volume, the three Crisis Center sites operate simultaneously. Crisis Center staff are cross trained to provide several mental health crisis services. During each shift, staff are assigned to different functions within the Crisis Center, including MCOT. MCOT is typically comprised of two behavioral health professionals – one licensed mental health professional and one peer support specialist. MCOT is dispatched to respond to mental health incidents in the community, providing “crisis evaluation, crisis stabilization, recommendations for treatment and resources, and facilitate[ing] hospital psychiatric evaluations.”<sup>26</sup>

MCOT was established in the 1980s through a Memorandum of Understanding (MOU) with MCPD. For most of its existence, MCOT has responded to mental health incidents with MCPD officers. In 2022 – after years of work with Crisis Center staff, department leadership, community-based groups, elected leaders, and experts in mental health crisis response – the Crisis Center implemented the Common Triage and Dispatch Protocol. The protocol established two response levels for MCOT based on an assessment of risk: a level one response with no police and a level two response with police.<sup>27</sup>

**Montgomery County Police Department Response.** Community members who need help with a mental health crisis typically call 911. In recent years, the County has ramped up efforts to educate the public on the Crisis Center Hotline to divert mental health related calls from 911. While awareness for the Crisis Center Hotline is growing, department staff note that 911 continues to be the primary hotline community members contact for help with mental health situations.

Since 2001, MCPD has operated a CIT program.<sup>28</sup> The CIT consists of seven staff members: one MCPD sergeant, five MCPD officers and one DHHS clinician.<sup>29</sup> The CIT “coordinates CIT training (see pages 33-34) for MCPD and other public safety personnel, responds to certain situations with mental health components, provides telephonic assistance for individuals in crisis that have been in contact with police, and provides limited outreach and case management for individuals with repeated police contacts.”<sup>30</sup> MCPD recently noted that “[t]o address the increasing use of force related to mental health concerns, MCPD requires all new officers to receive forty hours” of CIT training.<sup>31</sup>

911 calls are received by Emergency Communications Center (ECC) staff in MCPD. ECC staff generally put mental health situations into the following categories:<sup>32</sup>

- Police only response: ECC staff dispatch MCPD officers;
- Medical only response: ECC staff dispatch Montgomery County Fire and Rescue Services (MCFRS) personnel; or
- Police and medical response: ECC staff dispatch MCPD officers and MCFRS personnel.

OLO Report 2021-4 noted that ECC “[s]taff report that they dispatch police resources rather than not based on how the caller describes the nature of the incident.” When MCPD officers are dispatched to respond to mental health crisis incidents, there are several courses of action they may take. These include contact only, making a referral to DHHS, initiating an Emergency Evaluation Petition, or making an arrest.<sup>33</sup>

The report further noted that “[f]or complicated mental health situations, officers that respond may request assistance through the ECC from the dedicated Crisis Intervention Team and/or the DHHS [MCOT].”<sup>34</sup> Thus, involving the CIT and/or MCOT in an incident is mostly at the discretion of responding MCPD officers. When MCOT is involved, they arrive to the scene of an incident separately from MCPD officers.

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### ANTICIPATED RESJ IMPACTS

To consider the potential impact of Bill 43-23 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 community members who would likely interact with the new CIT members, which would include MCPD officers and DHHS behavioral health professionals. As described earlier, BIPOC community members, especially Black community members, are disproportionately impacted by interactions with MCPD officers, including traffic stops, arrests, and use of force. Black community members are also overrepresented among people served by MCOT.<sup>35</sup>

**For the second question,** OLO considered how the new CIT could improve racial inequities and disparities in law enforcement interactions with BIPOC experiencing mental health crises. Generally, a 2021 review of research on mental health crisis response models found that “[c]o-responder models evidenced improved outcomes compared to police only models, however, evidence was often mixed.”<sup>36</sup>

Further, there are several unknown factors in how the new CIT program would be implemented to minimize reliance on law enforcement for mental health crisis response – a recognized best practice for effective mental health crisis response, including to advance RESJ. Unknown factors include:

- How the new CIT program will work alongside the MCOT program, which already has a protocol to respond to mental health situations with and without MCPD officers;
- If establishing the new CIT will redirect community members to call 911 instead of the Crisis Center Hotline for mental health situations;
- If protocols for 911 calls will be changed to allow ECC staff to directly dispatch MCOT to mental health situations where there is not a significant risk of danger;
- How hiring for behavioral health professionals to staff new CITs will be prioritized over hiring for professionals to staff MCOT given current vacancies in the Crisis Center and shortage of behavioral health professionals;<sup>37</sup> and
- How resources for mental health crisis response will be prioritized between CIT and MCOT with the CIT program being written into law.

Taken together, OLO finds the anticipated impact of Bill 43-23 on RESJ indeterminant.

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### 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.<sup>38</sup> OLO finds the anticipated impact of Bill 43-23 on RESJ is indeterminant. As such, OLO does not offer recommended amendments.

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### 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.

<sup>1</sup> 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>

<sup>2</sup> Ibid.

<sup>3</sup> [Position Statement 59: Responding to Behavioral Health Crises](#), Mental Health America, 2017.

<sup>4</sup> [Issues in Law Enforcement Reform: Responding to Mental Health Crises](#), Congressional Research Service, October 17, 2022.

<sup>5</sup> Ibid.

<sup>6</sup> [Introduction Staff Report for Bill 43-23](#), Montgomery County Council, Introduced December 5, 2023.

<sup>7</sup> Bill 43-23, Introduction Staff Report.

<sup>8</sup> [RESJS for Bill 33-23](#), Office of Legislative Oversight, August 15, 2023.

<sup>9</sup> Fact Sheet, [Serving Safely: The National Initiative to Enhance Policing for Persons with Mental Illnesses and Developmental Disabilities](#), Vera Institute of Justice, February 2019.

<sup>10</sup> Natalia Carrizosa, [OLO Report 2021-4: Public Safety Responses to Mental Health Situations](#), Office of Legislative Oversight, March 9, 2021.

<sup>11</sup> [MCPD 2022 Annual Use of Force Report](#), Montgomery County Police Department.

<sup>12</sup> An Emergency Evaluation Petition is a process by which someone who is “suspected of having a mental disorder” and “presents a danger to the life and safety of themselves or others” can be taken into custody by law enforcement and transported to an emergency facility for evaluation by a mental health professional. For more information, refer to [“Responding to Behavioral Health Emergencies and Persons with an Altered Mental Status,”](#) Montgomery County Police Department.

<sup>13</sup> MCPD 2022 Annual Use of Force Report.

<sup>14</sup> Erin J. McCauley, [“The Cumulative Probability of Arrest by Age 28 Years in the United States by Disability Status, Race/Ethnicity, and Gender,”](#) American Journal of Public Health, December 2017.

<sup>15</sup> Minyvonne Burke, [“Policing Mental Health: Recent Deaths Highlight Concerns Over Officer Response,”](#) NBC News, May 16, 2021, citing Marilyn D. Thomas, et. al., [“Black and Unarmed: Statistical Interaction Between Age, Perceived Mental Illness, and Geographic Region Among Males Fatally Shot by Police Using Case-Only Design,”](#) Annals of Epidemiology, January 2021.

<sup>16</sup> 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.

<sup>17</sup> [Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System](#), The Sentencing Project, April 19, 2018.

<sup>18</sup> Andrea Flynn, Susan Holmberg, Dorian Warren and Felicia Wong, *The Hidden Rules of Race: Barriers to An Inclusive Economy*, Roosevelt Institute (Cambridge University Press, 2017)

<sup>19</sup> Natalia Carrizosa, [OLO Memorandum Report 2022-12, Analysis of dataMontgomery Traffic Violations Dataset](#), Office of Legislative Oversight, October 25, 2022.

<sup>20</sup> Elaine Bonner-Tompkins and Natalia Carrizosa, [OLO Report 2020-9, Local Policing Data and Best Practices](#), Office of Legislative Oversight, July 12, 2020.

<sup>21</sup> MCPD 2022 Annual Use of Force Report.

<sup>22</sup> [“From Harm to Health: Centering Racial Equity and Lived Experience in Mental Health Crisis Response,”](#) Fountain House.

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<sup>23</sup> In behavioral health, a Peer is usually used to refer to someone who shares the experience of living with a psychiatric disorder and/or addiction. From [What Is a Peer?](#), Mental Health America.

<sup>24</sup> Natalia Carrizosa, [OLO Report 2021-4: Public Safety Responses to Mental Health Situations](#), March 9, 2021.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> [Video: Dispatch Protocol for Mental Health Crisis Response](#), County Cable Montgomery, May 4 2022.

<sup>28</sup> [2022 Annual Report on Crime and Safety](#), Montgomery County Police Department.

<sup>29</sup> Natalia Carrizosa, OLO Report 2021-4: Public Safety Responses to Mental Health Situations.

<sup>30</sup> Ibid.

<sup>31</sup> MCPD 2022 Annual Use of Force Report.

<sup>32</sup> Natalia Carrizosa, OLO Report 2021-4: Public Safety Responses to Mental Health Situations.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Natania Marcus and Vicky Stergiopoulos, [“Re-examining Mental Health Crisis Intervention: A Rapid Review Comparing Outcomes Across Police, Co-Responder and Non-Police Models,”](#) Health and Social Care in the Community, January 10, 2022.

<sup>37</sup> Staff reported there were 14 vacancies in the Crisis Center as of December 2023.

<sup>38</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council