

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 15-21: SOLICITATION OF VEHICLE OCCUPANTS IN HIGH-SPEED ROADWAYS- PERMIT REQUIREMENT

### SUMMARY

The Office of Legislative Oversight (OLO) concludes that the impact of Bill 15-21 on racial equity and social justice in the County is indeterminate. Whereas Bill 15-21 could reduce disparities in pedestrian fatalities by race and ethnicity, the enforcement of Bill 15-21 could also exacerbate disparities in police interactions with the public by race and ethnicity.

### BACKGROUND

On April 20, 2021, the Council introduced Bill 15-21 to improve pedestrian safety in the County by requiring solicitors in high-speed roadway medians to have a permit. High-speed roadways are defined as roads that have a speed limit that exceeds 25 miles per hour. Bill 15-21 would regulate how and when soliciting can occur by limiting solicitation on medians to daylight hours and when an intersection is clear of vehicles. Minors would be ineligible for solicitation permits and the Montgomery County Police Department (MCPD) would enforce this law.

According to *dataMontgomery*, there have been 73 fatal and 336 serious injury motor collisions involving pedestrians in the County from January 2015 to April 2021.<sup>1</sup> Bill 15-21 aligns with the County's *Vision Zero Initiative* to eliminate serious road injuries and traffic deaths in Montgomery County by 2030.<sup>2</sup>

According to Bill 15-21, the solicitation permit will be available free of charge and is intended to verify that a permit holder has been informed about traffic median safety requirements as mandated by the law. Bill 15-21 will also require the annual renewal of solicitation permits.<sup>3</sup> If implemented, Bill 15-21 would make the following changes to County Law:

- Require a permit before a person may stand in a roadway, median divider, or sidewalk to solicit an occupant of a vehicle on a high-speed roadway;
- Condition the permit upon adherence to certain safety rules; and
- Generally regulate pedestrian safety, including the time, place, and manner of solicitation by pedestrians of occupants of vehicles in travel lanes of streets and roads.<sup>4</sup>

### ANALYSIS OF DEMOGRAPHIC DATA

Understanding the impact of Bill 15-21 on racial equity and social justice requires reviewing and analyzing available data disaggregated by race and ethnicity on pedestrian safety and law enforcement as described below.

**Pedestrian safety.** As shown in Chart 1, Latinx residents have the highest pedestrian fatality rates in the County followed by Black and White residents. Data describing the determinants of pedestrian fatalities and disparities by race and ethnicity are not available. Assuming traffic accidents involving pedestrians soliciting drivers in medians located on high-speed roadways contributes to pedestrian fatalities and disparities by race and ethnicity, Bill 15-21 could reduce disparities in pedestrian safety by race and ethnicity.

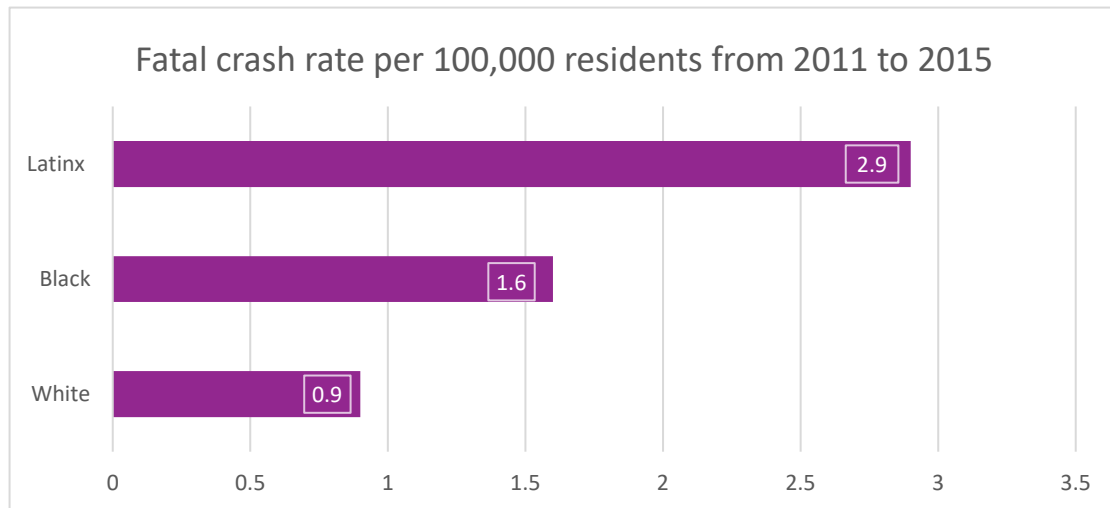
# RESJ Impact Statement

## Bill 15-21

Vision Zero data on fatal vehicle crashes involving pedestrians show that:

- The Latinx pedestrian fatality rates were three times higher than White pedestrian fatality rates; and
- The Black pedestrian fatality rates were almost twice as high as White pedestrian fatality rates.<sup>5</sup>

Chart 1: Pedestrian Involved Fatal Motor Vehicle Accidents by Race and Ethnicity, Montgomery County, MD



Source: Vision Zero Data Explorer

It remains unclear whether the disparities in pedestrian fatality rates in the County result from unsafe pedestrian practices in traffic medians whose frequency may vary by race or ethnicity. Factors identified by the Center for Disease Control as contributors to pedestrian safety include vehicle speed, time of day, roadway design, and alcohol use.<sup>6</sup>

It is anticipated that Bill 15-21 will primarily impact (1) volunteers who solicit donations for charities from drivers in roadway medians and (2) persons experiencing homelessness who may rely on soliciting to supplement their incomes. Black residents accounted 19% of all County residents in 2017, but 83% of homeless families with children in 2018<sup>7</sup> and 64% of homeless individuals in 2019.<sup>8</sup> If Bill 15-21 reduced pedestrian involved accidents among persons experiencing homelessness, this could reduce racial inequities in pedestrian fatalities between White and Black residents.

**Law enforcement.** Black residents have the highest rates of interaction with law enforcement followed by Latinx and White residents. Whereas Black residents accounted for 19% of County residents in 2017, according to OLO Report 2020-9, Black residents accounted for:

- 32% of MCPD traffic stops in 2018;
- 44% of MCPD arrests in 2017; and
- 55% of MCPD use of force cases in 2018.<sup>9</sup>

Black residents disproportionate contact with law enforcement suggests that bias and unconstitutional policing could be a concern. As already noted, Black residents are also over-represented among persons experiencing homelessness who could be directly impacted by Bill 15-21. As such, MCPD enforcement of Bill 15-21 could exacerbate disparities and potential inequities in law enforcement contact among Black residents.

# RESJ Impact Statement

## Bill 15-21

Enforcement of Bill 15-21 could also criminalize the consequences of poverty and exacerbate social inequities by income. Research conducted by the Job Opportunities Task Force highlights how law enforcement for minor offenses can reinforce poverty.<sup>10</sup> Of note, the punishment for violating the safety regulations under Bill 15-21 would not be deemed a criminal offense, but could lead to the pedestrian receiving a citation. Unpaid citations, however, could engender collateral harms for the indigent resulting in increased fines, court fees, arrest warrants, and incarceration.

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### ANTICIPATED RESJ IMPACTS

The potential positive effects of Bill 15-21 on reducing disparities in pedestrian safety could be offset by the potential negative effects of enforcing Bill 15-21 on expanding disparities in law enforcement by race and ethnicity. OLO is unable to determine which impact would carry more weight or the combined impact of both scenarios on racial equity and social justice in the County. As such, OLO concludes that the racial equity and social justice impact of Bill 15-21 in the County is indeterminate.

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### METHODOLOGIES, ASSUMPTIONS AND UNCERTAINTIES

This RESJ impact statement relies on several information sources, including *dataMontgomery*, the Federal Highway Administration and OLO and County task force reports to understand trends in pedestrian safety and law enforcement by race and ethnicity. These include:

- Racial Equity Profile Montgomery County, OLO Report 2019-7;
- Pedestrian Safety: A Road Safety Manual for Decision-Makers and Practitioners;<sup>11</sup>
- Serious and Fatal Pedestrian and Cyclist Collisions, *dataMontgomery*;
- Local Policing Data and Best Practices, OLO Report 2020-9; and
- Reimagining Public Safety Task Force, 2021 Recommendations Report.<sup>12</sup>

OLO also spoke with County Council staff and visited the websites of the Human Rights Watch for information.<sup>13</sup>

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### RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider recommending amendments to bills to better advance of racial equity and social justice when warranted. Since the primary intent of Bill 15-21 is to improve pedestrian safety, OLO offers the following recommendations to improve pedestrian safety at crossings recommended by the Federal Highway Administration.<sup>14</sup>

- Enhance crosswalk visibility
- Raise crosswalks;
- Add pedestrian refuge islands;
- Install rectangular rapid flashing beacons;
- Create pedestrian hybrid beacons;
- Adopt road diets;<sup>15</sup> and
- Adopt leading pedestrian intervals.<sup>16</sup>

OLO posits that if the County implements these pedestrian safety best practices in communities of color and low-income communities, disparities in pedestrian safety by race and ethnicity would diminish. Of note, the County's Pedestrian Master Plan is currently under development.<sup>17</sup> Its completion may offer another opportunity for the Council to enact legislation aimed at improving pedestrian safety to further racial equity and social justice in the County.

# RESJ Impact Statement

## Bill 15-21

A secondary goal of Bill 15-21 is to encourage compliance with pedestrian safety requirements without criminalizing non-compliance. Towards this end, OLO repeats two recommendations from the Reimagining Public Safety Task Force as potential amendments to Bill 15-21 aimed at reducing disparities in law enforcement contacts by race and ethnicity:<sup>18</sup>

- Expand the number and range of calls to 911/311 that are directed to non-law enforcement agencies, including those that address homelessness, mental health, and domestic violence; and
- Adopt at least one model that addresses public safety and crisis intervention situations by leading with mental health, mediation, and trauma-informed practices.

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## CAVEATS

Two caveats to this statement should be noted. First, estimating the impact of legislation on racial and social inequities in Montgomery County is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than to 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.

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## CONTRIBUTIONS

OLO staffers Dr. Theo Holt, RESJ Performance Management and Data Analyst, and Dr. Elaine Bonner-Tompkins, Senior Legislative Analyst, drafted this RESJ impact statement.

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<sup>1</sup> Serious and Fatal Pedestrian and Cyclist Collisions, dataMontgomery, Montgomery County, Maryland, 2021.

<https://data.montgomerycountymd.gov/Public-Safety/Serious-and-Fatal-Pedestrian-and-Cyclist-Collision/yszy-pfje>

<sup>2</sup> Vision Zero, No Traffic Deaths by 2030 in Montgomery County, 2017, Montgomery County, Maryland.

[https://www.montgomerycountymd.gov/visionzero/Resources/Files/Montgomery\\_20County\\_20Vision\\_20Zero\\_202\\_20Year\\_20Action\\_20Plan.pdf](https://www.montgomerycountymd.gov/visionzero/Resources/Files/Montgomery_20County_20Vision_20Zero_202_20Year_20Action_20Plan.pdf)

<sup>3</sup> Montgomery County Council, Bill 15-21, Solicitation of Vehicle Occupants in High-Speed Roadways- Permit Requirement, Introduced April 20, 2021, Montgomery County, Maryland.

[https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2706\\_1\\_14347\\_Bill\\_15-2021\\_Introduction\\_20210420.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2706_1_14347_Bill_15-2021_Introduction_20210420.pdf)

<sup>4</sup> Ibid

<sup>5</sup> Vision Zero Data Explorer

<https://mcgovgis.maps.arcgis.com/apps/MapJournal/index.html?appid=60410e6f22844d2cbb619505cb6e7bb>

<sup>6</sup> Transportation Safety, Pedestrian Safety, March 2020, Centers for Disease Control and Prevention.

[https://www.cdc.gov/transportationsafety/pedestrian\\_safety/](https://www.cdc.gov/transportationsafety/pedestrian_safety/)

[https://apps.who.int/iris/bitstream/handle/10665/79753/9789241505352\\_eng.pdf;jsessionid=CA845B31B05A6C63F3293108C478D9AC?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/79753/9789241505352_eng.pdf;jsessionid=CA845B31B05A6C63F3293108C478D9AC?sequence=1)

<sup>7</sup> Invisible and Homeless: A 2018 Study of Children, Youth, and their Parents in Montgomery County, Maryland, 2019, The National Center for Children and Families. <https://www.nccf-cares.org/wp-content/uploads/2019/03/InvisibleAndHomeless.pdf>

<sup>8</sup> Linda McMillan, Senior Legislative Analyst, Interagency Commission on Homelessness Three-Year Strategic Plan; Housing for All=Stronger Montgomery, February 10, 2020, PHED and HHS Committee Meeting, Montgomery County, Maryland

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2020/20200210/20200210\\_PHEDHHS1.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2020/20200210/20200210_PHEDHHS1.pdf)

<sup>9</sup> Ibid

<sup>10</sup> Job Opportunities Task Force, The Criminalization of Poverty: How to Break the Cycle through Policy Reform in Maryland, January 2018 [COP report 013018\\_FINAL.indd \(jotf.org\)](https://www.jotf.org/COP_report_013018_FINAL.indd)

# RESJ Impact Statement

## Bill 15-21

Harvard Criminal Justice Policy Program and Human Rights Watch Submission to the UN Special Rapporteur on extreme poverty and human rights, Criminalization of Poverty as a Driver of Poverty in the United States, October 2017, Human Rights Watch.

<https://www.hrw.org/news/2017/10/04/criminalization-poverty-driver-poverty-united-states>

<sup>11</sup> <https://www.who.int/publications/i/item/pedestrian-safety-a-road-safety-manual-for-decision-makers-and-practitioners>

<sup>12</sup> 2021 Reimagining Public Safety Taskforce, Recommendations Report, February 2021, Montgomery County, Maryland.

<https://www.montgomerycountymd.gov/rps/Resources/Files/reports/rps-task-force-recommendations-report.pdf>

<sup>13</sup> OLO spoke with Council Attorney Christine Wellons on May 3, 2010.

<sup>14</sup> Tamara Redmon, et al. Focusing on Pedestrian Safety, Spring 2021, Public Roads, Federal Highway Administration.

<https://www.fhwa.dot.gov/publications/publicroads/21spring/03.cfm>

<sup>15</sup> A "road diet" refers to a roadway reconfiguration where traditional four-lane undivided highways are converted into two-lane roads. In addition to low cost, the primary benefits of road diets include enhanced safety, mobility and access for all road users and a "complete streets" environment to accommodate a variety of transportation modes.

<sup>16</sup> Leading pedestrian intervals give pedestrians the opportunity to enter an intersection 3-7 seconds before vehicles are given a green indication.

<sup>17</sup> January-June 2021 Workplan, Vision Zero, 2021, Montgomery County, Maryland.

[https://www.montgomerycountymd.gov/visionzero/Resources/Files/2021-01\\_Jan-June2021\\_Workplan.pdf](https://www.montgomerycountymd.gov/visionzero/Resources/Files/2021-01_Jan-June2021_Workplan.pdf)

<sup>18</sup> 2021 Reimagining Public Safety Task Force Recommendations Report