

Racial Equity and Social Justice (RESJ) Impact Statement

BILL 36-21: MOTOR VEHICLES AND TRAFFIC—E-SCOOTERS— OPERATION REQUIREMENTS AND REGISTRATION

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 36-21 could widen racial and social inequities in the County by widening inequities in transit options and law enforcement and potentially widening inequities in traffic injuries. To improve racial equity and social justice, this statement offers several recommended amendments for consideration.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements 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 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 BILL 36-21

Across the nation, emergency room visits involving electronic scooters (e-scooters) have increased three-fold, from 7,700 to 25,400, between 2017 and 2020.³ The goal of Bill 36-21 is to improve the safety of e-scooters operating in the County to reduce such injuries.⁴ If implemented, the Bill would require the registration of e-scooters for rent, the use of helmets for minors using e-scooters in public, the use of reflectors on e-scooters, limiting use to persons 14 years of age or above, and parking of e-scooters upright that avoids interfering with access to sidewalks and other spaces that comply with the Americans with Disabilities Act. Bill 36-21 also defines that e-scooters will be regulated and authorizes the Montgomery County Police Department to enforce the bill's helmet and rental fleet registration requirements. Further, the bill sets a maximum speed of 15 miles per hour for e-scooters used in the County.

Several of Bill 36-21's provisions align with best practices for the public management of e-scooters.⁵ Bill 36-21's provisions are also consistent with County law (Bill 2-20) regulating bicycle and helmet use in the County.⁶ Bill 36-21 is similar to Bill 8-20, Bicycles and E-Scooters - Operating Requirements and Registration, which was introduced on March 3, 2020 and recommended for approval with amendments by the joint Public Safety and Transportation and Environment Committee. Introduced on October 19, 2021, Bill 36-21 includes amendments approved by the joint Committee in June 2020.

TRANSIT OPTIONS, SAFETY, AND RACIAL EQUITY

As part of a broader framework of shared mobility options that include ride and bicycle share programs, e-scooter share programs are changing the transportation landscape. A major concern is whether shared mobility options, including e-scooter share programs, will equitably benefit people and communities of color, or will they "perpetuate and exacerbate transportation inequities."⁷ To consider this concern, this section describes the historical drivers of racial inequities in transit and available data on transit, banking, and public safety disparities that could be impacted by Bill 36-21.

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Inequities in Transit.⁸ A history of inequitable planning and policy has shaped today's transportation landscape. This includes federal, state, and local policies that enabled the rise of automotive ownership and the mass construction of the federally funded interstate highway system in the 1950's. The federal government also subsidized the creation of White-only suburbs that allowed White householders to drive to jobs in the city and build wealth while discrimination in lending and employment restricted housing choices and wealth building for Black residents and other people of color. As highway construction and urban renewal efforts destroyed and displaced many Black neighborhoods, increasing isolation, crowding, and clustering of communities of color, funding and support for public transit waned making it more difficult for residents of color to connect to jobs, education, healthy food options and more.

The gentrification and influx of high-income residents back into many city centers has further pushed many low-income residents into car-dependent suburbs since the early 2000's, but many of these residents lack vehicles. Racial discrimination in automotive financing and the insurance industry where Black customers and communities are charged higher rates than their White peers exacerbates this trend. As such, residential patterns defined by structural racism persist today with the racial wealth gap enabling White residents to more housing and transportation choices, while BIPOC residents experience far fewer options. Of note, the spatial mismatch for low-wage workers is most prevalent in the suburbs where a lack of public transit hinders transit dependent workers' ability to commute.

Historically inequitable policies combined with current inequities in housing and transit manifest as disparities by race and ethnicity on several measures of transportation access. At the national level:

- Black households were the least likely to have access to an automobile (20 percent);⁹
- Black riders were twice as likely as their population share to rely on public transit (24 percent vs. 12 percent);^{and}¹⁰
- Black riders also had the longest average public transit time.¹¹

Local data on vehicle access, reliance on public transit, and commute time mirrors these trends with Black residents experiencing the worst transportation options compared to others. More specifically, in Montgomery County:

- Black households (13.8 percent) were the least likely to have access to an automobile followed by Latinx households (8.4 percent), Asian households (5.4 percent), and White households (5.3 percent);¹²
- Black residents (20.7 percent) were the most likely to commute to work by on public transit compared to Asian residents (14.3 percent), White residents (13.4 percent), and Latinx residents (11.3 percent);¹³ and
- Black residents also experienced the longest commutes (38 minutes) compared to Asian residents (36 minutes), and White and Latinx residents (34 minutes).¹⁴

These trends suggest that Black households could especially benefit from access to shared mobile options such as e-scooters that address their greater need for additional transportation options. Available data, however, suggests that many of the households with the greatest transit needs may not be able to access the e-scooter rental options that rely on credit cards connected to e-scooter rental apps. Nationally, among Black households:

- 17 percent are unbanked, meaning that no one has a checking or savings account;¹⁵
- 30 percent are under-banked, meaning they have an account but also use alternative and often exploitive financial services such as check cashing or payday loans;^{and}¹⁶
- 25 percent do not have a smartphone, which hinders the ability to access app-based shared mobility options.¹⁷

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Inequities in Traffic Injuries. Historically inequitable policies and current inequities have also fostered traffic-related injuries by race and ethnicity. Researchers note that unsafe street infrastructure, such as inadequate sidewalks, lighting, signage, and crosswalks, contribute to traffic accidents and injuries often characterize historically under-invested communities of color.¹⁸ Racial and ethnic differences in the social determinants of health have also been cited as drivers of racial inequities in traffic-related injuries.¹⁹ National data on traffic injury inequities show that:

- Among traffic deaths, Indigenous and African Americans evidence the highest death rates at 145.6 and 68.5 per 100,000 followed by White (55.2 per 100,000), Latinx (46.9 per 100,000) and Asian (15.3 per 100,000) persons.²⁰
- Among bicyclists, Latinx riders demonstrated the highest accident fatality rates, accounting for 38 percent of bicycle fatalities compared to 16 percent of the population in 2010.²¹
- For motorcycle crashes, Black victims were 1.5 times more likely to die from their injuries than similarly injured White victims even though Black motorcyclists were 30 percent more likely to have been wearing helmets.²²
- Among bicyclists and pedestrians, Black people accounted for 18 percent of traffic-related deaths compared to 12 percent of the overall population.²³

Available local data also demonstrates disparities in traffic safety by race and ethnicity with:

- Latinx pedestrians being the most likely to be killed in a traffic incident (2.9 per 100,000) followed by Black pedestrians (1.6 per 100,000) and White pedestrians (0.9 per 100,000). Yet, among vehicle occupants, Black residents are the most likely to be killed in Montgomery County (4.3 per 100,000) followed by White residents (3.4 per 100,000) and Latino residents (3.2 per 100,000).²⁴
- Local communities in Montgomery County with higher rates of poverty, persons of color, and younger residents also evidence higher collision rates than higher-income, White, and older communities.²⁵

Inequities in Law Enforcement. Historically inequitable policies and current inequities have also fostered law enforcement interactions with the public by race and ethnicity. Both over-policing in communities of color and racial bias in police interactions with the public has been identified as drivers of racial inequities in law enforcement driven in part by the “War on Drugs.” Inequities in law enforcement often begin with disparate decisions about who police officers pull over, ticket, and search during routine stops of motorists, bicyclists, and pedestrians. For example, a large-scale analysis of racial disparities in police stops across the U.S. found that:²⁶

- Black drivers are 20 percent more likely to be stopped by police than White drivers on average. More specifically, the annual per capita traffic stop rate by local police officers was 0.20 for Black drivers compared to 0.14 for White drivers and 0.09 for Latinx drivers; and the per capita traffic stop rate by state patrol officers was 0.10 for Black drivers compared to 0.07 for White drivers and 0.05 for Latinx drivers.
- Black drivers are also twice as likely to be searched during traffic stops than White drivers, yet they are less likely to have contraband. Disproportionate shares of people shot and killed at traffic stops are also Black.
- Black driver stop rates diminished under the “veil of darkness,” suggesting that discrimination (e.g. racial profiling) rather than differences in driver behavior account for disparities in traffic stops and searches.

Of relevance to potential e-scooter police stops, available data from other jurisdictions demonstrate racial disparities in police stops of bicyclists. For example:

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- In Seattle, Black cyclists received helmet infractions nearly four times higher than White cyclists, and Indigenous cyclists' was more than two times higher than White riders. In 2019, Black people accounted for 4.7 percent of cyclists however accounted for 17.3 percent of bicycle helmet infractions from 2003 to 2020; Native Americans accounted 0.5 percent of riders and 1.1 percent of bicycle helmet infractions.²⁷
- In Washington, DC, available data from 2010 to 2017 indicates that Black cyclists accounted for 88 percent of stops, a rate nearly twice the Black population. Black cyclists younger than 18 were stopped more than twice as often as White cyclists of all ages.²⁸
- In Oakland, Black cyclists accounted for nearly 3 in 5 police stops, being stopped three times as often as White riders, despite accounting for less than a quarter of the population. Of those stopped between 2016 and 2019, 59.4 percent were Black, 18.2 percent were White, 15.2 percent were Latinx, and 4.3 percent were Asian.²⁹

Local data on racial disparities in juvenile justice intakes and traffic stops in Montgomery County suggest that similar disparities in traffic stops among bicyclists and e-scooter riders could also occur. For example:

- Black youth were over-represented in juvenile justice intakes, accounting for 55 percent intakes in 2019 compared to comprising 36 percent of all youth. Conversely, White youth accounted for 13 percent of intakes compared to 20 percent of all youth, and Latinx/Other youth accounted for 32 percent of intakes compared to 44 percent of all youth.³⁰
- Black drivers experienced the highest traffic stop rates. In 2019, 27.4 percent of Black adults were stopped compared to 13.5 percent of White adults, 17.4 percent of Latinx adults, 11.6 percent of Native American adults, and 7.2 percent of Asian adults.³¹
- Black drivers received the highest rate of traffic violations. In 2019, there were 321 violations issued per 1,000 Black drivers compared to 310 violations issued per 1,000 Other Race drivers; 215 violations issued per 1,000 Latinx drivers; 132 violations issued per 1,000 White drivers; 126 violations issued per 1,000 Native American drivers; and 70 violations issued per 1,000 Asian drivers.³²
- Black and Latinx drivers were more than twice as likely as White drivers to be searched during traffic stops. In 2019, 3.8 percent of Black drivers were searched compared to 3.4 percent of Latinx drivers, 1.6 percent of White drivers, 1.4 percent of Asian drivers and 1.0 percent of Asian drivers.³³

ANTICIPATED RESJ IMPACTS

Discerning the potential impact of Bill 36-21 on racial equity and social justice in Montgomery County requires considering the potential impact of the bill on three sets of racial disparities: inequities in transit options, traffic-related injuries, and law enforcement. The potential impact of Bill 36-21 on each of these is addressed in turn. Taken together, OLO finds that Bill 36-21 as currently constructed could widen racial and social inequities in transit options and law enforcement and potentially widen racial inequities in traffic-related injuries.

- *Transit options.* E-scooter rentals as a shared mobility service could be implemented to narrow racial and income disparities in transportation access. Bill 36-21, however, is unlikely to improve transportation opportunities for households reliant on public transportation because available research suggests that White, affluent, and male riders are the primary beneficiaries of e-scooter share programs.³⁴ As such, the Bill as currently constructed is unlikely to diminish transit inequities by race, ethnicity or income across the County.

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- *Traffic injuries.* An e-scooter rental program could be implemented to narrow racial disparities in traffic accidents and injuries. As currently constructed, Bill 36-21 might not reduce racial disparities in traffic injuries since its primary injury reduction provision – requiring minors to wear helmets when riding e-scooters – could widen disparities in helmet use by race and ethnicity. For example, a 2016 research report evaluating bicycle helmet laws found that while helmet laws increased helmet usage for every racial group, they increased use more for White students than for students of color thus widening the helmet use gap by race.³⁵ Another study found that helmet use among motorcyclists offered less protection against injury among Black riders compared to White riders.³⁶ While Bill 36-21 could yield public health gains by increasing helmet use overall, it could also sustain or exacerbate racial inequities in helmet use and injuries.
- *Law enforcement.* An e-scooter rental program could be implemented to narrow racial disparities in law enforcement. Analogous to Bill 2-20, Bill 36-20 specifies the fine for a person’s helmet violation must be waived if a minor or their parent can produce proof they have obtained a helmet. Any fines for not wearing a helmet, however, could exacerbate racial inequities in law enforcement by increasing citations among youth of color that further burden communities of color. Further, current disparities by race and ethnicity in juvenile justice intakes, traffic stops and violations locally suggest a high likelihood that inequities by race and ethnicity in enforcing the helmet requirement may also occur. Enforcement of this provision of Bill 36-21 could likely widen racial inequities in law enforcement.

RECOMMENDED AMENDMENTS

The County's 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.³⁷ OLO finds that Bill 36-21 as currently constructed could widen racial and social inequities in transit options and law enforcement and potentially widen racial inequities in traffic-related injuries. Should the Council seek to address these inequities with recommended amendments to Bill 36-21, the following promising practices for advancing racial equity in transit options, reduced traffic injuries and law enforcement can be considered.

Expand inclusive transit options. Promising practices for using e-scooter programs, policies, and practices to improve transportation opportunities for households reliant on public transportation include:

- Ensuring equitable access to e-scooters by setting targets for e-scooter distribution and/or availability at the neighborhood level and adjust the target as needed to address the mobility needs of each neighborhood,³⁸
- Integrating shared mobility services with public transportation,³⁹
- Integrating public transit payment methods with shared mobility services,⁴⁰
- Requiring shared mobility services to offer lower cost options for low-income users and publicize available discount programs,⁴¹
- Requiring shared mobility services to provide cash and non-smart phone booking options,⁴²
- Requiring multi-lingual customer service, website, signage, outreach and apps.⁴³

Reduce traffic injury inequities. Promising practices for enabling e-scooter programming to reduce racial inequities in traffic accidents and injuries include:

- Requiring e-scooter providers to engage in information provision, education, and outreach activities that encourage e-scooter riders to wear helmets, especially BIPOC residents, and reframe helmet norms,⁴⁴
- Providing opportunities for new e-scooter users to gain riding experience,⁴⁵

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- Distributing helmets for e-scooter riders,⁴⁶
- Improving infrastructure for vulnerable road users (bicyclists and e-scooter riders) especially in BIPOC communities and low-income communities,⁴⁷
- Allowing e-scooters to operate in bike lanes or paths, but not on sidewalks,⁴⁸
- Requiring signage where e-scooter travel, speed, or parking is restricted,⁴⁹
- Recommending helmet use to reduce head injuries for all riders,⁵⁰
- Recommending limiting use to one rider per unit.⁵¹

Reduce law enforcement inequities. Promising practices for ensuring that e-scooter programs, policies, and practices do not exacerbate racial inequities in law enforcement include:

- Removing provisions that criminalize minors and their parents for teens not wearing helmets,
- Investing in public education campaigns that encourage e-scooter riders of all ages to wear helmets,⁵²
- Encouraging law enforcement to provide helmets for riders to encourage helmet use,⁵³
- Establishing data reporting requirements for e-scooter providers that allow the County to monitor their compliance with County requirements and to access the impacts of e-scooters on safety and equity concerns,⁵⁴
- Establishing data reporting requirements for e-scooter providers to share collision data with the County.⁵⁵

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.

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

² Ibid

³ Injuries Using E-Scooters, E-Bikes and Hoverboards Jump 70% During the Past Four Years, September 30, 2021, United States Consumer Product Safety Commission. <https://www.cpsc.gov/Newsroom/News-Releases/2021/Injuries-Using-E-Scooters-E-Bikes-and-Hoverboards-Jump-70-During-the-Past-Four-Years>

⁴ Bill 36-21, Motor Vehicles and Traffic – E-Scooters – Operation Requirements and Registration <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2728>

⁵ Bill 36-21 provisions aligning with best practices include: requiring rental e-scooters to be registered, restricting e-scooter speeds to 15 mph, requiring e-scooters to be parked upright and prohibiting parking of e-scooters in front of pedestrian crossings and loading zones to maintain American with Disabilities Act access. See Karl Reidhardt and Elizabeth Deakin, Best Practices for the Public Management of Electronic Scooters, The University of California Institute of Transportation Studies, October 2020.

⁶ Montgomery County Council, Bill 2-20, Bicycles – Registration – Amendments

⁷ Regan Patterson, New Routes to Equity: The Future of Transportation in the Black Community, Congressional Black Caucus Foundation, September 2020

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⁸ This section summarizes information from two sources: Patterson, 2020 and the Urban Institute, *The Unequal Commute: Examining inequities in four metro areas' transportation systems*. October 6, 2020.

⁹ The National Equity Atlas cited by Patterson, 2020

¹⁰ American Public Transportation Association, 2017 *Who Rides Public Transportation?* Cited by Patterson, 2020

¹¹ Congressional Research Service, 2018 *Trends in Public Transportation Ridership*. Cited by Patterson, 2020

¹² American Community Survey, 1-Year Estimate, 2019, Table S0201

¹³ Ibid

¹⁴ Ibid

¹⁵ Federal Deposit Insurance Corporation, FDIC National Survey of Unbanked and Underbanked Households. Cited by Patterson, 2020.

¹⁶ Ibid.

¹⁷ U.S. Census Bureau, *Computer and Internet Use in the United States, 2016*. Cited by Patterson, 2020.

¹⁸ See, for example, summary of research in Jesus Barajas, *Not all crashes are created equal: Associations between the built environment and disparities in bicycle collisions*, *The Journal of Transport and Land Use*, 2018

¹⁹ Johns Hopkins Medical Institutions, "Does race play a factor in accident survival? Black motorists – even in helmets – more likely to die in crashes, study finds." *ScienceDaily*, September 2010.

²⁰ Governor's Highway Safety Association, *An Analysis of Traffic Fatalities by Race and Ethnicity*.

<https://www.ghsa.org/sites/default/files/2021-06/An%20Analysis%20of%20Traffic%20Fatalities%20by%20Race%20and%20Ethnicity.pdf>

²¹ National Highway Traffic Safety Administration data cited by Jesus Barajas, *Not all crashes are created equal: Associations between the built environment and disparities in bicycle collisions*, *The Journal of Transport and Land Use*, 2018

²² Johns Hopkins Medical Institutions, 2010

²³ Data from Centers for Disease Control and Prevention, Smart Growth America and The League of American Bicyclists cited by Patterson, 2020.

²⁴ Centers for Disease Control and Prevention, National Center for Health Statistics. *Underlying Cause of Death 2011-2015 on CDC WONDER Online Database* cited in *Vision Zero Montgomery County Two Year Action Plan*, 2018.

²⁵ Montgomery County Vision Zero, Equity Framework, Montgomery County Department of Transportation, December 2019

²⁶ Emma Pierson, et al, "A large-scale analysis of racial disparities in police stops across the United States" *Nature Human Behavior*, Volume 4 July 2020

²⁷ Michelle Baruchman, *Racial Disparities prompt calls to repeal King County's bicycle helmet law*, *The Seattle Times*, February 19, 2021

²⁸ Dan Roe, *Black Cyclists Are Stopped More Often Than Whites, Police Data Shows*, *Bicycling*, July 27, 2020

²⁹ Ibid

³⁰ Maryland Department of Juvenile Services, *FY 2020 Databook*

³¹ Elaine Bonner-Tompkins and Natalia Carrizosa, *Local Policing Data and Best Practices*, Office of Legislative Oversight Report 2020-9, Montgomery County Government, July 21, 2020

³² Ibid

³³ Ibid

³⁴ San Francisco Metropolitan Transportation Authority assessment of pilot study of e-scooter riders cited by Reinhardt and Deakin (2020) found that 63 percent were White, 82 percent were male, and 68 percent had incomes over \$100,000 in a city that is 41 percent White, 51 percent male, and 49 percent with incomes above \$100,000.

³⁵ John Kraemer, *Bicycle helmet laws and persistent racial and ethnic helmet use disparities among urban high school students: a repeated cross sectional analysis*, *Injury Epidemiology*, December 3, 2016

³⁶ Data from Centers for Disease Control and Prevention, Smart Growth America and The League of American Bicyclists cited by Patterson, 2020.

³⁷ Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established

³⁸ Reinhardt and Deakin, 2020

³⁹ Patterson, 2020

⁴⁰ Ibid

⁴¹ Reinhardt and Deakin, 2020

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⁴² Patterson, 2020

⁴³ Reinhardt and Deakin, 2020

⁴⁴ Ibid and Kraemer, 2016

⁴⁵ As noted by Benjamin Preston in “New Study Show Safety Risks of Riding e-Scooters on the Sidewalk” article in Consumer Reports (October 15, 2020) describing a IIHS study on e-scooters conducted by IIHS, inexperience increases crash risk and about 40 percent of e-scooter riders interviewed has been injured on their first ride. As such, opportunities for new riders to practice using e-scooters prior to first rental might reduce e-scooter accidents and injuries.

⁴⁶ Recommended by Edwin Lindo of the NorthStar Cycling Club cited by Michelle Baruchman, February 19, 2021

⁴⁷ Reinhardt and Deakin, 2020

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Best practice in Columbus Ohio cited in Evan Byrnes, et. al., Identifying Best Practices for Management of Electric Scooters, College of Food, Agricultural and Environmental Services, The Ohio State University, 2019

⁵² Kraemer, 2016

⁵³ Recommended by Edwin Lindo of the NorthStar Cycling Club cited by Michelle Baruchman, February 19, 2021

⁵⁴ Reinhardt and Deakin, 2020

⁵⁵ Evan Byrnes, et.al. 2019