

# Racial Equity and Social Justice (RESJ) Impact Statement

## EXPEDITED ELECTIONS — COUNCIL DISTRICTS — BOUNDARIES BILL 41-21:

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 41-21 could positively impact racial equity and social justice (RESJ) as it would create two new Council districts where Latinx and Black residents would each comprise the largest voter group. OLO anticipates a moderately positive impact of Bill 41-21 on RESJ in the County.

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### PURPOSE OF RESJ IMPACT STATEMENTS

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.<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 EXPEDITED 41-21

The purpose of Expedited Bill 41-21 is to repeal and replace Council district boundaries with the redistricting plan recommended by the 2021 Redistricting Commission on October 20, 2021.<sup>3</sup> Redistricting is the process used by governments to redraw political district boundaries once the census count is complete.<sup>4</sup> Communities change over time, and with new census data, district lines need to be adjusted so that all districts have equally sized populations.<sup>5</sup> Bill 41-21 also responds to changes in the Montgomery County Charter approved by voters during the 2020 election cycle to divide the Council's five current districts into seven new districts that will apply for the 2022 election year.<sup>6</sup>

In making recommendations to redraw the Council's districts, the Commission prioritized six criteria: 1) compactness; 2) continuity; 3) representation of Black, Indigenous, and Other People of Color; 4) preservation of political subdivisions; 5) preservation of communities of interest; and 6) including the Cities of Rockville and Gaithersburg into a single Council district.<sup>7</sup> Toward these ends, the Commission recommends the Council adopt the following seven new districts:

- District 1 that includes Bethesda, Chevy Chase, Palisades, Cabin John, Potomac and Travilah
- District 2 that includes Darnestown, Poolesville, Boyds, Barnesville, Germantown and Clarksburg
- District 3 that includes Rockville, Gaithersburg, and Washington Grove
- District 4 that includes Takoma Park, Silver Spring, Long Branch, Kensington, Garrett Park and North Bethesda
- District 5 that includes Four Corners, White Oak, Colesville, Burtonsville, Layhill, and Leisure World
- District 6 that includes Wheaton, Aspen Hill, Forest Glen, Glenmont, and Derwood
- District 7 that includes Sandy Spring, Olney, Norbeck, Montgomery Village, Laytonsville, and Damascus

Of note, Bill 41-21 creates a district where Black residents are the largest racial group (District 5) and another where Latinx residents are the largest ethnic group (District 6). Expedited Bill 41-21 was introduced on November 9, 2021.

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## VOTING RIGHTS, POLITICAL REPRESENTATION, AND RACIAL EQUITY

Understanding the impact of Expedited Bill 41-21 on racial equity and social justice requires understanding the historical context that shapes voting rights and political representation today. To describe this historical context, this section describes the historical drivers of racial inequities in voting rights, political representation and available data on disparities in political representation by race and ethnicity both nationally and locally.

**Inequities in Voting Rights.** The role of voting and election administration in contributing to racial inequity is long-standing. The Constitution does not guarantee a right to vote but instead specifies who may not be excluded from voting.<sup>8</sup> States have been responsible for determining who is eligible to vote and throughout history, have used that power to suppress those without power and to uphold a racial hierarchy and other undemocratic systems of power.<sup>9</sup> As such, Black, Indigenous, and Other People of Color (BIPOC) have had an unequal voice in politics because they were denied the right to vote under Jim Crow laws, or because when able to vote, they had to pay poll taxes.<sup>10</sup> Racial gerrymandering has also been a common mode of disenfranchising and undermining BIPOC representation.<sup>11</sup>

Race-based gerrymandering refers to drawing district lines to ensure White majorities while simultaneously suppressing the power of BIPOC votes and preventing BIPOC candidates from winning elections.<sup>12</sup> Following the passage of the Voting Rights Acts (VRA) of 1965, many jurisdictions redrew district lines to ensure White majorities.<sup>13</sup> While *Thornburg v. Gingles* set the precedent that explicitly race-based gerrymandering was prohibited through Section 2 of the VRA, the Supreme Court ruled in subsequent cases that drawing district maps that achieve the same outcome – disempowering voters of color – is permissible, as long as the intent was not explicitly racist.<sup>14</sup>

There are three methods for diminishing the voting power of BIPOC residents through racial gerrymandering:<sup>15</sup>

- Packing – Putting all Black voters in one district so that their sole majority district is outvoted by all others;
- Cracking – Spreading Black voters among all districts so they never have a majority in any of them;
- Stacking – Putting Black voters into one district that is still populated by enough White people to ensure Blacks can't form a majority.

Overall, district lines can be drawn to keep communities of color together to enhance their ability to elect candidates of color choice and to keep elected officials accountable or break them apart, diluting their political power to elect or influence elected officials who are responsive to their needs.<sup>16</sup>

**Inequities in Representation.** Since 1965, the number of elected officials of color has grown enormously. African Americans went from holding fewer than 1,000 elected offices nationwide to more than 10,000, Latinos from a small number of offices to over 6,000, and Asian Americans from under a one hundred documented cases to almost 1,000.<sup>17</sup> People of color, however, remain underrepresented in elected office due to both the legacy of systemic discrimination in voting rights and current efforts to suppress the BIPOC vote. In turn, BIPOC power and interests are diminished in the political sphere and BIPOC continue to be politically disenfranchised despite the Voting Rights Act.

The under-representation of BIPOC residents among elected officials is especially acute for Asian Americans. In 2020:<sup>18</sup>

- Asian Americans represented 6.1 percent of the U.S. population but only 0.9 percent of elected offices.
- Latinx residents represented 18.5 percent of the U.S. population but 3.3 percent of elected offices.
- Native Americans represented 1.3 percent of the U.S. population but 0.4 percent of elected offices.
- African Americans represented 13.4 percent of the U.S. population but 7.6 percent of elected offices.

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- White Americans represented 60.1 percent of the U.S. population but 87.5 percent of elected offices.

The over-representation of White people among elected officials in the U.S. is driven by the over-representation of White men in elected office. Whereas, in 2019, across the U.S.:<sup>19</sup>

- White men accounted for 30 percent of the population compared to 62 percent of all elected officials.
- White women accounted for 31 percent of the population compared to 27 percent of all elected officials.
- Men of color accounted for 19 percent of the population compared to 7 percent of all elected officials.
- Women of color accounted for 20 percent of the population compared to 4 percent of all elected officials.

The representation of White men among elected officials varied by level of government: they accounted for 63 percent of members of Congress compared to 54 percent of statewide office holders in 2019.<sup>20</sup> The proportion of elected positions held by White women and BIPOC men and women also varied with the later having the lowest levels of representation among County level offices. More specifically, representation among elected officials for:<sup>21</sup>

- White women ranged from 15 percent (Congressional offices) to 30 percent (Statewide office).
- Men of color ranged from 6 percent (County level office) to 13 percent (Congressional office).
- Women of color ranged from 4 percent (County level office) to 9 percent (Congressional office).

Because of the historical barriers faced by women and people of color in politics, most incumbent officeholders are White men.<sup>22</sup> The power of incumbency rather than electability is viewed as driver of the current skew by race, ethnicity and gender in political representation.<sup>23</sup> Of note, across all levels of office, 96 percent of incumbents won their 2020 primaries.<sup>24</sup> Moreover, in Congress, 97 percent of Congressional incumbents won their 2020 primaries.<sup>25</sup>

**Local Data on Representation.** Representation on the County Council parallels some of the national patterns of inequities in political representation and diverges from these patterns as well. For example, when comparing the demographics of at-large Councilmembers to the 2010 census, there is parity by race and ethnicity. Data review shows that BIPOC residents accounted for half of the County’s population in 2010 and half of today’s at-large members.<sup>26</sup> Among district Councilmembers, there is less parity as BIPOC members accounted for two of five (40 percent) Councilmembers.<sup>27</sup> Yet, BIPOC representation among districts may be higher than expected as no single BIPOC group comprised the largest racial group for any district in 2010. Instead, White residents were the largest racial group for every district as demonstrated in Table 1. Further, two BIPOC Councilmembers currently represent Districts 2 and 4.

**Table 1: Race and Ethnicity of Current Montgomery County Districts and Elected Officials**

Percent of Residents by Race and Ethnicity	2010 Census	2011-15, American Community Survey				
	County	District 1	District 2	District 3	District 4	District 5
White (W)	49	72	40	47	39	34
Black (B)	17	5	19	12	20	32
Latinx (L)	17	8	19	18	26	20
Asian (A)	14	12	18	19	12	11
Other (O)	3	1	5	6	16	12
2018 Council Members		Friedson (W)	Rice (B)	Katz (W)	Navarro (L)	Hucker (W)

Sources: Data from County Council, Urban Institute,<sup>28</sup> and Montgomery County Redistricting Commission, 2021

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Yet, aligning with national patterns, the overrepresentation of White men among Councilmembers is evident. When considering all current members of the Montgomery County Council and the 2010 census:

- White men were 24 percent of the County’s population compared to 56 percent of Councilmembers.<sup>29</sup>
- White women were 25 percent of the County’s population compared to 0 percent of Councilmembers.<sup>30</sup>
- Men of color were 25 percent of the County’s population compared to 33 percent of Councilmembers.<sup>31</sup>
- Women of color were 26 percent of the County’s population compared to 11 percent of Councilmembers.<sup>32</sup>

Of note, the Council district map proposed by the 2021 Redistricting Commission provides an opportunity to increase the racial and ethnic diversity of the County Council as it includes the creation of two new districts where a single BIPOC group will comprise the largest racial group. More specifically, Black residents will comprise the largest racial group for a new District 5 located in the eastern flank of the County, and Latinx residents will comprise the largest ethnic group for a new District 6 that includes Wheaton and Aspen Hill. While White residents will continue to be the largest racial group in the County and will continue to be the largest racial group in five of the Council districts, the large shares of BIPOC residents combined will account for a majority of residents in four of these districts and could caucus together to ensure any elected official from these districts meet their political and policy needs as residents of color.

**Table 2: Racial and Ethnic Composition of Proposed Montgomery County Districts**

Race and Ethnicity	2020 Census – Percent of Residents (Total Population)							
	County	District 1	District 2	District 3	District 4	District 5	District 6	District 7
White	40.6	65.5	33.9	38.3	44.3	28.0	29.9	42.7
Black	18.2	4.9	19.4	13.7	20.9	36.7	16.9	15.6
Latinx	20.5	8.0	17.5	22.8	19.5	18.4	35.6	22.2
Asian	15.3	15.8	23.8	19.8	9.5	11.7	12.2	14.0
Other	5.5	5.8	5.4	5.4	5.8	5.1	5.3	5.5

Source: Montgomery County Redistricting Commission, 2021

## ANTICIPATED RESJ IMPACTS

Understanding the impact of Expedited Bill 41-21 on racial equity and social justice requires understanding the stakeholders most likely to be impacted by the bill. While redistricting impacts every voter in Montgomery County, all residents and other stakeholders will be impacted. This RESJ statement focuses on the impact of Expedited Bill 41-21 on two sets of stakeholders - BIPOC residents and BIPOC candidates – as follows:

- **BIPOC residents.** Advancing racial equity and social justice require that the communities most impacted by inequities help shape the future. District-based elections also gives residents in BIPOC communities, whose votes can be diluted at the County level, more voting power.<sup>33</sup> The 2021 Redistricting Commission’s recommendations based on the 2020 Census and changes in the County Charter to create seven districts increases BIPOC representation in each Council district and create districts where single BIPOC groups will comprise the largest share of district residents. OLO anticipates that Bill 41-21’s recommended changes to the Council district map will enhance the political power of BIPOC residents so their increasing share of the County’s populace is actualized in increased political power and partnership with elected officials to address persistent racial and social inequities.

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- **BIPOC candidates.** District-based elections as compared to at-large elections are viewed as a best practice for increasing the diversity of elected officials.<sup>34</sup> District-based elections often increase the diversity of the candidate pool for local office as candidates run specifically in their district rather than campaigning at the County level. As such, OLO anticipates that the Redistricting Commission’s recommendations to change the Council district map will increase the likelihood that BIPOC candidates will run for County Council, particularly among Council districts.

Overall, OLO finds that the Redistricting Commission’s recommendations to revise Council districts to increase their BIPOC representation will improve racial equity and social justice in the County as it will increase the power of BIPOC residents to hold elected officials accountable for prioritizing racial equity in their decision-making and enhance the opportunity for BIPOC candidates to be elected. Given the scope and influence of the Council’s decision-making, OLO anticipates a moderately positive impact of Expedited Bill 41-21 on racial equity and social justice in the County.

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## 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.<sup>35</sup> OLO finds that Expedited Bill 41-21 could narrow racial and ethnic inequities across the County. Consequently, this RESJ impact statement does not offer recommendations.

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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.

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<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> Montgomery County Council Bill 41-21, Elections – Council Districts – Boundaries, Introduced on November 9, 2021

<sup>4</sup> Advancement Project California, Redistricting as a Means for Equity and Community Empowerment, October 28, 2021

<sup>5</sup> Ibid

<sup>6</sup> Ludeen McCartney-Green, Memorandum to County Council on Expedited Bill 41-21, Elections – Council Districts – Boundaries, November 4, 2021

<sup>7</sup> 2021 Redistricting Commission report included as attachment to McCartney-Green memorandum

<sup>8</sup> Olivia Snarski, Dana Waters, Sara Boukdad, Gianna Judkins and Ellen Medlow, Cities Vote: Municipal Action Guide, Race Equity and Voting in 2021 and Beyond, National League of Cities 2020

<sup>9</sup> Ibid

<sup>10</sup> Emily Badger, Why big spending on political campaigns makes racial inequality worse. The Washington Post, December 14, 2014

<sup>11</sup> Olivia Snarski et al.

<sup>12</sup> Ibid

<sup>13</sup> Ibid

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<sup>14</sup> Ibid

<sup>15</sup> Linda Kramer Jennings, As Communities of Color Grow, Racial Gerrymandering Takes Center Stage, YES! Magazine, September 29, 2021

<sup>16</sup> Advancement Project California, Redistricting as a Means for Equity and Community Empowerment, October 28, 2021

<sup>17</sup> Khalilah Brown-Dean, Zoltan Hajnal, Christina Rivers and Ismail White, 50 Years of the Voting Rights Act: The State of Race in Politics, Joint Center for Political and Economic Studies, 2015

<sup>18</sup> Reflective Democracy Campaign, #Advance AAPI Power: Asian American Pacific Islander Leadership, May 2021

<sup>19</sup> Reflective Democracy Campaign, The Electability Myth: The Shifting Demographics of Political Power in America, June 2019

<sup>20</sup> Ibid

<sup>21</sup> Ibid

<sup>22</sup> Reflective Democracy Campaign, System Failure: What the 2020 Primary Elections reveal about of democracy, May 2021

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Ibid

<sup>26</sup> At-large Councilmember Will Jawando is Black and Gabriel Albornoz is Latino.

<sup>27</sup> District 2 Councilmember Craig Rice is Black and District 4 Councilmember Nancy Navarro is Latina.

<sup>28</sup> Leah Hendey and Lily Posey, Racial Inequities in Montgomery County: 2011-15, Montgomery County detailed tables, Urban Institute, December 30, 2017

<sup>29</sup> White men representation estimated at slightly less than half of White representation in 2010; White men council members counted are Councilmembers Hans Riemer, Evan Glass, Sidney Katz, Andrew Friedson, and Tom Hucker.

<sup>30</sup> White women representation estimated at slightly more than half of White representation in 2010.

<sup>31</sup> Men of color representation estimated at slightly less than half of BIPOC representation in 2010; Men of color council members counted are Councilmembers Craig Rice, Gabriel Albornoz, and Will Jawando.

<sup>32</sup> Women of color representation estimated at slightly more than half of BIPOC representation in 2010; Woman of color council member counted is Councilmember Nancy Navarro.

<sup>33</sup> Michelle Huang and Kim Lee, More People of Color Are Running and Winning Local Offices, But Bay Area Electeds Still Do Not Represent the Region's Diversity, Bay Area Equity Atlas, August 25, 2021

<sup>34</sup> Ibid

<sup>35</sup> Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established