

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 14-22: POLICE – PRIVATE SECURITY CAMERA INCENTIVE PROGRAM – ESTABLISHED

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 14-22 could widen racial and social disparities in policing as it broadens the Montgomery County Police Department’s authority to increase police surveillance in communities of color through private security cameras. Available research suggests that increased community surveillance could place Black and Latinx residents at greater risks for police contact that could widen existing racial disparities in law enforcement interactions. The magnitude of the impact of the Bill on racial equity and social justice (RESJ) in the County cannot be quantified with existing data. To reduce the potential harm of Bill 14-22 on RESJ, OLO offers recommended amendments for Council consideration.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of racial equity and social justice (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, 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 BILL 14-22

The purpose of Bill 14-22 is to increase police surveillance in communities that the Montgomery County Police Department (MCPD) deems to be high crime areas. Toward this end, Bill 14-22 authorizes the establishment of a program that incentivizes residents and businesses in “priority areas” to install private security cameras. MCPD encourages current residents and business owners with private security cameras to join the Nextdoor platform to “provide real-time crime updates.” Presumably, the intent of Bill 14-22 is to encourage more residences and businesses to join Nextdoor by offsetting the cost of private security cameras in areas where they are less ubiquitous.

Bill 14-22 states that an individual, business, or nonprofit organization could apply to MCPD to receive a voucher or rebate to offset the cost of installing a security camera on their property within policing districts identified as “needing additional security cameras based upon public safety indicators, including crime levels.”³ Available data on crimes and dispatch calls suggests that Bill 14-22 would authorize the private security voucher program in two policing districts: District 3 (Silver Spring/Burtonsville) and District 6 (Gaithersburg/Montgomery Village). Residents of color account for a majority of residents in each of these districts; thus, the net effect of Bill 14-22 is to authorize an increase in the use of police surveillance via private security cameras in communities of color (see Table A in Appendix).

Of note, the Bill does not designate a funding source for private camera vouchers nor does it specify how the program will be implemented. This Bill allows MCPD to seek federal and state funding to support program costs and develop regulations for implementation via Method 2 regulations that would ultimately require County Council approval. Further, while Bill 14-22 requires the Police Chief to provide an annual report to the Council that describes the Bill’s implementation and efficacy, the actual components and reporting requirements are left to the discretion of the Police Chief.⁴ Bill 14-22 was introduced to the Council on June 14, 2022.

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POLICING, SURVEILLANCE, AND RACIAL EQUITY

As noted by Laura Moy, Professor at the Georgetown University Law Center and Director of its Communications and Technology Law Clinic, “(p)olice technologies are adopted by police agencies operating in broader context of structural inequity – the chief cause of racial inequity in policing.”⁵ Structural racism refers to “a network of social relations at social, political, economic, and social levels that shape the life chances of the various races” with structural inequity permeating every aspect of American society. According to Moy, racial inequities resulting from structural inequities that are most germane to police technology include race-based residential segregation, a criminal justice system that disadvantages Black and Latinx people, political disenfranchisement of people of who have been convicted of crimes, a culture that ties crime to blackness, and a legal system that insulates police behavior from scrutiny and accountability.⁶

Modern policing in the U.S. emerges from a legacy of racial inequity. The earliest policing efforts, slave patrols, apprehended escaped Africans to instill fear and deter slave revolts.⁷ The first municipal police forces, beginning in Boston in 1838, were principally focused on controlling people in response to public intoxication, gambling, and population growth rather than on public safety.⁸ Post-Reconstruction racism in law enforcement persisted via the creation of Jim Crow laws that criminalized inconsequential activities such as vagrancy to maintain control of the formerly enslaved through convict leasing and chain gangs.⁹

Today, racial inequities in policing persist with harsher treatment of Black, Indigenous, and Other People of Color (BIPOC) in the criminal justice system, mass incarceration, and the collateral punishment of incarceration on BIPOC families and communities.¹⁰ Nationally, Latinx and Black residents are incarcerated at rates that are respectively three and five times higher than White residents.¹¹ In Maryland, Black people account for 30 percent of the population but:

- 54 percent of arrests for marijuana use;¹²
- 71 percent of the state’s correctional population;¹³
- 77 percent of the maximum-security correctional population and prisoners serving life sentences;¹⁴ and
- 100 percent of exonerated individuals across the state.¹⁵

Further, Black people account for 18 percent of the County’s population but 32 percent of MCPD traffic stops, 44 percent of MCPD arrests, and 55 percent of MCPD use of force incidents.¹⁶

Racial bias in policing extends into the over surveillance of communities of color, which has historical roots in U.S. policy. Even before World War II, the U.S. government monitored the Japanese American community, including tracking private communications and bank accounts, and using census data to locate and detain thousands of people in internment camps.¹⁷ In the 1950s and 1960s, the FBI used its Racial Matters and COINTELPRO programs to track and collect intimate personal details – often unrelated to law enforcement - on Martin Luther King, Jr., Malcolm X, and other civil rights activists.¹⁸ For six years following the September 11, 2001 terrorist attacks, the New York Police Department and the CIA surveilled Muslim neighborhoods, establishments, and mosques.¹⁹

More recently, the government’s surveillance of public protests, especially when primarily focused on communities of color, has raised concerns about racial profiling and the appropriate use of technology.²⁰ In 2015, for example, it was reported that the Baltimore Police Department used aerial surveillance, location tracking, and facial recognition to identify individuals protesting the death of Freddie Gray.²¹ In all these instances, law enforcement’s stated goals in using surveillance tactics have been maintaining public safety, preventing crime, and protecting Americans. Yet in practice, surveillance has often been used to monitor and control the lives of BIPOC rather than to promote public safety.

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ANTICIPATED RESJ IMPACTS

Within the context of racial inequity in policing and police surveillance, it is important to consider two questions when considering the anticipated impact of Bill 14-22 on RESJ in the County:

- 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 residents and business owners in the County that could be eligible for security camera vouchers. Data in Table 1 shows that White residents are over-represented as homeowners across the County and the geographic areas served by Police Districts 3 and 6.

Table 1: Percent of Residents Compared to Percent of Owner-Occupied Housing Units by Race and Ethnicity, Silver Spring, Gaithersburg, Montgomery Village, and Germantown*

Race and ethnicity ²²	Residents	Owner-Occupied Housing Units				
	All Residents	Montgomery County	Silver Spring CDP	Gaithersburg City	Montgomery Village CDP	Germantown CDP
Asian	15.4	15.6	7.0	24.2	11.4	22.8
Black	18.6	11.2	16.6	10.9	17.6	14.6
White	43.1	64.8	67.0	57.2	60.1	52.1
Latinx	20.5	11.4	12.0	13.1	20.5	18.3

Source: 2020 Decennial Census (Table P1, P2), Census Bureau.

Source: 2020 American Community Survey (Table S2502).

*Census Designated Place (CDP) data used to represent police district data

While White residents account for 43 percent of all County residents, they accounted for 65 percent of homeowners across the County and between 52 percent and 67 percent of the homeowners across the four census areas comprising Districts 3 and 6. Similarly, White residents are over-represented among business owners, accounting for 75 percent of firms with employees across the County (see Table 2). As such, White residents are the most likely to receive vouchers from the program, despite residents of color accounting for the majority of residents in the County and especially in Districts 3 and 6 communities (see Appendix, Table B for the racial and ethnic demographics of Silver Spring, Burtonsville, Gaithersburg, and Montgomery Village residents).

Table 2: Percent of Residents v. Firms with Employees by Race and Ethnicity, Montgomery County

Race and ethnicity	Percent of County Residents	Percent of Employer Firms, All Sectors (NAICS 00)
Asian	15.4	19.7
Black	18.6	5.5
White	43.1	74.7
Latinx	20.5	7.4

Source: 2020 Decennial Census (Table P1, P2), Census Bureau.

Source: 2017 American Business Survey (Table AB1700CSA01), Census Bureau.

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The corollary to the first question is which groups could be most harmed by the bill. The history of inequity in policing and current racial inequities in interactions with law enforcement suggest that Black and Latinx residents could be most harmed by Bill 14-22. As aptly noted by the American Civil Liberties Union (ACLU) regarding police surveillance:

“Increased community surveillance always leads to increased encounters between residents and the police, and as we know all too well, more police encounters with Black people lead to more injury and death. In other words, the rise in this kind of persistent surveillance will help maintain or further increase the racial disparities in whom police officers harass, arrest, and kill.”²³

Observers warn that racial bias that shows up on police dispatch calls might be magnified by home security cameras and video doorbells that digitize racial profiling, including apps such as Neighbor and Nextdoor.²⁴ Already, MCPD stops and searches Black drivers far more often than drivers from other racial groups.²⁵ MCPD also issues more citations to Latinx drivers per traffic stop compared to other drivers.²⁶

Concerns raised by civil rights leaders and racial justice organizations suggest that use of private cameras for surveillance and other technology tools can aggravate racial inequity in policing and thus widen disparities by race and ethnicity. As noted in a letter to the Color of Change, “(n)ew technological tools that amplify police power can amplify existing biases in policing.”²⁷ The ACLU describes the potential shift from “racist human-driven policing” to “racist, surveillance tech-driven policing” as the “Law Enforcement 2.0 Problem” with three components:²⁸

- Policing 2.0, where tech-dependent police forces surveil community of color more invasively and constantly than ever before.
- Stop and Frisk 2.0, where the police are able to surreptitiously monitor potential suspects looking for any reason to engage them in the same racist and violent matter that led to the current policing crisis. This increases the number of false positives:²⁹ innocent people who are likely to be flagged and harassed.
- Mass Incarceration 2.0, where constant surveillance leads to more arrests in overpoliced communities and more persons of color being imprisoned for activities that go unnoticed in White communities.

Related to the Policing 2.0 problem is the loss of anonymity in public spaces.³⁰ This loss of privacy is experienced by individuals and communities. As Andrew Ferguson notes, “surveillance capacity presents a real threat to privacy because in order to collect ... data (over-time) on a particular suspect, the rest of the population must also be recorded. Associational freedoms can be threatened by the mere possibility of such mass surveillance.”³¹ He notes that big data police surveillance “presents a stark privacy problem” because it changes the traditional physical limitations of policing and in doing so “distorts the constitutional protections of citizens.”³²

Some might argue that the loss in constitutional rights is worth the increased surveillance if it reduces crime. Yet, there is no evidence that police use of surveillance cameras significantly reduces crime, particularly violent crime.³³ The limited evidence that surveillance cameras can reduce crime focuses on property crimes in parking lots or locations where “they are most likely to capture criminal activity or generate evidence, such as footage of people fleeing crime scenes.”³⁴

Further, it is important to understand the consequences of increased harassment against Black and Latinx residents. As demonstrated in evaluations of New York City’s Stop and Frisk Program and other “broken windows” policies, increased surveillance of communities of color served to make residents of color feel more unsafe in their own communities because they were more fearful of the police.³⁵ This undermines the entire goal of community policing to have communities of color and law enforcement partner so they can work together to increase public safety.³⁶

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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.³⁷ OLO anticipates that Bill 14-22 could widen racial and social disparities in policing as it broadens MCPD's authority to increase police surveillance in communities of color through private security cameras.

Available research suggests that increased community surveillance could place Black and Latinx residents at greater risks for interactions with MCPD that widen existing racial disparities in law enforcement interactions. The magnitude of the impact of Bill 14-22 on RESJ in the County cannot be quantified with existing data. To reduce the potential harm of Bill 14-22 on RESJ, OLO offers three recommendations for Council consideration.

- **Assemble a group of diverse stakeholders to update Bill 14-22, draft its Method 2 regulations, and develop annual reporting requirements to the Council to prioritize RESJ.** The County Council has increasingly adopted strategies aimed at promoting civilian oversight in policing and decision-making to advance RESJ. Council action has included creating the Policing Advisory Commission and the Police Accountability Board and enacting legislation to increase transparency in policing data and operations. OLO recommends the Council task MCPD to convene community stakeholders representative of BIPOC communities to craft a revised Bill that explicitly seeks to advance RESJ with public safety. OLO also recommends the Council task MCPD to partner with BIPOC community stakeholders to draft Method 2 regulations and annual reporting requirements to the Council that reflect the priorities of disproportionately impacted communities.
- **Require MCPD to work with community partners to evaluate all new policing technologies through a RESJ lens with technology impact statements before enacting them.** Laura Moy finds that with an increased awareness of racial inequity in policing and increased scrutiny of police technologies, “an explanation of how police technology aggravates inequities” is warranted.³⁸ She recommends that police agencies complete technology and algorithmic impact statements to evaluate new technology tools before seeking legislative approval to adopt new technologies. She proposes a taxonomy for these impact statements that help police agencies and policymakers analyze how proposed police technologies may: (a) replicate inequity in policing; (b) mask inequity in policing; (c) transfer inequity from elsewhere to policing; (d) exacerbate inequitable policing harms; and/or (e) compromise oversight of inequity in policing. As MCPD works with community partners to strengthen the potential RESJ impact of Bill 14-22, OLO recommends the Council also task MCPD to partner with BIPOC community groups and the Police Advisory Commission to conduct a more in-depth RESJ assessment of this Bill using Moy's taxonomy for technology and algorithmic impact statements.
- **Consider joining the ACLU's Community Control Over Police Surveillance (CCOPS) effort.** The ACLU finds that police surveillance technology presents significant threats to civil rights and liberties that disproportionately impact BIPOC and low-income communities. They also find that most jurisdictions have adopted these technologies without any community input or control. The CCOPS effort seeks to have local jurisdictions enact laws that mandate meaningful opportunities for local communities to review and participate in all decisions about if and how surveillance technologies are acquired and used locally. CCOPS offers model legislation³⁹ and guiding principles⁴⁰ that jurisdictions can adopt to advance RESJ and protect the civil rights of citizens with new policing technologies. To date, 14 jurisdictions have joined CCOPS. To systematize the recommendations offered with this RESJ impact statement around ensuring meaningful community engagement in the development and deployment of all new policing technologies, the Council may want to consider having the County join CCOPS as well.

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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.

APPENDIX TABLES

Table A: Population and Per Capita Crime Rate in Montgomery County Police Districts, Sorted by Highest to Lowest Crime Rate

Police District	Population	Crime rate per 100,000 residents
3 rd - Silver Spring	163,266	3962.2
6 th - Gaithersburg/Montgomery Village	156,064	3449.2
5 th - Germantown	141,113	2916.8
4 th - Wheaton	216,176	2502.6
2 nd - Bethesda	190,506	2439.3
1 st - Rockville	156,848	2413.8

Source: 2020 Annual Report on Crime and Safety, MCPD.

Table B: Percent of Residents by Race and Ethnicity, Montgomery County, Silver Spring, Gaithersburg, Montgomery Village, and Germantown*

Race and ethnicity	Montgomery County	Silver Spring CDP	Gaithersburg City	Montgomery Village CDP	Germantown CDP
Asian	15.4	7.5	19.1	11.0	20.4
Black	18.6	28.7	16.6	23.4	25.9
White	43.1	35.0	34.8	27.9	28.7
Latinx	20.5	26.9	28.5	36.9	23.1

Source: 2020 Decennial Census (Table P1, P2), Census Bureau.

*Census Designated Place (CDP) data used to represent police district data

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 Bill 14-22, Police – Private Security Camera Incentive Program – Established, Montgomery County Council

⁴ Ibid.

⁵ Laura M. Moy, How Police Technology Aggravates Racial Inequity: A Taxonomy of Problems and a Path Forward, February 24, 2019

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- ⁶ Ibid
- ⁷ Danyelle Solomon, The Intersection of Policing and Race, Center for American Progress, September 1, 2016
- ⁸ Ibid.
- ⁹ Andrea Flynn, Susan Holmberg, Dorian Warren and Felicia Wong, The Hidden Rules of Race: Barriers to An Inclusive Economy, 2017
- ¹⁰ Ibid.
- ¹¹ Racial Disparities in Sentencing in the United States, 107th Session of the UN Committee on the Elimination of Racial Discrimination, the American Civil Liberties Union and The Sentencing Project, July 14, 2022
- ¹² Jasmon Bailey, Racial Equity Note for House Bill 32, Department of Legislative Services, Maryland General Assembly
- ¹³ Jasmon Bailey, Racial Equity Note for House Bill 3, Department of Legislative Services, Maryland General Assembly
- ¹⁴ Ibid.
- ¹⁵ Jasmon Bailey, Racial Equity Note for House Bill 740, Department of Legislative Services, Maryland General Assembly.
- ¹⁶ Elaine Bonner-Tompkins and Nataliza Carrizosa, Local Policing Data and Best Practices, OLO Report 2020-9, Office of Legislative Oversight, July 12, 2020
- ¹⁷ <https://www.brookings.edu/research/police-surveillance-and-facial-recognition-why-data-privacy-is-an-imperative-for-communities-of-color/>
- ¹⁸ Ibid.
- ¹⁹ Ibid.
- ²⁰ Ibid.
- ²¹ Ibid.
- ²² Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted.
- ²³ Chad Marlow and Gillian Ganesan, “Stop the Police Surveillance State Too,” ACLU News and Commentary
- ²⁴ For example, see Grace Baek, “Are Video Doorbells and Neighborhood Watch Apps Generating More Fear Than Security?” CBS Reports, February 24, 2020 or Will Oremus, “A Detroit Community College Profession is Fighting Silicon Valley’s Surveillance Machine. People Are Listening” The Washington Post, September 17, 2021
- ²⁵ Bonner-Tompkins and Carrizosa.
- ²⁶ Ibid
- ²⁷ Letter to Chairman Thomas Wheeler and Erica Brown Lee, March 16, 2016 cited in Moy, footnote 1
- ²⁸ Marlow and Ganesan
- ²⁹ Ibid
- ³⁰ Stuart Kaplan, Is Ubiquitous Video Surveillance of Public Spaces Good Public Policy? ACLU of Oregon
- ³¹ Andrew Guthrie Ferguson, The Rise of Big Data Policing: Surveillance, Race, and the Future of Law Enforcement, New York University Press, 2017, page 98
- ³² Ibid
- ³³ Kaplan
- ³⁴ La Vigne et al. 2011 cited by Lily Robin, Bryce Peterson, and Daniel Lawrence, Public Surveillance Cameras and Crime, The Urban Institute, February 2020
- ³⁵ Research summarized by Dan Keating and Harry Stevens, “Bloomberg said ‘stop and frisk’ decreased crime. Data suggests it was wasn’t a major factor in cutting felonies.” The Washington Post, February 27, 2020.
- ³⁶ See discussion on community policing in Bonner-Tompkins and Carrizosa, pages 14-16
- ³⁷ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council
- ³⁸ Moy
- ³⁹ <https://www.aclu.org/legal-document/community-control-over-police-surveillance-ccops-model-bill>
- ⁴⁰ <https://www.aclu.org/fact-sheet/community-control-over-police-surveillance-guiding-principles?redirect=fact-sheet/ccops-guiding-principles>