

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## EXPEDITED POLICE – U VISA LAW ENFORCEMENT CERTIFICATION BILL 26-24: POLICY (THE “U V.I.S.A” ACT)

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 26-24 will have a small positive impact on RESJ. Latinx community members will disproportionately benefit from the removal of the time limit for requesting a U visa certification from the Montgomery County Police Department (MCPD). This change aligns with best practices from advocates, practitioners, and researchers for U visa certification policies that strengthen trust between immigrant communities and law enforcement.

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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 inequities that have caused racial and social disparities.<sup>2</sup>

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### PURPOSE OF EXPEDITED BILL 26-24

Established under the Victims of Trafficking and Violence Protection Act of 2000, the nonimmigrant visa, or “U visa,” grants temporary legal status to victims of certain crimes who have suffered substantial mental or physical abuse and actively assist law enforcement in the investigation or prosecution of criminal activity.<sup>3</sup> The purpose of the federal legislation is “to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of noncitizens and other crimes, while also protecting victims of crimes who become humanitarian/material witnesses.”<sup>4</sup>

Part of the U visa application requires applicants to submit a certification that “must be completed and signed by a law enforcement agency, prosecutor, judge, or a qualifying official.” This certification confirms “that the applicant has been helpful (or are being helpful) in the investigation or prosecution of a crime.”<sup>5</sup> Federal and state law set no time limit on when a crime must have occurred for victims to qualify for U visas. However, MCPD’s current policy imposes additional eligibility requirements, including a ten-year cap for felonies. According to the sponsors of Bill 26-24, these requirements “effectively create[] unnecessary barriers for victims of crime who may have been traumatized years ago, but whose cases are still under investigation or who may still be assisting law enforcement.”<sup>6</sup>

The purpose of Bill 26-24 is to remove these barriers and align County policy regarding U visas with federal and state law. It attempts to do so by requiring “any policy directive regarding U visa certification by a law enforcement officer to be consistent and no more restrictive than allowed under federal immigration law.”<sup>7</sup>

The Council introduced Expedited Bill 26-24, Police – U visa Law Enforcement Certification Policy, on November 19, 2024.

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### UNDOCUMENTED COMMUNITY MEMBERS, U VISAS, AND RACIAL EQUITY

Montgomery County is home to the largest population of foreign-born community members in Maryland.<sup>8</sup> One-third of the County's population – or nearly 350,000 community members – were born outside the United States.<sup>9</sup> Immigrant community members have played a significant role in the County's history and culture.<sup>10</sup> They have also played a key role in sustaining the local economy,<sup>11</sup> especially as the County has experienced net losses from people moving to other communities in recent years.<sup>12</sup> Most of the County's immigrant community came to the U.S. from Asia (37.5%), followed by Latin America (34.1%), Africa (18.2%) and Europe (9.1%).<sup>13</sup>

**Undocumented community members.** Nearly 60 percent of community members in the County who were born outside the U.S are naturalized U.S. citizens.<sup>14</sup> Conversely, about 40 percent are not U.S. citizens –<sup>15</sup> this includes community members who are lawful permanent residents, community members who have temporary visas and undocumented community members who do not have a legal status in the U.S.<sup>16</sup> The Migration Policy Institute (MPI) estimates that in 2019, about 75,000 community members in Montgomery County were undocumented.<sup>17</sup> These community members are disproportionately Latinx, with more than half coming from the Northern Triangle countries of El Salvador, Honduras, and Guatemala in Central America.<sup>18</sup>

MPI explains that large-scale migration from Central America to the U.S. began in the 1980s, “as hundreds of thousands of Salvadorans, Guatemalans, and Nicaraguans fled north from civil war, repression, and economic devastation.”<sup>19</sup> Significant migration from Central America persists today, with people from El Salvador, Guatemala, Honduras, and Nicaragua accounting for nearly one-third of all 5.8 million migrant encounters at the U.S. southern border between October 2019 and March 2023.<sup>20</sup> As described by the Council on Foreign Relations, “many interrelated factors drive people from the Northern Triangle, including lack of economic opportunity, environmental challenges, and chronic violence.”<sup>21</sup> Based on their work throughout the world, the humanitarian organization Doctors Without Borders (MSF) observed “[t]he high levels of violence in the Northern Triangle of Central America (NTCA) is comparable to that in war zones where MSF has been working for decades—and is a major factor fueling migration north to Mexico and the US.”<sup>22,23</sup>

Community members who are undocumented experience a range of structural inequities that negatively impact their health and well-being. These inequities include low-paying and hazardous employment, limited opportunities for education and English language development, low access to healthcare, unhealthy living arrangements, and social marginalization.<sup>24</sup> Economic disparities are among the negative outcomes that result from these inequities. Locally, community members who are not U.S. citizens live below the poverty level at two times the rate of community members who are born in the U.S.<sup>25</sup>

**U visas.** Community members who are immigrants, especially those who are undocumented, are often hesitant to interact with government institutions. As described by researchers at the Aspen Institute and MPI,

“Anti-immigrant sentiment, potential consequences for use of certain public benefits and the threat of deportation are among the factors that can deter immigrant and refugee families from placing trust in formal systems or government agencies and prevent them from accessing needed services.”<sup>26</sup>

Fear of federal immigration enforcement is one of the main drivers of distrust among undocumented community members and local law enforcement specifically.<sup>27</sup> For instance, one 2012 survey of Latinx people in several communities across the U.S. found that 70 percent of respondents who were undocumented indicated they were less likely to contact police if they were victims of a crime for fear of being asked about their immigration status.<sup>28</sup> Along with

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other factors, unwillingness to call police likely causes people who are undocumented to experience an increased risk of violent crime victimization.<sup>29</sup>

The establishment of the U visa program acknowledges the reality of law enforcement distrust in immigrant communities. In part, the U visa was created to “encourage more reporting of crime in undocumented immigrant communities, enhanc[e] law enforcement/immigrant relationships and offer[] protection to victims.”<sup>30</sup> Research by the Police Executive Research Forum (PERF) found “departments that have fully embraced U Visas credit their role in providing certifications with building trust in their immigrant communities.”<sup>31</sup> PERF identified several promising practices from police departments across the country, including outreach by departments to immigrant communities about the existence and benefits of obtaining a U visa.<sup>32</sup>

Research from Fair and Just Prosecution (FJP) yields four recommendations for prosecutors, police departments, and other agencies to adopt a U visa certification policy that strengthens trust between immigrant communities and law enforcement. These include:<sup>33</sup>

- **Adopting a public, well-defined, and transparent policy for certification and providing the policy and/or key information to victims, applicants, and legal service providers.** Key policy elements include adopting a presumption of helpfulness, not implementing a cut-off date for seeking certification, and responding to certification requests within 30 days of receipt, among others.
- **Not imposing additional requirements beyond those statutorily enumerated.** In particular, FJP notes that U visa certification should not be dependent on an applicant’s criminal history or on the successful prosecution of a case.
- **Requiring staff to participate in training(s) about the U visa application process, purpose, and statutory requirements.**
- **Not inquiring about the immigration status of witnesses or victims, but ensure they understand that they may be eligible for a U visa by adopting a clear policy and sharing it with local immigration service providers, victim advocates, and other stakeholders.**

PERF’s case study on San Francisco’s proactive U visa program also highlights collecting and publicly reporting data on U visa certifications as another promising practice.<sup>34</sup> The U Visa Certification Toolkit from the Catholic Legal Immigration Network, Inc. (CLINIC) includes guidance for policymakers to develop a U visa certification bill that is mostly aligned with the suggestions from FJP and PERF and considers mechanisms that can help hold U visa certifiers accountable.<sup>35</sup>

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## ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 26-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by 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 in the County who are likely to petition for a U visa. OLO could not find data on U visa petitioners in the County by race and ethnicity. However, as described in the previous section, local community members who are undocumented are disproportionately Latinx.

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Thus, Latinx community members are likely overrepresented among local community members who would petition for a U visa.

**For the second question**, OLO considered how Bill 26-24 aligns with promising practices and recommendations for developing U visa certification policies that can strengthen trust between immigrant communities and law enforcement. As noted in the previous section, not imposing a cut-off date for community members to seek a U visa certification aligns with best practices offered by advocates, practitioners and researchers.

OLO anticipates Bill 26-24 will have a small positive impact on RESJ. Latinx community members will disproportionately benefit from the removal of the time limit for requesting a U visa certification from MCPD. This change aligns with best practices from advocates, practitioners and researchers for U visa certification policies that strengthen trust between immigrant communities and law enforcement.

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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>36</sup> OLO anticipates Expedited Bill 26-24 will have a small positive impact on RESJ. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this Bill, OLO offers two policy options for Council consideration:

- **Amend Bill 26-24 to incorporate additional best practices for U visa certification policies.** As previously discussed, resources from FJP, PERF, and CLINIC offer several policy options the Council can consider to develop a comprehensive U visa certification bill that supports trust building between immigrant community members and MCPD.
- **Support outreach and education efforts to inform community members about the U visa.** As noted by PERF, “undocumented immigrants who are the victims of crime should know about the possibility of obtaining a U Visa.” Promising outreach efforts noted by PERF from police departments across the country include contracting with nonprofit legal services organizations to disseminate information on U visas to community members, promoting U visas on Spanish-language media, and developing department policies that require officers to notify victims of crime about the possibility of applying for a U visa.<sup>37</sup>

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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> [Introduction Staff Report for Expedited Bill 26-24](#), Montgomery County Council, Introduced November 19, 2024, PDF pgs. 2-3.
- <sup>4</sup> Ibid, PDF pg. 3.
- <sup>5</sup> Ibid.
- <sup>6</sup> Ibid, PDF pg. 8.
- <sup>7</sup> Ibid, PDF pg. 4
- <sup>8</sup> [State of the Economy Series: Immigration and the Economy Fact Sheet](#), Comptroller of Maryland, April 2024, pg. 2.
- <sup>9</sup> [Montgomery County Demographic Trends](#), Montgomery Planning, January 24, 2023, pg. 16.
- <sup>10</sup> [The Immigrant Experience in Montgomery County](#), Maryland, Montgomery History, February 9, 2023.
- <sup>11</sup> State of the Economy Series: Immigration and the Economy Fact Sheet
- <sup>12</sup> James Lee, “[Montgomery County’s Population Rebound, Part 1: Recovering from the COVID-19 Years](#),” The Third Place, Montgomery Planning, June 21, 2024.
- <sup>13</sup> Montgomery County Demographic Trends, pg. 17.
- <sup>14</sup> [Table S0502](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.
- <sup>15</sup> Ibid.
- <sup>16</sup> For breakdown of unnaturalized residents in Maryland, refer to Figure 7 in [State of the Economy Series: Immigration and the Economy](#), Comptroller of Maryland, April 2024, pg. 8.
- <sup>17</sup> [Profile of the Unauthorized Population: Montgomery County, MD](#), Migration Policy Institute.
- <sup>18</sup> Ibid.
- <sup>19</sup> Susan Gzesh, “[Central Americans and Asylum Policy in the Reagan Era](#),” Migration Information Source, Migration Policy Institute, April 1, 2006.
- <sup>20</sup> Nicole Ward and Jeanne Batalova, “[Central American Immigrants in the United States](#),” Migration Information Source, Migration Policy Institute, May 10, 2023.
- <sup>21</sup> Diana Roy and Amelia Cheatham, “[Central America’s Turbulent Northern Triangle](#),” Backgrounder, Council on Foreign Relations, July 13, 2023.
- <sup>22</sup> “[No way out: MSF report shows damaging health impacts of US-Mexico migration policies](#),” Doctors Without Borders, February 11, 2020.
- <sup>23</sup> “[Fleeing extreme violence in Central America](#),” Doctors Without Borders.
- <sup>24</sup> Luz M. Garcini, et. al., “[“No one left behind”: A social determinant of health lens to the wellbeing of undocumented immigrants](#),” Current Opinion in Psychology, October 2022.
- <sup>25</sup> [Table S0501](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.
- <sup>26</sup> Chris Estes, et. al., “[Building Trust with Immigrant and Refugee Families: Spreading and Adapting 2Gen Working Practices](#),” Working Practice Profile, Aspen Institute and Migration Policy Institute.
- <sup>27</sup> Tom K. Wong, et. al., “[How Interior Immigration Enforcement Affects Trust in Law Enforcement](#),” Perspectives on Politics, Cambridge University Press, January 14, 2020.
- <sup>28</sup> Nik Theodore, et. al. “[Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement](#),” Lake Research Partners, PolicyLink, and University of Illinois at Chicago, May 2013, pg. 5-7.
- <sup>29</sup> Min Xie and Eric P. Baumer, “[Immigrant Status, Citizenship, and Victimization Risk in the United States: New Findings from the National Crime Victimization Survey \(NCVS\)](#),” Criminology, February 16, 2022.
- <sup>30</sup> Tirzah Christopher, “[A visa program created to help law enforcement puts immigrant victims at risk instead](#),” NPR, August 12, 2023.
- <sup>31</sup> “[U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants](#),” Subject to Debate, Police Executive Research Forum,” June-August 2017.
- <sup>32</sup> Ibid, pgs. 12-13.
- <sup>33</sup> [U Visa Best Practices for Prosecutors](#), Fair and Just Prosecution, pgs. 8-10.
- <sup>34</sup> “U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants, pg. 8”
- <sup>35</sup> [U Visa Certification Advocacy Toolkit](#), Catholic Legal Immigration Network, Inc. last updated April 21, 2022.

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<sup>36</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

<sup>37</sup> “U Visas and the Role of Local Police In Preventing and Investigating Crimes Against Immigrants,” pgs. 9 and 12.