

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 4-25: ADMINISTRATION – SURVEILLANCE TECHNOLOGY – ACQUISITION AND USE BY THE COUNTY

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 4-25 will have a positive impact on racial equity and social justice (RESJ) in the County. Black and Latinx community members could disproportionately benefit from increased transparency in the County's process to acquire, fund, and use surveillance technologies. This could help mitigate the harms of surveillance technologies on Black, Indigenous and People of Color (BIPOC) community members. Bill 4-25 is mostly aligned with guiding principles to minimize the harms of surveillance technologies on civil rights and civil liberties.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF BILL 4-25

Surveillance technologies are becoming increasingly common in local government, especially within police departments. For instance, one recent survey found that almost two-thirds of large police agencies across the U.S. use automatic license plate readers – ³ “high-speed, computer-controlled camera systems...that automatically capture all license plate numbers that come into view.”⁴ Examples of other surveillance technologies include video surveillance, face recognition, and social media monitoring.⁵ Advocates and scholars note that unchecked use of surveillance technologies by local governments can pose a considerable threat to civil rights and civil liberties.^{6,7}

The purpose of Bill 4-25 is to establish a transparent process for the County to acquire and use surveillance technologies. If enacted, Bill 4-25 would require County agencies that want to acquire and use a new surveillance technology to:^{8,9}

- **Publish a surveillance technology impact report.** For the proposed surveillance technology, the report would describe how it works, its proposed uses, its fiscal impact, and its efficacy based on available research, among other things. The report would also assess the potential adverse impacts of the technology on civil rights and civil liberties and safeguards that would be implemented to protect against those impacts. The agency would have to publish and submit the report to the County Executive and County Council at least 30 days before proposing regulations for the technology.
- **Propose Method (1) regulations for the use of the surveillance technology.** For the proposed surveillance technology, the proposed regulations would have to address its purpose, authorized and prohibited uses, and measures to minimize unauthorized collection and access to surveillance data, among other things. The agency would also have to submit a report from the Office of Racial Equity and Social Justice (ORESJ) that describes the anticipated impact of the proposed regulations on RESJ. The County Executive would be required to hold a

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public hearing on the proposed regulations at least 60 days after they are published. Method (1) regulations must be approved by the Council before they are adopted.¹⁰

- **Submit an annual report for approved surveillance technologies.** The annual report would describe each type of surveillance technology, how they were used, and complaints and concerns on their use, among other things. The Council would be required to hold a public hearing on each annual report.

Bill 4-25 also includes guidelines on contracting requirements, contractor privacy policies, and prohibited discriminatory uses of surveillance technologies. It also includes guidelines on the use of facial recognition technology for criminal investigations.¹¹

If Bill 4-25 is enacted, the County Executive would be required to publish an inventory of surveillance technologies that were acquired and used before the Bill's effective date. Agencies must submit Method (1) regulations for any technologies acquired between January 1, 2020 and the Bill's effective date. Agencies would have to stop using surveillance technologies if their regulations are not submitted or if they are disapproved by the Council.¹²

The Council introduced Bill 4-25, Administration – Surveillance Technology – Acquisition and Use by the County, on February 11, 2025.

This RESJIS builds on the RESJIS for Bill 14-22, Police – Private Security Camera Incentive Program – Established, which OLO published in July 2022.¹³ Please refer to this RESJIS for background on policing, surveillance, and racial equity.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 4-25 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, all community members could benefit from increased transparency in the County's process for acquiring surveillance technologies. However, because these technologies are prevalent in local police departments, community members with frequent police interactions could particularly benefit from the increased transparency.

Black and Latinx community members are disproportionately impacted by police interactions. Table 1 shows data for Montgomery County Police Department (MCPD) traffic stops, uses of force, arrests, and field interviews by race ethnicity. The data shows that Black community members are largely overrepresented across each of these interactions. Further, while Latinx community members are proportionately represented in traffic stops, they are overrepresented in uses of force, arrests, and field interviews. Generally, Asian and White community members are underrepresented across all policing interactions. White community members appear to be overrepresented among arrests. However, this measure includes Latinx community members who are White.

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Table 1: Percent of MCPD Traffic Stops, Use of Force, Arrests, and Field Interviews by Race and Ethnicity

Race or ethnicity	Traffic Stops (FY18-FY22)	Use of Force (2023)	Arrests (2024) ¹⁴	Field Interviews (2024)	County Population
Asian/Pacific Islander ¹⁵	6.0	3.0	2.3	0.0	15.1
Black	30.0	57.0	36.2	50.0	18.3
Native American	<1.0	-	-	-	0.1
White	35.0	14.0	61.1	17.2	40.4
Latinx	21.0	25.0	40.3	31.6	20.6

Source: OLO Memorandum Report 2022-12, "[Analysis of dataMontgomery Traffic Violations Dataset](#)," pg.9; [2023 MCPD Annual Use of Force Report](#), pg. 10; OLO Analysis of [2024 MCPD Police Statistical Data Report](#), pg. 11.; [Table DP05](#), American Community Survey 5-Year Estimates, Census Bureau.

For the second question, as described in the RESJIS for Bill 14-22, historically, racial bias in policing has extended to over surveillance in BIPOC communities. Surveillance technologies can widen racial disparities in policing by placing BIPOC community members at greater risk of police contact.¹⁶ The American Civil Liberties Union (ACLU) notes that mitigating the adverse impacts of surveillance technologies requires maximum public input in decision-making to acquire and adopt surveillance technologies, especially from BIPOC and other communities that have historically been over-targeted by surveillance.¹⁷

The Community Control Over Police Surveillance (CCOPS) initiative – a collaborative of 17 advocacy organizations led by the ACLU – developed a set of eight guiding principles for local governments to develop laws that minimize the harms of surveillance technologies on civil rights and civil liberties, especially on BIPOC and other over-policed communities.¹⁸ CCOPS also developed a model bill based on these principles.¹⁹ Figure A in the Appendix describes the CCOPS guiding principles and compares them to Bill 4-25. Based on OLO's review, Bill 4-25 is mostly aligned on six of the eight guiding principles. These are marked with an asterisk (*) on Figure A.

Conclusion. OLO anticipates Bill 4-25 will have a positive impact on RESJ in the County. Black and Latinx community members could disproportionately benefit from increased transparency in the County's process to acquire, fund, and use surveillance technologies. This could help mitigate the harms of surveillance technologies on BIPOC community members. Bill 4-25 is mostly aligned with guiding principles proposed by advocacy organizations to minimize the harms of surveillance technologies on civil rights and civil liberties.

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.²⁰ OLO anticipates Bill 4-25 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, if the Council seeks to improve the RESJ impact of this Bill, OLO offers four policy options for Council consideration:

- **Include drones as a surveillance technology that requires approval.** In the current language of Bill 4-25, it is unclear if unmanned aerial vehicles, or drones, would be required to go through the proposed approval process for surveillance technologies.²¹ As noted in the Racial Equity Impact Assessment for the Drone as a First Responder Pilot Program, the program had the potential to "overwhelmingly target communities of color" and potentially harm communities without the appropriate usage policies.²² The Council could consider explicitly including drones as a surveillance technology that requires approval. This could encourage the development of regulations that mitigate the potential harms of drones on BIPOC communities.

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- **Create a community advisory committee on surveillance.** As noted in Figure A, aside from holding a public hearing, Bill 4-25 does not provide additional guidelines to involve communities in decision-making on new surveillance technologies. The Council could consider establishing a community advisory committee to promote community engagement on new surveillance technologies, especially with BIPOC and other communities that are most impacted by over-surveillance. The CCOPS model bill includes language for establishing an advisory committee that provides local decisionmakers with “broad principles to help guide decisions about if and how surveillance technologies should be used.”²³ The model bill proposes the committee submit an annual report describing the adverse impacts of surveillance technologies on equity and policy guidance for addressing. The Council could consider creating a new advisory committee solely focused on surveillance technologies or nesting this responsibility under an existing group, such as the Advisory Commission on Policing.
- **Require surveillance technology impact report, RESJ assessment, and proposed regulations for all surveillance technologies that are currently in use.** Bill 4-25 would require only proposed regulations for surveillance technologies that were acquired after January 1, 2020 and before the Bill’s effective date. To better align Bill 4-25 with CCOPS guiding principles, the Council could consider requiring that agencies also submit a surveillance technology impact report and RESJ assessment for these technologies. The Council could also consider requiring the impact report, RESJ assessment, and proposed regulations for all surveillance technologies that are in use before the Bill’s effective date, regardless of when they were acquired.
- **Set guidelines for agencies to publish information related to new surveillance technologies.** Bill 4-25 would require agencies to produce multiple pieces of information related to new surveillance technologies. This includes a surveillance impact report, a RESJ assessment, and proposed regulations. To ensure community members can easily access information related to proposed surveillance technologies, the Council could consider setting guidelines for agencies to publish this information online in a streamlined way. For instance, the Council could require agencies to publish all information related to surveillance technologies on a dedicated webpage for each agency or on a dedicated webpage for the County that provides information across agencies.

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

Figure A: Comparison of Community Control Over Police Surveillance (CCOPS) Guidance Principles to Bill 4-25

Principle	Key Features	Bill 4-25
<i>Surveillance technologies should not be funded, acquired, or used without express city council approval*</i>	<ul style="list-style-type: none">• Public knowledge and explicit approval of new surveillance technologies by Council before they are funded, acquired, or used.• Approval by Council for new uses of previously acquired surveillance technologies.	<ul style="list-style-type: none">• Before an agency acquires, funds or uses a new surveillance technology, they must:<ul style="list-style-type: none">○ Publish a surveillance technology impact report at least 30 days before proposing regulations.

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Principle	Key Features	Bill 4-25
		<ul style="list-style-type: none"> ○ Submit proposed regulations and adopt regulations that are approved by the Council. ● Approved technologies must go through this process again if their functions/capabilities are altered or enhanced.
<i>Local communities should play a significant and meaningful role in determining if and how surveillance technologies are funded, acquired, or used</i>	<ul style="list-style-type: none"> ● Giving the Council and local communities (rather than police department and other agencies) the authority to decide whether or not new surveillance technologies should be acquired and used, especially given the harm of surveillance technologies on communities that are disproportionately targeted by their use, such as BIPOC communities. 	<ul style="list-style-type: none"> ● Bill 4-25 empowers the Council to decide whether or not surveillance technologies are acquired, funded, and used in the County ● Beyond holding a public hearing (described next), Bill 4-25 does not provide additional guidelines for involving communities in decision-making on new surveillance technologies.
<i>The process for considering the use of surveillance technologies should be transparent and well-informed*</i>	<ul style="list-style-type: none"> ● Requiring a public hearing before the Council approves surveillance technologies. ● Requiring agencies to publish information on new surveillance technologies (e.g., impact report, proposed regulations) well before public hearing. 	<ul style="list-style-type: none"> ● The County Executive must hold a public hearing on proposed regulations for new surveillance technologies. ● The public hearing must be scheduled at least 60 days after the proposed regulations are submitted by an agency.
<i>The use of surveillance technologies should not be approved generally; approvals, if provided, should be for specific technologies and specific, limited uses*</i>	<ul style="list-style-type: none"> ● Requiring agencies to provide specific details on proposed use of new surveillance technology before public hearing. ● Prohibiting use of surveillance technologies in a way that has not been expressly approved by Council. 	<ul style="list-style-type: none"> ● Proposed regulations must include specifics on the new surveillance technology. This includes its purpose and authorized and prohibited uses, among other things. ● Proposed regulations must be approved by the Council for the agency to acquire, fund, or use a new surveillance technology.
<i>Surveillance technologies should not be funded, acquired, or used without addressing their potential impact on civil rights and civil liberties*</i>	<ul style="list-style-type: none"> ● Requiring agencies to identify potential adverse impacts of new surveillance technologies on civil rights and civil liberties and measures to prevent adverse impacts before public hearing. 	<ul style="list-style-type: none"> ● The surveillance technology impact report must describe the potential adverse impacts of the new surveillance technology on civil rights and civil liberties and measures that will be implemented to protect against adverse impacts. This report would be published at least 90 days before the public hearing on proposed regulations for the new surveillance technology.

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Principle	Key Features	Bill 4-25
		<ul style="list-style-type: none"> Upon submitting proposed regulations, an agency must also submit a report written by ORESJ that describes the potential impact of the new surveillance technology on RESJ. This report would be submitted to the Council at least 60 days before the public hearing on the proposed regulations.
<i>Surveillance technologies should not be funded, acquired, or used without considering their financial impact*</i>	<ul style="list-style-type: none"> Requiring agencies to provide information on costs and benefits of new surveillance technologies before public hearing. 	<ul style="list-style-type: none"> The surveillance technology impact report must include the fiscal impact of the new surveillance technology. This report would be publicly available at least 90 days before the public hearing on proposed regulations for the new surveillance technology.
<i>To verify legal compliance, surveillance technology use and deployment data should be reported publicly on an annual basis*</i>	<ul style="list-style-type: none"> Requiring agencies to submit an annual report for approved surveillance technologies to help Council and public verify adherence to legal requirements, including protection of civil rights and civil liberties. 	<ul style="list-style-type: none"> Agencies must submit an annual report for each approved surveillance technology. The Council must hold a public hearing on each annual report.
<i>City council approval should be required for all surveillance technologies and uses; there should be no “grandfathering” for technologies currently in use</i>	<ul style="list-style-type: none"> Requiring agencies to undergo same public approval process for all surveillance technologies in use before enactment of law or discontinue their use. 	<ul style="list-style-type: none"> Agencies must propose regulations for technologies adopted after January 1, 2020 and before the Bill’s effective date. They would not be required to submit a surveillance technology impact report or RESJ assessment for these technologies. Agencies would have to discontinue using technologies if proposed regulations are not submitted or if they are disapproved by the Council. Technologies acquired before January 1, 2020 would be grandfathered into the law.

¹ Definition of racial equity and social justice adopted from Marlysa Gamblin et al., “[Applying Racial Equity to U.S. Federal Nutrition Programs](#),” Bread for the World and [Racial Equity Tools](#).

² Ibid.

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³ Christopher Slobogin and Sarah Brayne, “[Surveillance Technologies and Constitutional Law](#),” Annual Review of Criminology, September 2022 citing Mariana Oliver and Matthew B. Kugler, “[Surveying Surveillance: A National Study of Police Department Surveillance Technologies](#),” Arizona State Law Journal, 2022.

⁴ [Automated License Plate Readers](#), Street Level Surveillance, Electronic Frontier Foundation.

⁵ [Street Level Surveillance](#), Electronic Frontier Foundation.

⁶ [Community Oversight of Surveillance - D.C.](#), American Civil Liberties Union of DC.

⁷ Christopher Slobogin, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* (University of Chicago Press, 2008).

⁸ [Introduction Staff Report for Bill 4-25](#), Montgomery County Council, Introduced February 11, 2025.

⁹ Bill 4-25, Introduction Staff Report for Bill 4-25.

¹⁰ [Montgomery County Code § 2A-15](#)

¹¹ Ibid.

¹² Introduction Staff Report for Bill 4-25.

¹³ [RESJS for Bill 14-22](#), Office of Legislative Oversight, July 21, 2022.

¹⁴ Latinx people are included in the racial groups for the arrests data point. Racial groups for other data points in table are non-Latinx.

¹⁵ Traffic stops data point only accounts for percent of Asian community members.

¹⁶ RESJS for Bill 14-22.

¹⁷ Chad Marlow and Maryiam Saifuddin, “[How to Stop ‘Smart Cities’ From Becoming ‘Surveillance Cities.’](#)” ACLU, September 17, 2018.

¹⁸ [Community Control Over Police Surveillance – Guiding Principles](#), ACLU, April 16, 2020.

¹⁹ [Community Control Over Police Surveillance Model Bill](#), ACLU, April 1, 2024.

²⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

²¹ Per Bill 4-25, surveillance technologies that would require approval include international mobile subscriber identity (IMSI) catchers and other cell site simulators; automatic license plate readers; electronic toll readers; closed-circuit television cameras; biometric surveillance technology, including voice, iris, and gait-recognition software and databases; mobile DNA capture technology; gunshot detection and location hardware and services; x-ray vans; video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras; surveillance enabled or capable lightbulbs or light fixtures; tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network; social media monitoring software; through-the-wall radar or similar imaging technology; passive scanners of radio networks; long-range Bluetooth and other wireless-scanning devices; radio-frequency I.D. (RFID) scanners; software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software; and facial recognition technology. Refer to Introduction Staff Report for Bill 4-25.

²² [Racial Equity Impact Assessment \(REIA\) for Supplemental Appropriation #24-21](#), Drone as a First Responder Pilot Program, Office of Racial Equity and Social Justice, October 13, 2023.

²³ Community Control Over Police Surveillance Model Bill, pg. 6.