

M E M O R A N D U M

October 9, 2020

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Update on racial equity and social justice law implementation

PURPOSE: Worksession – no Council votes required

Expected attendees:

Tiffany Ward, Director of the Office of Racial Equity and Social Justice
Elaine Bonner-Tomkins, Senior Legislative Analyst, Office of Legislative Oversight
Selena Mendy Singleton, Clerk of Council
Theo Holt, Racial Equity and Social Justice, Performance Management and Data Analyst

The purpose of this worksession is to provide the Committee with an update on the status of the implementation of Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established.

Bill 27-19 was enacted on November 19, 2019 and signed into law on December 2, 2019. The Act took effect on March 2, 2020, but the provisions requiring the Office of Legislative Oversight (OLO) to submit a racial equity and social justice impact statement for each bill before the Council did not take effect until August 1, 2020.

Bill 27-19 created a new Principal Office in the Executive Branch called the Office of Racial Equity and Social Justice led by a non-merit Director. The Executive appointed and the Council confirmed Tiffany Ward as the Director of this new Office. The FY2021 budget included funding for 1 additional position in the Office. The Council approved a supplemental appropriation this year that added 2 additional positions for the Office and \$50,000 for a consultant. The Bill also created a citizen advisory committee called the Racial Equity and Social Justice Advisory Committee with 15 voting members serving a 3-year term of office appointed by the Executive and confirmed by the Council. The Committee members have been appointed and the Committee had its first meeting in September.

The Council's Office of Legislative Oversight is charged with submitting a racial equity and social justice impact statement for each bill before the Council introduced on or after August 1, 2020. The FY2021 operating budget includes funding for a new position in OLO to help perform this work.

OLO hired Dr. Theo Holt as OLO's RESJ Performance Management and Data Analyst in September. OLO has led training for Council staff and began submitting impact statements. See the memorandum from Elaine Bonner-Tomkins explaining OLO's progress at ©16 and an example of an impact statement at ©25-29.

One of the major provisions of Bill 27-19 is a requirement for the Executive to adopt, by method 2 regulation, a racial equity and social justice action plan. Each County department and office must designate an employee to serve as racial equity and social justice lead and develop a department or office racial equity and social justice action plan in coordination with the Office. Selena Mendy Singleton was designated as the racial equity and social justice lead for the Council staff. The Office is currently working with the County Attorney's Office to draft the regulation. See the memorandum from Tiffany Ward explaining the status of work performed by her Office to implement the Bill at ©17-18 and the September 30 Annual Report from the Office at ©19-24.

Finally, Bill 44-20, Human Rights and Civil Liberties – Racial Equity and Social Justice Advisory Committee – Members - Amendments, sponsored by Lead Sponsor Councilmember Navarro and Co-Sponsors Councilmembers Jawando and Albornoz, Council Vice-President Hucker, Councilmembers Riemer and Friedson, Council President Katz and Councilmembers Glass and Rice, was introduced on September 29, 2020. A public hearing is tentatively scheduled for October 20 at 1:30 p.m.¹

Bill 44-20 would require the Office of Legislative Oversight (OLO) to submit a racial equity and social justice impact statement for each zoning text amendment. The law already requires OLO to submit an impact statement for a bill. Bill 44-20 would also add 2 additional public members to the Racial Equity and Social Justice Advisory Committee and authorize the Executive to establish one or more task forces to study and make recommendations on a specific racial equity and social justice issue.

This packet contains:

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Enacted Bill 27-19	1
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¹#EquityMattersInMoCo #LandUseEquity

Bill No. 27-19
Concerning: Administration – Human
Rights - Office of Racial Equity and
Social Justice – Racial Equity and
Social Justice Advisory Committee -
Established
Revised: 11/19/2019 Draft No. 10
Introduced: September 17, 2019
Enacted: November 19, 2019
Executive: December 2, 2019
Effective: March 2, 2020
Section 2-81C effective on August 1, 2020
Sunset Date: None
Ch. 27, Laws of Mont. Co. 2019

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Navarro
Co-Sponsors: Councilmembers Jawando, Rice, Hucker, Riemer, Vice President Katz,
Councilmembers Alborno, Friedson and Glass

AN ACT to:

- (1) establish a racial equity and social justice program;
- (2) establish an Office of Racial Equity and Social Justice in the Executive Branch;
- (3) remove the Chief Equity Officer position in the Office of the Executive as a non-merit position;
- (4) require the Executive to adopt, by Method 2 regulation, a racial equity and social justice action plan for the County;
- (5) require each Department and Office to develop a racial equity and social justice action plan;
- (6) require the ~~[[Executive]]~~ Director of the Office of Legislative Oversight to submit a racial equity and social justice impact statement to the Council for each Bill;
- (7) require the Executive to explain how ~~[[and for]]~~ each management initiative or program in the recommended budget would promote racial equity and social justice;
- (8) [[(7)]] establish a Racial Equity and Social Justice Advisory Committee and set forth the composition, compensation, and duties of the Committee;
- (9) [[(8)]] require the Planning Board to consider racial equity and social justice impact when preparing a Master Plan; and
- (10) [[(9)]] generally amend the law governing racial equity and social justice.

By amending
Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-201

Chapter 2, Administration
Sections 2-26 and 2-64A

Chapter 33A, Planning Procedures
Section 33A-14

By adding

Montgomery County Code
Chapter 2, Administration
Section 2-81C

Article XIV.
Chapter 27, Human Rights and Civil Liberties
Section 27-83

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 1A-201, 2-26, 2-64A, and 33A-14 are amended and Sections 2-81C and 27-83 are added as follows:

1A-201. Establishing departments and principal offices.

(a) Executive Branch.

(1) These are the departments and principal offices of the Executive Branch.

* * *

Public Libraries (Section 2-45 et seq.)

Racial Equity and Social Justice (Section 2-64A)

Recreation (Section 2-58)

* * *

2-26. Non-merit positions.

The following positions in the Office of the County Executive are non-merit positions:

- (a) 5 Directors of the Regional Services Centers;
- (b) Director, Office of Community Partnerships;
- (c) Director, Criminal Justice Coordinating Commission;
- (d) 4 Assistant Chief Administrative Officers;
- (e) Special Projects Manager;
- (f) Chief Labor Relations Officer; and
- (g) Chief Digital Officer [; and
- (h) Chief Equity Officer].

Division 13. [Reserved] Office of Racial Equity and Social Justice.

2-64A. [Reserved] Office of Racial Equity and Social Justice.

(a) Findings.

(1) Although not unique to the County, many County residents suffer from stark disparities linked to race and social justice issues.

(2) These disparate outcomes among County residents include wealth, housing, criminal justice, education, and health.

(3) Inequitable outcomes linked to race and social justice issues will persist in the County without intentional intervention.

(4) The work to dismantle racial and social justice inequity must occur on an individual, institutional, and structural basis.

(b) Definitions. As used in this Division:

Director means the Director of the Office of Racial Equity and Social Justice or the Director's designee.

Equity means fair and just opportunities and outcomes for all people.

Equity assessment means a systematic process of identifying policies and practices that may be implemented to identify and redress disparate outcomes on the basis of race or social justice issues.

Individual racism means explicit or implicit pre-judgment bias or discrimination by an individual based on race.

Inequity means systematic and patterned differences in well-being that disadvantage one group in favor of another caused by past and current decisions, systems of power and privilege, and policies.

Institutional racism means policies, practices, and procedures that work better for some members of a community than others based on race.

Office means the Office of Racial Equity and Social Justice.

Race means a social construct that artificially divides people into distinct groups based on characteristics such as physical appearance (including color), ancestral heritage, cultural affiliation, cultural history, ethnic classification, and the social, economic and political needs of a society at a given period.

Racial equity and social justice means changes in policy, practice and allocation of County resources so that race or social justice constructs do [[does]] not predict one's success, while also improving opportunities and outcomes for all people.

Racial equity and social justice action plan means a comprehensive plan to incorporate and embed racial equity and social justice principles and strategies into operations, programs, service policies, and community engagement.

Social justice means [[a social construct that artificially divides people into distinct groups based on]] that everyone deserves to benefit from the same economic, political and social rights and opportunities, free from health disparities, regardless of race, socioeconomic status, age, [[gender, sexual orientation, gender identification]] sex – including on the basis of gender identity or orientation, religion, [[or]] disability, or other characteristics.

Structural racism means the history and current reality of institutional racism across public and private institutions which combine to create a system that negatively impacts certain groups based on race.

(c) Functions. After consulting with each department and office, the Office must:

- (1) perform an equity assessment to identify County policies and practices that must be modified to redress disparate outcomes based on race or social justice;
- (2) develop metrics to measure progress in redressing disparate outcomes based on race or social justice;
- (3) work with each County department and office to develop a racial equity and social justice [[equity]] action plan designed to remedy

individual, institutional, and structural racism or social justice issues adversely impacting County residents;

(4) provide racial equity and social justice [[equity]] training to County employees;

(5) develop short term and long term goals for success in redressing disparate outcomes based on race or social justice issues;

(6) measure progress in meeting both short term and long term goals; and

(7) provide staff support for the Racial Equity and Social Justice [[Equity]] Advisory Committee.

(d) Racial Equity and Social Justice [[Equity]] Action Plan.

(1) The Executive must adopt, by Method 2 regulation, a racial equity and social justice [[equity]] action plan.

(2) The racial equity and social justice [[equity]] action plan must include:

(A) a community engagement process;

(B) mandatory racial equity and social justice training for [[managers and supervisors]] all County employees;

(C) the use of [[a]] explicit racial equity and social justice [[equity lens]] considerations in establishing new programs and evaluating existing programs;

(D) a requirement for the Executive to [[submit a racial equity and social justice impact statement to the Council for]] explain how each management initiative or program that would be funded in the Executive's annual recommended operating and capital budgets promotes racial equity and social justice;

- (E) short term and long term goals for [[redressing inequity]] promoting racial equity and social justice;
- (F) metrics for measuring progress in meeting these goals;
- (G) guidelines for each department and office to develop its own equity action plan;
- (H) recommended racial equity and social justice [[equity]] tools and strategies for a department or office to use in redressing disparities based on race or social justice issues; and
- (I) priority areas for additional County efforts.

(e) Reports. The Director must submit an annual report on the activities of the Office to the Executive and the Council on or before each September 30. The report must include:

- (1) the metrics used to measure the success of each short term and long term goal of the approved racial equity and social justice [[equity]] action plan;
- (2) the progress toward meeting the goals of the approved racial equity and social justice [[equity]] action plan; and
- (3) any recommendations for changes in law, regulation, or operating budget resources to assist in meeting the goals of the racial equity and social justice [[equity]] action plan.

(f) Responsibilities of each department and office. Each Executive and Legislative Branch department and office must:

- (1) designate an employee to serve as the racial equity and social justice [[equity]] lead for the department or office to coordinate work with the Office;

(2) develop a department or office racial equity and social justice
[[equity]] action plan in coordination with the Office; and

(3) provide information to the Office as needed.

(g) Responsibility of the Council. The Council must:

(1) establish a structure to provide oversight of the County's progress
in meeting its racial equity and social justice goals. The Council
may retain experts from academic and scientific organizations to
assist the Council with this oversight responsibility; and

(2) ensure that the operating budget is sufficient:

(A) for the Office of Racial Equity and Social Justice to provide
the services required by this Section; and

(B) to implement the Racial Equity and Social Justice Action
Plan.

2-81C. Racial Equity and Social Justice [[Equity]] Impact Statements.

(a) Definitions. In this Section, the following words and phrases have the
following meanings:

Director means the Director of the Office of [[Racial Equity and Social
Justice]] Legislative Oversight or the Director's designee.

Race means a social construct that artificially divides people into distinct
groups based on characteristics such as physical appearance (including
color), ancestral heritage, cultural affiliation, cultural history, ethnic
classification, and the social, economic and political needs of a society at
a given period.

Racial equity and social justice means changes in policy, practice and
allocation of County resources so that race or social justice constructs do
[[does]] not predict one's success, while also improving opportunities and
outcomes for all people.

Racial equity and social justice impact means an estimate of changes in racial equity and social justice in the County attributable to a change in the law.

Social justice means [[a social construct that artificially divides people into distinct groups based on]] that everyone deserves to benefit from the same economic, political and social rights and opportunities, free from health disparities, regardless of race, socioeconomic status, age, [[gender, sexual orientation, gender identification]] sex – including on the basis of gender identity or orientation, religion, [[or]] disability, or other characteristics.

(b) Racial Equity and Social Justice [[Equity]] impact statement. The Director must submit a statement to the Council describing the racial equity and social justice [[equity]] impact, if any, of each bill under consideration by the Council. The Director must submit a separate statement for each bill.

(c) Time for submission. A racial equity and social justice impact statement should be submitted to the Council:

(1) no later than 7 days before the public hearing on each bill introduced by the Council President at the request of the County Executive; and

(2) no more than 21 days after a bill sponsored by a Councilmember is introduced.

If the Director is unable to submit the statement within the time required by paragraph (2), the Director must notify the Council President in writing of the delay, the reason for the delay, and the revised delivery date. If the Council President finds that the revised delivery date is unreasonable, the Council President may set a different delivery deadline.

(d) Content of racial equity and social justice impact statement. Each racial equity and social justice impact statement must include:

- (1) the sources of information, assumptions, and methodologies used;
- (2) an estimate of both positive and negative changes in racial equity and social justice [[equity]] in the County as a result of the implementation of the bill;
- (3) recommended amendments that may promote racial equity and social justice [[equity]]; and
- (4) if a bill is likely to have no racial equity or social justice [[equity]] impact, why that is the case.

(e) Compliance. Council action on [[a]] an expedited bill that is otherwise valid is not invalid because of any failure to follow the requirements of this Section.

ARTICLE XIV. RACIAL EQUITY AND SOCIAL JUSTICE ADVISORY COMMITTEE.

27-83. Racial Equity and Social Justice Advisory Committee.

(a) Members. The Executive must appoint, subject to confirmation by the Council, a Racial Equity and Social Justice Advisory Committee. The Committee must have [[9]] 15 voting members. [[At least 6 of the voting members must, when appointed, either reside in or be an employee of the County.]]

- (1) Voting members. The members must reflect a range of ethnicities, professional backgrounds, socioeconomic status, and places of origin to reflect the racial, [[and]] economic, and linguistic diversity of the County's communities, with an emphasis on those most [[proportionately]] disproportionately impacted by inequities. Each member should have some experience in

redressing disparate impacts based on race and social justice issues.

(A) One member should be [[an employee]] a designee of [[the Montgomery County Public Schools]] a public education system in the County.

(B) One member should be [[an employee]] the Chair of the Housing Opportunities Commission or the Chair's designee.

(C) One member should be a designee of the County Council.

(D) One member should be an employee of the County Department of Health and Human Services.

(E) One member should be an employee of the County Department of Correction and Rehabilitation.

(F) One member should be [[an employee]] a sworn officer of the County Police Department.

(G) One member should be the Chair of the Montgomery County Planning Board or the Chair's designee.

(H) [[Three]] Eight members should be a public member with experience in redressing disparate impacts based on race and social justice issues. Each public member must reside in the County.

(2) Term. Each member serves a 3-year term. A member must not serve more than 2 consecutive full terms. A member appointed to fill a vacancy serves the rest of the unexpired term. Members continue in office until their successors are appointed and qualified.

(3) Compensation. ~~[[Members]]~~ Except for the 8 public members, members must receive no compensation for their services. [[A]] Each of the 8 public [[member]] members may receive an annual stipend of \$2,000.00 and reimbursement for expenses incurred in serving.

~~[[~~(4) Removal. The Executive, with the consent of the Council, may remove a member for neglect or inability to perform the duties of the office, misconduct in office, or a serious violation of law. Before the Executive removes a member, the Executive must give the member notice of the reason for removal and a reasonable opportunity to reply.]]

(b) Chair and Vice Chair. The Committee must annually elect one member as chair and another as vice chair and may elect other officers.

(c) Meetings. The Committee may meet at the call of the chair as often as required to perform its duties, but at least 6 times each year. The Committee must also meet if a majority of the members submit a written request for a meeting to the chair at least 7 days before the proposed meeting. A majority of the members are a quorum for the transaction of business, and a majority of members present at any meeting with a quorum may take an action.

(d) Staff. The Office of Racial Equity and Social Justice must provide the Committee with staff, offices, and supplies as are appropriate.

(e) Duties. The Committee must:

- (1) adopt rules and procedures as necessary to perform its functions;
- (2) keep a record of its activities and minutes of all meetings, which must be kept on file and open to the public during business hours upon request;

- (3) develop and distribute information about racial equity and social justice in the County;
- (4) promote educational activities that increase the understanding of racial equity and social justice in the County;
- (5) recommend coordinated strategies for reducing racial and social justice inequity in the County;
- (6) advise the Council, the Executive, and County agencies about racial equity and social justice in the County, and recommend policies, programs, legislation, or regulations necessary to reduce racial and social justice inequity; [[and]]
- (7) meet periodically with the racial equity and social justice lead for each department and office; and
- (8) submit an annual report by December 1 of each year to the Executive and Council on the activities of the Committee.

(f) Advocacy. The Committee must not engage in any advocacy activity at the State or federal levels unless that activity is approved by the Office of Intergovernmental Relations.

33A-14. Greenhouse Gas Emissions and Racial Equity and Social Justice.

As part of the factors and conditions outlined in [§7-108] Section 21-204 of the Regional District Act and [§ 1.01 and § 1.03 of Article 66B,] Section 1-201 of the Land Use Article of the Maryland Code in preparing the Plan, the Planning Board must:

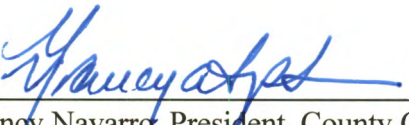
- (a) [[consider the environmental impact of the plan by:]]
[[(1) [assess] assessing]] assess the Plan's potential impact on greenhouse gas emissions in the County, including a carbon footprint analysis;
- (b) [[(2) [(b) consider] considering]] consider ways to reduce vehicle miles traveled in the County; [[and]]

- 295 (c) ~~[[(3) [(c) consider] considering]]~~ consider options that would
296 minimize greenhouse gas emissions; and
297 (d) ~~[[(b)]]~~ consider the impact of the plan on racial equity and social justice
298 in the County, as defined in Section 2-64A.

299 **Sec. 2. Transition and Effective Date.**

- 300 (a) The first report of the Office of Racial Equity and Social Justice required
301 in Section 1 must be submitted to the Council on or before September 30,
302 2020 and the first report of the Racial Equity and Social Justice
303 Committee required in Section 1 must be submitted to the Executive and
304 the Council on or before December 1, 2020.
305 (b) Section 2-81C as added by Section 1 of this Act takes effect on August
306 1, 2020.

Approved:



Nancy Navarro, President, County Council
11/21/19
Date

Approved:



Marc Elrich, County Executive
12/2/19
Date

This is a correct copy of Council action.



Mary Anne Paradise, Acting Clerk of the Council
12/2/19
Date

MEMORANDUM

To: Government Operations Committee

From: Elaine Bonner-Tompkins, Ph.D., Senior Legislative Analyst
Office of Legislative Oversight

Cc: Bob Drummer, Senior Legislative Attorney, County Council
Chris Cihlar, Ph.D., Director, OLO
Theo Holt, Ph.D., RESJ Performance Management and Data Analyst, OLO

Date: October 8, 2020

Re: Second Update on OLO Implementation of Racial Equity and Social Justice Act

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This memo provides an update on OLO's efforts to develop Racial Equity and Social Justice Impact Statements for new legislation introduced on or after August 1, 2020, as required by Bill 27-19. A summary of OLO's efforts since June to normalize, organize, and operationalize for racial equity and social justice to build the Council's capacity to apply an equity lens to its decision-making follows.

Normalizing Tasks

- Delivered RESJ training for Legislative Branch staff, including Staff Conversations on RESJ and Study Circles in July, sessions on Government's Role in Advancing RESJ in August, and sessions on OLO's RESJ Impact Statement Process in August.
- Offered orientations for Councilmembers' offices and community partners on the OLO's RESJ Impact Statement Process in August and September.

Organizing Tasks

- Assembled community partners to inform OLO's RESJ Impact Assessment Process in August.
- Hired Dr. Theo Holt as OLO's RESJ Performance Management and Data Analyst in September.
- Continued participation in Montgomery County's GARE/COG cohort facilitated by Chief Equity Officer Tiffany Ward.

Operationalizing Tasks

- Convened conversations with Central Council, OMB, and CountyStat analysts to understand the availability of departmental data on racial and social disparities in June and July.
- Developed a template, process, and timeline for completing RESJ impact statements in September (attached).
- Completed OLO RESJ impact statements for Bill 40-20 in September (attached).
- Developed draft equity tool for completing RESJ statements in October (attached).

OLO anticipates continuing organizing and operationalizing efforts during the next quarter and launching the RESJ Policy Handbook Project included in OLO's FY21 Work Program.



OFFICES OF THE COUNTY EXECUTIVE

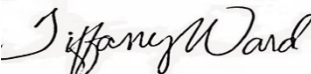
Marc Elrich
County Executive

Tiffany Ward
Chief Equity Officer

MEMORANDUM

October 8, 2020

To: Government Operations Committee

From: Tiffany Ward, Director 
Office of Racial Equity and Social Justice

Subject: Update on the Office of Racial Equity and Social Justice

The Office of Racial Equity and Social Justice (ORESJ) is pleased to report steady and consistent progress towards the goal of building the infrastructure of the department and fulfilling the mandate of the Racial Equity and Social Justice Act.

Since our last report to the Government Operations Committee on June 15, 2020, twenty-eight county departments have named racial equity leads that will work directly with the Office of Racial Equity and Social Justice. These departments include the Department of Housing and Community Development, the Office of Management Budget, and the Department of Environmental Protection. The racial equity leads began their year-long training cohort on September 28th and 29th, with a two-day training with the Racial Equity Institute. The remaining training will teach racial equity leads how to facilitate conversations on race, how to create racial equity tools and racial equity action plans. Racial equity action plans will be delivered at the end of the year-long training cohort. The next committee meeting is scheduled for Wednesday, October 28, 2020.

The Racial Equity and Social Justice Committee has been appointed and convened its first meeting in September. The committee is still setting out its priorities and work plan for the year.

On July 28th the County Council approved a supplemental appropriation that added two additional FTEs and \$50k for a consultant who will help write the required regulations for the Racial Equity and Social Justice Act. At the writing of this memo the Office of Racial Equity and Social Justice is preparing to make an offer to one candidate and in the process of hiring for the remaining two positions. I believe we will be fully staffed by December of 2020.

The Office of Racial Equity and Social Justice is currently working with the Office of the County Attorney to develop the regulations required for the legislation. We anticipate the regulations will be finished by winter of 2021. I am also attaching a copy of the Office of Racial Equity and Social Justice's first Annual report, which was transmitted to the County Council on September 30th, 2020 as required by the law. The annual report details further the activity and progress of the Office of Racial Equity and Social Justice.

cc: Bob Drummer, Senior Legislative Attorney, County Council



OFFICE OF RACIAL EQUITY AND SOCIAL JUSTICE

Marc Elrich
County Executive

Tiffany Ward
Chief Equity Officer

Office of Racial Equity and Social Justice

Annual Report

Fiscal Year 2020

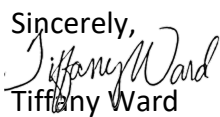
I am pleased to offer the first annual report for the Office of Racial Equity and Social Justice detailing our efforts since the creation of the office in December 2019. The Office of Racial Equity and Social Justice was created by Bill 27-19 which became law in December 2019. Since the creation of the office we have been working steadily and consistently to implement the law. In February 2020 I was appointed the Director of the Office of Racial Equity. My focus since coming on board has been building a solid infrastructure so that the office can deliver on the mandates of its enabling legislation.

I have been focused on developing a training program that will enable all of our county employees to receive racial equity and social justice training, creating the Racial Equity and Social Justice committee which will advise the department and make policy recommendations to the County Executive and County Council and educating our diverse workforce and community about what Racial Equity and Social Justice is and how it will function in government decision making. I am also in the midst of hiring talented and capable staff to help with these efforts.

Shortly after being appointed Director of the Office of Racial Equity and Social Justice the country and county were struck by the Covid-19 pandemic. The Covid-19 pandemic predictably impacted Black and Latino communities disproportionately, with Black county residents dying from Covid-19 at a higher rate than any other group. Our Latino county residents were contracting Covid-19 at a higher rate than any other racial and ethnic group in the county. The need and importance of the Office of Racial Equity and Social Justice became clearer and more urgent to county residents and leaders. As a result the budget and staff of the Office were expanded. The Office received 2 additional FTEs (Full-Time Equivalents) and \$50k to use for a consultant that will help draft the required county regulations for the department.

Over the past seven months I have been using the Government Alliances for Racial Equity (GARE) framework to organize many of the activities of the Office of Racial Equity and Social Justice. GARE recommends that local jurisdictions normalize conversations about race so that employees and community members become comfortable speaking about race and are using shared terms and definitions. After normalizing conversations it is important to organize around race equity, building the necessary internal and external infrastructure needed to carry out the vision of racial equity. Finally jurisdictions should operationalize racial equity by creating racial equity tools, action plans and using data in a way that explicitly considers racial equity in policy, budget and programming decisions.

We have just begun our racial equity journey but you will see that we are making steady progress in our effort to advance racial equity and create better outcomes for all county residents.

Sincerely,

Tiffany Ward

Director, Office of Racial Equity and Social Justice

Normalizing Conversations on Race and Racial Equity

Recent events, including: the disproportionate effects of Covid-19 on Black and Latino people in the country and county; the public killing of George Floyd in Minneapolis; and other high profile police-involved incidents involving excessive use of force has put racial disparities and race relations in this country in the spot light once again. While many thought that the work of racial equity was about remedying past ills, it became increasingly apparent that racial equity is about creating quality of life, safety and security for people of color right now. The Office of Racial Equity and Social Justice has been in high demand over the past six months with requests from local civic associations, county departments and county municipal leaders. Below is a sample of our efforts to **Normalize** the conversation on racial equity.

- Conducted racial equity training and informational session for the Silver Spring, Western County, Mid-county and UpCounty Regional Service Center Boards;
- Facilitated panel discussions on the impact of Covid-19 on the African- American Community in Montgomery County and; Covid-19 and mental health for the African- American community;
- Conducted community conversations on racial equity with the Darnestown Civic Association; Rotary Club of Montgomery County, Interfaith Works; and Commission on Aging
- Participated in panel discussion on racial equity and the importance of women in leadership for Community Bridges;
- Facilitating book club for MLS (Management Leadership Service) employees and library employees featuring “Color of Law”: A Forgotten History of How Our Government Segregated America
- Conducting ongoing conversations with the Office of Management and Budget (OMB) Department of Housing and Community Affairs, and Department of Environmental Protection (DEP) on the use of racial equity in departmental processes;
- Presented to the Mayors of Takoma Park, Rockville, Gaithersburg, Somerset and other elected about the state of the county’s racial equity policy and the Office of Racial Equity and Social Justice;
- Presented to county leaders on the intersection of racial equity and climate change.

Upcoming Normalizing conversations, presentations or panel discussions:

- Presentation and discussion on racial equity with the Greater Farmland Civic Association;
- Presentation and discussion on racial equity with the Alcohol and other Drug Abuse Council.

Organizing for Racial Equity

As we move forward on our racial equity journey it is essential that we create a foundation for the Office of Racial Equity and Social Justice and the county by building the capacity within departments. We will cultivate racial equity champions and ambassadors that can help deliver the message of the importance of racial equity in decision-making. Having racial ambassadors in the room when decisions are being made is essential to advancing racial equity in policy making, protocol and culture. Below are the ways the Office of Racial Equity is organizing for racial equity:

- Coordinated and organized 28 department level racial equity leads who began their racial equity training module on September, 28th (designation of racial equity leads is mandated by the Racial Equity and Social Justice Law);
- Entered a partnership with Montgomery County Public Schools to train racial equity leads to facilitate conversations on race using the study circles model;
- Continuing to train Executive level leadership on the history of racialized policies in the United States;
- Supporting the racial equity core team within the Department of Environmental Protection (DEP); DEP is the first department to establish a racial equity core team. The Department of Health and Human Services has been doing equity work for a number of years now.
- Supporting the Climate Action Recovery Plan within the Department of Environmental Protection by advising on the importance of cultivating community engagement process with communities of color before recommendations are made;
- Created and supported the Racial Equity and Social Justice committee(the creation of the Racial Equity and Social Justice committee is mandated by law). The committee is tasked with educating the residents of Montgomery County on the racial equity and making policy recommendations to the County Executive and County Council.

Operationalizing Racial Equity

Creating and implementing a racial equity tool is the key to operationalizing racial equity. Using disaggregated data is also key to operationalizing racial equity. Montgomery County is early in its racial equity journey and has not fully trained racial equity leads and ambassadors so that they may create racial equity tools and racial equity plans for their departments. But the Covid-19 crisis created a level of urgency and an opportunity to practice using a racial equity tool in the Covid-19 recovery framework. Below are ways the county is getting closer to fully operationalizing a racial equity lens.

- A data survey has been conducted by County Stat to determine how many county departments disaggregate and collect racial data;
- The Office of Racial Equity and Social Justice worked with the Office of Homeland Security and the Covid-19 recovery groups to embed racial equity into their recovery decisions. Realizing that most staff had not had any training beyond the two hour presentation given by the Chief Equity Officer, we understood that the implementation of a racial equity lens in these decisions may not be perfect, but it is worth piloting during this crisis. Evidence of the use of the racial equity lens can be found in the process that the Food Security taskforce used to distribute \$20 million to county organizations that provided relief to county families and individuals. It was also applied during the Early Care and Education Initiative Recovery Fund that provided \$10M to child care providers to help offset financial losses caused by Covid-19 pandemic and to help businesses reopen. Priority was granted to programs serving families with limited incomes and children with special needs, as well as sites providing child care in targeted zip codes including 20877, 20886, 20902, 20866 and 20906. These targeted zip codes have less availability of child care programs and a higher number of families with limited income.
- The Office of Racial Equity and Social Justice has worked closely with DEP on incorporating a racial equity lens into the Climate Action Recovery Plan (CARP) by encouraging the use of a community engagement process that centers the voices and experiences of people of color. As a result of this guidance a cross departmental working group made up of members from the Department of Environmental Protection, Transportation, and Health and Human Services meet regularly to devise strategies and share resources that help them effectively communicate with communities of color. Finally the DEP has created the Racial Equity Climate Change advisory committee using the Racial Equity and Social Justice committee framework as a guide. While the CARP has not fully operationalized racial equity into its process, it is further along than many other projects and is building the foundation for future success.

- The Office of Management and Budget (OMB) has been laying the ground work to insert racial equity into their processes. Considerations are being made for the Capital Improvement Projects (CIP) budget process as well as the General Operating budget. For the biennial CIP cycle, OMB has required departments to submit information about racial equity considerations when requesting CIP amendments; and provided information to the public attending Community Advisory Board meetings fall 2020 regarding these efforts. During FY22 operating budgeting development season information will be collected on the topic of racial equity. A definition of racial equity will be provided and departments were asked if they use quantitative and qualitative data to track program access and/or service outcomes for different population groups; which community residents will potentially benefit the most from your program proposal and be burdened by your program proposal; and how does the program promote racial equity?

Other updates

- At the publishing of this report the Office of Racial Equity and Social Justice is in the process of hiring staff that will provide support in training county employees, analyzing policies, budgets, and protocols as well as staffing the Racial Equity and Social Justice committee
- The Office of Racial Equity along with the Office of Human Rights and the Equal Employment Office is considering working together to create training modules that will focus on the Social Justice
- Bill 44-20 has been introduced by the County Council and if passed will add two public members to the Racial Equity and Social Justice committee; authorize the County Executive to establish one or more task forces to study and make recommendations on a specific issue
- The Office of Racial Equity and Social Justice is contributing to the Reimagining Public Safety

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED LICENSING AND REGULATIONS – UNIFORM TRADER'S BILL 40-20: LICENSE FEE

SUMMARY

The Office of Legislative Oversight (OLO) expects Expedited Bill 40-20 to slightly widen racial and social disparities among business owners and among residents. However, the bill's anticipated impact is minimal given the bill's scale and cost (less than \$1 million annually).

BACKGROUND

Expedited Bill 40-20 was introduced by the County Council on September 15, 2020 and passed on September 29.¹ Bill 40-20 enables the County to implement a uniform trader's license fee instead of using the existing tiered license fee based on retailers' inventories. State legislation enabling localities to adopt a uniform trader's license was enacted in 2019.²

Bill 40-20 treats every County retailer the same as its smallest retailers by adopting a common license fee of \$15 currently charged to retailers with inventories of \$1,000 or less. The bill reduces trader's license fees by as much as \$785 per year for vendors with the largest inventories valued at over \$750,000 (from \$800 to \$15). The bill transfers all revenue from uniform trader's fees to the State general fund. Currently, 92% of revenue collected from license trader's fees is allocated to local governments and the remaining 8% to state government.

OMB's Fiscal Impact Statement estimates that reducing the license fee will decrease County revenue by \$5.7 million over the next six years. As a result, the County would lose approximately \$955,000 in trader fee revenue annually. OLO's Economic Impact Statement estimates a minimal economic impact of the bill on the County as a whole but notes that retail stores will benefit from the reduced administrative costs of determining the value of their inventories.³

DEMOGRAPHIC DATA

Understanding the impact of Bill 40-20 on racial equity and social justice in the County requires understanding the demographics of retailers in the County. In the absence of data by race and ethnicity on retailers, this section describes available data on business owners. Both local and national data demonstrate an under-representation of entrepreneurs of color among all business owners. For example:

- Black and Latinx persons each accounted for 19 – 20% of Montgomery County residents, but only 11 – 15% of self-employed residents with incorporated businesses in 2018.⁴
- While representing about 29 percent of all firms in Montgomery County, Black and Latinx firms combined (1.7% and 1.5% respectively) accounted for less than four percent of the revenue generated by local firms in 2018.⁵



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- Among businesses across the country, the Small Business Administration estimates that Black firms accounted for 7% of all businesses, Asian firms represented 4.3%, and Latinx firms represented 10.6% of all firms in 2013.
- Yet, across the nation, African Americans accounted for less than 2 percent of firms with employees, while White Americans owned 82% of small employer firms.⁶

Gaps in wealth and access to capital are often cited as drivers of the gap in business ownership and size by race and ethnicity.⁷ Business owners often rely on personal or family savings as sources of startup capital but the typical Black household has just one-tenth of their White counterparts' wealth: \$17,600 compared to \$171,000.⁸

Latinx entrepreneurs also have low median income and family wealth compared to White, Non-Hispanic Americans and are also more likely to be low-income than their peers: although Latinx people account for 17% of all low-income persons in the U.S., they account for 24% of all low-income entrepreneurs.⁹

ANTICIPATED RESJ IMPACTS

Business Owners: Large retailers are the primary beneficiaries of Expedited Bill 40-20. The Maryland Department of Legislative Services' Fiscal and Policy Note states that all small businesses in jurisdictions enacting the uniform trader's license fee will benefit from reduced complexity associated with the tiered trader's license structure. However, it is the retailers with the most revenue and highest trader license fees under the current tiered schedule that will benefit the most.

As noted previously, local data describing the distribution of retailers by race and ethnicity are not available. An examination of Montgomery County data from the Census Bureau Survey of Business Owners, however, suggests that local entrepreneurs of color will be under-represented among the retailers that benefit most from Bill 40-20 due to the significantly smaller size of their firms. For example, an analysis of 2012 data shows that local:

- Latinx firms averaged \$96,000 in annual sales
- African American firms averaged \$110,000 in annual sales
- Asian firms averaged \$286,000 in annual sales while
- White firms averaged more than \$2 million in annual sales.¹⁰

Since White business owners are more likely to benefit from this bill than entrepreneurs of color due to the larger average size of their firms in terms of sales, OLO estimates that Bill 40-20 will widen disparities in business ownership and worth by race and ethnicity.

Residents: Cuts in County services to fund Bill 40-20 could also adversely impact communities of color who are more often reliant on means-tested programs and services.¹¹ A cursory review of Montgomery County Government's \$5.9 billion operating budget for FY21 suggests that nearly two-thirds of County expenditures are allocated to six budgets that disproportionately serve communities of color and low-income residents:¹²

- Montgomery County Public Schools at \$2.8 billion
- Department of Health and Human Services at \$348 million
- Montgomery College at \$318 million
- Department of Transportation at \$239 million
- Department of Libraries at \$103 million
- Housing and Community Affairs at \$66 million

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This analysis is not intended to suggest that all tax cuts harm low-income residents and communities of color or that all tax increases inherently reduce racial and social inequities. Instead, this analysis is offered to recommend the Council explicitly consider how tax cuts will be funded, and their consequences on racial and social equity, in the same way that it considers the benefits and burdens of recommended tax increases.

METHODOLOGIES, ASSUMPTIONS AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis relies on several sources of information. They include:

- State law¹³
- State fiscal and policy note¹⁴
- OMB fiscal impact statement¹⁵
- OLO economic impact statement¹⁶

OLO also reviewed several sources to understand trends and disparities in business ownership and employment by race and ethnicity nationally and locally. These include:

- Minority-owned businesses – COVID-19 Recovery Outlook, Office of Legislative Oversight¹⁷
- Racial Equity Profile, Montgomery County, Office of Legislative Oversight
- Kauffman Compilation: Research on Race and Entrepreneurship¹⁸
- Brookings: Coronavirus economic relief cannot neglect Black-owned business¹⁹
- Bridging the Wealth Gap, Small Business Growth, The United States Conference of Mayors and the Council on Metro Economies and the New American City²⁰
- A Blueprint for Revamping the Minority Business Development Agency, Center for American Progress²¹
- Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Divide, Field at the Aspen Institute²²
- Building Entrepreneurship Ecosystems in Communities of Color, the Federal Reserve Bank of Kansas City.²³

OLO also visited the websites of Montgomery County Economic Development Corporation for information and the websites of several entrepreneurs of color groups that include the Hispanic Chamber of Commerce for Montgomery County and the Maryland Black Chamber of Commerce.²⁴

When disaggregated data by race and ethnicity are available locally, OLO relies on such data to estimate the impact of proposed legislation on subgroups by race and ethnicity. When local data are unavailable, OLO extrapolates state and national data disaggregated by race and ethnicity to estimate local impacts of proposed legislation.

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.²⁵ If the intent of Expedited Bill 40-20 were to narrow disparities in business ownership by race and ethnicity, OLO could offer such amendments. The intent of Expedited Bill 40-20, however, is not to narrow racial and social inequities in the County. As such, this RESJ impact statement does not offer recommended amendments for Expedited Bill 40-20.



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If, under a separate bill, the Council decides to propose legislation aimed at narrowing racial and social inequities among businesses, OLO encourages the Council to work in partnership with Black and Latinx business owners, the Montgomery County Economic Development Corporation, and other key stakeholders. The Council may also want to consider best practices for assisting entrepreneurs of color offered by researchers. These may include:²⁶

- Collecting and analyzing data on local business disparities by race and ethnicity, including data collected by financial institutions required under the Dodd-Frank Act.
- Improving access to properly structured credit opportunities for entrepreneurs of color.
- Helping entrepreneurs of color access credit and other services particularly among institutions with a history of supporting minority-owned business, such as Community Development Financial Institutions and credit unions.
- Improving programs aimed at enabling entrepreneurs of color to access and succeed at securing contracting opportunities.
- Expanding funding for targeted business development assistance for growth-oriented minority firms.
- Considering short-term strategies for forgiving or reducing the student debt of entrepreneurs that create new firms.

CAVEATS

Two caveats to this statement should be noted. First, predicting the impact of legislation on racial and social inequities in Montgomery County is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than to 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.

CONTRIBUTIONS

OLO staffers Elaine Bonner-Tompkins and Theo Holt drafted this RESJ impact statement in consultation with colleague Stephen Roblin who authored OLO's Economic Impact Statement for Expedited Bill 40-20.

ENDNOTES

¹ "Council approves \$15 Uniform Trader's License Fee to Provide Financial Relief to Hard-Hit Retail Businesses," Montgomery County Council Press Release, September 29, 2020 https://www2.montgomerycountymd.gov/mcgportalapps/press_List.aspx?id=01

² Montgomery County Council, Expedited Bill 40-20 Legislative Branch-Economic Impact Statement. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20200915/20200915_17A.pdf.

³ Ibid

⁴ Stephen Roblin, "COVID-19 Recovery Outlook: Small Businesses," Montgomery County Council, June 12, 2020 <https://www.montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/COVID-19Recovery-SmallBusinesses.pdf>.

⁵ Jupiter Independent Research Group "Racial Equity Profile Montgomery County," Montgomery County Office of Legislative Oversight, July 2019. <https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf>.

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- ⁶ Conner Maxwell, Darrick Hamilton, Andre Perry, and Danyelle Solomon, “A Blueprint for Revamping the Minority Business Development Agency,” Center for American Progress, July 2020. <https://www.americanprogress.org/issues/race/reports/2020/07/31/488423/blueprint-revamping-minority-business-development-agency/>.
- ⁷ Nancy S. Lee, “Bridging the Wealth Gap,” Prepared for: The United States Conference of Mayors and the Council on Metro Economies and the New American City, June 2018. <http://www.usmayors.org/wp-content/uploads/2018/06/Bridging-the-Wealth-Gap-June-2018.pdf>.
- ⁸ Ibid.
- ⁹ Ibid.
- ¹⁰ “Racial Equity Profile Montgomery County”
- ¹¹ See, for example, local data disaggregated by race and ethnicity on household income, poverty rates and public transportation use cited in “Racial Equity Profile Montgomery County”
- ¹² Montgomery County Maryland Operating Budget, <https://apps.montgomerycountymd.gov/BASISOPERATING/Common/Index.aspx>.
- ¹³ Chapter 569 Section 11-101 Annotated Code of Maryland.
- ¹⁴ Section 17-1801.1 of the Business Regulation Article of the Maryland Code.
- ¹⁵ Fiscal and Policy Note, Business Regulation-Trader’s Licenses-License Fees, House Bill 34, Maryland General Assembly.
- ¹⁶ Expedited Bill 40-20 Legislative Branch-Economic Impact Statement
- ¹⁷ “COVID-19 Recovery Outlook: Small Businesses”
- ¹⁸ “The State of Race and Entrepreneurship Research”
- ¹⁹ Andre M. Perry and David Harshbarger, “Coronavirus economic relief cannot neglect Black-owned business,” The Brookings Institution, April 2020. <https://www.brookings.edu/blog/the-avenue/2020/04/08/coronavirus-economic-relief-cannot-neglect-black-owned-business/>.
- ²⁰ “Bridging the Wealth Gap”
- ²¹ “A Blueprint for Revamping the Minority Business Development Agency”
- ²² Joyce Klein, “Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap,” The Aspen Institute, January 2017. <https://www.aspeninstitute.org/publications/bridging-divide-business-ownership-can-help-close-racial-wealth-gap/>.
- ²³ Dell Gines, “Wealth equity defines inclusion,” Federal Reserve Bank of Kansas City, November 2018 <https://www.kansascityfed.org/publications/community/connections/articles/2019/q12019/entrepreneurship%20ecosystem>.
- ²⁴ MCEDC, “Montgomery County Economic Development Corporation,” <https://thinkmoco.com/>. Hispanic Chamber of Commerce, <https://hccmc.org/>. Maryland Black Chamber of Commerce, <https://www.marylandbcc.org/>.
- ²⁵ Montgomery County Council, Bill No. 27-29 Racial Equity and Social Justice, Effective on March 2, 2020, Montgomery County, Maryland. <https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/RacialEquity/Bill27-19.pdf>.
- ²⁶ “Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap”

