



## FREEDOM TO LEAVE ACT OVERVIEW

The **U.S. Fourth Amendment** gives all people the right “to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.” Consent searches create a power imbalance that has produced few results while impacting communities of color greatly, including in Montgomery County.

Councilmember Will Jawando is sponsoring the **Freedom to Leave Act** to ban consent searches during traffic stops and enhance Montgomery County’s data collection related to traffic enforcement.

This Act is an opportunity to strengthen public trust in law enforcement and improve data collection transparency related to traffic stops.

## PROPOSED LEGISLATION

The **Freedom to Leave Act** will:

- Prioritize 4th Amendment rights and reduce disparities in traffic enforcement by prohibiting consent searches of a motor vehicle or person by a police officer;
- Improve data analysis for traffic stops by requiring the collection of additional data and annual reporting of traffic stop data.

## PREVIOUS LEGISLATION

Councilmember Jawando introduced the STEP Act in February 2023 to address racial disparities in traffic enforcement and allow officers to focus on the most serious and deadly traffic enforcement issues. There was a rich and robust community discussion on traffic stops that has refined the legislation.

The Freedom to Leave Act replaces the STEP Act and is legally permissible under the Maryland Attorney General’s recent opinion that the County Council requested.

## BACKGROUND

- There are **clear racial disparities in traffic enforcement**. Montgomery County traffic data from FY18 to FY22 reveal that Black drivers made up **30% of traffic stops** in an adult population that was 18% Black.<sup>1</sup>
- Very few traffic stops lead to the recovery of contraband. In Montgomery County, approximately **1 out of 205** traffic stops (less than 0.5%) lead to the recovery of a firearm.<sup>2</sup>
- **Over 90%** of all warrantless searches in the U.S. are conducted by police using consent searches.<sup>3</sup>
- Studies demonstrate a **power imbalance** between officers and civilians. Individuals are more likely to comply with a request from a person in authority.<sup>3</sup> **Consent is often not truly voluntary** if drivers find it difficult to exercise their 4th Amendment freedom to leave following a traffic stop when there is no basis for an officer to search without consent.
- Increased data collection and expanded reporting can assist the Montgomery County Police Department with training and enforcement.

### Recent bans on consent searches:<sup>4</sup>

- Connecticut (2020) requires probable cause for searches or unsolicited consent in written or recorded form.
- California (2001), New Jersey (2001), Minnesota (2003), and Rhode Island (2004) limited the use of consent searches.

## LEGISLATIVE CONTACTS

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**WILL JAWANDO**  
COUNCILMEMBER AT-LARGE  
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### Footnotes

1. OLO Memorandum Report 2022-12: Analysis of dataMontgomery Traffic Violations Dataset (Oct. 25, 2022) [https://www.montgomerycountymd.gov/OLO/Resources/Files/2022\\_reports/OLORReport2022-12.pdf](https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLORReport2022-12.pdf)
2. Dec. 4, 2023 Public Safety Committee Worksession at 1:10:18: [https://montgomerycountymd.granicus.com/player/clip/17081?view\\_id=169&redirect=true&h=b6480e21bce9e4dfe8b4c1b71ec684e](https://montgomerycountymd.granicus.com/player/clip/17081?view_id=169&redirect=true&h=b6480e21bce9e4dfe8b4c1b71ec684e)
3. Roseanna Sommers & Vanessa K. Bohns, *The Voluntariness of Voluntary Consent: Consent Searches and the Psychology of Compliance*, *The Yale Law Journal* (2019) [https://www.yalelawjournal.org/pdf/SommersBohns\\_w4cmjkw.pdf](https://www.yalelawjournal.org/pdf/SommersBohns_w4cmjkw.pdf)
4. ConnecticutSec. 54-330: [https://www.cga.ct.gov/current/pub/chap\\_959.htm#sec\\_54-330](https://www.cga.ct.gov/current/pub/chap_959.htm#sec_54-330); see also ACLU Testimony for the Maryland House Judiciary Committee (Mar. 13, 2018): [https://www.aclu-md.org/sites/default/files/field\\_documents/hb\\_1133\\_consent\\_search\\_ban.pdf](https://www.aclu-md.org/sites/default/files/field_documents/hb_1133_consent_search_ban.pdf) (detailing bans on certain consent searches in Rhode Island, Minnesota, New Jersey, and California).

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Updated February 1, 2024