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Montgomery County Council
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

RE: Support for STEP Act, Bill 12-23

Dear Council Members:

This letter is to express my support for the Safety and Traffic Equity in Policing (STEP) Act, Bill 12-23, introduced by At-Large Member Will Jawando, and co-sponsored by my District 5 Member Kristin Mink. I thank each of them for their leadership in this issue and I hope each of you will join them in supporting this Bill.

The STEP Act serves three important goals:

1. It would reduce the racial and class-based disparities in police encounters and court proceedings;
2. It would refocus police work on more serious crimes that are more likely to cause harm to County residents; and,
3. It would enhance the integrity of our law enforcement system by reducing governmental use of pretexting.

As to the first goal of reducing racial disparities, I am impressed by the Racial Equity and Social Justice (RESJ) Impact Statement that Janmarie Peña drafted for Bill 12-23. It lays out the cold facts of the persistent racial disparities experienced by Black and Latinx drivers in our County. See pp. 14-24 at:

https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2787_1_24966_Bill_12-23_Publichearing_20230425.pdf

This disparity is sufficient cause for legislative action to restore racial justice in our County. As the Washington Area Bicycle Association (WABA) has stated in its comments, “Safe Street are Equitable Streets.” <https://waba.org/blog/2023/04/waba-supports-the-step-act-in-montgomery-county/>

Second, there are more important matters in which law enforcement attention can have a greater and positive impact for our residents. May I suggest that the County Police Department begin enforcement of laws against wage theft. As a volunteer in the Bar Associations Pro Bono program, I see too many County residents who complain that employers have failed to pay the wages owed to them. Too many County residents are paid below our County’s minimum wage (which itself is still too low to be a livable wage for this County). If wage thefts are detected early,

we could avoid prolonged underpayments, such that the one affecting Maryland Corrections Officers who recently received \$13 million for unpaid wages.

<https://www.baltimoresun.com/politics/bs-md-pol-corrections-wage-settlement-20230706-zvuivlduuzdn3j3fnlv5xxagd-q-story.html>

Since 2009, the Maryland Department of Labor has received complaints from 8,290 workers who reported thefts totaling over \$20 million.

<https://www.cbsnews.com/baltimore/news/maryland-wage-theft-millions-dollars-unpaid-overtime-benefits/>

This is a real harm to real people in our County – people who can least afford it. I suggest that even a few prosecutions of employers who steal from their workers would be a far more beneficial deterrent than any stop for a minor traffic infraction.

Third, our courts have unfortunately permitted the pervasive use of “pretext stops” through which police officers can stop a vehicle for a minor traffic offense when their real purpose is to see if they can find evidence of more serious crimes. See, for example, *Whren v. United States*, 517 U.S. 806, 811-13 (1996) (approving of “police attempts to use valid bases of action against citizens as pretexts for pursuing other investigatory agendas.”).

<https://casetext.com/case/whren-v-us?>

Prof. Paul Butler vividly describes how this decision gives police officers the “super power to racially profile.” *Chokehold [Policing Black Men]* (2017: The New Press, New York), p. 59. While the courts may look the other way when law enforcement officers use a pretext to justify a stop that would otherwise be unlawful, our County can and should set a higher standard of integrity. A pretext is, after all, a lie about a person’s real motive. We should not permit our officers to use any sort of pretext.

For each of these three reasons, I urge each member of this Council to support the STEP Act.

Very Truly Yours,



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