



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Bill 12-23, The Safety and Traffic Equity in Policing (STEP) Act
Montgomery County Council – April 25, 2023
SUPPORT**

Thank you for this opportunity to submit written testimony in support of Bill 12-23, The Safety and Traffic Equity in Policing (STEP) Act, on behalf of the Montgomery County **Women's Democratic Club (WDC)**. WDC is one of Maryland's largest and most active Democratic clubs with hundreds of politically active dues-paying members, including many elected officials.

WDC supports the STEP Act because it will reduce unnecessary police encounters for minor traffic offenses that have created opportunities for unjust outcomes at the hands of police. We believe setting limits on traffic stops will reduce racial disparities and community trauma, improve community policing relationships, and promote policing efficiency and safety for all by allowing police to focus on high priority safety strategies.

Racial profiling by law enforcement on American roads is a nation-wide problem that has been well documented. Black drivers are more likely than White drivers to be pulled over by police and Black and Latinx are significantly more likely to be searched. **For Black individuals, the disproportionate impact on them has turned driving, an ordinary American activity, into an experience fraught with discomfort, trauma, if not danger and risk.** Notably, national data show disproportionately higher racial disparities for drivers of color than for White drivers for stops for minor violations as compared to collision contributing violations.¹ It appears that no person of color is safe from this discriminatory treatment regardless of age, gender, type of car, or compliance with the law.

A stop can be traumatizing for Black individuals who already share collective trauma from the long history of police violence against the Black community in our country. Stops often involve language that is insulting, dehumanizing, humiliating, or abusive. However, even politeness on the part of police does not make an unjustified stop acceptable to someone who feels they have been singled out because of their race. Stops can also lead to physical, even deadly, confrontations. Since 2017, more than 800 people have been killed after being pulled over in the U.S.² America's shameful history of police stops that have resulted in the deaths of Black men has created a visceral fear for people of color—a sense that regardless of how careful one might be, there is a chance that an encounter with police might become volatile and dangerous.

What is particularly problematic is that many of the stops in which people of color are disproportionately impacted are pretextual stops in which the alleged violation is only a pretext for stopping the vehicle to do a search. Even though police can legally do these pretextual stops, the disproportionate impact on Black drivers undermines trust in law enforcement and alienates law-

¹ Katie Blum and Jill Paperno, "Stop the Stops: The Disparate Use and Impact of Police Pretext Stops on Individuals and Communities of Color, A Preliminary Report," Empire Justice Center (January 2023), p. 1-16,

<https://empirejustice.org/wp-content/uploads/2023/02/Stop-the-Stops-Empire-Justice-Centers-Preliminary-Report-on-Racial-Disparities-in-Pretext-Stops.pdf>; Emma Pierson, Camelia Simoiu, Jan Overgoor, et al., "A Large-scale analysis of racial disparities in police stops across the United States," Nature Human Behavior, Vol. 4 (July 2020), p. 736-745, <https://www.nature.com/articles/s41562-020-0858-1>

² According to statistics from the Mapping Police Violence data base. See "Why do so many police traffic stops turn deadly", BBC News, Washington (January 31, 2023), <https://www.bbc.com/news/world-us-canada-64458041>



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abiding citizens. Moreover, the evidence is that they do not make us safer and that resources are better directed elsewhere. A pretextual stop for a minor violation can create a tense, unpredictable situation that can quickly escalate. The minimal number of arrests or items seized as a result of pretextual stops comes at a great cost.³

There is no question that people of color are, and have been, disproportionately represented in traffic stops in Montgomery County for a long time. There were allegations of racially discriminatory conduct by Montgomery County police officers in violation of federal law more than twenty years ago, which resulted in an agreement to collect data on traffic stops. Since then, more and more data have been compiled, primarily as a result of reporting requirements under Maryland law.⁴

Relying on these data, a recent OLO Memorandum Report 2022-12 (October 20, 2022) confirms that racial disparities in traffic enforcement persist in Montgomery County.⁵ Specifically, traffic stop data for FY 2018-2022 show that Black drivers account for 30 percent of the stops while they represent about 18 percent of the population. Black males, who represent about 9 percent of the population, experienced 20 percent of the stops. The exclusion of non-Montgomery County residents from the count of Black drivers does not change this outcome: 27 percent of Black drivers who reside in the County were stopped. In addition, 43 percent of the 30,664 searches conducted during this period involved Black individuals and 38 percent of the arrests. OLO reports that the data also show that Black and Latinx drivers were stopped and searched for lower-level traffic violations (such as expired registrations or equipment issues) at disproportionately higher rates than White drivers.

People of color in our Montgomery County community report being traumatized by police stops. They believe, and statistics bear out, that they are singled out and that their rights are ignored in the process of the harsh treatment that ensues. Some have expressed the fear that complaints about discriminatory or harsh treatment would lead to retaliation, underscoring the lack of trust that exists.

To minimize the potential for dangerous police-driver encounters and lessen racial disparities in the exercise of police discretion, the STEP Act adopts an approach already implemented in a variety of jurisdictions.⁶ Namely, the bill would establish limitations on traffic stops for minor non-moving violations such as window tinting, rear license plate illumination, expired registration, and materials on windshields, violations that other jurisdictions have also identified as non-public safety violations. These are technical violations that involve people of color at disproportionately higher rates. OLO refers to them as “other traffic violations” to be

³ Data from different jurisdictions suggest that pretextual stops amount to a needle-in-a-haystack approach to finding contraband. See Sam McCann, “Low-Level Traffic Stops are Ineffective—and Sometimes Deadly. Why are They Still Happening?” Vera News and Stories (March 29, 2023) <https://www.vera.org/news/low-level-traffic-stops-are-ineffective-and-sometimes-deadly-why-are-they-still-happening>

⁴ OLO Report 2021-10, “A Study on Reassigning Traffic Enforcement from the Montgomery County Police Department to the Montgomery County Department of Transportation,” (July 27, 2021), p. 16-17, 78, https://www.montgomerycountymd.gov/OLO/Resources/Files/2021_Reports/OLOREport21-10.pdf

⁵ See pages 9-10 and 20, https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLOREport2022-12.pdf

⁶ Nazish Dholakia and Akhi Johnson, “Low-Level Traffic Stops Too Often Turn Deadly. Some Places are Trying to Change That,” Vera News and Stories (Feb. 9, 2022), <https://www.vera.org/news/low-level-traffic-stops-too-often-turn-deadly-some-places-are-trying-to-change-that>



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distinguished from “collision contributing violations” that involve driving in a dangerous or unsafe manner. The bill would also bar fishing expeditions by limiting searches to those based on reasonable suspicion or probable cause for a criminal offense.

Philadelphia was the first major city to ban police from pulling over drivers for low-level violations, including expired vehicle registration, broken brake or head lights, and rearview mirror decoration.⁷ After one year, Philadelphia reported positive results, including a significant decrease in the number of low-level traffic stops involving Black men.⁸ Pittsburgh enacted an ordinance in December 2021 that was virtually identical to Philadelphia’s. Virginia enacted state legislation in 2020 barring police from pulling over drivers for one broken head light, tinted windows, expired vehicle registration or safety inspection stickers, defective equipment, and other minor traffic violations. Oregon has also enacted state-wide legislation in 2022 disallowing stops for various lighting infractions.⁹

Notably, progressive prosecutors in some jurisdictions have also been working to discourage fishing expeditions in vehicles by announcing that they will not be charging crimes resulting from stops not related to safety. In Ramsey County, Minnesota, for example, John Choi announced in 2021 he would not prosecute felony offenses solely stemming from non-public safety stops such as for a broken taillight, license plate illumination, windshield violations, window tints, and expired registration.¹⁰

Some police chiefs have also embraced the idea of limiting traffic stops, especially pretextual, and focusing on dangerous infractions such as speeding and reckless driving. Three years after the now-retired police chief of Fayetteville, North Carolina, Harold Medlock, told his officers to quit stopping cars for expired registrations and equipment failures and to focus on speeding, reckless driving, and other more dangerous infractions, he concluded that everything good that could happen, did happen—fewer traffic fatalities, fewer searches of Black drivers, a decline in police use of force, and fewer citizen complaints about the police. Chief Michael Moore in Los Angeles said “If the officer doesn’t have something more than ‘no front plate’ and he’s simply on a fishing expedition, we don’t want to do that.”¹¹ A 2022 LAPD policy does not permit stops based on “a mere hunch or on generalized characteristics...”¹² San Diego’s former mayor and police chief Jerry Sanders, who now admits that he did not monitor policing tactics closely enough, says that

⁷ Jonaki Mehta, “Why Philadelphia has banned low-level traffic stops,” NPR (November 8, 2021), <https://www.npr.org/2021/11/08/1052957246/why-philadelphia-has-banned-low-level-traffic-stops>

⁸ McCann (2023).

⁹ Blum (2023), p. 59-60.

¹⁰ Blum (2023), p. 66. See also Dom Amato, “Prosecutor Takes Aim at Chittenden County Traffic Stops.”

<https://www.wcax.com/2022/01/13/prosecutor-takes-aim-chittenden-county-traffic-stops/>

¹¹ David Kirkpatrick, Steve Eder, and Kim Barker, “Cities Try to Turn the Tide on Police Traffic Stops,” The New York Times (April 15, 2022), <https://www.nytimes.com/2022/04/15/us/police-traffic-stops.html>. The Seattle Police Department also adopted an internal policy regarding low-level traffic infractions and the San Francisco Police Department is considering a policy to ban stops for 9 low-level stops. See Blum (2023), p. 65-66.

¹² 240.06 Policy – Limitation on Use of Pretextual Stops, L.A.P.D. (March 9, 2022),

https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2022/03/3_9_22_SO_No.3_Policy_Limitation_on_Use_of_Pretextual_Stops_Established.pdf.



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police need to stop making pretextual stops. He appropriately argues that police departments must work for the entire community, not just parts.¹³

The STEP Act promotes public safety because the approach it takes allows County traffic enforcement to focus on the most dangerous driver behavior — impaired, reckless, distracted, and aggressive driving, seatbelt use, and driving affecting pedestrian safety—**a focus that supports the objectives of Vision Zero.**¹⁴ The bill appropriately permits the non-moving violations that are covered by the bill to be treated as secondary violations, permitting officers to focus stops on collision contributing infractions and those for which there is basis for suspicion or probable cause. While police might argue that the bill would limit the capacity of law enforcement, it is time to weigh the benefits of making stops that are not related to dangerous driving and that do not typically result in an arrest for criminal activity against the psychological toll they exact on innocent people, the adverse impact on community trust in policing, and the risk of physical danger to all involved.

Bill 12-23 takes a commonsense step in the right direction toward alleviating the harm caused by unnecessary police interactions with people of color in the County while continuing to support the County's Vision Zero goals relating to improving road safety and eliminating fatalities and severe injuries.

We urge you to support this legislation and thank Councilmembers Jawando and Mink for sponsoring it.

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¹³ Jerry Sanders, "Commentary: I was a San Diego police chief and mayor. I didn't monitor policing tactics closely enough," The San Diego Union-Tribune (June 11, 2020), <https://www.sandiegouniontribune.com/opinion/story/2020-06-11/jerry-sanders-policing-san-diego-commentary>

¹⁴OLO Report 2021-10, p. 1.