

To: The Public Safety Committee of the Montgomery County (MD) Council

From: Jorge Camacho - Policing, Law, and Policy Director
The Justice Collaboratory at Yale Law School

Date: April 20, 2023

Re: Bill 12-23 - The Safety and Traffic Equity Policing (STEP) Act

Greetings Members of the Montgomery County Council.

My name is Jorge Camacho and I am the Policing, Law, and Policy Director of the Justice Collaboratory, which is a social science research organization based at Yale Law School. The Collaboratory seeks to build a more just, effective, and democratic criminal legal system through scientifically proven strategies for building strong and safe communities where all citizens can thrive.

It is on the Collaboratory's behalf that I submit the following testimony on Bill 12-23 (The Safety and Traffic Equity Policing (STEP) Act), which seeks to promote fairness by reducing racial disparities that occur during a traffic stop, promote safety, and reduce community trauma by limiting traffic stops, improve community policing relations, and further the County's Vision Zero goals.

To be clear, the Collaboratory is not advocating either in support of or opposition to Bill 12-23. Instead, we seek to offer information, insights, and guidance to the Council to aid its consideration of the bill.

An intended impact of Bill 12-23 is to reduce racial disparities resulting from low-level traffic enforcement, or enforcement of violations largely relating to the condition of a vehicle rather than the way it is operated. According to an analysis of traffic violations in Montgomery County prepared by the Office of Legislative Oversight, racial disparities in the County mirror those from virtually all other jurisdictions nationwide, which is to say that such enforcement disproportionately impacts drivers who are poor and of color.

Tellingly, these disparities persist even when law enforcement is unaware of a driver's race or socioeconomic status. This is because low-level traffic enforcement typically, if unintentionally, targets drivers without the means to maintain their vehicle's condition to the standards required by law, which often exceed the minimum standards for safe operation of a vehicle. These drivers are, disproportionately, racial and ethnic minorities at or near the poverty line.

Low-level traffic enforcement can adversely impact both drivers, who may be saddled with significant fines on top of expensive repair costs despite their safe driving, and police officers, whose enforcement actions may be perceived as motivated by prejudice rather than public safety, particularly when low level traffic enforcement is used pretextually as a discretionary law enforcement tool to permit investigation of unrelated crimes. Although permitted under law, use of traffic enforcement to conduct pretextual stops is a largely ineffective law enforcement tactic that rarely results in the recovery of evidence of more serious crimes or the apprehension of wanted suspect. Instead, the most common impacts of widespread

use of pretextual stops is disparate enforcement against minorities and the impoverished with little or no impact on public safety, including road safety.

Disparities resulting from this kind of discretionary enforcement can severely undermine the legitimacy of the police in the eyes of the community, which can make community members substantially less likely to report, or cooperate in the investigation of, more serious crimes. Accordingly, a frequent consequence of low-level traffic enforcement is reduced enforcement of higher-level offenses, due both to reduced community cooperation and reduced police availability.

To avoid the corrosion of police-community relations and to promote more effective public safety policy, experts nationwide, including top police executives, community leaders, and academic researchers, have promoted the adoption of procedural justice, which is predicated on the adoption of policies that are both more fairly applied and are perceived to be more fair by those subjected to them.

A procedurally just traffic enforcement policy would therefore prioritize enforcement of violations that directly and adversely impact public safety while deprioritizing enforcement of violations whose relationship to public safety is revealed by available data to be questionable or undemonstrated.

Such policies serve to promote public safety by redirecting police resources to enforcement actions that directly correlate to public safety and by improving the perceived legitimacy of police enforcement generally, which fosters compliance with the law and cooperation with law enforcement authorities.

We therefore recommend that the County Council's consideration of Bill 12-23 be guided by 3 questions:

- What does available data reveal about the relationship between public safety and the violations that the bill would categorize as secondary?
- What is the public safety cost from the racially and socioeconomically disparate enforcement of those violations?
- Is that cost worth it?

More information and resources on procedural justice, including recognized principles of procedurally just policing, can be found on the Justice Collaboratory's website at justicehappenshere.yale.edu.

For a discussion of what traffic enforcement data reveals about the use of pretextual stops as a law enforcement tool, we refer you to the following resources from our colleagues at the NYU Policing Project and the Center for Policing Equity, respectively:

- *Why Limit Pretextual Stops?*, The NYU Policing Project, available at <https://static1.squarespace.com/static/58a33e881b631bc60d4f8b31/t/643585113a91be3e93c456ae/1681229073488/Why+Limit+Pretextual+Stops%3F.pdf>
- *Redesigning Public Safety - Traffic Safety*, The Center for Policing Equity, available at <https://policingequity.org/traffic-safety/60-cpe-white-paper-traffic-safety/file>