

Advocating for the Freedom to Leave Act Addressing Racial Disparities in Consent Searches in Montgomery County

Good evening, esteemed members of the Council. I am Monica Bradley, a long-time resident of District 8 in Montgomery County. I address you tonight for two reasons. First and foremost, I wish to express my unwavering support for the Freedom to Leave Act, a cause that profoundly impacts our community. Secondly, I stand before you as an advocate for the younger generation, as they require support from a matriarchal standpoint. I hope my presence ignites an active effort to provide support for our younger adults, and I urge members of my generation and beyond to join me in this endeavor in great numbers because these young individuals, with so much potential ahead of them, deserve more of our support.

Before I share a story from one of Montgomery County's community members about a negative experience with a consent search, I want to firmly assert that the Freedom to Leave Act—when passed—will tackle the contentious practice of consent searches during traffic stops. These searches are not only ineffective but also corrosive to the trust within our community—a trust we must consistently nurture together. Please close your eyes, listen closely, and imagine yourself in the position of the person whose story I am about to tell.

ELDERSON'S STORY

Elderson, a 23-year-old Haitian immigrant whose family migrated to MoCo's Aspen Hill area when he was just 5 years old, shares the story of how he faced an extremely traumatic experience in which a consent search negatively affected him.

One afternoon, after Elderson concluded a class at Montgomery College's Takoma Park Campus, where he pursued studies in electrical engineering, he embarked on his journey to his job at Sunrise Senior Homes in Aspen Hill, driving his silver sedan. Elderson's day took a sudden and alarming turn when he observed police cars following him. Perplexed by the blaring sirens and the demand to pull over broadcasted over the loudspeaker, he soon found himself hemmed in by a police vehicle, and surrounded by officers. The situation felt surreal, as if he were trapped in a waking nightmare.

As the officers approached his car, Elderson's heart raced. He was met with aggression as the officers demanded he step out of the vehicle. Hands shaking, he complied, feeling the weight of their suspicion bearing down on him. Three police vehicles—one of which was a K9 unit—had shown up as he was pulled aside. He was asked to place his hands on top of the police vehicle, and he was put in handcuffs.

Despite declining the consent search and trying to protest his innocence, the officers continued to search his car anyway without his consent and without giving Elderson any information as to what was happening and why. Elderson watched in disbelief as their K-9 unit sniffed around, finding nothing. With no contraband in sight, the officers begrudgingly apologized, citing a case of mistaken identity.

Feeling a mix of anger and frustration, Elderson left the encounter shaken. He realized that, under the pressure of the moment, he hadn't been able to articulate his rights or defend himself properly. Without the support and representation he needed, he was left to navigate a system that was clearly stacked against him. Elderson did not wish to be present tonight but agreed to share his story as he advocates for change, determined to ensure that no one else would experience the injustice he had faced that day.

This story, while unique, is not an anomaly. It reflects a systemic issue that transcends individual experiences and speaks to a larger pattern of injustice.

The data from our own county paints a stark picture of this reality. In recent years, studies have shown that in Montgomery County, Black and Latinx drivers are disproportionately targeted for consent searches. Year after year, black drivers were subjected to consent searches at a rate significantly higher than their white counterparts, despite similar rates of contraband recovery across all demographics. This imbalance not only points towards a troubling racial bias but also raises questions about the effectiveness and fairness of such practices.

The ineffectiveness of these searches is further evidenced by comprehensive studies. As highlighted in reports like 'Racial Profiling: Past, Present, and Future?' by the American Bar Association, minority drivers often face a lower rate of contraband discovery in these searches compared to white drivers. This inefficacy leads to unnecessary and often humiliating encounters with law enforcement, perpetuating a cycle of mistrust and fear. It's not just about the statistics; it's about the real people, our neighbors, friends, and family members, who are subjected to these demeaning experiences.

In summary, it is evident that these consent searches contribute to deep-seated racial disparities, erode public trust, and divert law enforcement resources from more effective public safety measures. They detract from our community's efforts to foster an environment of trust, fairness, and justice. It is imperative that we continue conversations about what is important for all of us as a community, listen to the issues at hand, take immediate action, and work together to create policies such as the Freedom to Leave Act that prevent potential loopholes from being exploited.

The Solution

So, what can we do about this? Well, addressing this issue requires a clear and bold solution: the outright ban of consent searches. This is not merely a policy alteration; it is a crucial step in mending the fractured relationship between our law enforcement and the communities they serve. By eliminating consent searches, we open a pathway to reduce racial disparities, promote equitable policing practices, and ensure that every citizen, regardless of their race or ethnicity, is treated with the respect and fairness they deserve. This legislative change is a pivotal move towards creating a safer, more just Montgomery County. It's about sending a message that we value the dignity and rights of every individual in our community.

Closing

While what I propose may sound like much, the facts are indisputable. The deeply ingrained racial disparities inherent in consent searches, coupled with their notable ineffectiveness, clearly indicate that these practices are counterproductive to our goal of public safety. Instead of safeguarding our community, they erode the essential trust and respect between the police and the people they are sworn to protect. The ***Freedom to Leave Act*** offers us a chance to correct this wrong, to stride towards a future where equitable treatment under the law is not just an ideal, but a reality. I implore the Council to pass the Freedom to Leave Act. Let us take a decisive step towards fostering a community where trust, respect, and justice are not just promised but practiced.

I wish to conclude by saying that there are additional resources that I am happy to share with everyone that wishes to see the data for themselves, as this may help each person have a better understanding of what is at hand. Thank you for allowing me the opportunity to voice these crucial concerns and for considering this pivotal step towards a more equitable Montgomery County.

Resources

1. Legislative Documents and Policy Briefs

- Impact Statement - Racial Equity and Social Justice (RESJ) Bill 2-24: [Link](#)
- Policy Brief - Freedom to Leave Act, 2-24: [Link](#)
- Montgomery County Council - Bill 2-24 Overview: [Link](#)
- OLO Memorandum Report 2022-12: [Link](#)
- OLR Bill Analysis - HB 6004: [Link](#)

2. Research Studies and Academic Articles

- Racial Profiling: Past, Present, and Future? By David A. Harris: [Link](#)
- The Voluntariness of Voluntary Consent by Sommer & Bohns: [Link](#)
- How the "Black criminal" stereotype shapes Black people's psychological experience of policing: [Link](#)
- Teenage brains and Miranda warnings: [Link](#)
- In a Different Register: The Pragmatics of Powerlessness in Police Interrogation: [Link](#)

3. Advocacy and Reform Proposals

- MORE THAN A PLAZA - DC JUSTICE LAB + STAAND: [Link](#)
- RACIAL & IDENTITY PROFILING ADVISORY BOARD 2022 Report: [Link](#)
- San Francisco Police Department - General Order on Curtailing Pretext Stops: [Link](#)

4. Legal Cases and Court Decisions

- State v. Carty: [Link](#)
- State v. Arreola-Botello: [Link](#)

5. News Articles and Reports

- Miranda's Mistake by William J. Stuntz: [Link](#)
- African Americans and wrongful convictions: [Link](#)
- Montgomery County Police and Illegal Search Incident: [Link](#)

6. Government and Legal Resources

- Comprehensive Community-Police Relationship Act of 2015: [Link](#)
- Understanding Police/Civilian Encounters: [Link](#)

7. Additional Resources

- American Psychological Association Article on Suspects' Rights: [Link](#)
- Montgomery County Council COMMITTEE AGENDA: [Link](#)

Consent searches can indirectly impact the economy in several ways:

Loss of Productivity: Individuals subjected to unjust consent searches may experience disruptions to their daily lives, including missed work or other obligations. This loss of productivity can have economic consequences both for the individuals affected and for the broader economy.

Legal Costs: Fighting unwarranted searches can result in legal fees and expenses. For individuals already facing financial constraints, these costs can be burdensome and further strain their economic resources.

Impact on Employment: Negative interactions with law enforcement, including unjust consent searches, can have repercussions on employment opportunities. Employers may discriminate against individuals with criminal records or those who have been unfairly targeted by law enforcement, leading to difficulties in securing employment or advancement in the workforce.

Business Disruptions: In cases where businesses are targeted for consent searches, it can disrupt their operations and affect their bottom line. This is particularly true for small businesses that may lack the resources to navigate legal challenges or withstand the negative publicity associated with such incidents.

Consumer Confidence: Instances of unjust consent searches can erode consumer confidence, particularly within communities that feel disproportionately targeted by law enforcement. This loss of confidence can impact consumer spending patterns and overall economic activity within those communities.

While the economic impact of consent searches may not be as immediately quantifiable as other factors, such as direct costs or revenue losses, it nonetheless contributes to broader issues of economic inequality, instability, and disenfranchisement within affected communities.