

## **MONTGOMERY COUNTY COUNCIL**

### **HEARING:**

Public Hearing on Bill 12-23, The Safety and Traffic Equity in Policing (STEP) Act,  
April 25, 2023

## **TESTIMONY OF THE POLICING PROJECT AT NYU SCHOOL OF LAW IN SUPPORT OF THE STEP ACT**

The Policing Project at NYU School of Law is an organization that believes that one of the best ways to ensure transparent, effective, and ethical policing is for the public to be democratically involved in setting expectations for police practices *before* police act, instead of *after* something has gone wrong.<sup>1</sup> We have advised police departments and elected officials in more than a dozen jurisdictions, including San Francisco, Maine, Washington, Vermont, Memphis, and West Hollywood, to create and adopt such policies. We have also conducted research on the public safety impacts of reducing low-risk traffic stops and drafted model state-level legislation to reduce pretextual traffic stops. This work informs our support of the Safety and Traffic Equity in Policing (STEP) Act, Bill 12-23.

While we believe that the bill as written would be effective, we do believe that some minor amendments could address concerns raised by critics while still preserving the bill's spirit and purpose.

For that reason, we submit this testimony in support of the STEP Act and urge the Council to pass the bill either as-is or with amendments.

### **Traffic Stops Are Racially Disproportionate in Montgomery County and Nationwide**

Police in the United States make more than 20 million traffic stops each year. Many of these stops have little to do with traffic safety. Instead, officers often pull people over for minor rule violations—such as hanging air fresheners or graduation tassels from a rearview mirror—as an excuse to go fishing for other crimes. Because there are numerous equipment and moving violations in Maryland law, an officer can find a reason to stop virtually anyone at any time. Black drivers are disproportionately likely to be stopped.

Indeed, in Montgomery County, the Office of Legislative Oversight found in 2020 that a larger percentage of Black adults experienced a traffic stop compared to white, Latinx, and Asian

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<sup>1</sup> As part of its mission to advance democratic accountability in policing, the Policing Project has created a number of model policies, all of which are informed by best practices in existing legislation and vetted by an advisory committee consisting of law enforcement officials, academics, police reform experts, and impacted community members.

adults, and that Black men were three times more likely than white men to receive a traffic violation, with Latino men twice as likely to receive a violation as white men.<sup>2</sup> In short, the report found that there were racial and ethnic disparities in Montgomery County traffic stops that could indicate “pervasive disparities in police-community interactions.”<sup>3</sup>

### **Reducing Low-Level Traffic Stops Does Not Negatively Impact Public Safety**

In 2016, the Mayor of Nashville invited the Policing Project to conduct research assessing whether traffic stops were an effective strategy to fight crime. Working in tandem with the Stanford Computational Policy Lab, we reviewed traffic stops conducted by the city’s police departments, as well as crime reports, census data, and other historical crime and traffic stop data to determine that traffic stops are simply not an effective strategy for reducing crime.<sup>4</sup>

**Over a five-year period, Nashville reduced its traffic stops steadily, while crime rates remained flat.** This larger trend was true in the short term, as well.

**We also found a very poor hit rate for arrests and contraband with these low-level traffic stops.** Only 0.7% of stops resulted in an arrest that might be suspected to have a direct impact on future crime (i.e., arrests that are not solely for invalid licenses, minor marijuana possessions, public misconduct, or driving violations).

In contrast, investigatory stops (where officers had reasonable and articulable suspicion of criminal activity) have a hit rate for arrests and contraband that is eight times higher than that for non-moving stops. Similarly, an analysis of 3.4 million traffic stops conducted by California’s 15 largest law enforcement agencies revealed a yield rate of just .02% (or one confiscation for every 3,700 stops).<sup>5</sup>

**In fact, research in other jurisdictions indicates that there may be public safety *benefits* to reducing low-level traffic stops.** In one Connecticut town, for example, police had been using “defective lighting” as its most frequent pretextual stop basis. When that department changed course to reduce emphasis on nonmoving violations, there was a 250% increase in stops that resulted in a DUI arrest. The change in policy also greatly reduced the town’s racial disparity in its traffic stops.

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<sup>2</sup> Office of Legislative Oversight, [Local Policing Data and Best Practices](#), Report No. 2020-9 at 4 (July 21, 2020).

<sup>3</sup> *Id.*

<sup>4</sup> The Policing Project at New York University School of Law, [An Assessment of Traffic Stops and Policing Strategies in Nashville](#), at Appendix B-7.

<sup>5</sup> Public Policy Institute of California, [Racial Disparities in Traffic Stops](#) (Oct. 2022).

Likewise, in Fayetteville, North Carolina, when equipment stops were cut by 80 percent, genuine safety stops increased and traffic accidents fell. There was no increase in violent or property crime.

In short, when police stopped focusing on minor equipment violations, they had more capacity to make the stops that really mattered and they did so more equitably. We encourage Montgomery County to do the same.

### **The Policing Project Supports the Improvements Made by the STEP Act**

The STEP Act makes significant progress towards achieving the public safety benefits of reducing low-level traffic stops.

- Prohibiting primary stops for specific, enumerated equipment and low-level offenses starts Montgomery County law enforcement on the road toward allocating their traffic policing resources to those stops which truly impact public safety.
- By limiting consent searches, the bill removes the incentive for making pretextual stops in the first place.
- The reporting requirements codify and improve information that local law enforcement has already committed to providing. Having this data will also allow the County to continue to develop and pursue effective, data-driven policing policies in the future.

We also believe that the Council could make changes to address public safety concerns voiced by some opponents, while still preserving the majority of the bill.

- For example, our model pretextual traffic stop includes an exception to allow pretextual stops for rare instances when there is a serious offense involving an immediate threat to public safety.<sup>6</sup>
- We would be happy to provide more specific suggestions to the Council if helpful; for example, we also have supported legislation with a slightly narrower list of prohibited primary stop bases.

We truly believe that all the public safety concerns raised by opponents of the bill can be addressed while still retaining the important reforms set forth in the current version of the STEP Act.

### **Conclusion**

By creating clear guidelines on how and when officers may conduct traffic stops, the STEP Act makes significant strides towards good front-end accountability for policing in Montgomery

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<sup>6</sup> A classic example would be a kidnapping case where the police have a general description of a vehicle (“white van”) that may not be enough to justify stopping any particular vehicle—but whether the risk of harm is sufficiently grave as to justify the use of any constitutional means to apprehend the suspect. Of course, if an officer knows sufficient particular facts about the vehicle or occupant to give the officer reasonable suspicion that the occupant committed a crime, the officer may lawfully stop the vehicle.

County. The Policing Project commends the Montgomery County Council for hearing this important piece of legislation and encourages the Council to pass the STEP Act.