



MEETING MINUTES

Police Accountability Board (PAB)
Freedom to Leave Act Meeting
Tuesday, July 2, 2024
7:00 pm – 8:30 pm

Virtual Option: <https://us02web.zoom.us/j/82445359189>

Attendees: Bishop Walker (Chair), George Lluberes (Parliamentarian) Alicia Hudson, Alvin McCray, Chris Zatrutz, Chuck Williams, Katharine “Kate” Manning, Ronald Wright, Shelly Brown (Special Legal Counsel), Dr. Earl Stoddard (*staff*), Laura Byers (*staff, minute taker*)

Absent Members: Ken Kellner (Vice Chair)

of General Public (nonmember) Attendees: 1

1. Call to Order

Summary:

- The Chair announced to all, that this meeting was being recorded.

2. Introduction of guest speakers.

Summary:

- Guest Speaker - Mr. Lee Holland, President of the Fraternal Order of Police (FOP)

Mr. Lee discussed that the Lodge 35 opposes Bill 2-24. Bill targets the Montgomery County police, promotes distrust and morale issues in the community, and decreases safety by removing power from the police. Mr. Lee stated the police go above and beyond in explaining the right to consent searches. At this time the data captures consent searches of traffic stops but does not reflect the outcome of all consent searches.

- Purposed working with the Executive Branch to improve the consent search form.
- ETickets capture data – needs to include legislation through the State using an automated platform/system.

Questions:

Do you support stops and searches without probable cause?

Answer: No, consent searches should only be done with probable cause or suspicion and police officers must respect a citizen's right to refuse and inform citizens of the right to refuse.

How can forms be approved?

Answer: Forms can be improved by using plain language and office information automatically included. Academy officers are trained on the policies. Veteran officers are offered training and memorandums are shared with all officers via email or administrative IT system and addressed in annual in-service training.

- Dr. Stoddard shared the consent form and right to refuse, availability in Spanish, and discussed including language noting that a search sought and refused to form.

Is there a statute of limitations on the misconduct of police officers? *Answer:* No.

What recourse would an officer have to search a vehicle without consent?

Answer: Search Incident to Arrest or CAROL search

- Dr. Earl Stoddard, Assistant Chief Administrative Officer

Dr. Stoddard shared the County Executive and the perspective of the Police Department. The County Executive doesn't support the elimination of consent searches but supports modifying forms, strengths and balances, informing the public of rights, limiting consent to specific places, and refusing during a search without precautions.

The County Executive wants to work with Lodge 35 to increase the review of BWC and incorporate AI programs to review videos and the focus is on the Use of Force.

[Appendix A](#)

Questions:

How is data gathered if the form is not used? How would it be detected?

Answer: The EJustice system

Answers to questions regarding data can be found in Appendix A.

What recourse would an officer have to search a vehicle without consent?

Answer: Search Incident to Arrest or CAROL search

- Councilmember Will Jawando

Discuss the Freedom to Leave Act, Public Hearing in February of 2024, and challenge the data shared regarding consent searches and noted the following:

- Shows 90% of all searches are done with consent-nationally
- Express concerns about the power imbalance of police requests for consent searches.

- Improvement in the complaint process awareness.
- Studies show that contraband recovery rates increased when jurisdictions ban consent search
- Research ways to have fair searches and reduce racial disparities and enforcement.

Note: The chat includes additional questions, comments, and links are in [Appendix B](#).

<https://www.youtube.com/watch?v=YGaTrkwnkM>

<https://www.ctpublic.org/2023-12-01/racial-disparity-declined-ct-traffic-stops-police-accountability>

ACTION ITEM: Provide the consent data report to the PAB and Councilmen. (Dr. Earl Stoddard)

Questions:

How do we track the validity and workflow for providing the initial reason for a traffic stop?

Answer: Modify forms, better data, and increase training.

Do you know the level of involvement with FOP, boards, or communities for jurisdictions that banned consent searches?

Answer: Unknown.

Please share your opinion on the statement that the County Executive position wants to see the impact of reforms before making changes. The County Executive doesn't want to send a message that the Police are doing illegal searches.

Answer: Reform is a way of supporting the police and this information is shared among the communities and criminal justice studies.

In what ways can police officers establish searches without consent?

Answer: Probable cause vs Reasonable Suspicious.

3. Adjournment

Bishop Paul Walker, Chair

Appendix A:

Consent Search Complaints

Montgomery County Police conducted 37,103 traffic stops in CY 2023. The MCPD Internal Affairs Division (IAD) reports there were fifteen (15) traffic stop related complaints in CY 2023. That means .04% of traffic stops by Montgomery County Police resulted in a complaint. Of the .04 % of stops where a complaint was filed, none of the complaints were the result of a consent search. The department received no complaints regarding consent searches.

Crime Analyst data text search of EJustice revealed the following for all of 2023:

Consent Search Count of Report Number	Count
Consent Search	268
Consent Search Asked and Declined	23
Total	291

Consent Search Information Data from Consent Forms

*Data collection via consent search form began on February 1, 2023

Consent to Search*	Total
Premise	25
Vehicle	83
Person	116
Property	50

* Some may include more than one type of search on a report **274**

Subject Demographic	Total
White/Caucasian	46
Hispanic or Latino	69
Black/African American	113
American Indian/Alaskan Native	0
Pacific Islander	0
Asian	6
Other	2
Unknown	5

241

Subject Gender	Total
Male	160
Female	62
Blank/Unknown	19

Consent Search Forms Signed vs. Verbal-only on video.

- 37% of the 239 Consent Search Forms from 2023 were signed (87) vs. 63% verbal consent only (152).

Recovered Property During Consent Searches in 2023:

The newly implemented Consent Search Form does not collect information regarding what, if anything, is found. In 2024, the form is being updated to reflect better what, if anything, has been recovered from the consent search. The department is also looking at report writing data collection to determine better methods to collect newly requested data. An overview of weapons and contraband found during consent searches follows:

Possession of Assault Rifle Arrest 240002903

On 1/18, officers performed a traffic stop on a silver 2015 Chrysler 300 for an equipment violation on Columbia Pike and Musgrove Road. Upon talking to the driver, he admitted to having a firearm in the vehicle. Officers located a **Palm AR15 assault rifle** in between the driver's seat and the center console.

Possession of Handgun Arrest 240003819

On 1/24, officers conducted a traffic stop of a silver Mazda 3 bearing a VA registration belonging to another vehicle in Daleshire Way and Lansdale Court. All four occupants were asked to exit the vehicle, to which they complied. A consent search of the vehicle was conducted, and a loaded **Privately Made Firearm (P80)** was located in a satchel on the rear seat. It was determined to belong to the suspect listed below (rear passenger). A search incident to arrest the suspect was conducted, and a small bag containing Psilocybin mushrooms was located on his person. The suspect was also determined to be a prohibited person for age.

Possession of Handgun Arrests 230064273

On 11/3, officers conducting surveillance in the area of Lockwood Drive and observed a group of 15-20 male subjects acting suspiciously in the area where several crimes occurred. Six subjects entered an Uber ride-share vehicle, which proceeded southbound on New Hampshire Avenue. After a traffic violation, the vehicle was stopped on New Hampshire Avenue just before RT 495. The UBER driver granted consent to search his vehicle. The front seat passenger was identified to be the 13-year-old wanted for a shooting that occurred on November Circle on August 1, 2023. A search of the 13-year-old revealed a **SAR 9mm** with an obliterated serial number. A 17-year-old male in the vehicle was found to have a **SW 40 caliber handgun, and another 17-year-old had a Glock 40—caliber handgun**. SSIS conducted a search warrant at the 13-year-old's residence on February Circle, recovering two additional extended magazines and more ammo.

Possession of Handgun Arrests 230049645

On 8/15, officers observed a vehicle enter the Liberty Gas Station parking lot on Watkins Mill Road, its occupants acting suspiciously. A traffic stop on the vehicle was performed on Montgomery Village Avenue and Arrowhead Road. Officers conducted a consent search of the vehicle that yielded a **Privately Made Firearm** with multiple live rounds in the magazine. A search incident to arrest the occupants led to the discovery of an additional **loaded Glock 43 handgun**.

Possession of Handgun Arrest 230031269

On 6/30, officers observed a Jeep driver acting suspiciously in the Briggs Chaney shopping center. A traffic stop was performed on the Jeep for expired tags. Marijuana was observed in plain view, and when asked if the driver had any weapons on him, he advised that he owned a handgun but wasn't sure if it was in the vehicle or not and did not have a concealed carry permit either. He gave consent for the officers to search the vehicle. Officers located a **fully loaded SW 9mm** under the front driver's seat and a second loaded magazine.

Possession of Handgun Arrest 230027458

On 6/7, officers conducted a traffic stop at Columbia Pike and Stewart Lane and detected a strong odor of marijuana emanating from the vehicle. During the stop, the rear passenger was extremely nervous and asked to leave the vehicle. A consent pat-down was conducted, which led to the recovery of a **loaded Glock 19 - 9mm handgun** with an extended magazine being removed from his waistband. Marijuana and several suspected Fentanyl pills were recovered from the vehicle after a PC search of the vehicle.

Possession of Handgun Arrest 230019860

On 4/25, officers near Lockwood Drive and Oakleaf Drive and observed the defendant dodging free-flowing vehicular traffic. The defendant did so while looking at uniformed police officers, wearing a ski mask and all dark clothing. The defendant was stopped a short distance away. A consent search led to the location of a **Taurus 9mm handgun** with a fully loaded magazine and a round in the chamber being located on his person.

Possession of Handgun/ CDS Bailout 230019093

On 4/17, officers performed a traffic stop on Castle Blvd. The front-seat passenger was observed placing a backpack in the back seat and making other furtive movements as the vehicle stopped. The driver and passenger were asked to step out of the vehicle, and when the driver consented to search the vehicle, the passenger fled on foot. A search of the vehicle revealed over 10 grams of marijuana in a backpack and a **loaded PMF 9mm handgun** under the front passenger seat. The suspect was identified, and a consent search at his father's residence in Burtonsville resulted in the recovery of another Glock handgun magazine and a .380 caliber live round. The father advised that the suspect lives with his mother in Severn, MD, and uses the father's residence occasionally to attend Paint Branch HS.

Possession of Handgun Arrest 230034040

A consent search of the vehicle resulted in a recovered handgun. The suspect was arrested.

Theft from Auto Arrest 230062405

A consent search of the subject's bag found possible items consistent with thefts from autos.

Identity Theft Arrest 230068951

A consent search led to various cards and IDs being found on a person, most likely stolen.

Possession of Handgun & CDS Arrest 230069296

A consent search of the apartment resulted in a gun, crack cocaine, and scale.

Appendix B:

00:15:33 Marisa Van Saanen (Office of Councilmember Jawando): It is good to be with you all. Councilmember Jawando will be joining at approx. 7:30pm.

00:26:42 Chuck Williams: Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

00:27:25 Chuck Williams: I do not see any language that states the officer has the right to a consent search.

00:27:47 Joanna Silver: Do you know if the State's Attorney's Office provides the forms in discovery in criminal cases? In discussions with the Office of the Public Defender, we have been told that they have not seen these forms in their cases.

00:29:35 Joanna Silver: It also does not mention the ability to limit the scope of the consent.

00:36:17 Joanna Silver: This is from recent conversations.

00:41:11 Joanna Silver: Or, if the person was arrested, SITA or an impound search.

00:42:08 Joanna Silver: They can also develop reasonable suspicion to prolong the stop and conduct additional investigation until they obtain probable cause.

00:51:29 Joanna Silver: Can Dr. Stoddard clarify if the 268 searches were based on 268 forms submitted or is that based on other evidence that a consent search was conducted? (PROVIDED IN APPENDIX A)Lbyers7/11/2024

00:52:04 Lisa Walker: Reacted to "Can Dr. Stoddard cla..." with 👍

01:04:24 Will Jawando: I can't unmute

01:11:30 Marisa Van Saanen (Office of Councilmember Jawando):
https://www.youtube.com/watch?v=_YGaTrkwnkM

01:11:40 Lisa Walker: Reacted to "https://www.youtube...." with 👍

01:13:15 Marisa Van Saanen (Office of Councilmember Jawando): 2:01:43 (Prof. Christy Lopez)

01:14:25 Marisa Van Saanen (Office of Councilmember Jawando): (Great to listen to whole public hearing; just pointing out Prof. Lopez's testimony as providing a lot of pertinent data/info)

01:19:30 Marisa Van Saanen (Office of Councilmember Jawando): <https://www.ctpublic.org/2023-12-01/racial-disparity-declined-ct-traffic-stops-police-accountability>

01:19:57 Joanna Silver: SSJC shared an article earlier today in which a study of police departments throughout the state of Texas led to the same findings as the Portland study that CM Jawando mentioned.


01:20:33 Joanna Silver: We also want to make sure you are familiar with this article regarding the futility of informing people of their right to refuse to consent:


https://www.yalelawjournal.org/pdf/SommersBohns_w4cmjkwe.pdf


01:20:44 Marisa Van Saanen (Office of Councilmember Jawando): See testimony from public hearing from Center for Policing Equity that references Oregon example that Councilmember Jawando discussed: <https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/agenda/col/2024/20240227/testimony/item10-CharlotteResing.pdf>


01:28:29 Joanna Silver: I'd also recommend people listen to the testimony of Professor Josephine Ross regarding the futility of advising people of their right to refuse consent.


01:29:06 Robert Landau: Will PAB staff send the chat, with links, to all the PAB members?


01:30:02 Lisa Walker: Reacted to "Will PAB staff send ..." with 


01:30:18 Lisa Walker: Reacted to "I'd also recommend p..." with 


01:30:25 Lisa Walker: Reacted to "See testimony from p..." with 


01:30:32 Lisa Walker: Reacted to "SSJC shared an artic..." with 


01:30:38 Lisa Walker: Reacted to "We also want to make..." with 

01:30:43 Lisa Walker: Reacted to "<https://www.ctpublic...>" with 

01:30:50 Lisa Walker: Reacted to "(Great to listen to ..." with 

01:31:17 Marisa Van Saanen (Office of Councilmember Jawando): Reacted to "I'd also recommend p..." with 

01:31:23 Marisa Van Saanen (Office of Councilmember Jawando): Reacted to "SSJC shared an artic..." with 

01:31:27 Marisa Van Saanen (Office of Councilmember Jawando): Reacted to "We also want to make..." with 


01:36:55 Joanna Silver: I want to make sure to lift up the fact that this bill also prohibits prolonging the duration of a stop based on consent. This is another way that officers coerce civilians into remaining on the side of the road so that probable cause can be developed to search their vehicle. We have NO data on these prolonged stops or on how successful probable cause searches based on the consensual prolonging of a traffic stop are.

01:40:02 Marisa Van Saanen (Office of Councilmember Jawando): To see data and reporting requirements in the bill, please see text of bill starting on pdf page 11: https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2826_1_25505_Bill_2-24_Publichearing_20240227.pdf

01:46:01 Joanna Silver: Consent searches are not illegal, but they are harmful and ineffective. This is an important distinction. That is why so many mainstream policing reform organizations include banning consent searches as part of their recommended package of reforms.

01:51:45 Joanna Silver: I also want to reiterate an important point that CM Jawando lifted up earlier, which is that the ability to conduct a consent search drives racially disparate pretext stops. The reason these stops happen is because police want to get into the car; knowing that they can use consent if they can't develop probable cause literally drives the number of racially disparate stops.

01:52:16 Chuck Williams: Reacted to "I also want to reite..." with 

01:52:28 Lisa Walker: Reacted to "I also want to reite..." with 

01:58:09 Marisa Van Saanen (Office of Councilmember Jawando): I don't have a citation re: relationship of FOPs and accountability boards to consent search bans in other jurisdictions, but would just note that CT's consent search ban was part of its 2020 police accountability law, and it is one of the best examples to look to here.

01:58:30 Marisa Van Saanen (Office of Councilmember Jawando):
Marisa.VanSaanen@montgomerycountymd.gov

01:58:50 Marisa Van Saanen (Office of Councilmember Jawando): We are always happy to answer any questions and discuss with everyone in the communi