

# **Sydnor Testimony Fav SB0589 Police Stop Procedure**

Uploaded by: Clark, Eugene

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony for SB 589  
Criminal Procedure – Police Officers – Stop Procedures  
(Know Your Rights Act)  
Before the Judicial Proceedings Committee  
On February 17, 2021**

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee,

It is not always clear when a police stop has started or when it has ended. This lack of clarity gives law enforcement officers an upper hand in their interactions with civilians. A “good citizen”<sup>1</sup> will submit to an officer rather than risk an unknown range of criminal penalties or risk the officer’s immediate use of force. The aim of SB 589 is to bring clarity and calm to police stops by requiring officers to explain an individual’s rights.

In *Utah v. Strieff*, Justice Sotomayor summed up the powers police have when stopping people:

“This Court has allowed an officer to stop you for whatever reason he wants—so long as he can point to a pretextual justification after the fact. That justification must provide specific reasons why the officer suspected you were breaking the law, but it may factor in your ethnicity, where you live, what you were wearing, and how you behaved. The officer does not even need to know which law you might have broken so long as he can later point to any possible infraction—even one that is minor, unrelated, or ambiguous.”<sup>2</sup>

At the point of initial contact is where individuals have the greatest need to exercise their rights—the police stop—there are blurred lines as to civil rights. While in many circumstances people have the right to terminate an encounter and leave, this is not the case when police have initiated a stop. The Maryland Office of the Public Defender’s “Know Your Rights” advice encapsulates the conundrum: “If you are stopped by the police, on the street or in a car: Always ask if you are free to leave (even if you are a passenger). If you are free to leave, do so quietly. If you are not free to leave, stay silent.”<sup>3</sup> This advice reflects what individuals know: that they are generally uncertain as to whether they are free to leave, and therefore must ask if a stop is over. While OPD’s advice suggests individuals can ask questions, it is not always clear when individuals are even permitted to pose this fundamental question: “am I free to leave?” These blurred lines make it impossible for individuals to effectively assert their right to terminate the encounter and leave. This is true

<sup>1</sup> I. Bennett Capers, *Criminal Procedure and the Good Citizen*, 118 COLUM. L. REV. 653, 655 (2018).

<sup>2</sup> *Utah v. Strieff*, 136 S. Ct. 2056, 2069–70 (2016) (Sotomayor, J., dissenting) (internal citations omitted).

<sup>3</sup> MARYLAND OFFICE OF THE PUBLIC DEFENDER, *Know Your Rights* (last visited Feb. 14, 2021), <https://www.opd.state.md.us/know-your-rights>.

whether an officer wants to ask questions, “seize” or stop a person, or conduct a search. Many individuals may be free to go when an officer asks questions. When the line between a stop and not-a-stop is blurred, however, individuals will submit to questions to be on the safe side – either because they don’t want to get in trouble or because they don’t want to provoke an escalation. Beyond answering an indefinite line of questions, an individual facing blurred lines in a police encounter may submit to any range of invasions of their personal liberties. Worse, when an officer assumes a posture of unquestioned control as a matter of everyday practice,<sup>4</sup> then the stopped individual knows that defying the officer comes at the risk of punishment or retaliatory actions.

The automatic deference to police means that officers can obtain “consent” to conduct searches very easily. Law professor Seth Stoughton, a former police officer, explained how easy it was to obtain consent to pedestrian searches without letting an individual know that they were being “stopped:”

My go-to phrase was some variant of “Hey, lemme talk at you for a minute.” I might know that the individual I was approaching was not free to leave and that I would take steps to stop them from leaving, if necessary, but I didn’t want them to realize that. In part, that was an example of policing in the shadow of the law: I had learned that as long as they didn’t know that they were being seized there was a good chance that the interaction would be legally considered to be consensual rather than a seizure.<sup>5</sup>

The lack of clarity in police stops applies to both pedestrian and traffic stops. The power dynamic, which police routinely use to their advantage in executing stops, is exacerbated when you take into account the disproportionate targeting of Black individuals. An often-stated fact that bears repeating is that police disproportionately stop Black citizens across the United States. In California, pursuant to the Racial and Identity Profiling Act in 2015, law enforcement agencies reported by 2020 that “[w]hile African Americans make up roughly 6% of the population in [reporting jurisdictions], they made up slightly more than 15% of all stops.<sup>6</sup>

A 2018 book examining 20 million traffic stops over 16 years in North Carolina, announced key findings:

- Blacks were 63 percent more likely to be stopped even though, as a whole, they drive 16 percent less. Taking into account less time on the road, blacks were about 95 percent more likely to be stopped;
- Blacks were 115 percent more likely to be searched in a traffic stop (5.05 percent for Blacks, 2.35 percent for Whites); and
- Contraband was more likely to be found in searches of White drivers.<sup>7</sup>

An analysis of traffic stops across the United States found that among state patrol stops, “the annual per-capita stop rate for [B]lack drivers was 0.10 compared to 0.07 for [W]hite drivers; and among

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<sup>4</sup> Seth W. Stoughton, *Law Enforcement’s “Warrior” Problem*, 128 HARV. L. REV. F. 225, 229 (2014-2015).

<sup>5</sup> Seth W. Stoughton, *Terry v. Ohio and the (Un)Forgettable Frisk*, 15 OHIO ST. J. CRIM L. 19, 22 (2017).

<sup>6</sup> Magnus Lofstrom, Daniel Morales Campos & Brandon Martin, *African Americans are Notably Overrepresented in Police Stops*, PUBLIC POLICY INSTITUTE OF CALIFORNIA (Aug. 13, 2020), <https://www.ppic.org/blog/african-americans-are-notably-overrepresented-in-police-stops/>.

<sup>7</sup> Chris Horn, *Racial Disparities Revealed in Massive Traffic Stop Dataset*, UOFSC NEWS & EVENTS, UNIV. S.C. (June 12, 2020), [https://www.sc.edu/uofsc/posts/2020/06/racial\\_disparities\\_traffic\\_stops.php](https://www.sc.edu/uofsc/posts/2020/06/racial_disparities_traffic_stops.php) (quoting KELSEY SHOUB, co-author of *SUSPECT CITIZENS: WHAT 20 MILLION TRAFFIC STOPS TELL US ABOUT POLICING AND RACE* (Cambridge University Press, 2018)).

municipal police stops, the annual per-capita stop rate for [B]lack drivers was 0.20 compared to 0.14 for [W]hite drivers.”<sup>8</sup>

SB 589 will bring clarity to police stops. At the commencement of a police stop, absent exigent circumstances, an officer must identify him or herself and must inform the stopped person of their rights. The officer’s self-identification includes: (1) proper identification; and (2) information to the stopped individual including the officer’s name, badge number, the name of the agency the officer represents, and the reason for the stop. The officer must inform the stopped individual of their rights as follows: (1) their right to refuse to speak or provide information; (2) their right to be informed of the reason for the stop; and (3) their right to terminate the interaction.

An officer will also be required to inform vehicle passengers of their right to refuse to provide identification to the officer. Furthermore, an officer may not seize a personal item such as a cell phone or other recording device from an individual without a warrant. Finally, an officer is prohibited from using coercive tactics or deliberately misrepresenting facts to obtain information. SB 589 will ensure that at every stop, where individuals need their civil rights the most, police officers will proactively tell them their rights. SB 589 will eliminate the blurred lines that obscure individual rights, and ensure that people can confidently assert their rights under the Fourth Amendment.

At the end of 2020, the Police Executive Research Forum (PERF) surveyed police officers around the country, asking PERF members to identify the top three issues in policing they considered most important for 2021 and beyond. Of 378 respondents, an overwhelming majority, 288 (76%) responded that their top priority was increasing public trust in the police.<sup>9</sup> SB589 will help achieve this goal. Police in Maryland will tell Marylanders their rights, and as a result, I believe that trust in law enforcement will increase. For these reasons, I urge you to vote favorably for SB 589.

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<sup>8</sup> Emma Pierson et al., *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States*, NATURE HUMAN BEHAVIOR, at 737 (July 2020), <https://doi.org/10.1038/s41562-020-0858-1>.

<sup>9</sup> See POLICE EXECUTIVE RESEARCH FORUM, *Critical Issues Dec. 34* (last visited Feb. 15, 2021), <https://www.policeforum.org/criticalissuesdec34>.

# **LoS - Traffic Stop Know Your Rights.pdf**

Uploaded by: Dove, Spencer

Position: FAV

# State of Maryland

## Commission on Civil Rights

*“Our vision is to have a State that is free from any trace of unlawful discrimination.”*



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February 17, 2021

### **Senate Bill 589 – Criminal Procedure – Police Officers – Stop Procedures (Know Your Rights Act) POSITION: Support**

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

Senate Bill 589 requires law enforcement officers during a traffic stop to provide their identification, their name, their badge number, the name of the agency they work for, and the reason for the stop. They are also required to inform individuals of their right to refuse to speak or provide information to the officer, to be informed of the justification for the stop, and to terminate the interaction. Officers are further required to notify occupants in the vehicle who are not the driver of their right to refuse to provide identification. Officers are prohibited from seizing personal items from an individual and using coercive tactics or deliberately misrepresent facts in order to obtain information.

The Maryland Commission on Civil Rights supports SB589 because we believe that all individuals benefit from being aware of their rights under law, including when interacting with law enforcement officers during routine traffic stops. Similar to the Miranda warning that officers provide when placing an individual in custody, SB589 seeks to ensure that Marylanders are informed of reasonable information about the officer, the purpose of the stop, and their rights.

Because of this, the Maryland Commission on Civil Rights urges a favorable vote on SB589. Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.

**NFranklin SB589 FAV.pdf**

Uploaded by: Franklin, Neill

Position: FAV



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To: Senator William C. Smith, Chair  
Senator Jeff Waldstreicher, Vice Chair, and  
Judicial Proceedings Committee Members

From: Major Neill Franklin, Ret., on behalf of the  
Law Enforcement Action Partnership (LEAP)

## **Favorable - Senate Bill 589**

Criminal Procedure – Police Officers – Stop Procedures (Know Your Rights Act)

Hearing: Wednesday, February 17, 2021, 1:00 p.m.

Distinguished members of the Committee, thank you very much for the opportunity to present the views of the Law Enforcement Action Partnership (LEAP) in support of Senate Bill 589 (SB589).

The Law Enforcement Action Partnership's mission is to unite and mobilize the voice of law enforcement in support of drug policy and criminal justice reforms that will make communities safer by focusing law enforcement resources on the greatest threats to public safety, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and working toward healing police-community relations.

Police reform is a very important part of our mission, which includes ensuring that there are processes of transparency and accountability within our police organizations. Passing SB589 will send a clear message to the people that our law makers believe in processes that hold our police officials accountable and that we have a duty to protect citizens' rights. It is one of the most sensible pieces of legislation I have seen introduced in my thirty-four years of policing.

Many police agencies, such as the Baltimore Police Department, have policies in requiring their police officers, when engaged in citizen contact, to first identify themselves and to communicate the reason for the encounter ([\*BPD Policy 1112 – Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches\*](#)). And as for advising people of their rights, we swear an oath to uphold the Constitution of these United States, protecting the Constitutional rights of the people.

I served more than three decades in policing with the Maryland State Police (MSP), Baltimore Police Department (BPD) and the Maryland Transit Administration Police Force. During the latter years of my career I commanded Planning and Research writing police policy, and I commanded training divisions for both MSP and BPD. In line with police training, this is one of the first things we teach police officers to do during training for conducting traffic stops. First, identify yourself and your agency, communicate the reason for the stop, then request the necessary documents and ask other pertinent questions.

**LawEnforcementActionPartnership.org**

Formerly known as Law Enforcement Against Prohibition

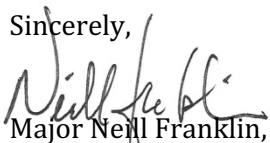


The above being the case, then why do we need legislation? You only need to look as far as the abundance of [online video](#) showcasing one account after another of police officers failing to follow these basic policies and training. And in failing to do so, you see how upset the citizen becomes because the police officer dramatically fails at a proper and respectful introduction. Simply put, failing to do so is disrespectful. A proper introduction coupled with advising the citizen of the reason for the encounter generally places the citizen at ease, becoming the important first step in de-escalation.

In closing, this legislation will ensure state-wide consistency. This legislation is extremely important for sending a clear undeniable message regarding the importance of de-escalation and the value we place upon the Constitutional rights of the people. It's passing will reenforce training and policy, and greatly assist with closing the divide between police and community, which will ultimately result in improved public safety. When the people feel that they can trust the police, they become more cooperative and involved in criminal investigations.

The Law Enforcement Action Partnership is set on improving the policing profession, which will have a dramatic impact upon reducing violent crime. It is for this reason and those stated above that we support SB589 and ask that you, the members of this committee, give SB589 a favorable report.

Sincerely,



Major Neil Franklin, Ret.  
Treasurer

\*Formerly with the Maryland State Police and Baltimore Police Departments

**sb 589 know your rights .pdf**

Uploaded by: Fraser, Stanford

Position: FAV



## POSITION ON PROPOSED LEGISLATION

Bill: SB 589 Criminal Procedure – Police Officers- Stop Procedures

Position: Favorable

Date: January 15, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 589.

The right to remain silent, the right to due process, and now, and the freedom of movement are rights protected by the United States' Constitution and the Maryland Declaration of Rights.

Here, this bill codifies some of those rights as well as requires officers to inform individuals of their rights. Fourteen states around the country have similar requirements. For example, the Seattle Police Department Manual requires officers to provide identifying information upon request when practicable. There is no present data that suggests doing so would create additional safety concerns or jeopardize investigations. This bill should not be an exception, but a rule.

Moreover, the right to refuse to speak, to be informed of the basis for the stop, and to terminate the stop are guided by Supreme Court precedent interpreting fundamental constitutional rights. See *Miranda*; see also *Terry*. This bill merely requires law enforcement to inform individuals of their constitutional rights during police interactions.

Further, this bill protects an individual's constitutional right to record interactions with police officers. As defense lawyers, we've seen clients and bystanders attempt to record police officers' actions and have their phones taken away.

For these reasons the Office of the Public Defender supports this bill.



**SB0589\_Know\_Your\_Rights\_Act\_MLC\_FAV.pdf**

Uploaded by: Plante, Cecilia

Position: FAV



**TESTIMONY FOR SB0589  
CRIMINAL PROCEDURE – POLICE OFFICERS – STOP PROCEDURES (KNOW YOUR  
RIGHTS ACT**

**Bill Sponsor:** Senator Sydnor

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0589 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Whenever someone is stopped by the police, the rules surrounding the stop should be absolutely clear. Whenever they are not, the person being stopped is at a disadvantage. Our members applaud this bill, which seeks to make clear the rights of the person being stopped.

It requires the officer to give their name, badge number and the agency they are representing. The officer is then required to inform the person who was stopped, and in the case of a traffic stop, any other persons in the vehicle, what rights they have.

Many people do not know that they have the right to remain silent and simply provide their license and registration. It is important to make this clear. We hope that for people who are detained who do not speak English, that this information will be provided via a recording, or some other method, to ensure that everyone who is stopped knows their rights.

We support this bill and recommend a **FAVORABLE** report in committee.

# **SB 589 Support w Amend.pdf**

Uploaded by: Giannetti , John

Position: FWA

# Maryland Criminal Defense Attorneys' Association



## Maryland House of Delegates Judiciary Committee

February 17, 2021 1pm

### Hearing on SB 589

## Criminal Procedure -Know Your Rights Act

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## MCDAA POSITION: SUPPORT W/AMENDMENTS

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**Bill explanation:** The bill creates additional responsibilities for police officers for all criminal stops including motor vehicle stops. The bill outlines information a police officer must provide at the commencement of the stop. Information concerning the identity of the officer, the reason for the stop, and the rights of the stopped individual, as well as any other passengers in a vehicle stop, are enumerated and explained.

**MCDAA's position:** MCDAA members are very supportive of the sponsor's attempts to solve numerous problems encountered by citizens when stopped by a police officer in Maryland. Often, these problems can be eliminated by providing the stopped individual with the information required by this legislation. We will continue to work with the sponsor to craft amendments which will address these issues and eliminate the inequities extant in personal and traffic stops.

For additional information or questions regarding this legislation, please contact MCDAA Government Relations Contact: John Giannetti 410.300.6393, [JohnGiannetti.mcdaa@gmail.com](mailto:JohnGiannetti.mcdaa@gmail.com) or MCDAA legislative committee members: Erica Suter, 202.468.6640 [erica@ericasuterlaw.com](mailto:erica@ericasuterlaw.com) or Andy Jezic 301.742.7470 [avjezic@aol.com](mailto:avjezic@aol.com)



# **SB0589-State's Attorney Rich Gibson-Oppose-Feb. 20**

Uploaded by: Gibson, Rich

Position: UNF



## SENATE BILL 0589

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

### **POSITION: UNFAVORABLE SB 0589**

February 12, 2021

My name is Rich Gibson, I am the State's Attorney for Howard County. Part of my obligations as State's Attorney is to advocate for laws that enhance the safety and well-being of our community; that is the reason I am writing today to oppose Senate Bill 0589.

This bill is a criminal's dream. The goals of our laws cannot be to promote criminality. There is nothing wrong with wrongdoers being caught and held accountable for their criminal conduct. In fact, the safety of our society depends on the lawful interception of criminals engaged in criminal conduct.

This bill, if passed, would deny officers performing a car stop the ability to determine who the passengers are in the car they are stopping. So, if a person with an open warrant for murder is a passenger in a car that is stopped for speeding, under this bill, the officer would be denied the opportunity to learn who the passenger is. The consequences of that would be that the murderer would not be apprehended at that moment for their heinous crime and society would be put at risk for their future crimes simply because the officer could not determine who this person is based upon this law. This also poses a significant safety risk for the officer. Moreover, section (IV)(3)(I) and (III) of this proposed bill is not consistent with common sense or our current laws TA § 16-112, TA § 13-409, and TA § 26-203 which require the individual stopped in a vehicle to

provide information (license and registration upon request) to the stopping officer.

Furthermore, a “*Terry stop*”, which is the detention of an individual based upon reasonable suspicion that a crime has been, is being, or will soon be committed, lasts as long as it takes to reasonably confirm or dispel the existence of criminal activity. This bill, if enacted, will impede the rate at which information becomes available to the police. Therefore, it will lawfully lengthen the time it takes to conclude a stop. The stop either withers into release or blossoms into probable cause within a reasonable period to either confirm or dispel the existence of criminal activity. Any stops, after this law were to be enacted, will take longer.

Section (D)(1) of this proposed bill, if passed, would prevent an officer from seizing a “personal item” from an individual without a warrant. This would be in direct contradiction to two hundred (200) years of settled Supreme Court case law regarding search incident to arrest and the Carroll Doctrine. Moreover, it is patently dangerous, if an officer has pulled someone over for driving under the influence and the officer saw within the car: an open bottle of alcohol, a loaded gun, a syringe filled with heroin, or even a ticking time bomb; then under this proposed bill they could not seize those objects because they are all personal items belonging to the individual stopped.

Finally, Section (D)(2) is also in direct contradiction with settled law defined by the Supreme Court of the United States. The Supreme Court has made clear that police can lawfully use deception and misrepresent facts in order to obtain information (See, Frazier v Cupp, 89 S. Ct. 1420 (1969), and Oregon v. Mathiason 97 S. Ct 711 (1977)). To be clear, there are limits to deception police can engage in; that they cannot run afoul of an individual’s 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Amendment rights, but what is proposed

in this bill goes too far and is in contradiction with settled Supreme Court law.

I ask that the legislature give Senate Bill 0589 an unfavorable report.

**MCPA-MSA\_SB 589 Know Your Rights Act\_Oppose.pdf**

Uploaded by: Mansfield, Andrea

Position: UNF



# Maryland Chiefs of Police Association Maryland Sheriffs' Association



## MEMORANDUM

**TO:** The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings Committee

**FROM:** Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

**DATE:** February 17, 2021

**RE:** **SB 589 – Police Officer – Stop Procedures (Know Your Rights Act)**

**POSITION:** **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 589**. This bill would require a police officer to display proper identification and provide certain information at the commencement of a certain stop, require a police officer to inform passengers and occupants of a right to refuse to provide identification and prohibit a police officer from seizing items without a warrant.

Traffic enforcement is an essential component of public safety, keeping our road and highways safe for the motoring public. Traffic stops are also one of the most inherently dangerous activities in which police officers are involved, unaware of who they are stopping or what other possible criminal activity in which the operator or passengers might be engaged. Timothy McVeigh who was responsible for bombing the Federal Murrah Building was apprehended by an Oklahoma State Trooper for a traffic violation; Ted Bundy was arrested by the Utah Highway Patrol after a vehicle pursuit; in late August 2001, Hani Hanjour, who later was aboard the American Airlines flight that crashed into the Pentagon, was pulled over for speeding in Arlington, Virginia; and on September 9<sup>th</sup>, 2001, Maryland State Police stopped Ziad S. Jarrah for speeding, just two days before he and 18 compatriots commandeered four planes in the tightly coordinated suicide terrorist attack killing more than 3000 United States citizens. In 1990, a Maryland State Trooper was murdered during a traffic stop involving two subjects with open arrest warrants in New York. As the trooper tried to determine the identities of the driver and occupant, the driver pulled out a gun and shot the Trooper shot twice in the head, killing the trooper instantly. The National Law Enforcement Officers Memorial is filled with the names of fallen law enforcement officers murdered during traffic stops.

SB 589 exceeds Constitutional requirements associated with traffic enforcement and investigations and will only serve to increase the associated risks for both the vehicle operator, passengers, and the officer, deputy and trooper involved in the enforcement activity. For these reasons, MCPA and MSA **OPPOSE SB 589** and urge an **UNFAVORABLE** report.

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667-314-3216 / 667-314-3236

# **SB 589 Police Officers - Stop Procedures.pdf**

Uploaded by: Shellenberger, Scott

Position: UNF

**Bill Number: SB 589**

**Scott D. Shellenberger, State's Attorney for Baltimore County**

**Opposed**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN OPPOSITION TO SENATE BILL 589**  
**POLICE OFFICERS – STOP PROCEDURES (KNOW YOUR RIGHTS ACT)**

I write in opposition to Senate Bill 589 as an unnecessary overbroad attempt to legislate police behavior that is already governed by the United States Constitution and case law.

In the United States the right of people to be secure in their persons, papers, and effects is governed by the Fourth Amendment to the Constitution. There are hundreds of Supreme Court and Maryland Appellate cases that dictate the proper interaction between the police and citizens. This includes the rules on stops and traffic stops. Trying to put these complex rules from constitutional case law into a statute is unworkable.

This bill would require an officer after a traffic stop to tell the driver of the car that he can refuse to speak to the officer and that the individual can “terminate the interaction”. This is simply incorrect. Can you imagine a police officer pulling over a drunk driver and then telling the driver that he can refuse to cooperate and drive away? Officers have a duty to assure the safety of the roads. This includes ascertaining the identity of persons driving on the roads if they have a basis to stop the person. Telling someone they can refuse to interact could cause an uncontrollable scenario to play out.

In addition, the Bill proposes to prohibit a police officer from seizing any personal item from an individual without a warrant. This is directly contrary to existing search and seizure law. If the person possesses an item which is contraband and/or evidence of a crime, the officer may very well be able to seize it due to the exigency of the situation. To take this to an extreme, what if the item is a gun or a bomb? Are we to wait for a warrant to be prepared, presented to a Judge, signed and then taken to the scene of the traffic stop? Will the individual still be there since the officer has already told them that they can “terminate the interaction”?

Clearly this cannot be the intention or purpose of the Bill but it clearly is what it says.

I urge an unfavorable report.



# **Maryland State Police Position Paper SB 589.pdf**

Uploaded by: Williams, Thomas

Position: INFO



**State of Maryland**  
**Department of State Police**  
Government Affairs Section  
Annapolis Office (410) 260-6100

**POSITION ON PROPOSED LEGISLATION**

**DATE:** February 17, 2021

**BILL NUMBER:** Senate Bill 589      **POSITION:** Letter of Concern

**BILL TITLE:** Criminal Procedure – Police Officers – Stop Procedures (Know Your Rights Act)

This legislation seeks to require police officers to, at the commencement of a traffic stop, display proper identification, provide the individual stopped with the officer's name, badge number name of the agency and reason for the stop. It also requires the police officer to inform the individual their right to refuse to speak to the officer, the justification for the stop and the right to terminate the interaction. This legislation also requires the police officer to inform the other occupants of the vehicle of their right to refuse to provide identification to the officer, prohibits the officer from seizing a personal item without a warrant or use coercive tactics or misrepresent facts to obtain information.

Under current law, a person stopped by a police officer during a traffic stop is detained by the police officer for the ordinary business of the traffic stop. The person is not free to leave the stop until told to do so by the officer. A police officer cannot advise a detained person they have the right to terminate the interaction when no such right exists. Additionally, the plain view doctrine allows for the seizure of contraband in plain view.

If an officer observes, in plain view, contraband that is illegal and the person says it is their personal property, the officer would not be allowed to seize the contraband until a warrant is secured. Also, if the person has a loaded weapon on the seat next to them, the officer could not seize the weapon. In both cases it is both dangerous and impractical to wait for a warrant to be obtained. In neither case does this legislation allow for the item to be secured by the police officer until the warrant is obtained. In the case of contraband, it could be destroyed. In the case of a weapon it could be used on the officer or inflict harm to the person stopped.

Senate Bill 589 requires the officer to display proper identification, but does not detail what that is. Could a uniform on the officer suffice, or a badge prominently displayed, or does the officer need to provide their photo ID and training commission credentials? The legislation also requires the officer to advise the person stopped that they do not need to speak to the officer. The law does require a driver to identify themselves, but directions required under Senate Bill 589 conflicts with the other laws.

Senate Bill 589 will prolong traffic stops and stops of other persons by requiring officers to try to identify persons without their cooperation. The only way to do so is by arrest and fingerprinting them, especially if the officer tells the person they do not have to say a word. SB 589 prohibits the safe removal of dangerous items if the person were to claim they are their personal property, so the officer will need to detain the person until a warrant can be secured.