



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman
Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member
Paul J. Sass
Republican Staff Director

February 24, 2021

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on “Examining Equity in Transportation Safety Enforcement”

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, February 24, 2021, at 11:00 a.m. in 2167 Rayburn House Office Building and virtually via Cisco WebEx to receive testimony related to the hearing entitled “Examining Equity in Transportation Safety Enforcement.” The purpose of this hearing is to examine the role of enforcement in supporting traffic safety, and associated equity implications. The Subcommittee will hear from representatives of the Community Advisory Board to the Maricopa County Sheriff’s Office, The National Safety Council, Mothers Against Drunk Driving, Central Connecticut State University’s Institute for Municipal and Regional Policy, and the University of Maryland.

BACKGROUND

The National Highway Traffic Safety Administration’s (NHTSA) mission is to save lives, prevent injuries, and reduce vehicle-related crashes on our nation’s roadways.¹ To help achieve this, NHTSA administers programs focused on deterring unsafe driving behaviors—speeding, intoxicated driving, distracted driving, etc.² NHTSA’s driver behavior programs fall under the jurisdiction of the Subcommittee on Highways and Transit.

NHTSA provides formula and incentive grants to State governments to develop and carry out effective highway safety programs. NHTSA also administers the Fatality Analysis Reporting System (FARS) which contains data on fatal traffic crashes within the 50 States, the District of Columbia, and Puerto Rico. FARS is vital to the mission of NHTSA and is critical to understanding

¹ [NHTSA's Core Values](https://www.nhtsa.gov/about-nhtsa/nhtsas-core-values) at <https://www.nhtsa.gov/about-nhtsa/nhtsas-core-values>.

² [About NHTSA at https://www.nhtsa.gov/about-nhtsa](https://www.nhtsa.gov/about-nhtsa).

the leading causes of motor vehicle crash fatalities. FARS data is also used to evaluate whether State efforts to improve traffic safety are effective. NHTSA obtains the data from each State via cooperative agreement.³

In order to receive funding from NHTSA, States are required to develop an annual highway safety plan that is evidence-based and data driven, and that responds to the safety problems in that State.⁴ State governments must operate an effective highway safety program consistent with national highway safety goals and their highway safety plan.⁵ States administer the program through a state highway safety agency.⁶

The authority to set and enforce traffic safety laws lies with the States. Although NHTSA has no authority or jurisdiction over law enforcement or State traffic safety laws, it encourages States, Tribes, and U.S. Territories to adopt strong traffic safety laws and pursue traffic safety initiatives through its formula and incentive grant programs.

NHTSA research shows that one of the most effective means for deterring unsafe driving behaviors is through enforcement of traffic safety laws.⁷ Currently, many traffic safety laws are enforced by State and local law enforcement agencies. According to researchers at Stanford University, law enforcement makes approximately 50,000 traffic stops nationwide on an average day.⁸ More than 20 million drivers are pulled over each year, making traffic stops one of the primary interactions between the public and law enforcement. Funding for law enforcement is an eligible expense under NHTSA's highway safety programs.

Traffic Crashes

Data

According to NHTSA analysis, motor vehicle crashes were the 13th leading cause of death overall in the U.S. in recent years and the number one cause of death for teenagers and young adults.⁹ In 2019, there were 36,096 people killed in motor vehicle traffic crashes on U.S. roadways and an estimated 2.74 million injured.¹⁰ The U.S. Department of Transportation (DOT) estimated motor vehicle crashes cost the U.S. economy \$242 billion in direct costs and \$836 billion in indirect costs in 2010.¹¹

The 2019 fatality total represents a two percent decrease from the 2018 total. While the 2019 fatality rate—the ratio of the number of fatalities to the number of vehicle miles traveled—was the lowest rate since 2014, total fatalities show a 10 percent increase from the 2014 total. Although

³ Fatality Analysis Reporting System at <https://www.nhtsa.gov/crash-data-systems/fatality-analysis-reporting-system>.

⁴Sec. 402(k)(5)(b)(i)(1) of title 23 U.S.C.

⁵*Id.*

⁶ Sec. 402(b)(1) of title 23 U.S.C.

⁷ https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_v5_countermeasures-that-work-a-highway-safety-countermeasures-guide-9thedition-2017.pdf.

⁸ <https://openpolicing.stanford.edu/findings/>.

⁹ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812927>.

¹⁰ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813060>.

¹¹ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812013>.

traffic fatalities have declined over the last several years, NHTSA's preliminary data indicates that traffic crash fatalities increased in 2020.¹²

Impacts of Dangerous Driving

Unsafe driving practices (speeding, intoxicated driving, distracted driving, etc.) are the primary cause of traffic crashes.¹³ According to NHTSA analysis, one person was killed in a motor vehicle crash every 14 minutes in 2018.¹⁴ Another five people were injured every minute while one pedestrian was killed every 84 minutes that same year.¹⁵

For more than two decades, speeding has been a contributing factor in approximately one-third of all motor vehicle fatalities making it one of the leading causes of roadway deaths.¹⁶ In 2019, 9,277 people died in speeding-related crashes accounting for roughly 25 percent of all traffic fatalities that year.¹⁷ According to NHTSA, there are more instances of speeding and reckless driving on the road now than in the past because there are more drivers driving more miles on the same roads today than ever before.¹⁸

Alcohol-impaired driving remains a leading cause of roadway fatalities each year, accounting for approximately one-third of total motor vehicle traffic fatalities.¹⁹ Every day, almost 30 people in the United States die in drunk-driving crashes which is an average of one person every 50 minutes.²⁰ Drunk driving is illegal in every state, yet in the 10-year period from 2009-2018 more than 10,000 people died each year in drunk-driving crashes.²¹

Other major contributors to traffic fatalities and injuries include distracted driving, fatigued driving, drug-impaired driving, and incorrect or non-use of seat belts.²² Distracted driving alone claimed 2,841 lives in 2018.²³ According to NHTSA, sending or reading a text takes your eyes off the road for five seconds. If a driver is travelling at 55 mph, those five seconds equate to driving the length of an entire football field with your eyes closed.²⁴

Enforcement and Equity

There are many tools which help deter unsafe driving behavior, such as driver's education, but enforcement of traffic safety laws remains a key component of maintaining safety on our roads

¹² <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813004>.

¹³ Top 7 Causes of Car Accidents – 2020 Statistics at <https://www.after-car-accidents.com/car-accident-causes.html>

¹⁴ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812961>.

¹⁵ *Id.*

¹⁶ <https://www.nhtsa.gov/risky-driving/speeding>.

¹⁷ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813060>.

¹⁸ <https://www.nhtsa.gov/risky-driving/speeding>.

¹⁹ <https://www.nhtsa.gov/risky-driving/drunk-driving>.

²⁰ *Id.*

²¹ *Id.*

²² <https://www.nhtsa.gov/risky-driving>.

²³ <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812961>.

²⁴ <https://www.nhtsa.gov/risky-driving/distracted-driving>.

according to NHTSA research on the most effective countermeasures.²⁵ However, the use of enforcement to promote traffic safety raises significant equity implications.

Researchers analyzing traffic stop data from across the U.S. have confirmed that law enforcement pull over minority drivers at a higher rate than white drivers.²⁶ In 2013, the National Institute of Justice stated that, “research has verified that people of color are more often stopped than whites.”²⁷

In 2007, a class action lawsuit was brought against the Sheriff of Maricopa County and the Maricopa County Sheriff’s Office (MCSO) in Arizona claiming officers were discriminating against Latinos by targeting them for unlawful traffic stops.²⁸ The plaintiffs claimed that MCSO officers were conducting “saturation patrols” in which officers would saturate a given area of the county and target Latino drivers for traffic stops as a way to check their immigration status.²⁹ The court later affirmed the plaintiffs’ case, finding that MCSO’s use of race as a factor in deciding who to pull over violates the Equal Protection Clause of the Fourteenth Amendment and issued an order prohibiting officers from using race to decide whether or not to stop someone.³⁰

The U.S. Department of Justice (DOJ) performed its own investigation into the accusations in Maricopa County and found that MCSO officers stopped Latinos in their vehicles, “four to nine times more often,” than similarly situated non-Latino drivers and that stops were made “without the required legal justification.”³¹ The DOJ later filed a lawsuit against the Sheriff and the MCSO and subsequently won.³²

There is little data on traffic stops nationally because traffic violations are issued by State and local governments. Last year, researchers at Stanford University published a first of its kind analysis of over 100 million traffic stops conducted nationwide.³³ The study found that black drivers were less likely to be stopped after sunset, when a ‘veil of darkness’ masks one’s race, suggesting bias in stop decisions and that the bar for searching black and Hispanic drivers was lower than that for searching white drivers.³⁴ According to the researchers’ analysis, evidence shows, “that the decisions about whom to stop and, subsequently, whom to search are biased against black and Hispanic drivers.”³⁵

Not only is racial profiling unconstitutional, if an individual is stopped for reasons other than traffic safety problems law enforcement resources are not maximized to enhance safety. Existing

²⁵ https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812478_v5_countermeasures-that-work-a-highway-safety-countermeasures-guide-9thedition-2017.pdf.

²⁶ <https://openpolicing.stanford.edu/findings/>.

²⁷ Racial Profiling and Traffic Stops, National Institute of Justice (January 9, 2013) at <https://nij.ojp.gov/topics/articles/racial-profiling-and-traffic-stops>.

²⁸ Manuel de Jesus ORTEGA-MELENDRES, et al., v. Joseph M. ARPAIO, 836 F. Supp. 2d 959 (D. Ariz. 2011).

²⁹ Melendres v. Arpaio, 989 F. Supp. 2d 822 (D. Ariz. 2013).

³⁰ *Id.*

³¹ <https://www.justice.gov/opa/pr/departments-justice-files-lawsuit-arizona-against-maricopa-county-maricopa-county-sheriff-s>.

³² Melendres v. Arpaio, 989 F. Supp. 2d 822 (D. Ariz. 2013).

³³ A large-scale analysis of racial disparities in police stops across the United States, *Nature, Human Behavior* (July 2020) at <https://5harad.com/papers/100M-stops.pdf>.

³⁴ *Id.*

³⁵ *Id.*

and proposed NHTSA grant programs aimed at eliminating racial bias and improving the effectiveness of traffic safety enforcement are detailed below.

Summary of NHTSA Grant Programs

Congress authorizes funding for States, Tribes, and U.S. Territories to pursue traffic safety efforts. Funds are administered by NHTSA through the State and Community Highway Safety Program and the National Priority Safety Programs. These grant programs have been reauthorized and amended several times, including most recently in 2015 when Congress enacted H.R. 22, *Fixing America's Surface Transportation (FAST) Act* (P.L. 114-94) which authorized \$2.7 billion in funding over five years for NHTSA traffic safety grants. Last year, the House passed a surface transportation reauthorization bill, H.R. 2 the *Moving Forward Act*, which would reauthorize and amend NHTSA's traffic safety programs to provide increased funding of \$3.9 billion and enhance safety requirements.

Section 402

The State and Community Highway Safety Program (23 U.S.C. 402), commonly referred to as “Section 402,” provides Federal aid to States for carrying out traffic safety initiatives designed to reduce traffic crashes and resulting deaths and injuries. Section 402 funds are apportioned via a statutory formula based on population and roadway miles.

To receive Section 402 grant funds, a State must develop and submit an annual Highway Safety Plan (HSP) to NHTSA for approval each July. The HSP establishes the State's goals, performance measures, targets, and strategies for improving highway safety for the year. A State's HSP must address broad safety objectives set by Congress, but States can distribute their Section 402 funds to a wide network of sub-grantees including local law enforcement agencies, municipalities, universities, health care organizations, and other local institutions.

According to NHTSA estimates, of the \$270.4 million authorized by Congress for Section 402 in fiscal year 2019 approximately \$125 million went to law enforcement agencies, while \$38 million went to non-governmental organizations.³⁶

Additionally, as a condition of receiving Section 402 funds, States must participate in three high visibility law enforcement mobilization campaigns each year. These national campaigns are coordinated by the Secretary of Transportation and targeted toward either alcohol or drug-impaired driving or occupant seat belt use. High visibility enforcement campaigns combine law enforcement efforts, increased visibility, and public education to promote voluntary compliance with impaired driving and seat belt laws.

The most recent State HSPs are available at: <https://www.nhtsa.gov/highway-safety-grants-program/state-highway-safety-plans-and-annual-reports>.

Section 405

The National Priority Safety Program (23 U.S.C. 405), commonly referred to as “Section 405,” provides tiered grants targeted at specific driving risks. While States enjoy the flexibility of

³⁶ This information was provided to the Committee by NHTSA on October 30, 2020, via email.

Section 402 funds, Section 405 funds focus resources on specific driving behaviors, including leading causes of roadway fatalities and injuries. Section 405 grants are meant to incentivize States to adopt strong traffic safety laws (such as setting a maximum blood alcohol concentration of .08), improve performance outcomes (such as increasing seat belt usage rates), or to promote public awareness and educate drivers on the dangers of unsafe driving behaviors (such as including distracted driving questions on State driver's license examinations). Section 405 programs include:

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| ▪ Occupant protection (seat belts) | ▪ Distracted driving |
| ▪ Improvements to state traffic safety information systems | ▪ Motorcyclist safety |
| ▪ Impaired driving countermeasures | ▪ Graduated driver licensing laws |
| | ▪ Nonmotorized safety |

State application, approval, and denial information for Section 405 grants is available to the public. Grant determinations by State for fiscal year 2021 are available here:

<https://www.nhtsa.gov/highway-safety-grants-program/fy-2021-grant-funding-table>.

Racial profiling grant program

Section 1906 of the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU; P. L. 109–59) established an incentive grant program to prohibit racial profiling during traffic stops (Section 1906). The purpose of the grant program was to encourage States to enact and enforce laws that prohibit racial profiling and to maintain and allow public inspection of statistical information regarding the race and ethnicity of the driver and any passengers for each motor vehicle stop in the State. Authorization for the Section 1906 program lapsed in 2012, but the program was subsequently reauthorized in the *FAST Act* in 2015.

The *FAST Act* amended Section 1906 and shifted the program's focus to support data collection. To be eligible for Section 1906 funds today, a State must maintain and make publicly available statistical information on each motor vehicle stop made by a law enforcement officer. Recipients can use their Section 1906 funds to cover the costs of collecting and analyzing traffic stop data.

The *FAST Act* authorized up to \$7.5 million from the Highway Trust Fund annually for the Section 1906 program and set a maximum award amount of no more than five percent of the program's total authorization for each State. Since its inception in 2006, twenty-three States have applied for and received Section 1906 grant funds:

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| ▪ Alaska | ▪ Indiana | ▪ Nebraska | ▪ Utah |
| ▪ Arizona | ▪ Kansas | ▪ New Jersey | ▪ Vermont |
| ▪ Colorado | ▪ Massachusetts | ▪ Oregon | ▪ Washington |
| ▪ Connecticut | ▪ Minnesota | ▪ Rhode Island | ▪ West Virginia |
| ▪ Florida | ▪ Missouri | ▪ South Carolina | ▪ Wisconsin |
| ▪ Idaho | ▪ Montana | ▪ Tennessee | |

H.R. 2, the *Moving Forward Act*, would reauthorize the Section 1906 program at \$7.5 million per year through FY 2025.

H.R. 2 Additional Provisions

The *Moving Forward Act* contained two new grant programs aimed at improving equity in traffic safety enforcement:

Implicit Bias

Section 3010 of H.R. 2 as passed by the House would establish a new discretionary grant program available to institutions of higher education for research and training in the operation or establishment of an implicit bias training program as it relates to racial profiling at traffic stops. The grant was authorized at \$10 million per year from the General Fund.

Driver and Officer Education

Section 3007 would establish a new Section 405 grant program titled “Driver and Officer Safety Education” which was adapted from H.R. 169, the Driver and Officer Safety Education Act (116th). This new grant program would incentivize States to include, as part of any driver education and safety courses provided by the State, information on best practices during traffic stops. This information includes the role of law enforcement, individuals’ legal rights, as well as how and where to file a complaint against or on behalf of law enforcement. States would also be required to provide similar training for law enforcement.

WITNESS LIST

Mr. Larry Sandigo
Former Chairman
Community Advisory Board (Maricopa County, AZ)

Ms. Lorraine Martin
President & CEO
The National Safety Council

Ms. Michelle Ramsey Hawkins
Victim/Survivor
Mothers Against Drunk Driving

Mr. Ken Barone
Project Manager
Institute for Municipal and Regional Policy
Central Connecticut State University

Mr. Rashawn Ray
Professor of Sociology
University of Maryland