

# Transportation Equity Caucus

June 2, 2022

Dear Acting Associate Administrator Sauers,

The Transportation Equity Caucus (TEC) appreciates the opportunity to comment on the National Highway Traffic Safety Administration (NHTSA)'s Uniform Procedures for State Highway Safety Grant Programs (docket: [NHTSA-2022-0036-0001](#)). [The Transportation Equity Caucus](#) is a diverse coalition of organizations promoting policies that ensure access, mobility, and opportunity for all. We are charting a new course for our nation to ensure all people can participate and prosper in a just society, informed by principles that advance economic and social equity.

The TEC recognizes that transportation is a crucial link to ensuring opportunity for all — connecting us to jobs, schools, housing, health care, and grocery stores. But millions of poor people and people of color live in communities where quality transportation options are unaffordable, unreliable, not accessible or nonexistent. Federal transportation policy choices — what we build, where we put it, who builds it, how we operate it, what energy powers it—have an enormous impact on our economy, our climate, and our health. We must invest in a manner that builds a nation where all people can participate and prosper.

The State Highway Safety Grant Programs that are administered by NHTSA are important for advancing economic and social equity. The Department of Transportation's National Roadway Safety Strategy identified the ways that traffic violence impacts different demographic groups and different modal users disproportionately. In requesting comments, NHTSA asks how these programs can “contribute to positive, equitable safety outcomes for all” and we appreciate NHTSA's attention to our shared goals of advancing economic and social equity through transportation policy and programming.

The Transportation Equity Caucus is providing responses to the specific guiding questions asked by NHTSA, but would also like to draw to NHTSA's attention our previous work on NHTSA's programs, especially their emphasis on enforcement.

In 2021, the TEC held three webinars on the history of enforcement [1], where we are now [2], and our vision for the future [3]. We also reviewed and provided recommendations on the 402 [4] and 1906 [5] programs as part of engaging Congress to improve these programs. Some of our suggestions were included in the Infrastructure Investment and Jobs Act, and we reiterate many of our recommendations today.

In 2022, the TEC organized 71 organizations calling on the Department of Transportation and Department of Justice to pay attention and bring an end to how their programming encourages law enforcement reliance on pretextual traffic stops. [6] Specifically, the law enforcement program named “Data-Driven Approaches to Crime & Traffic Safety” (DDACTS) teaches police that they can use traffic stops to drive down crime and it encourages police to focus their enforcement efforts in “high crime” locations. A 2019 study of 100 million traffic stops nationwide showed that Black and Latinx drivers were more likely to be stopped and searched than white drivers, even though these stops turned up contraband at a lower rate. [7] A 2021 Los Angeles

Times investigation found deputies search 85% of bike riders they stop, and that 7 of every 10 stops involve Latino cyclists, even though they often have no reason to suspect they'll find something illegal. [8] NHTSA should examine the role that it plays in promoting and implementing DDACTS, and opportunities in its administration of grants to ensure that traffic stops are about traffic safety rather than a pretext for other goals.

TEC has made a commitment to transform transportation policy in the area of enforcement because of the harm and killing of people by law enforcement and specifically Black Indigenous People of Color (BIPOC) who live multi-marginalized lives. As per [Mapping Police Violence](#), in 2021 police killed 1,144 people and there were only 15 days when police did not kill people in the US. [9] Data shows that 25% of police killings of unarmed Black people originate with a traffic stop [10], the most common form of police-initiated contact with the public. [11] NHTSA has the opportunity to significantly impact policing practices through its grant program. The harm and killing of BIPOC communities must be addressed through NHTSA's work, including changes to programs to reduce and prevent future harm from traffic violence and police violence which are inextricably paired when we rely on policing for traffic safety.

Responses to the questions asked by NHTSA are below. Please reach out to the Transportation Equity Caucus if you have any questions.

### **Transportation Equity Caucus Chairs**

- Dara Baldwin, [dara.baldwin@ncdr.us](mailto:dara.baldwin@ncdr.us)
- Axel Santana, [asantana@policylink.org](mailto:asantana@policylink.org)

### **Removing Enforcement Working Group Chairs**

- Hester Serebrin, [Hester@transportationchoices.org](mailto:Hester@transportationchoices.org)
- Oboi Reed, [oboi@equiticity.org](mailto:oboi@equiticity.org)
- Ken McLeod, [ken@bikeleague.org](mailto:ken@bikeleague.org)

### Footnotes:

[1] <https://equitycaucus.org/node/62036>

[2] <https://equitycaucus.org/node/62791>

[3] <https://equitycaucus.org/node/63321>

[4] <https://equitycaucus.org/node/63541>

[5] <https://equitycaucus.org/resources/review-NHTSA-1906-racial-profiling-program>

[6] [https://peopleforbikes.cdn.prismic.io/peopleforbikes/02fc2b8e-34fb-48b0-a596-067705d50396\\_Coalition+Letter+on+Pretext+-+DOT+DOJ.pdf](https://peopleforbikes.cdn.prismic.io/peopleforbikes/02fc2b8e-34fb-48b0-a596-067705d50396_Coalition+Letter+on+Pretext+-+DOT+DOJ.pdf)

[7] Emma Pierson, Camelia Simoiu, Jan Overgoor, et al., *A Large-Scale Analysis of Racial Disparities in Police Stops across the United States* (Stanford, CA: Stanford Computational Policy Lab, 2019), <https://5harad.com/papers/100M-stops.pdf>.

[8] <https://www.latimes.com/projects/la-county-sheriff-bike-stops-analysis/>

[9] <https://mappingpoliceviolence.org/>

[10] <https://www.npr.org/2021/01/25/956177021/fatal-police-shootings-of-unarmed-black-people-reveal-troubling-patterns>

[11] <https://bjs.ojp.gov/content/pub/pdf/cbpp18st.pdf>

## Responses to NHTSA's Questions:

### **1. How can NHTSA, States, and their partners successfully implement NRSS and the SSA within the formula grant program to support the requirements in Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58)?**

In the Transportation Equity Caucus's 402 program review provided to Congress we said: "Transportation is an imperative part of life. It is the connector for people's work, medical care, worship, recreation, and essentials for life. We believe that transportation is a part of the nationwide focus on ending the harm and killing of Black bodies by law enforcement. In that work we have concerns with Highway Safety Programs administered by the National Highway Traffic Safety Administration (NHTSA) under 23 USC 402. As NHTSA addresses this concern, [President Biden's Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#) should be used in this work defining safety for all communities and addressing the use of enforcement in transportation.

The Equity Caucus seeks to transform transportation policy to reject law enforcement as an approach to improve transportation safety and to ensure the erasure of racism in all safety policies. To make sure Black Indigenous People of Color (BIPOC) and other marginalized communities thrive, transportation safety approaches must demonstrate tangible and intentional progress that dismantle structural racism. There must also be conversation and work about the definition of public safety and how this is defined differently in communities."

This call to transform transportation safety policy still exists and is important as NHTSA, States, and their partners implement NRSS and the SSA. Successfully implementing the NRSS and the SSA should eliminate disparities experienced by different groups in traffic safety, including harms due to fines and fees, police violence, and pretextual stops.

NHTSA, States, and their partners should maximize the 1906 grant program by using the Congressional authorization that 10% may be allocated by the Secretary for technical assistance to states to its full extent. Technical assistance to states for 1906 grants can improve understanding of the program, strengthen practices, and help additional states utilize the program.

### **2. What non-traditional partners and safety stakeholders can the States work with to implement NRSS and SSA?**

Community-based organizations, civil rights groups, racial and social equity groups, disability justice, mobility justice, public health, social services, and other groups based in and led by disproportionately affected demographic and modal users can, and should, be important partners for States to work with when implementing NRSS and SSA. The TEC has a number of these organizations as members and can also seek out other groups. To see a full list of our partners, go here: <https://equitycaucus.org/about-equity-caucus/our-partners>

### **3. How can the Sections 402, 405, and 1906 formula grant programs contribute to positive, equitable safety outcomes for all? How can states obtain meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities?**

In the Transportation Equity Caucus's 402 program review provided to Congress we said states should use grant programs to:

- “Train city and state transportation staff to build using a safe systems approach, and specific engineering solutions proven to reduce speeding and improve safety. This could build off of the work of the FHWA Every Day Counts road diet initiative.
- Work with communities and engage with those who have lived experience and are directly impacted to define safety within that community.
- Build community support for infrastructure safety improvements that will influence behavior and be willing to engage in the possibilities of creating systems that dismantle oppression and racism in this work.”

Specifically, for the 1906 program, states should take full advantage of the changes made by Congress that provide eligibility for “developing and implementing programs, public outreach, and training to reduce the impact of [racial profiling on] traffic stops.”

Racially disparate policing, sometimes for purposes other than traffic safety, does not contribute to positive, equitable safety outcomes for all. The USDOT and States should discontinue using these grant dollars for law enforcement, and especially for pretextual traffic stops. States should revisit the value of directly funding law enforcement with these funds, given concerns related to police violence, disparate impacts, and the use of traffic stops for purposes other than traffic safety.

As NHTSA identifies, traffic crashes are a leading cause of death for teenagers in America and disproportionately impact Black people, Indigenous People, and rural communities. These groups, in addition to elders, those with disabilities, and youth, who are also disproportionately impacted by traffic violence, community-based organizations (CBOs) serving racially and socially marginalized communities, as well as national organizations focused on racial equity and mobility justice should be directly consulted by states.

#### **4. How can the formula grant program require practices to ensure affected communities have a meaningful voice in the highway safety planning process?**

Create operational models for transferring ownership of the highway safety planning process to communities and neighborhoods, along with funding for CBOs and stakeholders/residents, capacity building, and training. Congress's direction on “data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety” should not preclude the development of models that place effective community collaboration to increase public safety first. Communities where traffic safety enforcement is not seen as legitimate or motivated by traffic safety may be better engaged in the highway safety planning process by not assuming the outcome will be traffic safety enforcement. Data on the acceptance of traffic safety enforcement by affected communities, and what those communities actually believe will make their streets safer, should be considered. They can also ensure that any community outreach includes accessible outreach to people with disabilities so that they are included in all parts of the process. Accessible outreach includes but is not limited to the building structure, communications - ASL Interpretation as well as all written documents. There should be funds provided to grantees to assist with providing reasonable accommodations needed to comply with being fully accessible to the community.

#### **5. What varied data sources, in addition to crash-causation data, should States be required to consult as part of their Highway Safety Plan problem identification and**

## **planning processes to inform the degree to which traffic safety disparities exist on their roadways?**

States should be required to consult the following types of data to inform the identification of traffic safety disparities and problem identification:

- Data on traffic stops, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on traffic citations, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on traffic citation dispositions through court systems, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on fines and fees associated with traffic citations, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on serious injuries, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on traffic fatalities, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on drivers contrasted with their victims, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.
- Data on the built environment, such as the presence of sidewalks, crosswalks, bus stops, bike lanes, and street lighting, including data that allow disaggregation by race, income, geography and other factors related to racial equity and mobility justice.

## **6. How can the triennial cycle best assess longer-term behavior modification progress and connect year-to-year activities in a meaningful way?**

The types of data discussed in our response to question 5 should inform assessments of longer-term behavior modification progress. Longer-term behavior modification progress should be connected to year-to-year activities with affected communities and safer roadway designs.

## **7. How can the triennial HSP account for strategies that are proportionate to the State's highway safety challenges?**

As NHTSA identifies, traffic crashes are a leading cause of death for teenagers in America and disproportionately impact Black people, American Indians, and rural communities. Engaging and working with these communities should be a requirement of NHTSA and States.

## **8. What information is needed to ensure the HSP provides comprehensive, longer-term, and data-driven strategies to reduce roadway fatalities and serious injuries?**

In the Transportation Equity Caucus's 402 program review provided to Congress we said that under current requirements, "States must report citations issued and arrests as required for the 'activity measures,' but are not required to report on: number of stops, number of stops resulting in citations, racial and ethnic demographics of the driver, the officer, or the neighborhood in which the stop was made, or return on investment. Requiring similar data and analysis on a national basis is necessary to understand the impact of, and to end, racial and ethnic disparities funded through these federal dollars. NHTSA and many of its state and local grantees do not collect or analyze demographic data on traffic stops, citations, or arrests which is why a national study is necessary. A national study could help Congress understand the scope of the issue of

data collection and analysis, and how federal policy can best ensure that future funding results in data collection and the reduction of racial disparities in traffic stops, citations, and arrests, as well as the harm and killing of Black Indigenous People of Color (BIPOC).”

**9. What data elements should States submit to NHTSA in their annual grant application to allow for full transparency in the use of funds?**

We need to know what types of organizations receive funds and how they are used so that state choices about how to pursue traffic safety can be compared.

Examples of organization types that should be reported include:

- Law enforcement agency and/or law enforcement-related non-profit organization
- Community-based non-profit organization
- Statewide non-profit organization
- Public Health agency and/or public health non-profit organization
- Hospital and/or other medical care provider
- Non-law enforcement emergency response agency or non-profit organization
- City, County, or other locality
- Statewide agency

Examples of use types that should be reported include:

- High Visibility Traffic Law Enforcement
- Overtime Traffic Law Enforcement
- Traffic Law Enforcement against drivers
- Automated Traffic Law Enforcement
- Traffic Law Enforcement against people biking and walking
- Community-based event
- Driver education event
- Pedestrian education event
- Bicyclist education event
- Paid media
- Consultant-led media or other campaign

**10. What types of data can be included in the annual grant application to ensure that projects are being funded in areas that include those of most significant need?**

No additional comments.

**11. Should these measures be revised? If so, what changes are needed?**

In the Transportation Equity Caucus’s 402 program review provided to Congress we said that “Given the increased awareness of the link between traffic stops and the killing of unarmed Black people, the citation and arrest-based “activity measures” must be reevaluated. A new set of performance measures must be created by a commission that includes experts in racial profiling, police violence and reform, as well as community organizations with an interest in traffic safety and expertise in police reform. New performance measures can contribute to racial justice and traffic safety improvements that focus on outcomes, not just changing behavior.”

**12. Section 24102 of the Bipartisan Infrastructure Law requires performance targets ``that demonstrate constant or improved performance." What information should NHTSA consider in implementing this requirement?**

No additional comments.

**13. What should be provided in the Annual Report to ensure performance target progress is assessed and that projects funded in the past fiscal year contributed to meeting performance targets?**

No additional comments.

**14. How can the Annual Report best inform future HSPs?**

No additional comments.