



DRIVING TOWARD EQUITABLE TRAFFIC ENFORCEMENT



By Kat Kerwin & Jorge Camacho

October 2024

Introduction

Everyone deserves to be safe on our roadways, walkways, and in transit—and to feel confident that they can make it to their destination free of harm, discrimination, and violence.

However, police frequently engage in traffic enforcement practices that undermine, rather than promote, this common sense public safety vision.

Policing strategies that emphasize low level traffic enforcement distract from serious violence and do little to address real safety. In 2022, more than 40,000 people died as a result of motor vehicle crashes,¹ a figure that excludes the countless non-fatal injuries sustained by motorists and passengers each year. Despite this epidemic in roadway safety, most prevalent traffic enforcement practices do little to blunt the real risks faced by road users each day. Of the 272,921 vehicles involved in fatal crashes nationally between 2017 and 2021, only 638 (0.2%) were

1. NHTSA estimates for 2022 show roadway fatalities remain flat after two years of dramatic increases. NHTSA. <https://www.nhtsa.gov/press-releases/traffic-crash-death-estimates-2022>.

attributable to equipment issues,² such as a single broken taillight or tinted windows, the enforcement of which does not clearly promote traffic safety. In fact, research shows that these non-safety related stops do little to keep us safer.³ This is in part because policing strategies that emphasize low-level traffic enforcement—contributing to approximately 20 million traffic stops per year by law enforcement⁴—fail to prioritize more serious offenses like excessive speeding⁵ and impaired driving,⁶ which account for the bulk of traffic-related deaths in the U.S. each year.

Interactions between law enforcement and drivers that result from low-level traffic violations can also lead to incredible harm⁷—particularly for Black and Latine people who are pulled over at disproportionately higher rates. Black and Latine drivers are more likely to be stopped,⁸ searched,⁹ and subjected to force¹⁰ during traffic stops. Since 2017, at least 600 people nationwide¹¹ have been killed after being pulled over by police (with some reports estimating as many as 800 deaths).¹² Twenty-eight percent of those killed in traffic stops have been Black drivers, despite the fact that Black people account for only 13% of the general population.¹³

With the goal of improving traffic safety while combating racial bias and disparity, localities across the country have begun passing laws and implementing policies to curb discriminatory traffic stops and refocus policing resources on the most substantial sources of roadway danger. These efforts include both legislation and departmental policies that reduce the use

of armed police in enforcing traffic laws that bear little connection to improved roadway safety.¹⁴ Given our country's current epidemic of traffic deaths paired with its history of racial injustice, these policies are urgently needed. This paper serves as a roadmap for addressing traffic safety and anticipates preemption related concerns that may arise when policymakers work to promote driving equality.

Through a nationwide examination of driving equity policies that have been pursued by both local and state officials, this paper illuminates a path for identifying and confronting key preemption impediments.



28%

*of those killed in
traffic stops have
been Black drivers,
despite the fact that
Black people account
for only 13% of the
general population.*

2. Factsheet: Which Stops Impact Serious Crashes? Center for Policing Equity (2024).

<https://policingequity.org/traffic-safety/79-factsheet-which-stops-impact-serious-crashes/file>.

3. *Police traffic stops have little to do with public safety*. Urban Institute. (2021, April 26). <https://www.urban.org/urban-wire/police-traffic-stops-have-little-do-public-safety>.

4. The Stanford Open Policing Project, <https://openpolicing.stanford.edu/findings/>; Kyleigh Clark-Moorman & Danielle Crimmins, Alternative Traffic Enforcement: Identifying Areas for Future Research, National Institute of Justice (Sept. 3, 2024) (citing the findings of the Stanford Open Policing Project in an article published through the U.S. Department of Justice's National Institute of Justice), <https://nij.ojp.gov/topics/articles/alternative-traffic-enforcement-identifying-areas-future-research>.

5. *Speeding*. NHTSA. (2024). <https://www.nhtsa.gov/risky-driving/speeding>.

6. *Driving While Impaired*. CDC. (2024). https://www.cdc.gov/transportationsafety/impaired_driving/impaired-drv_factsheet.html.

7. Debusmann, B. (January 31, 2023). *Why do so many police traffic stops turn deadly?* BBC News. <https://www.bbc.com/news/world-us-canada-64458041>.

8. Schuba, T. (2022, July 28). *63% of traffic stops in Chicago targeted African Americans last year, State Report shows*. Times.

<https://chicago.suntimes.com/crime/2022/7/28/23282553/traffic-stops-chicago-black-drivers-aclu>.

9. Pierson et Al. (May 4, 2020). *A large-scale analysis of racial disparities in police stops across the United States*. Nature News.

<https://www.nature.com/articles/s41562-020-0858-1>.

10. *2021 Report and quick facts*. RIPA. (2024). <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-quick-facts-2021-01.pdf>.

11. Levin, Sam. (April 21, 2022). *US police have killed nearly 600 people in traffic stops since 2017*. Guardian News and Media.

<https://www.theguardian.com/us-news/2022/apr/21/us-police-violence-traffic-stop-data>.

12. Debusmann, supra note 7.

13. Levin, supra note 11.

14. Searles, S. (February 21, 2023). *Council members from Philadelphia and Memphis talk driving equality*. PBS.

<https://why.org/articles/philly-police-driving-equality-act-memphis/>.

Driving Equity Laws Around the Country

A handful of state and local jurisdictions nationwide have passed laws that promote driving equity by reducing the role of police in traffic stops and deprioritizing the enforcement of low-level traffic violations.

New York State, for example, enacted a law that prohibits police officers from issuing a summons against a driver—and, by extension, conducting a traffic stop against them—when the only basis for the summons is that the driver either hung something in their car—such as an air freshener or decorative tchotchke—or put a sticker on their front or rear windshield.¹⁵ In a similar vein, Oregon enacted a law that prevents officers from issuing summonses only for lighting violations,¹⁶ and Virginia imposed similar restrictions for a

host of minor traffic violations, including low-level marijuana possession, defective tail and brake lights, and window tints and decals, among others.¹⁷ However, despite these noteworthy state initiatives, the fight for driving equity remains most active at the local level, where municipal officials have increasingly turned their attention to reducing racial disparities resulting from traffic enforcement by their own police departments.

Officials in cities like Memphis, Denver, Pittsburgh, Brooklyn Center (MN), Seattle, and Los Angeles have attempted to curb bias and promote public safety by reorienting their police departments toward the enforcement of more serious traffic offenses and away from comparatively minor offenses whose enforcement fails to meaningfully promote roadway safety. Distinctly, Berkeley and Los Angeles have begun to propose a civilian oversight model which creates a separate department outside of police departments to do traffic enforcement work, recognizing that departments of transportation are the experts on traffic related safety and can handle related enforcement functions effectively.¹⁸

Of these local efforts, Philadelphia's Driving Equality Act,¹⁹ which was spearheaded by city councilmember Isaiah Thomas, has become a model for jurisdictions across the country since its implementation in March 2022. The act consists of two pieces of legislation: one that limits the circumstances under which certain traffic stops can be performed and another that requires the collection and public reporting of related traffic enforcement data.

Under the act, police officers can no longer conduct traffic stops to enforce eight non-safety related traffic offenses if there was no other basis for conducting the stop, such as unsafe driving or the commission of a separate traffic offense.



15. See New York A7599, (May 18, 2021). <https://www.nysenate.gov/legislation/bills/2021/A7599>.

16. See Oregon SB1510, (February 1, 2022). <https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1510/Introduced>.

17. See Virginia H5058 (November 9, 2020). <https://static1.squarespace.com/static/58afc5861b631bb7fa6729f6/t/609325f4e3157f0a949d8c45/1620256244752/legp604.exe-14.pdf>.

18. Robinson, Rigel. (October 19, 2021). *How Berkeley is de-policing traffic enforcement*. Medium.

<https://medium.com/vision-zero-cities-journal/how-berkeley-is-de-policing-traffic-enforcement-ab218f6ee80d>.

19. Philadelphia § 12-1701, (June 24, 2021).

The eight non-safety related traffic offenses impacted by the act include:

- Late registration (*with a sixty day grace period*)
- Relocation of temporary registration (*must be visible*)
- Relocation of license plate (*must be visible*)
- Missing a single headlight or taillight
- Items hanging from the rear view mirror
- Minor bumper damage
- Driving with an expired or missing inspection sticker
- Driving with an expired or missing registration sticker

Additionally, the act requires the Philadelphia Police Department to collect data on all vehicle stops, including on the race of the driver, the reason for the stop, and whether a warning, citation or arrest took place. The Department must also publish this data on a public dashboard each month.

Early data indicate that the Driving Equality Act has been successful in reducing unnecessary traffic enforcement while promoting and maintaining roadway safety. In an analysis of the act's first year of implementation, traffic stops associated with the eight designated offenses

“The persistence of [racial disparities in who gets stopped by police] illustrates how difficult it can be to root out structural racism and bias in policing.”

went down by 54%.²⁰ At the same time, traffic enforcement increased for more dangerous violations, such as running a stop sign or red light or driving against the flow of traffic. However, despite the act's recalibration of enforcement away from minor offenses to more serious offenses, enforcement data still reveals a racial disparity in who gets stopped by police, with Black drivers continuing to be stopped more frequently compared to White drivers. The persistence of these disparities illustrates how difficult it can be to root out structural racism and bias in policing. Nonetheless, the Driving Equality Act and other policy efforts like it remain an important and efficacious step toward achieving greater driving equity while simultaneously strengthening roadway safety.

Preemption Obstacles

Despite a frequent lack of state legislative attention or support, some local governments have achieved noteworthy success through the enactment of local driving equity policies. However, other efforts have been constrained by preemptive state laws that prevent localities from exercising necessary control over traffic enforcement and related policing resources. These laws have suppressed local initiative and prevented local officials from responding to the demands of their constituents for meaningful action.

While many such preemptive laws were passed decades ago with no specific intent to limit

local innovation on traffic enforcement, at least one law was enacted recently with the specific purpose of stifling local policymaking intended to address traffic enforcement disparities. The results of these laws range from greatly limited local policymaking to a near total prohibition on it. Whether intentionally imposed or not, preemptive state laws pose a serious and frequently insurmountable obstacle to the enactment of policies that help create real traffic safety, including safety from unnecessary, inequitable, and often abusive traffic enforcement practices. Here, we describe three kinds of preemptive state laws that have obstructed local action on driving equity.

20. Caiola, S. (March 6, 2023). *Driving equality act likely led to fewer black men being pulled over for minor violations, data shows*. PBS. <https://why.org/articles/philadelphiadriving-equality-act-data-traffic-stops-black-men-reduction/>.

Abusive Preemption

As part of a trend that has been documented in other policy areas²¹ like workers' rights,²² education,²³ prosecution,²⁴ and other areas of policing,²⁵ some states have weaponized preemption to purposefully quash local action on driving equity. Because the laws that result from these actions serve no purpose aside from weakening local democracy and the will of the people most directly impacted by traffic violence as a means of suppressing political adversaries, their preemptive effect is properly described as abusive. One such law was passed recently in Tennessee, and it targeted driving equity efforts in Memphis, the state's second largest city and a majority Black city.²⁶

In April 2023, the Memphis City Council passed an ordinance aimed at ending the pretextual enforcement of low-level traffic violations by local police officers, who frequently used such stops to investigate other unrelated offenses (often with no actual uncovering of additional wrongdoing by motorists or passengers). The ordinance, titled the "Driving Equality Act in Honor of Tyre Nichols," was enacted in response to the murder of Mr. Nichols earlier that year by members of a specialized police unit notorious for using low-level traffic enforcement to aggressively, and often erroneously, target those they suspected of more serious offenses. The result, as in Mr. Nichols's case, was abusive and deadly policing that served only to galvanize further opposition to such tactics.

A growing body of data reveals that pretextual traffic enforcement, which has been used by many departments nationwide as part of their proactive policing strategies, is ineffective at reliably detecting or reducing the kinds of crimes



they allege to target.²⁷ Further, pretextual traffic enforcement frequently undermines police-community relations, resulting in increased suspicion of, and hostility toward, the police and a greatly reduced willingness to cooperate with policing efforts.²⁸ As such, pretextual policing strategies can be counterproductive to promoting safety and are increasingly discouraged as a result.

In recognition of these considerations, the Memphis City Council's ordinance created two tiers of traffic offenses: primary and secondary, with primary offenses consisting of those directly tied to roadway safety (like erratic driving) and secondary offenses consisting of those with comparatively little bearing on roadway safety (like an inoperable tail light).²⁹ The ordinance, which was modeled after Philadelphia's Driving Equality Act,³⁰ also permitted officers to only

21. Local Solutions Support Center (June 26, 2024). *2024 end-of-session report: "preemption's role in undermining American democracy."* Local Solutions Support Center. <https://www.supportdemocracy.org/the-latest/2024-end-of-session-report-preemptions-role-in-undermining-american-democracy>.

22. *Workers' rights preemption in the U.S.: A map of the campaign to suppress workers' rights in the States.* Economic Policy Institute. (n.d.). <https://www.epi.org/preemption-map/>.

23. Nelson, S. (March 13, 2023). *Curricular preemption: The new front of an old culture war – white paper* by Steven L. Nelson. Local Solutions Support Center. <https://www.supportdemocracy.org/the-latest/curricular-preemption-the-new-front-of-an-old-culture-war-white-paper-by-steven-l-nelson>.

24. Local Solutions Support Center, Public Rights Project. (May 16, 2024). *How "preempting progress" strategies can help states taking aim at local prosecutors.* Local Solutions Support Center. <https://www.supportdemocracy.org/prosecutors>.

25. Davidson, N., Su, R., Roy, M. (October 25, 2021). *Preempting police reform: A roadblock to social justice.* Local Solutions Support Center. <https://www.supportdemocracy.org/the-latest/preempting-police-reform-a-roadblock-to-social-justice>.

26. Memphis, TN | Data USA. (n.d.). <https://datausa.io/profile/geo/memphis-tn/>

27. Traffic Safety. (n.d.). <https://policingequity.org/traffic-safety/60-cpe-white-paper-traffic-safety/file>

28. Yale Law School. (n.d.). Principles of procedurally just policing. https://law.yale.edu/sites/default/files/principles_of_procedurally_just_policing_report_11.18.19.pdf.

29. Valencia, N. (2023, April 12). *Memphis leaders pass measure that ends police stops for minor infractions, three months after Tyre Nichols' death.* CNN. <https://www.cnn.com/2023/04/12/us/memphis-pretext-stops-tyre-nichols/index.html>.

30. Caiola, S. (April 14, 2023). *Philadelphia Traffic Stop Law inspires similar policy in Memphis.* WHYY. <https://whyy.org/articles/driving-equality-act-traffic-stop-laws-black-drivers-memphis/>.

initiate a traffic stop when enforcing primary offenses. Under the ordinance, secondary offenses could never serve as the basis for a stop, and could only be enforced as an additional charge when enforcing primary offenses.

Despite early optimism about the Memphis ordinance's ability to help curb unnecessary and abusive traffic enforcement, a state legislative campaign to curtail local authority over local policing soon took root and precedence. The result³¹ was a state law memorialized in state code § 7-63-301³² that prohibits local governments from regulating traffic stops by police, even when prevailing traffic enforcement practices were demonstrably inequitable, abusive, or counterproductive to promoting safety. Beyond constraining local legislative authority, the law also prohibited police departments from enacting policies that would impose limits on their own discretion, meaning that they could not replicate or emulate the terms of the Driving Equality Act through departmental policy. This interpretation of the law was affirmed in an advisory opinion issued by the Tennessee Attorney General's Office,³³ which, while lacking binding effect on police departments, remains a compelling source of persuasive authority for any courts considering the applicability of Tennessee's preemptive law on police departments. As such, without affirmative legislative action to reverse Tennessee's law, local authority of traffic enforcement practices will remain suppressed, contrary to the will of residents in localities where driving equity remains a pressing concern and an unrelenting political demand.

Field Preemption

A similar effort to reconfigure traffic enforcement in Montgomery County, Maryland, ultimately ended after the state attorney general determined that a proposed driving equity bill being considered by the county council was preempted by the Maryland Vehicle Law. The bill, titled the Safety and Traffic Equity in Policing (STEP) Act, would have designated certain traffic offenses as either primary or secondary offenses and would have limited permissible enforcement accordingly, akin to other driving equity laws around the country. The attorney general's advisory opinion concluded that the STEP Act's provisions would be inconsistent with the state Vehicle Law, which contains its own classifications for primary and secondary traffic violations and which contains an express preemption provision that precludes local governments from enacting any law on any subject covered by the Vehicle Law.³⁴ The County Council's attorney argued the bill would not be preempted under Maryland's Vehicle Law because the law would have simply deprioritized traffic offenses instead of usurping County officers' ability to enforce the law altogether. Although the Montgomery County Council disagreed with the Attorney General's interpretation of this provision and its applicability to the STEP Act, it ultimately withdrew the Act from active consideration given the considerable weight that the Attorney General's opinion would carry if the Act were to be enacted and challenged in court on preemption grounds.



31. Mattise, J. (2024, March 28). *Tennessee governor signs Bill to undo Memphis traffic stop reforms after Tyre Nichols Death*. AP News. <https://apnews.com/article/tyre-nichols-memphis-tennessee-police-reforms-343023edc2ed0062f33aa0b540becff6>.

32. Tenn. Code Ann. § 7-63-301

33. Tenn. *Opinion No. 24-011* (July 17, 2024). <https://www.tn.gov/content/dam/tn/attorneygeneral/documents/ops/2024/op24-011.pdf>.

34. Attorney General of Maryland, *Opinion No. 108 OAG 81*, 108 Md. Op. Att'y Gen. 81 (2023), <https://www.marylandattorneygeneral.gov/Opinions%20Documents/2023/108OAG81.pdf>.

The inclusion of an express preemption provision within the Maryland Vehicle Law indicates that the question of local regulation had, at one point, been considered and rejected by the Maryland state legislature, making it perhaps less likely that the legislature will soon reverse course and grant such authority to its local governments. This, despite substantial public support for, and community participation in developing, driving equity proposals like the STEP Act as a means to address racial disparities in traffic stops.³⁵ Nonetheless, driving equity efforts in Montgomery County have continued, albeit in modified form, with a new bill—the Freedom to Leave Act³⁶—which replaces the STEP Act as the county council’s keynote driving equity proposal. The new act, which would prohibit police consent searches of motorists, appears to avoid the preemption pitfalls of the STEP Act, and may help move driving equity forward until state law can be amended to permit even further policy innovations.

Implicit Preemption

Sometimes, the preemptive effect of a state law is not the result of a deliberate intent by state legislators to preclude local policymaking, but instead an inadvertent result of how a legislature has structured its own statewide policy.

For an illustration of how state law can implicitly, if unintentionally, preclude driving equity policies, consider recent efforts in California, such as Oakland’s de-prioritization of low-level traffic enforcement³⁷ or the plans in cities like Berkeley³⁸ and Los Angeles³⁹ to shift traffic enforcement duties away from police officers and toward unarmed civilians employed, respectively, by each city’s department of transportation.⁴⁰ Although such efforts are both commendable and visionary, due to the preemptive effect of the state’s Vehicle Code, which expressly authorizes

only law enforcement officers to enforce traffic offenses, the scope of these efforts have fallen short of the reimagination of traffic safety that propelled those cities to act in the first place. For example, Oakland’s de-prioritization of low-level traffic enforcement was instituted not as a matter of law but a matter of police departmental policy, meaning that changes in local leadership could result in immediate regressions toward more punitive, less equitable, and less effective enforcement policies. Additionally, the ambitious plans developed by officials in Berkeley and Los Angeles have remained unimplemented because of limitations in state law that grant traffic enforcement powers to police officers, and only police officers, precluding any shift of responsibility to other agencies. Such limitations have existed since the original enactment of the California Vehicle Code decades ago, and although at least one proposal to amend the Code to permit civilian enforcement⁴¹ has gained some traction in the state legislature in part due to local advocacy,⁴² local governments remain prohibited from fully realizing their vision for a new model of traffic safety. As such, these plans remain more aspirational than actionable at this time.

“Whether intentionally imposed or not, preemptive state laws pose a serious and frequently insurmountable obstacle to the enactment of policies that help create real traffic safety, including safety from unnecessary, inequitable, and often abusive traffic enforcement practices.”

35. Montgomery County Council, *Public Testimony on Bill 12-23, Police - Traffic Stops - Limitations*, (April 25, 2023), <https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20230425pm/item12.html>.

36. Montgomery County Bill 2-24 (February 27, 2024). <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2826&fullTextSearch=2-24>.

37. Swan, R. (November 17, 2019). *To curb racial bias, Oakland police are pulling fewer people over. Will it work?* San Francisco Chronicle. <https://www.sfchronicle.com/bayarea/article/To-curb-racial-bias-Oakland-police-are-pulling-14839567.php>.

38. Robinson, *supra* note 18.

39. Jany, Libor. (May 9, 2023). *How can L.A. stop traffic deaths? let civilians enforce traffic violations, study says*. Los Angeles Times. <https://www.latimes.com/california/story/2023-05-09/long-delayed-plan-to-have-civilians-not-police-make-traffic-stops-set-for-release>.

40. Dahir, Fatima. (May 31, 2023). *Civilian Traffic Enforcement in Berkeley: Is it possible?* Stanford Law School. <https://law.stanford.edu/2023/05/31/civilian-traffic-enforcement-in-berkeley-is-it-possible/>.

41. See California SB50, (September 14, 2023). <https://legiscan.com/CA/text/SB50/2023>

42. Dahir, *supra* note 40.

Challenges and the Path Ahead

Driving equity efforts face multiple preemption challenges, such as the targeted preemption of laws like Tennessee Code § 7-63-301, the express field preemption of laws like Maryland's Vehicle Law, or the implicit preemption of laws like California's Vehicle Code. Failures to account for and address these challenges can stifle driving equity efforts and can leave communities with little political recourse to redress ongoing harms. Luckily, these obstacles are surmountable.

Models for legislative solutions to these forms of preemption already exist. For example, the California legislature is already considering an amendment to its Vehicle Code to specifically permit localities to shift traffic enforcement responsibilities to civilian officials. If enacted, such an amendment would expressly empower localities to implement innovative driving equity solutions and redirect policing resources in ways that more productively promote public safety.

Current laws in some states may already inoculate localities from preemption claims. Philadelphia, for example, successfully fended off a lawsuit filed by a local Fraternal Order of Police (FOP) chapter that challenged the city's Driving Equality Act on preemption grounds.⁴³ Finding the FOP's arguments unavailing, a local court dismissed the union's lawsuit with prejudice, precluding the union from refiling it.⁴⁴ Although the court based its dismissal in part due to procedural inadequacies in the plaintiff's case, it also rejected outright the plaintiff's core substantive claim that the city of Philadelphia, in enacting the Driving Equality Act, violated the state's home rule law by altering the state vehicle code. It specifically held that the Driving Equality Act "present[ed] an issue of purely local concern – how and when... members of the Philadelphia Police Department might enforce eight minor vehicle code violations." As such, the Act could not be read as altering any law provision of



the state's vehicle code and was therefore not preempted by it. As punctuated by Philadelphia's courtroom triumph over purported state preemption, the specter of preemption should not be seen as an absolute bar to action, but more appropriately as an obstacle whose surmounting may require concerted political or legal effort.

Additionally, to the extent that localities may opt to shift enforcement authority to civilian officials over police officers, the move would not be without precedent. After all, in many cities nationwide, parking enforcement is handled by unarmed civilian enforcement officers that have proven capable of handling such responsibilities. Some cities have even begun deploying civilian responders in lieu of police officers to investigate and process vehicle collisions.⁴⁵ Laws that permit such civilian response and enforcement⁴⁶ could feasibly be expanded to apply to traffic enforcement more broadly, further relieving pressure on limited policing resources and allowing for their more targeted and productive use.

43. Caiola, S. (March 31, 2023). *Philly law to reduce traffic stops to remain despite Police Union Challenge*. WHYY.

<https://whyy.org/articles/philadelphia-driving-equality-act-remains-in-place-common-pleas/>.

44. *Weekly Report: Court Rejects Lawsuit Over Council Driving Equality Law*. (April 13, 2023) Philadelphia City Council.

<https://phlcouncil.com/weekly-report-106/>.

45. Preston, A. (April 9, 2024). *Safe streets for all: An opportunity to rethink traffic enforcement*. Center for American Progress.

<https://www.americanprogress.org/article/safe-streets-for-all-an-opportunity-to-rethink-traffic-enforcement/>.

46. See New York's Vehicle and Traffic Law § 1640, <https://www.nysenate.gov/legislation/laws/VAT/1640>.

However, even where policy solutions can be crafted and implemented, proponents of driving equity efforts should continually and critically evaluate the impact of their efforts and make adjustments as necessary to ensure that both equity and safety are being achieved. For example, one year after Pittsburgh implemented its own Equitable and Fair Enforcement of Motor Vehicle Laws ordinance, the city saw a marked decline in traffic stops but a lingering racial disparity among drivers who were stopped.⁴⁷ As such, while the number of drivers who were stopped went down, including Black and Brown drivers, the relative rate at which drivers of different racial backgrounds were stopped persisted. Philadelphia saw similar results after implementing its Driving Equality Act,⁴⁸ as did Oakland when it evaluated a departmental policy that shifted enforcement efforts away from low-level traffic violations and toward more serious offenses.⁴⁹ Whether these disparities result from ongoing biases within law enforcement or merely reflect how policing resources are distributed within communities, the data indicate that the work of policymakers to address these issues is only beginning.

These data-based indications, however, can hold true only where the data itself is tracked, maintained, and made available for analysis.

As seen in Philadelphia, even where political action on driving equity is pioneering, logistical challenges can hamper continued progress. In the years since it enacted its Driving Equality Law, Philadelphia officials have struggled to comply with their data collection and transparency mandates, having missed their initial reporting deadline under the law.⁵⁰ In cases where there are preemption barriers to passing driving equality laws, local electeds can still use comprehensive data collection laws to force oversight of local agencies and compile data on traffic enforcement.

Moving ahead, communities, policymakers, and driving equity advocates will need to work in tandem to navigate the legal and political complexities inherent in reconfiguring traffic enforcement laws and practices. Murky divisions of authority between local and state governments, occasional political hostility by state officials against local policymakers, and logistical hurdles impacting the implementation of driving equity policies are just some of the challenges that driving equity proponents may face. They must also overcome the more mundane challenges of organizing a social movement that seeks sustained legal and political change as its ultimate goal. But while the driving equity movement has seen its share of setbacks, a path ahead remains both viable and promising.

Conclusion

Driving equity initiatives may mark just one political front in the effort to combat unduly restrictive preemption, but their salience within broader political conversations is noteworthy. Efforts to promote driving equity stand at the intersection of public safety, racial justice, democratic representation, and political innovation. As such, policymakers should seize

upon driving equity initiatives as opportunities to recalibrate public safety policies and bring them into alignment with both community expectation and communal wellbeing. The result will almost certainly be a greater overlap between the public safety demands of local and state residents and the policies enacted by state and local officials to achieve those aims.

47. Szeto, E. (July 24, 2023). *Police traffic stop disparities in Pittsburgh endure*. PublicSource.

<https://www.publicsource.org/pittsburgh-police-traffic-stop-disparity-accountability-race/>.

48. Orso, Anna, (March 3, 2023). *Philadelphia's driving equality law reduced traffic stops but not racial disparities in its first year*.

<https://www.inquirer.com>. <https://www.inquirer.com/news/philadelphia-driving-equality-legislation-one-year-results-20230303.html>.

49. Swan, supra note 37.

50. Tomczuk, J. (February 21, 2023). *Philadelphia's driving equality policy facing data hurdles*. Metro Philadelphia.

<https://metrophiladelphia.com/philadelphia-driving-equality-data-hurdles-memphis>.



Appendix

Local Ordinances

Ann Arbor, MI:

An officer may not stop or detain someone for certain secondary traffic violations, unless an officer reasonably believes based upon articulable facts that the violation poses an immediate risk of harm to person(s) or property.⁵¹

Chapel Hill, NC:

The law ends all regulatory traffic stops (low level, non-moving violations that do not address public safety), which has been shown to significantly decrease disparities in stops, and instead focus on traffic stops that are safety driven, such as stops for running red lights or driving at high speeds.⁵²

Denver, CO:

Instituted an informal departmental policy which prioritizes traffic enforcement on activities that address high-risk traffic violations, such as reckless driving, driving under the influence (DUI), speeding, running red lights, and other vehicle operator behaviors that endanger public safety. Low-level traffic stops (minor traffic infractions that do not pose an immediate threat to public safety) will not be conducted unless officers are acting upon articulable information in addition to the traffic violation, which may or may not amount to reasonable suspicion, regarding a serious crime (i.e., a crime with potential for bodily injury).⁵³

Memphis, TN:

An officer may initiate a stop for a secondary violation only where there is a simultaneously observed primary violation.⁵⁴

Minneapolis, MN:

State consent decree includes a limitation on enforcing pretextual stops as a result of the settlement agreement following George Floyd's murder.⁵⁵

Oakland, CA:

Instituted a departmental policy that encourages law enforcement to focus on reckless driving instead of low level traffic infractions.⁵⁶

Philadelphia, PA:

An officer may initiate a stop for a secondary violation only where there is a simultaneously-observed primary violation.⁵⁷

Pittsburgh, PA:

An officer may stop someone for a secondary violation only if the individual committed a primary traffic violation at the same time.⁵⁸

51. See Ann Arbor, Mi., Title XI, Chapter 24 - Ann Arbor City Ordinance (Jan. 13, 2024),

<https://a2gov.legistar.com/View.ashx?M=F&ID=12135462&GUID=B2CB5D2D-73D7-433D-8D84-A680E1A0BD0D>.

52. See Chapel Hill, NC., Ordinance 2020-06-24 / R-1 (June 24, 2020), <https://www.townofchapelhill.org/home/showdocument?id=46151>

53. See Denver, Colo., Section 202.01 of the Denver Police Operations Manual,

https://www.denvergov.org/files/assets/public/v/66/police-department/documents/operations-manual/om_book.pdf.

54. See Memphis, Tenn. Ordinance 28 (Feb. 7, 2023),

https://memphisold.memphistn.gov/news/wpfd_file/ordinance-to-amend-city-of-memphis-code-of-ordinances-vehicles-and-traffic-code/

55. Consent Decree, State of Minnesota v. City of Minneapolis (March 31, 2023),

<https://lms.minneapolismn.gov/Download/FileV2/30804/MDHR-v-City-of-Minneapolis-Settlement-Agreement.pdf>

56. Swan, supra note 37.

57. See Philadelphia, PA., Ordinance 210636-A (Oct. 14, 2021),

<https://phila.legistar.com/LegislationDetail.aspx?ID=5007830&GUID=065348E0-F4F6-4B6A-A088-DFF5358E73CD>

58. See Pittsburgh, PA., Ordinance 2021-2174 (Dec. 28, 2021), <https://pittsburgh.legistar.com/LegislationDetail.aspx>

Appendix (Continued)

Local Ordinances (Continued)

Shaker Heights, OH:

Passed a resolution providing that “police officers concentrate their traffic enforcement efforts on hazardous moving violations, and the behavior of a driver is the primary and sole reason for the issuance of a citation.”⁵⁹

West Hollywood, CA:

Passed a resolution “deprioritizing enforcement of certain minor, low level traffic offenses strikes an appropriate balance between the need to have effective law enforcement and the importance of eliminating pre-textual traffic stops.”⁶⁰

Lansing, MI:

Instituted informal departmental policy to deprioritize stops.⁶¹

Ypsilanti, MI:

Passed a resolution providing that “[a] law enforcement officer employed by the Ypsilanti Police Department shall not initiate a traffic stop of a motor vehicle based solely on one of the following offenses.”⁶²

State Bills

California:

Proposed a bill providing that an officer cannot stop or detain an operator of a vehicle (or bicycle) for one low-level infraction unless there is a separate, independent basis to initiate the stop.⁶³

California:

Proposed a bill that would allow for a 30 day grace period on registration expiration. Expired tags are a secondary infraction until the 2nd month after the expiration.⁶⁴

Connecticut:

Proposed a bill providing that an officer can only issue tickets for secondary violations if they are already stopping someone for a more serious violation.⁶⁵

Illinois:

Passed legislation that prohibits officers from pulling over drivers for having an object hanging from a rearview mirror.⁶⁶

Nevada:

Proposed a bill limiting whether the driver is committing a low-level stop.⁶⁷

New York State:

Passed legislation that prohibits officers from pulling over drivers for having an object hanging from a rearview mirror unless “there is reasonable cause to believe the driver has committed another enforceable violation.”⁶⁸

59. See Shaker Heights, Ohio, Memorandum (Aug. 25, 2023),

<https://www.scribd.com/document/668220169/Resolution-Adopting-a-Framework-for-Maintaining-a-Safe-and-Just-Shaker-Heights>.

60. See West Hollywood, Ca. Ordinance 22-6-6-2022 (June 6, 2022),

https://weho.granicus.com/MetaViewer.php?view_id=22&clip_id=3779&meta_id=230716.

61. See Lansing, Mi., Section 600.2 of the Lansing Police Operations Manual, <https://content.civicplus.com/api/assets/ea77374f-f2d3-4173-b189-e56e5b9865ac>.

62. See Ypsilanti, Mich. Resolution 2024-046, (April 2, 2024), https://cityofypsilanti.com/AgendaCenter/ViewFile/Agenda/_04022024-2147.

63. See California, SB50, (Sept. 7, 2023), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB50.

64. See California, AB256, (Oct. 4, 2023), <https://legiscan.com/CA/text/AB256/id/2841765>.

65. See Connecticut, AB1195, (Oct. 1, 2023), <https://www.cga.ct.gov/2023/TOB/S/PDF/2023SB-01195-R00-SB.PDF>.

66. See Illinois, HB2389, (June 9, 2023),

<https://www.ilga.gov/legislation/BillStatus.asp?DocNum=2389&GAID=17&DocTypeID=HB&LegId=147466&SessionID=112&GA=103>.

67. See Nevada, SB296 (March 16, 2023), <https://www.leg.state.nv.us/Session/82nd2023/Bills/SB/SB296.pdf>.

68. See New York, New York Consolidated Laws VAT § 375(1), <https://www.nysenate.gov/legislation/bills/2021/A7599>.

Appendix (Continued)

State Bills (Continued)

North Carolina:

Passed legislation that enables municipalities to employ and allow civilian personnel instead of armed police officers to investigate crashes involving only property damage.⁶⁹

Minnesota:

Proposed a bill that would limit the authority of peace officers to stop or detain drivers for motor vehicle equipment violations.⁷⁰

Oregon:

Passed legislation that would prohibit an officer from issuing a citation for a lighting violation unless the officer has already stopped the driver for a separate traffic violation or other offense.⁷¹

Tennessee:

Passed a law preempting a local governmental entity or official from adopting or enacting a resolution, ordinance, or policy that prohibits or limits the ability of a law enforcement agency to conduct traffic stops based on observation of or reasonable suspicion that the operator or a passenger in a vehicle has violated a local ordinance or state or federal law.⁷²

Virginia:

Passed a law that prohibits law enforcement officers from using a secondary violation as the basis of a stop.⁷³

Washington:

Proposed a bill that would permit peace officers to stop or detain an operator of a vehicle for a nonmoving violation only when the primary reason for an equipment failure stop is to protect against an immediate, serious threat to the safety of the operator or others on the roadway.⁷⁴



69. See North Carolina, N.C.G.S. § 160A-499.6, [https://casetext.com/statute/general-statutes-of-north-carolina/chapter-160a-cities-and-towns/article-21-miscellaneous/section-160a-4996-multiple-versions-delivery-of-permits-issued-by-city-agency#:~:text=Section%20160A%2D499.6%20%2D%20Civilian%20Traffic%20Investigators%20\(a\)%20A,%22%20or%20%22Investigators%22](https://casetext.com/statute/general-statutes-of-north-carolina/chapter-160a-cities-and-towns/article-21-miscellaneous/section-160a-4996-multiple-versions-delivery-of-permits-issued-by-city-agency#:~:text=Section%20160A%2D499.6%20%2D%20Civilian%20Traffic%20Investigators%20(a)%20A,%22%20or%20%22Investigators%22).

70. See Minnesota, HF 1832, (Feb. 16, 2023), <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF1832&ssn=0&y=2023>.

71. See Oregon, § ORS 131.615, (March 23, 2022), <https://legiscan.com/OR/text/SB1510/2022>.

72. See Tennessee, § 7-63-301, <https://law.justia.com/codes/tennessee/title-7/local-government-functions/chapter-63/part-3/section-7-63-301>.

73. See Virginia, §§ 15.2-919, 18.2-250.1, 46.2-334.01, 46.2-335, 46.2-646, 46.2-810.1, 46.2-923, 46.2-926, 46.2-1003, 46.2-1013, 46.2-1014, 46.2-1014.1, 46.2-1030, 46.2-1049, 46.2-1052, 46.2-1054, 46.2-1094, 46.2-1157, and 46.2-1300 of the Code of Virginia, <https://static1.squarespace.com/static/58afc5861b631bb7fa6729f6/t/609325f4e3157f0a949d8c45/1620256244752/legp604.exe-14.pdf>.

74. See Washington, HB 1513, (Jan. 23, 2023), <https://app.leg.wa.gov/bills/bills/BillNumber=1513&Year=2023>.