

Safety, Liability, and Innovation

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Speaker introduction



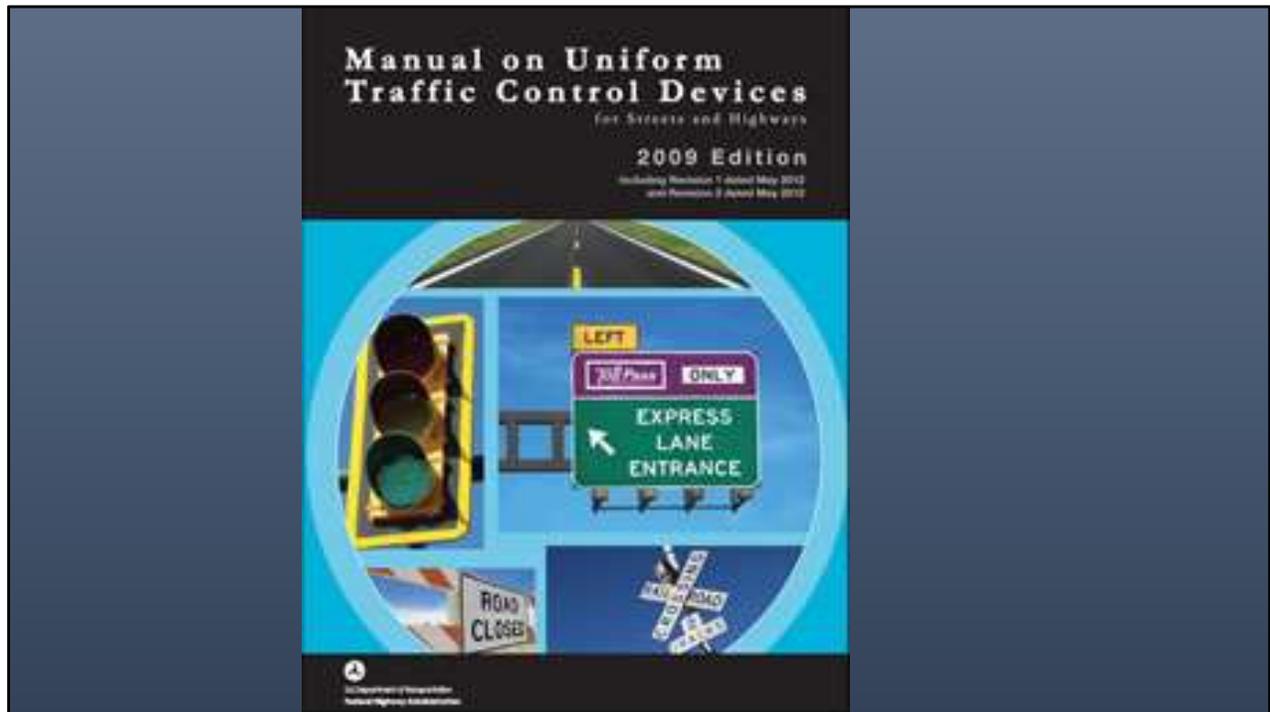
I have designed many bikeway facilities following the Federal Demonstration Process that provides some defense for innovation.



This was one of the first uses of bike signals in the Western US and required special permissions from State and Fed.



This was in Canada. Very different process. No strong Federal role in innovation.



The MUTCD is held as our best practice, which has major significance in legal matters. Not following it requires greater thought and justification. I am working with a few others in the room to get tools to allow bikeway innovations into the MUTCD, but we are not there yet.



Some MUTCD violations, like green under sharrows, are trivial and not likely to increase liability, but still this use of green is not endorsed in the MUTCD or blanket allowed by FHWA.



An Experiment request was granted for this green lane treatment that allows cars and bikes. A lawsuit arose over slipperiness of the surface. The court did not respect the Federal Immunity claim that came with the experiment.

Your State Laws are Very Important

- Dangerous Conditions, Defined
- Immunities
 - Sovereign
 - Design
- Limits on Damages
- How Liability is shared



The degree of exposure is determined by the State and is found in its laws. Some states have strong immunities or low caps on damages. Others have weaker immunities and can order high awards from governments, even if they did very little wrong.

Turturro v Pascarella

- New York City
- Failure to Traffic Calm
- \$8 Million Judgement Against City

STREETSBLOG NYC



State's Highest Court Holds NYC Liable for Injuries on Streets Without Traffic Calming

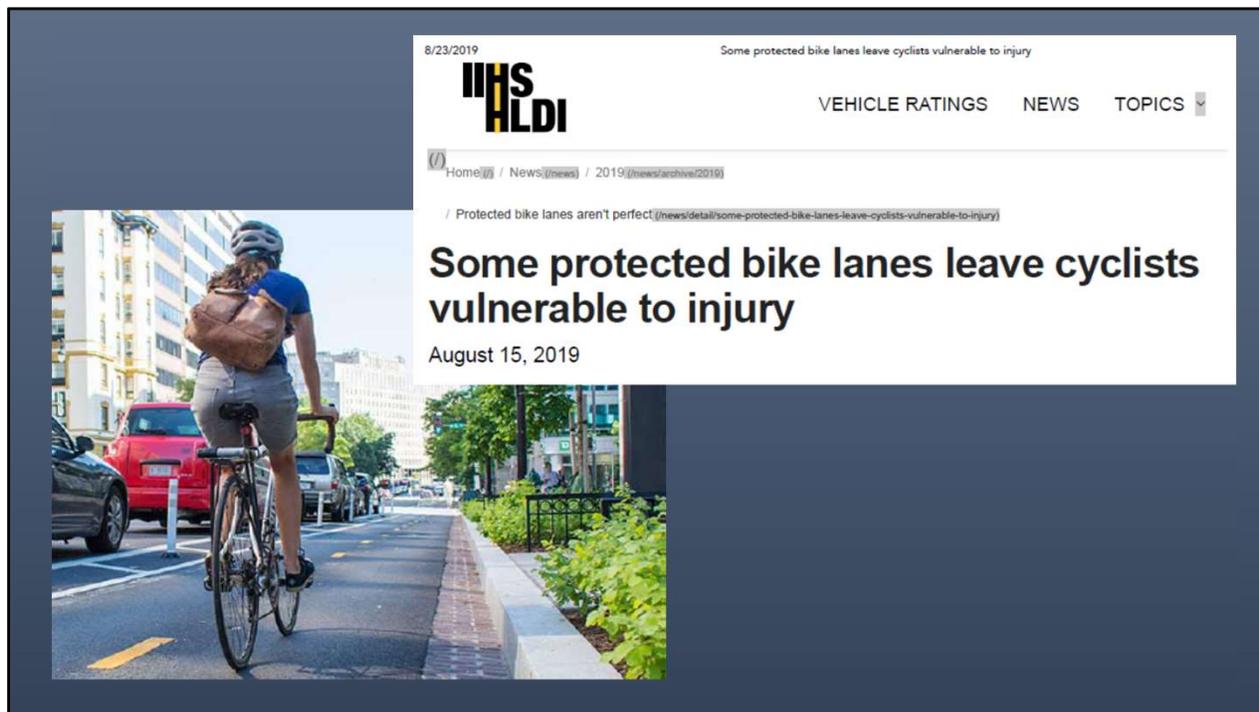
By Brad Aaron | Jan 5, 2017 | 200



Gerritsen Avenue, where a speeding driver severely injured 12-year-old Anthony Turturro after locals asked DOT to calm traffic on the street. A state Court of Appeals ruling exposes the city to liability for failing to redesign streets when it's aware of dangerous conditions. Image: Google Maps

The Court of Appeals, New York's highest court, ruled that New York City and other municipalities can be held liable for failing to redesign streets with a history of traffic injuries and reckless driving.

New York is a high-liability state. Not sure if this would happen in other states, but it is a good example of where we could be going.



This recent study suggested that two-way protected bikeways may be problematic. But it only studied one facility and did not consider design variations that could reduce injuries.

Redondo Beach, CA



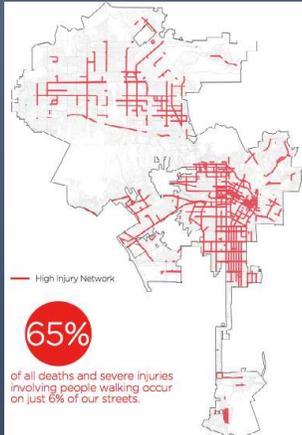
This heavily used 2-way bikeway is adjacent to a 2-way street. Done via road diet. About a million bicyclists per year, and no significant injuries since opening in 2015. Safety studies need to have much larger samples to be valid.



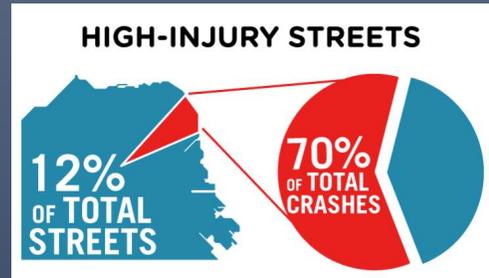
The Tesla Fatal in Arizona. CAVs will turn liability laws upside down, because the driver cannot be accountable for the car's crashes. Inability of the injured party to recover damages is limited if they do not own the vehicle. A problem today. Note: cutoff head light illumination, night-time, mid block Xing. All factors that currently increase potential for crash, per NTSB study.

Death and serious injury concentrated on arterials

Los Angeles



San Francisco

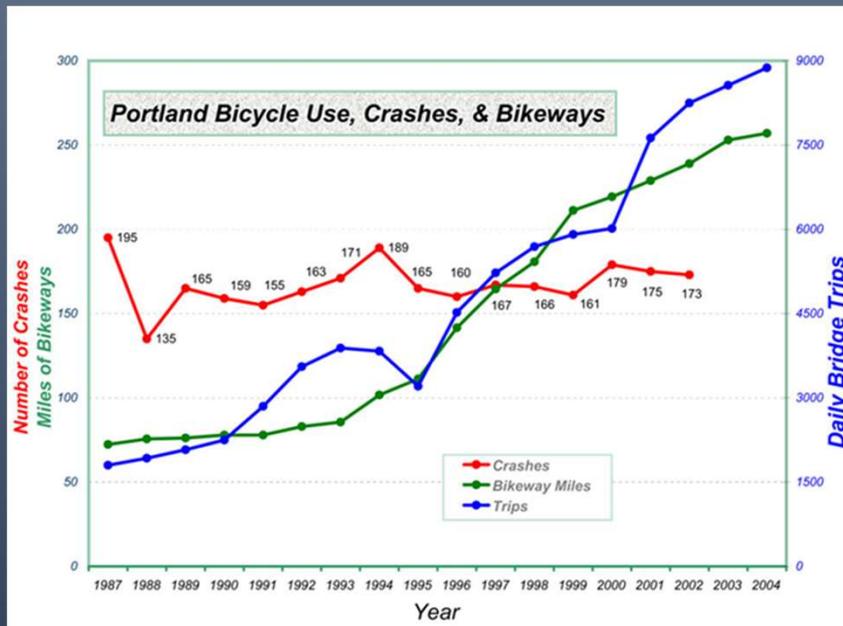


Denver



VISION ZERO NETWORK

As cities dive into data on crashes, they are finding a small % of streets contribute to the majority of serious injury and deaths. These are often high-speed arterials. Will lack of vision zero, or inability to succeed under vision zero increase liability. It is already increasing the number of claims and being argued as evidence of negligence.



Portland did not see an increase in bike crashes as use increased by 600%. This type of data helps to justify that things must be getting better, even if incidents are getting more frequent and more publicized.

Shameless Advertisement

- UC Berkeley Tech Transfer Class TE-56
- Meeting the Challenges of Transportation Liability and Risk Management
- California Focus
- Designed for Public Employees in Transportation
- Understanding Concepts
- Doing Your Job Better

May be a valuable class to consider. To be offered next May. Built around Calif law and lawsuits, but should provide value to any agency that has concerns over this issue of increasing liability

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