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Right or Privilege? The History of Driver's Licenses in California

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Right or Privilege? The History of Driver's Licenses in California

A dissertation submitted in partial satisfaction of the

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in Urban Planning

by

Miriam Julia Pinski

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ABSTRACT OF THE DISSERTATION

Right or Privilege? The History of Driver's Licenses in California

by

Miriam Julia Pinski

Doctor of Philosophy in Urban Planning

University of California, Los Angeles, 2022

Professor Evelyn A. Blumenberg, Co-Chair

Professor Anastasia Loukaitou-Sideris, Co-Chair

In this dissertation, I examine the history of the driver's license in California – drawing on legal and transportation history literature to better understand how licensing policies promoted automobility but also left behind certain drivers. Over the course of the twentieth century, adults increasingly *needed* to drive. The more essential a driver's license was for daily life, the more effective the threat of its suspension. In a series of consequential court decisions in the late 1920s and early 1930s, California courts increasingly held that driving was not a fundamental right but a privilege. Progressively, driver's license suspensions became a generic government enforcement technique; California and most other states continue to use suspensions to enforce a wide range of statutes, and violations that trigger them can be found in various government code sections. Policymakers use license suspensions as leverage for social control and as a tool to generate revenue, such as enforcing child support payments and coercing drivers to pay outstanding fines and fees.

From the beginning the driver's license was a regulatory tool that allowed most drivers to travel relatively undisturbed. Minority drivers, however, were most likely to be stopped by law enforcement and punished in the courts and, therefore, to feel the sting of a suspension and the additional criminal and monetary penalties of getting caught driving without a license. In metropolitan areas built around the automobile, and underserved by public transit modes, the consequences of being without a driver's license are far-reaching. To redress the inequities and harmful consequences associated with driver's license policy, it is important to first diagnose the cause and scope of the problem. In this dissertation, I provide a history of the driver's license in California to understand both the ubiquity and eclecticism in the ways the license has been used, and how race/ethnicity and income are implicated. This study extends the existing scholarship on non-driving-related suspensions beyond failure-to-pay suspensions. My research shows the emergence of two license regimes in California: one for the Everyman and a hidden, punitive regime that occupies a dark corner of the law. The findings inform ongoing policy efforts to reform harmful non-driving related suspension policies.

The dissertation of Miriam Julia Pinski is approved.

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I dedicate this dissertation to my family.

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Online Magazine

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1. Introduction

There are two driver's license regimes in America: one for the Everyman and a hidden, punitive one that occupies a dark corner of the law. The Everyman - a term used in the cultural discourse in the early automotive era for the average, white, law abiding citizen (Seo, 2021) - contends with the former: license policies that relate to road safety or general identification. The Everyman takes a driver's license exam, periodically renews the license, and *might* face a license suspension or traffic school for getting caught breaking one too many traffic rules. In general, the Everyman citizens face few impediments to driving relatively unencumbered for most of their lives. And, given how much Americans rely on driving, the driver's license also acts as a ubiquitous form of proof of identity. Most Americans reach into their wallets and slide out their license in any number of everyday interactions, from purchasing alcohol to applying for an apartment to voting. A minority of Americans, however, face an additional system that involves a web of license rules, paperwork, and punishments, some of which have little or nothing to do with a person's driving record. This second tiered system revolves around revenue; it is a minefield of violations - generally involving nonpayment - that trigger license restrictions, along with fines, fees, and jail time. This system tends to ensnare people in the criminal justice system who cannot afford to take the easiest escape route: simply paying what the government says they owe. In this dissertation, I seek to understand how we came to establish these two distinct regulatory systems, which stem from an initial impulse to curb the dangers of the automobile.

The story of the driver's license is one of regulation: with drivers, the auto industry, private citizens, and public officials collaborating and butting heads over how - and in some cases whether - drivers should use public streets. The early history of the automobile was messy and

uncertain. Public officials struggled to control the car. When they attempted to tame the machine or the street, safety advocates relied on technological fixes and design standards insofar as the driver could enjoy unrestricted automobility.[1] They tried to tame the driver through license requirements and penalties. Driver's licenses are one of many ways Americans came to privilege and entrench automobility, at the expense of other transportation modes. In this dissertation, I examine the history of the driver's license in California – drawing on legal and transportation historical literature to better understand how we ended up with our driver-oriented landscape, and who got left behind in a system that advantages certain drivers over others.

The car was not the first fast-moving vehicle to take to the streets, and in many ways benefited from its predecessors, particularly the bicycle and the streetcar, whose advocates fought for paved roads and the freedom to traverse them (McShane, 1994). Compared to bicycles, streetcars, and horses, automobiles offered drivers greater mobility and comfort. They also proved far more lethal. The walking public denounced maniac drivers and their pricey playthings which spooked horses and struck pedestrians (McShane, 1994). Concerned early automobile owners did not want to go the way of the steam car, an earlier vehicle type that cities had prohibited (McShane 1994). It was in their interest to work alongside traffic safety advocates, public officials, and others in the transportation industry to establish regulations that automobilists could tolerate, rather than be regulated out of existence.

[1] Safety advocates in the 1920s argued traffic education, law enforcement and road engineering could prevent some crashes, but for the most part, auto experts tended to view crashes as largely inevitable for much of the twentieth century (Norton 2015). Automobile technology and road design (such as wider turns and fewer intersections) improved driver vision and reduced traffic injuries and fatalities for vehicle occupants, particularly with discoveries in the science of crashworthiness that emerged in the 1960s (Vinsel, 2019; Dumbaugh and Gattis, 2005). However, these safety features enabled drivers to drive safely at high speeds and neglected safety for everyone outside of a vehicle (Norton, 2015).

When cars first debuted, no one knew for certain how, or if, motorists could coexist with the non-motoring public safely on the streets. By 1930, the matter was settled: auto interests successfully transformed streets into corridors for auto travel, pedestrians beware (McShane 1994). Yet cars still posed a profound safety problem, one that drivers, auto industry, public officials and safety advocates collaboratively attempted to regulate. Regulation, broadly, involves two processes: how problems garner sufficient attention to become public problems, and how experts take up and address those problems (Vinsel 2019). Traffic safety policies can target three levels: the driver, the vehicle, and the road. Most safety regulations Americans turned to did little to reduce auto collisions the most obvious way: limiting driving. Instead, auto advocates and public officials landed on regulations that made the roads easier to drive on, designed vehicles that protected vehicle occupants in collisions, and encouraged individual drivers to abide by traffic rules and regulations that often went unenforced. In other words, they chose regulations that let drivers speed - up until congestion or the occasional police officer slowed them down. Technology could prevent some traffic deaths, and license suspensions could keep some dangerous drivers off the roads, but crashes were inevitable so long as drivers continued to speed (Norton, 2015).

Authorities in the early automotive era scrambled to establish regulations to address road safety (Vinsel 2019). Elected officials tried to satisfy varying constituent groups: drivers and the auto industry, transit riders and operators, and pedestrian safety advocates. In so doing, legislators needed to tread the line between constraining automobility and ensuring driver support and compliance. Driver's license regulations[2] fit the bill. License suspensions allowed authorities to

[2] Speed limits were another popular form of regulation that auto interests sometimes supported officially and which targeted individual drivers (McShane, 1994).

restrict and punish individuals, rather than change how cars were produced or roads were designed. Facilitated by President Hoover's push toward an "associational[3]" mode of governance, in the 1920s and 1930s auto proponents - insurance companies, auto clubs, and industry - frequently collaborated with safety advocates and elected officials to regulate drivers (Vinsel, 2019). But collaborative regulation had limits, and public consensus over who was at fault in auto collisions and who or what could remedy dangerous streets shifted over the years.

Auto groups in the early automotive era advocated for driver's license suspensions as the means to keep dangerous drivers off the road; doing so allowed them to blame the dangers of the car on a minority of reckless drivers. The Everyman could continue to drive, while state authorities could, at their discretion, single out a few drivers for punishment, inflicting on them additional penalties such as jail time, fines, fees, criminal records, and driver's license suspensions.

Policymakers have long used license suspensions to deter and punish reckless driving behavior. But they have also wielded license suspensions as a coercive tool. As driving expanded, the California legislature tacked on additional provisions to the Motor Vehicle Act for suspensions unrelated to road safety. As early as 1929, courts in California suspended licenses if a person failed to pay an auto-related civil judgment.[4] Low-income drivers immediately challenged these failure-to-pay suspensions for discriminating against drivers who did not have the ability to pay.

[3] Hoover believed in an associational mode of governing, whereby private firms and public agencies cooperate in self-governing organizations to achieve outcomes that benefit society (Dempsey and Gruver, 2009).

[4] A civil judgment is the award that results from a civil court case, in this instance for damages incurred in a vehicle collision (Miller, 2019).

Nearly a century later, California courts engaged in the same debates over suspensions for failing to pay traffic and infraction fines and fees. Represented by various nonprofit law firms, low-income drivers subsequently sued the California Department of Motor Vehicles (DMV) in 2016 (Miller, 2019), and in the context of a political movement critical of monetary sanctions, the California state legislature passed Assembly Bill (AB) 103 in 2017, overturning driver's license suspensions for failure-to-pay for traffic court citations.

What happened in the interim? Soon after low-income motorists first fought suspension cases in the courts, the auto safety movement splintered in the 1930s.[5] But by that point, driving was entrenched in American society, and driver's licenses had become an accepted means by which to regulate driving. For the remainder of the century, the courts denied efforts by low-income motorists to do away with regressive suspension policies, and reaffirmed time and again that driving was a privilege, not a right.[6] So long as a suspension furthered a legitimate state interest[7], the courts sanctioned the use of suspensions to punish, deter, and coerce people, even if they had never broken a single traffic rule. When failure-to-pay suspensions were once again contested in the courts in the 2010s, the auto interests that had advocated for driver's license suspensions in the early auto era were for the most part absent. In their place was a small group of civil rights legal advocates more active on broader criminal justice issues than on road safety. The new

[5]By the 1950s, the federal government took the lead in regulating the automobile, rather than voluntary associations, and began to require auto manufacturers to meet certain safety standards (Vinsel, 2019). In turn, auto advocates, industry, and social scientists and economists resisted their efforts, arguing that regulators were self-interested, and that the rules they created were detrimental to the economy (Vinsel, 2019).

[6] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

[7] Hale v. Morgan, 22 Cal. 3d 388; People v. Brown, 96 Cal. App. 4th Supp. 1

license reformers pushed back against over two decades of suspension legislation tied more to "broken windows" crime prevention[8] and revenue generation than regulating driving safety.

Over the course of the twentieth century, adults increasingly *needed* to drive. The more essential a driver's license was for daily life, the more effective the threat of a suspension could be. At the same time, however, California courts had largely determined that driving was not a fundamental right but a privilege.[9] Arguments from low-income plaintiffs that suspensions for nonpayment discriminated against people who lacked the ability to pay and were not reasonably related to road safety fell on deaf ears (e.g. *Watson v. DMV, 1930*, *Escobedo v. DMV, 1950*). These early cases opened the window for legislators to safely use suspension statutes to pursue a wide range of policy aims increasingly divorced from transportation concerns. Further, with the advent of database sharing and tracking technology in the late 1960s, state agencies were better able to enforce suspension statutes. Suspensions quickly became an easy tool that legislators could use to enforce monetary sanctions associated with welfare and drug policies. Federally-backed child support delinquency suspensions stand out both for their scope and as one of the few suspensions that required no court discretion, but kicked in automatically after nonpayment. But child support suspension legislation in the early 1990s was only one among numerous non-driving-related suspension statutes in California. With agency databases linked, legislators could easily tie license suspensions to enforce a number of "Broken Windows" interventions. Drivers could lose their license for skipping school, graffiti, using a firearm, or engaging in prostitution. And it was

[8] These policies were based on James Q. Wilson and George Kelling's "Broken Window" theory, which linked serious crime to more minor but visible crimes such as public drinking (Wilson, 1982). A community that permitted visible crime and civil disorder signaled that criminals would be less impeded committing more dangerous crimes.

[9] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

not just technology that enabled the state to treat suspensions as a form of monetary sanction at a large scale. These sanctions were also made possible by changes in the political landscape; the playing field of auto interests had changed.

After American society increasingly oriented itself around the automobile, it became evident - both in people's personal experiences and in study after study (Smart Growth America, 2019; Kraemer and Benton, 2015) - that a built environment structured around the car was deadly. To mitigate safety risks, the state relied on law enforcement to uphold traffic rules and to punish violators by taking away their licenses. Alternatives to discretionary policing, such as unbiased speed cameras or road diets to calm traffic, proved politically disastrous (Mountain, Hirst, and Maher, 2004). Discretionary license enforcement, once established, carried a great deal of inertia because most drivers could escape traffic enforcement most of the time. Breaking traffic rules was commonplace, even among the Everyman who, from time to time, got caught. The penumbral nature of traffic crimes helps to explain how the state reformed its suspension policy. Since most drivers break some traffic rules occasionally, and any driver could get a traffic ticket, elected officials and voters (nearly all of whom were drivers) were inclined to sympathize with and then mobilize against failure-to-pay suspensions.

The driver's license proved a flexible tool to regulate the behavior of individuals for reasons increasingly unrelated to road safety. Drivers could lose their license for not appearing in court, driving on a suspended license, or falling behind in child support payments, reasons that were also divorced from road safety but were arguably more stigmatized and less relatable. Moreover, driver's license suspensions were more prevalent among minority drivers (Bingham et al., 2016)

who were - and remain - most at risk of getting stopped, cited, and caught in a cycle of unpaid tickets and mounting penalties (Sorin, 2020).

Driver's license suspensions are now a generic governance enforcement technique: California and states continue to use suspensions to enforce a wide range of statutes, and violations that trigger them are strewn across various government code sections. They are used as leverage for social control, such as enforcing child support payments, and they are a tool of extraction for governments seeking to raise revenues using fines and fees. The consequences of being without a driver's license are far-reaching. In most of America, our land use policies subsidize driving: unpriced highways abound, streets are wide and parking ample (Shill, 2020). As a result, driving is faster and more convenient, and other forms of travel are less convenient and potentially more dangerous (Shill, 2020). People without licenses must either make do with alternative and inferior forms of travel, or risk escalating punishments if they get caught driving without a valid license. Driver's licenses also function as a form of official identification beyond driving; when a person does not have a valid license, they face obstacles in getting to needed destinations and in accessing a range of institutions, such as banking services or certain employment and rental applications.

To redress the inequities and harmful consequences associated with driver's license policy, it is important to first diagnose the cause and scope of the problem. In the study that follows, I provide a history of the driver's license in California in order to understand both the ubiquity and eclecticism in the ways the license has been used, and how race/ethnicity and income are implicated. This study includes but extends the existing scholarship on non-driving-related suspensions beyond failure-to-pay suspensions. The historical evidence shows the emergence of

two license regimes in California: one for the Everyman and a hidden, punitive one. The findings inform ongoing policy efforts to reform harmful non-driving related suspension policies.

In the remaining sections of this introductory chapter, I discuss my research approach, including my conceptual model, research questions, and research design. I then conclude the chapter with a brief overview of the chapters that follow.

Research Approach

Conceptual Model of Barriers to Driving

Figure 1 shows my conceptual model, illustrating the ways that structural racism and income-based discrimination shape public policy, and, in turn, driver's license policy and mobility outcomes.

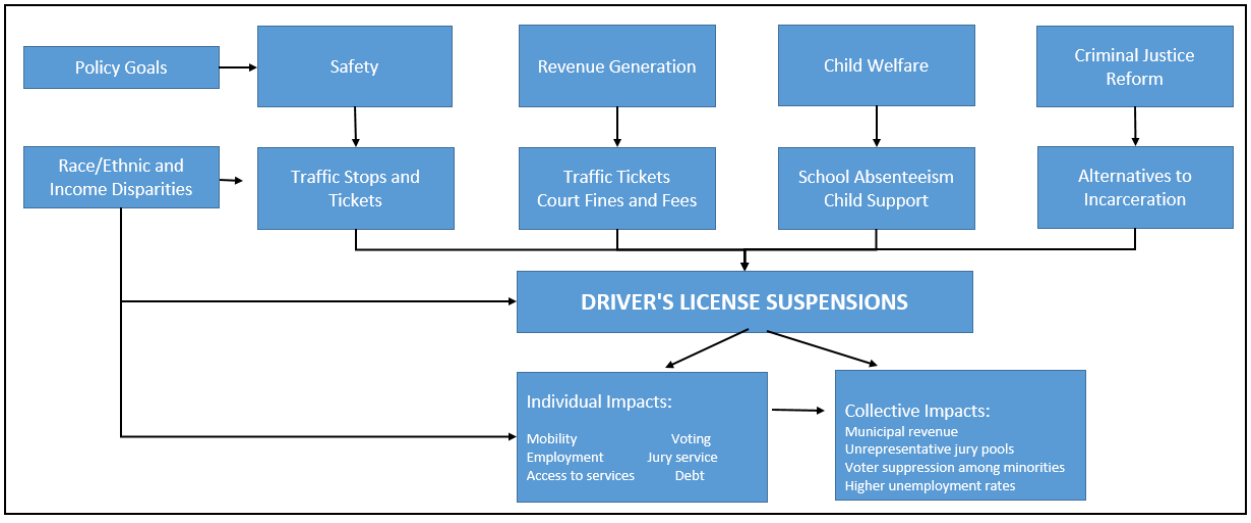


Figure 1. Conceptual Model of Barriers to Driving

At the top of the diagram are the policy areas that overlap with driver's licensure: safety, revenue generation, child welfare, and criminal justice reform. The license aims to improve road safety

by ensuring drivers pass certain driving tests and that drivers lose their license for reckless driving behavior. To generate revenue, the government turns to traffic tickets and fines, as well as fees related to licenses and license suspensions. To address child welfare, the government creates public programs to assist children, paid for, in part, through child support payments, and requires children to receive a certain amount of education. Finally, to address criminal justice reform, policymakers seek alternatives to incarceration.

The boxes below each policy goal are the ways that the driver's license links policy outcomes with racial, ethnic, and income disparities. To ensure road safety (left side of the diagram), law enforcement officers can stop vehicles for violating traffic safety laws, such as for a broken tail light. However, low-income and minority drivers are disproportionately pulled over for traffic stops (Bingham et al., 2016). Given racial profiling in law enforcement, minority and low-income drivers are more likely to be burdened by traffic tickets and traffic court fines and fees that generate revenue. Low-income and minority children show higher rates of school truancy than higher-income and White children (Maynard et al., 2017). And low-income fathers of color are more likely to face obstacles to paying child support (Walker, Reid, and Logan, 2010). Driver's license suspensions are used to coerce students to attend school, and to get noncustodial parents to pay child support. Finally, driver's license suspensions may also be considered as an alternative to incarceration in a system that disproportionately imprisons people of color (Tucker, 2017).

The resulting driver's license suspensions connect to a range of both individual and collective outcomes. These outcomes are included in the two boxes at the bottom of the figure. Individual drivers who lose their license may also experience reduced access to driving (and therefore

mobility), difficulty traveling to employment, face greater debt both due to potentially reduced employment and increasing fines and fees, and may find obstacles when a driver's license is called for as identification, such as for job, banking, or housing applications or voting. In places that cull names for jury duty using driver's license lists, people with suspended licenses may be bypassed. These individual impacts contribute to adverse collective impacts, such as unrepresentative juries, voter suppression, and higher unemployment rates. At the same time, suspensions generate revenue that goes toward the provision of government services.

Research Questions

The overarching questions that motivate my research are: How did our current license regime come to be? What policy goals did elected officials aim to address with driver's licenses? And what enabled as well as inhibited reforms to license policy?

More specifically, I examine three questions (1) How and why did public officials and traffic safety and automobile interest groups employ license policy to address road safety? (2) Which policy areas beyond road safety have public officials used license suspensions to address, and what was their intent? (3) How and when did advocates for reforming license suspensions not related to road safety find success - and pushback - in the courts and the state legislature?

Case Study Selection

From the onset, states used the license as a tool to identify and hold responsible reckless drivers, and to encourage safe driving (Barber, 1927). A so-called standardization movement in the 1920s and 1930s actively sought to make traffic regulations, including license policy, uniform across states (Vinsel, 2019). Eventually, every state adopted the driver's license, and states and

transportation organizations collaborated on license policy (Barber, 1927; FHWA, 1997). For this dissertation, I chose to focus on driver's license policy in California, at both the state and local level. While focusing on a single state might offer a distorted lens of license history, in many important respects, driver's license policy in California speaks to license policy across the United States. Massachusetts, along with some of its neighboring states in the Conference of Motor Vehicle Administrators, coordinated to develop auto regulations, including driver's licenses (Vinsel, 2019). Californian policymakers and transportation leaders, too, participated in national traffic organizations such as the National Conference on Street and Highway and the National Safety Council. Californians thus established their license policies in tandem with other states.

I focus on driver's license policy in the state of California for a number of reasons. There is something to be said for understanding the particular trajectory - the policy nuances and political debates - of transportation history in a single place. California led the way (and continues to) in many license policies. Thanks to its mild climate and road investments, California was a large and early automotive state, and Southern California, and Los Angeles in particular, proved a magnet for automobiles (*The San Francisco Examiner,* 19 November 1903, p. 8). Also, importantly, license policy is, with a few important exceptions, left to the states, not the federal government.[10] That the federal government has, with the Real ID law and child support requirements, intruded onto state license policy is notably a relatively recent development. And while license policies may be similar or even identical across states, state governments still

[10] Child support suspension policy is a rare instance in which the federal government mandates that states suspend licenses for parents in arrears, or risk losing Title IV-D funding (42 U.S.C. § 609(a)).

determine them, an artifact of the standardization movement whose members wanted to retain state-level policy control.

Tracking the license history in California alone proved a substantial archival task. Statutes and news coverage of the driver's license is something of an iceberg. What might appear straightforward and limited in scope proved much deeper and expansive than I expected. As I noted previously, the driver's license is not just a safety tool in transportation policy. Its history also relates to technology, labor movements, racial and criminal justice, mobility, public finance, voting access, immigration policy, and child welfare. That such a seemingly simple document can play an outsized role in so much of American life is extraordinary. California offered a more manageable geographical scope to hone in on the use of the license in such disparate ways.

Methodology and Data

To create a timeline of driver's license policy, I relied primarily on news articles that document debates around licensure, as well as statutes that pertained to licenses in California. Had I chosen to focus only on newspaper articles, I would likely have missed some of the more technical or less newsworthy aspects of licensure policy. I therefore also traced statutes, legal scholarship, and court cases related to the driver's license over time.

By tracking news articles related to driver's licenses, I could identify flashpoints in license history and examine the social impacts of license regulations. Newspapers include commentary on issues of discrimination, policing, and income, as they relate to driver's license policy. I continued to search for new uses of the driver's license, or new topics related to driver's licenses, until I could no longer find distinct or especially noteworthy themes to add. At that point, I

determined that I had identified the broad turning points in the history of license policy in the state.

The *Los Angeles Times* makes up much of the news coverage I analyze, both because its archives are particularly rich with material during the early auto era, and, related, because Los Angeles was a particularly automotive city in the early twentieth century. I also combed through material from the historically Black newspaper in Los Angeles, *The Sentinel,* which offered some additional context for license policy in the mid- to late-twentieth century. But to focus solely on Los Angeles would ignore other key regions in the state where license policy evolved. As the state capitol, Sacramento is where many license policies were debated and adopted, and many early wealthy automobile owners lived in the Bay Area. I, therefore, supplement articles from the *Los Angeles Times* with articles from other newspapers in California, particularly the *San Francisco Examiner.* For license history outside of California, I refer to books on early automotive history (which I cite below), and to law review articles and studies conducted outside California.

For historical newspaper articles, I referred to the Proquest historical newspaper collections, including the *Los Angeles Times* database, the *San Francisco Chronicle* database, the *Los Angeles Sentinel* database, and the California Digital Newspaper Collection, which includes California newspaper articles from 1846 to present. Each archive offers full-text search engines for search terms within news headlines and the complete text of articles.

Table 1 below lists the archives I used, the date range, and the results of each search which I then downloaded and coded. I removed classifieds, advertisements, and tables of contents from my searches. For each search, I used the terms “operator’s license” or “chauffeur's license” or

"driver's license." I downloaded the results of my search to a larger spreadsheet and organized the articles by decade. Each row included a newspaper article, with a column for the title and subtitle, URL link to the original article, an abstract (generally the first few sentences of the article), publication date, and start and end page. I added a column for the topics covered in the article and a column for a description, where - if the article proved new or useful - included additional information, such as summarizing the content, a pertinent quote, or a specific statistic. I kept a list of topics/themes which I coded articles for, including fees, fines, driving unlicensed, traffic court, aging, shaming, and due process, to name a few (see Table A1 in the Appendix for the full list). Throughout, I paid particular attention to stories and statutes that extend the driver license to non-driving policy purposes, and to debates around equity and licensure.

Table 1: Newspaper Archive Searches

Archive	*Newspaper*	*Date Range*	*Number of Results*
ProQuest Historical LA Times	*Los Angeles Times*	1886-1995	13,559
ProQuest Historical LA Times	*Los Angeles Times*	1996-2013	11,992
ProQuest LA Times	*Los Angeles Times*	2014-2022	1,055
ProQuest Historical San Francisco Chronicle	*San Francisco Chronicle*	1870-1922	103
ProQuest Historical Newspapers: California Collection	*The Californian* (2001-2012), *Daily Examiner* (1865-1889), *The Examiner* (1889-1902), *The San Francisco Examiner* (1902-2007), *Tulare Advance-Register* (2001-2007), *Visalia Times-Delta* (2001-2014)	1867-2014	46,000

ProQuest Historical Newspapers: Los Angeles Sentinel	*Los Angeles Sentinel*	1946-2005	365

I used the NexusUni database to assemble both primary legal sources around the driver's license (court cases and statutes) and secondary sources (law review articles). To understand the origins of the current license regime, I started by reviewing all statutes pertaining to driver's licenses in the California legislative database from the year 2016 that are not related to driving. I chose 2016 because it is one year prior to the first major license suspension reform. I then traced these statutes over time to identify when they were first passed in the California legislature and to analyze the "legislative history" sections of the bills to understand the initial intent as well as policy debates. Once I had a better understanding of the trajectory of license history based on a review of newspaper articles and statutes, I returned to specific license statutes and traced them forward in time. Specifically, I focused on the earliest Motor Vehicle Acts, and licensing procedures and eligibility requirements, Financial Responsibility statutes, and statutes related to failure-to-appear and failure-to-pay.

For more recent statutes (from the 1990s onwards), I used the California legislative database, LegInfo, to track license-related legislation over the past two decades, with a particular emphasis on the "Bill Analysis" section, which includes background, intent, and comments about a bill. For older statutes, I relied on both NexusUni and HeinOnline, which include older statutes and amendments.

To track when statutes regarding licenses were introduced, I used NexusUni, a full-text source that allowed me to track historic legislation, and see when a statute was introduced, determine its original intent (based on the legislative intent chapter of a statute), and identify when the statute

was amended. I used the search terms including “license” “driver(s)” “licensing” “suspension” “driver identification” and “legislative history,” to find relevant documents. Using the “shepardizing” function on the website, I could trace the origins of the law to see which statutes relate to it and whether or not the statute is still valid law. A statute will include a “History” section. For example, for the California Vehicle Code 11509, the history section reads:

Added Stats 1975 ch 1224 § 4. Amended Stats 1976 ch 619 § 2; Stats 1977 ch 99 § 1; Stats 1980 ch 608 § 6; Stats 1985 ch 1022 § 14.5; Stats 1990 ch 1563 § 30 (AB 3243).

The statute was originally written in 1975, amended in 1976, 1977, 1980, 1985, and 1990. If I wanted to access a previous version, I could search for chapter 1224 in the archive HeinOnline. HeinOnline is a similar database to NexusUni but contains digitized versions of older statutory documents.

To find some of the earliest local automobile ordinances, I combed through the Los Angeles City Archives, which offers a digitized vault of the Los Angeles City Council minutes. I searched through the files using the terms “operator’s license,” “chauffeur’s license” and “automobile license” for the years 1895 through the 1930s, but primarily searching for license articles in the early 1900s, prior to statewide requirements.

I also used NexusUni to search for disputes over the driver’s license. I first conducted a cursory review of court cases related to license suspensions and then dived more deeply into particularly relevant court cases. When I restricted the search engine to court cases within California regarding “driver license suspension,” the search yielded 4,302 results. Each result includes an overview of the case. The site also allowed me to track cases that cited a certain court case.

To better understand the legal perspectives and arguments in particularly noteworthy license cases, I analyzed court opinions, briefs from plaintiffs and defendants, and amicus curiae briefs. Some of these briefs were easily available on the California Secretary of State website. For others, particularly the earliest cases, I requested case briefs from the Los Angeles Law Library.

In addition to statutes, I analyzed law review articles, books, academic studies, and reports from legal organizations, research think tanks, universities, and political agencies such as the Legislative Analyst's Office and State Auditor to supplement and ground my primary sources (newspapers, statutes, and court cases). I primarily focused on law review articles from early legal scholars that related to early suspension cases, and referred to the footnotes for additional material. For more recent work, I relied on academic studies, legal research and government reports related to failure-to-pay, failure-to-appear, and child support delinquency suspension policies, and work on road safety and license policy. I found a handful of books on the history of transportation policy and regulation particularly influential, including (but not limited to) Lee Vinsel's *Moving Violations* (2019), Sarah Seo's *Policing the Open Road* (2019), Clay McShane's *Down the Asphalt Path* (1994), and Peter Norton's *Fighting Traffic* (2011).

I also spoke with select government administrators from the California Department of Motor Vehicles and the California State Legislature, as well as lawyers from legal aid organizations who have been working on current license policy and legal cases. Their insights on the licensing system were incredibly helpful in understanding our current licensing regime - how it works, who it hurts, how it can be reformed - and existing gaps in the research.

Finally, to provide context for the California case study, I draw on recent driver's license suspension data from the California Department of Motor Vehicles (DMV) from 2013-2019 aggregated at state level. The data are disaggregated by the reasons for the suspension, according to the California Motor Vehicle code. I focused on non-driving-related suspensions: suspensions for child support delinquency, failure-to-pay court fines and fees, and failure-to-appear in court. To identify the reason for the suspension, I relied on the California State Codes to link the statutory section in the data to the reason for suspensions.

Dissertation Overview

In the chapters that follow, I track license policy in California over time. I start at the beginning, with the first examples of licensing drivers in the state. I discuss the various policy aims officials pursued with licenses, and problems officials and drivers had establishing and adhering to license policy. This chapter offers an early history of the driver's license to explain how we came to regulate automobiles with licenses, and why licenses were the rare regulation the auto lobby actively supported. In the second chapter, I focus on what is ostensibly the primary purpose of driver's license policy: protecting public safety. This chapter explains why early auto groups tried to address traffic safety by punishing the individual driver, rather than slow the driver with uniform traffic enforcement or road or vehicle design, and whether license requirements and suspensions actually *do* affect road safety. The third chapter discusses license suspensions as a debt collection tool. Two key equity debates emerged in the 1930s: whether driving should be treated as a protected right or a mere privilege, and if suspending licenses for nonpayment discriminates against the poor. I track the evolution of suspending driver's licenses for failing to pay into the present, and argue that states today use suspensions to coerce drivers to pay for a bloating criminal justice system. In the fourth chapter, I explore how driver's license policy

morphed to punish crimes completely divorced from road safety. Suspension statutes snowballed in the context of 1990s Broken Windows-era policing, punishing crimes ranging from school truancy to graffiti to child support delinquency. I end this story of the license on a hopeful note of reform. Following political upswell for criminal justice reform after the Ferguson, Missouri uprisings, advocates found a moment of opportunity to reform license suspensions divorced from road safety. The concluding chapter rearticulates my primary argument: the more essential that driving became in American life, the more punitive discretionary and discriminatory license suspensions became. A second license regime evolved more connected with punishment and payment, rather than road safety. The Everyman was less likely to encounter this punitive license regime than a minority of drivers who, because of their income or race/ethnicity, were more likely to be policed and less able to afford to pay.

2. The Origins of the License

Licensing is a regulatory issue, one that evolved to address increasing concerns about public safety, and one that required social norms the public needed to adopt and officials enforce. I use the term regulation broadly to include all efforts to address a public problem (Vinsel, 2019). Policymakers can approach traffic safety regulation at three levels: travelers, vehicles, and the road (Goniewicz et al., 2016; Gostin, 2000). At each level, policymakers can reach for different levers to make dangerous driving more or less costly, and to make people more aware of the costs of reckless driving. The individual traveler can be taught to obey traffic rules and sanctioned - with social pressure or police power - for violating them; governments can mandate, monitor and enforce vehicle safety standards, and firms can voluntarily develop safer vehicle designs; and governments can design streets that make driving more or less costly (in time, safety, and money) relative to other ways of getting around.

In the early auto era, traffic deaths mounted and shocked the nation (Vinsel, 2019). The automobile abruptly instigated debate over who can use the street and how (Norton, 2011). The process of regulating automobiles was a messy one, with many different interests involved. Rather than allow the car to be regulated out of existence, auto interest groups collaborated to regulate driving, and the license offered a way to regulate the individual traveler. Local and state governments spun webs of traffic safety rules that varied by jurisdiction, and dangled license suspensions to punish violators. More rules on the traffic books also meant more rules that drivers could break (Seo, 2019). The enforcement system was discretionary: police officers could choose who to stop, and judges could choose whether to restrict a person's driving. Traffic violations were largely - and unevenly - unenforced, and the Everyman driver could largely get away with breaking rules and continue to keep his license.[11]

At first only the most affluent drove, and the walking public pushed back against the dangerous machine (McShane, 1994). Some car critics wanted to take away the cars of reckless drivers, and not just their licenses. But as car ownership quickly democratized[12] and everyone was at risk of causing or being victim to a collision, the driving public wanted safety regulations that could hold some reckless drivers responsible while letting most people drive freely most of the time. If the Everyman *was* caught and punished for breaking a traffic rule, a penalty like impounding their vehicle would be too harsh. Driver's licenses offered regulators a flexible policy tool that served many goals: congestion, public safety, liability, and revenue generation. License

[11] The Everyman is a term that refers to the average, law-abiding citizen, and generally evokes a white, well-to-do, respectable man (Seo, 2019). The term was commonly used in the popular discourse of the early automotive era, and can be found in advertisements, legal texts and policy discussions (Seo, 2019).

[12] See the section "Democratizing the Automobile" in the following Safety and the License Chapter for a look at historical trends in car ownership.

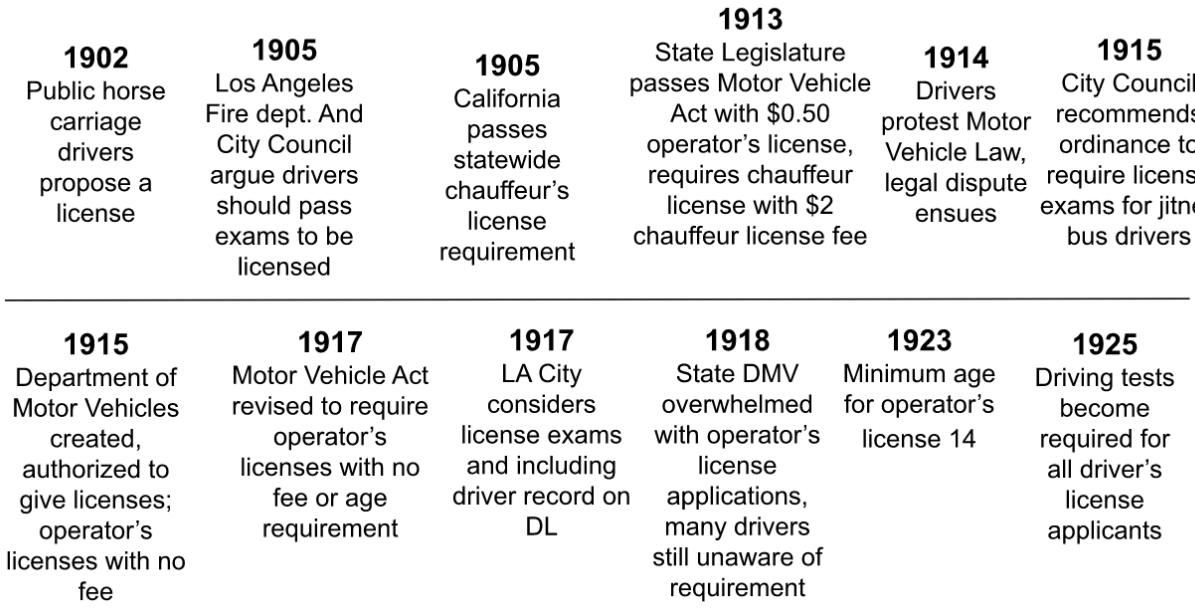
requirements added costs, in time, money, and paperwork, to driving. Those added costs could serve as a barrier for new professional drivers, tamping down competition among professional drivers and alleviating the traffic congestion they helped create. Revenue from license fees could fund the roads that these new drivers wanted built. Licenses also allowed officials a way to identify and hold reckless drivers liable, sift out dangerous drivers, and to require driving competency tests. But license requirements could only serve these purposes if drivers followed them and officials held them accountable. Social norms evolved such that adults were expected to obtain and carry driver's licenses with them, and law enforcement and public officials were expected to enforce these laws. Nevertheless, license requirements were sporadically enforced at certain times and by certain officials, oftentimes after high profile crashes.

Over time, as more people drove, the license became a universal form of identification. Because the license was so important to daily life, it offered lawmakers a powerful tool to enforce policies related to and divorced from transportation. From the early automotive era to the present day, attorneys and judges debated whether driving was a right or a privilege, and the ease by which the state could legally take away someone's license. As the historical evidence shows, under a discretionary license regime, the burden of enforcement fell on the minority driver, rather than the Everyman.

The Origins of the License: Licensing Horse Drivers and Bicyclists

For nearly the first three decades of automotive history in California, people could drive legally without having to prove they could operate a vehicle safely or that they knew the rules of the road (see Timeline 1, below). The first cars in the state appeared at the turn of the twentieth century (FHWA, 1997). Automobile registrations jumped from 780 vehicles in 1900 to over

117,000 in 1913, when California passed the Motor Vehicle Act (FHWA, 1997). The state first issued driver's licenses in 1905, but until 1917 only required them for professional drivers, after which every driver needed one to drive on public highways (Motor Vehicle Act, 1917). And only professional drivers were required to pay a license fee until 1947. California was also relatively late to weed out poor drivers with exams; it was only in 1925 when the state required potential drivers to take and pass competency tests to acquire a driver's license (see Timeline 1 below for a timeline of California's license requirements). Until then, driver's licenses served three purposes: limit competition and ensure safety standards for professional drivers; identify hit-and-run drivers for liability reasons; and generate revenue.



Timeline 1: The Early History of Driver's License Requirements

The driver's license was, at first, a business license. Governments could use their police power to require that professional drivers meet certain health and safety standards, and that they pay for their use of public utilities and the cost of regulation (Doolittle, 1915). Drivers embraced regulations insofar as they improved driving conditions, and pushed back against regulations

they found too costly (*Los Angeles Times,* 29 March 1915, p. II3). License examinations aimed to keep passengers and other road users safer (*Los Angeles Times*, 6 May 1917, p. VI6). And license fees could help pay for better roads and prevent too many drivers from entering the market and driving down profits (*Los Angeles Times,* 29 March 1915, p. II3; *Los Angeles Times,* 3 June 1917, p. VI11). But regulations were a two-sided sword. The same regulatory barriers that benefited some year-round professional drivers also increased their cost of business and priced out other drivers from the business entirely.

Some of the first license proposals in California were intended to help professional drivers retain market power, often at the expense of competing travel modes (*Los Angeles Times,* 3 June 1917, p. VI11). By requiring drivers to pay a license fee in order to get official sanction to pick and drop off passengers on public streets, some drivers were priced out of business, which enhanced the market share for those who remained. In 1901, California gave counties and cities the authority to license wheeled vehicles, including bicycles and horse carriages (DMV, "The History of the Department of Motor Vehicles"). But even before the state had officially sanctioned such efforts, local governments tried to license drivers. In 1896, the Pasadena City Council considered a measure to license public carriage, hack, and omnibus[13] drivers (*Los Angeles Times,* 24 November 1896, p. 11). The ordinance would only have applied to drivers who were paid for their services but did not drive regular routes that ran at fixed times. The ordinance also provided for lower license fees for livery stable owners (*Los Angeles Times,* 24 November 1896, p. 11). Hackmen reportedly complained that "the license scheme is backed by livery-stable keepers, who desire to keep them out of business, gain a monopoly of driving, and

[13] Omnibuses were large enclosed vehicles on wheels drawn by horses that operated on fixed routes.

keep the prices to their own figure" (*Los Angeles Times,* 11 November 1896, p. 13; *Los Angeles Times,* 21 December 1896, p. 11). The ordinance never passed, in part because hackmen (horse carriage drivers) threatened to take the matter to the courts, and in part because some City Council members anticipated the need to adopt a more general business license proposal that would apply to "everyone engaged in a business or calling" (*Los Angeles Times,* 29 December 1896, p.11; *Los Angeles Times,* 21 December 1896, p. 11). In 1902, still unlicensed, public horse carriage drivers in Pasadena proposed a driver's license for a $50 annual fee (over $1,700 in 2022). Older members of the public carriage driver's association sought licensing as a way to curb competition, as the cost "would shut out those who take hold only during the busy season, sharing the profits without being here during the dry months to share the losses" (*Los Angeles Times,* 8 February 1902, p. A5). To deter drivers from bargaining down prices during peak season, year-round drivers proposed licenses as a barrier to entry, and wanted to require license holders to stick to a fixed-fare schedule and to penalize drivers who cut rates.

Some cities supported license ordinances in the hope that pricing jitney drivers off the streets would relieve traffic congestion. From 1890 to 1900 the population in Los Angeles more than doubled, and city dwellers relied on horses to get around and for goods delivery (Morris, 2007; U.S. Census Bureau, 1900). With more horse drivers came more congestion. City councils considered some of these driver's license schemes in tandem with parking policy. In 1896, the Pasadena City Council considered an ordinance to accompany its license ordinance which required hack, omnibus, and public carriage drivers to get permission from property owners to park on the abutting street (*Los Angeles Times,* 24 November 1896, p. 11; *Los Angeles Times,* 21 December 1896, p. 11). The city considered a driver's license ordinance in 1902 that similarly accompanied a parking policy that limited where hacks, omnibuses, and public carriages were

allowed to park (*Los Angeles Times,* 8 February 1902, p. A5). The ordinance, one article described, would "make the public carriage drivers keep their places like furniture in an old maid's parlor" (*Los Angeles Times,* 8 February 1902, p. A5). But establishing credentials for who could use curb space was contentious. Limiting curb use to parking flew in the face of custom: street centers were for travelers, and the sides could be for any number of uses (Norton, 2011).

Bicyclists were influential players in these street debates, and local governments similarly tried to regulate them with licenses. Though the bicycle craze was relatively brief, cyclists helped transform streets into corridors for travel, advocating for paved roads and overturning bicycle bans (McShane, 1994). Bicycle license proposals offered another way to regulate street use by taxing bike use and using the revenue to improve roads. Bicycle licenses differed from horse carriage licenses in that they constituted a tax on property, rather than a fee to engage in a business. But policy debates around both horse driver licenses and bicycle licenses related to road use. The fights around licensing cyclists foreshadowed subsequent battles to license private automobile drivers. Cyclists opposed license measures on the grounds that they unfairly classified them differently from any other individual who was free to use the street as they pleased. "If wheels are to be licensed, is there any justification why the private equipage of every citizen on Nob Hill should not be similarly licensed!" the president of the California Associated Cycling Clubs said about a proposed bike license in San Francisco (*The Examiner*, 22 June 1895, p. 16). At a City Council meeting in Santa Ana in 1895, City Attorney Z. B. West argued that bicycles were already taxed just like other private goods sold on the market. Cities had no authority to additionally tax a person's use of a bicycle (*Los Angeles Times*, 22 November 1895, p. 13). In San Francisco, cyclists opposed bicycle licenses on similar grounds (*The Examiner*, 22 June 1895, p. 16).

This was an intermodal fight between "wheelman" and "steel road runners" - between cyclists and horse car[14] drivers. A member of the San Francisco Board of Supervisors, Joe King proposed a bicycle license in 1895 (*The Examiner*, 22 June 1895, p. 16). Cycling associations quickly organized against King's proposed ordinance. News coverage from *The Examiner* described the political battle as one "vigorously fought by the bicycle clubs. If steel road-runners are to be taxed the wheelman want private vehicles licensed" (*The Examiner*, 22 June 1895, p. 16). Cyclists disturbed horses and were exempt from paying to travel on roads. Meanwhile, horsecar and electric street railways had to pay license fees and operating and maintenance costs in exchange for the exclusive right to use rails on streets (McShane, 1994). S. C. Crittenden, a livery stable owner, argued "I have (to) pay a license upon my horses and vehicles, and why should the owner of a bicycle be exempt? The presence of so many bicycles has greatly injured my business in more ways than one… Only a short time ago a lady from Calistoga secured a horse and buggy from me to drive to the Park. While there one of the wheelman made himself conspicuous and the horse ran away, throwing the buggy and ruining the horse, both tendons in the hind legs being severed. I know of no reason why they should not pay a license" (*The Examiner*, 22 June 1895, p. 16).

The one aspect of the license on which all drivers could agree was the use of the fee money; all parties agreed that the revenue should be spent on roads. At this time, consistent organized government road maintenance programs were not yet widely in place, and roads were often in terrible condition (McShane, 1994). Cyclists interviewed about King's bicycle proposal agreed that if bicycles were to be licensed, the money should go towards streets and nothing else (*The*

[14] Horse cars were carriages drawn by horses (and guided by a driver).

Examiner, 22 June 1895, p. 16). President of the California Bicycle Club, W. O. Johnson, said he could not understand why bicycles should be treated differently from any other private vehicle; "If, however, wheels are to be licensed I do not think the owners will object to paying a small one provided the license so collected is used for the purpose of improving the streets" (*The Examiner*, 22 June 1895, p. 16). Once the state established a "motor vehicle fund" in 1913, licenses became user fees, a shift that set a precedent for later highway finance (*Los Angeles Times,* 19 January 1913, p. I9; Wachs, 2003).

Automobiles had the advantage of appearing on the streets after pedestrians had already become accustomed to streetcars and bicycles. Both bikes and streetcars traveled at faster speeds and required better roads than automobiles. Automobiles benefited from bicycle advocacy efforts to transition roadways from dirt and cobblestone to pavement with asphalt. Bicycle organizations and manufacturers in the 1890s fought bike bans and liability in tort cases (McShane, 1994). As bikes became more popular, particularly among middle- and upper-class urbanites, courts too became more favorable towards them, ruling that bicycles were ordinary carriages and bicycling a common right (McShane, 1994). Bikes and trolleys established the infrastructure and friendly regulations on which automobiles depended. They also primed the public for the possibilities of a new, high-speed, individual travel mode, one that they hoped would increase the efficiency of both person and freight travel (McShane, 1994).

The First Cars and the Chauffeur's License

By the time the State of California adopted the driver's license in 1905, they were not a new concept in the U.S. Local governments, not the state, issued the first driver's licenses. Moreover, three other states had already adopted some form of driver's license regulation before California.

In 1903, Massachusetts and Missouri required drivers of private automobiles to be licensed, while Rhode Island was the first state to require driver competency tests in 1908 (Federal Highway Administration, 1997). Proponents of licenses sought to identify drivers in collisions, ensure road safety standards, generate revenue, and in some cases limit competition among professional drivers.

With the debut of the automobile, local officials turned to a familiar tool to regulate professional drivers: the license. Licensing laws became popular in the late nineteenth century, with governments licensing all types of occupations, from health professionals like doctors and veterinarians, to horseshoers, barbers, plumbers, and morticians (Friedman, 2002). Occupational licenses helped ensure public health and safety, arguments that courts tended to be friendly towards. License requirements also offered other benefits to people already in established professions, helping them to maintain a monopoly and prevent outsiders from entering, and controlling recruitment, output, and prices (Friedman, 2002). For example, license requirements for jitneys, such as fees and insurance costs, could help year-round jitney drivers and competing transit modes, like streetcars, price out temporary drivers.

The earliest license regulations applied to a select group of elite automobile owners and their drivers. Only the most affluent could initially afford early automobiles, and these "automobile men" were accustomed to being driven by hired men (Borg, 2007). The traditional horse carriage chauffeur, who lived in the livery stable with the horses and was expected to show deference to his employer, was quickly supplanted by a more mechanically adept, typically younger, automobile chauffeur (Borg, 2007). Early driving schools for prospective chauffeurs, such as a popular school founded by the YMCA in New York in 1904, not only taught them how to drive

and maintain automobiles, but also how to behave "professionally" (Borg, 2007). In the early years of the automobile, the term "chauffeur" was generally used to describe a person hired to drive someone else, but it could be used more loosely to refer to anyone driving a motor vehicle (Vinsel, 2019). A chauffeur could be a private driver employed solely by a wealthy car owner, but it could also refer to a professional driver who picked up passengers on public thoroughfares much like a modern rideshare service.

Early chauffeurs and wealthy automobile men gained a bad reputation as speed driven, reckless maniacs who disregarded the health and safety of the greater public. The general public in the earliest years of the automobile was quite hostile to drivers, and applauded efforts to regulate them (McShane, 1994). While cars did not yet dominate the streets, drivers were quick to oppose and avoid restrictions on their automobility. Rural residents were particularly hostile to the car, which frightened their livestock, interfered with horse-and-buggy travel, and broke down and got stuck in country roads (*San Francisco Chronicle,* 6 March 1904, p. 22; Kline and Pinch 1996).

AUTOMOBILE LEGISLATION.

Should California Restrict or Invite Motor Vehicles?

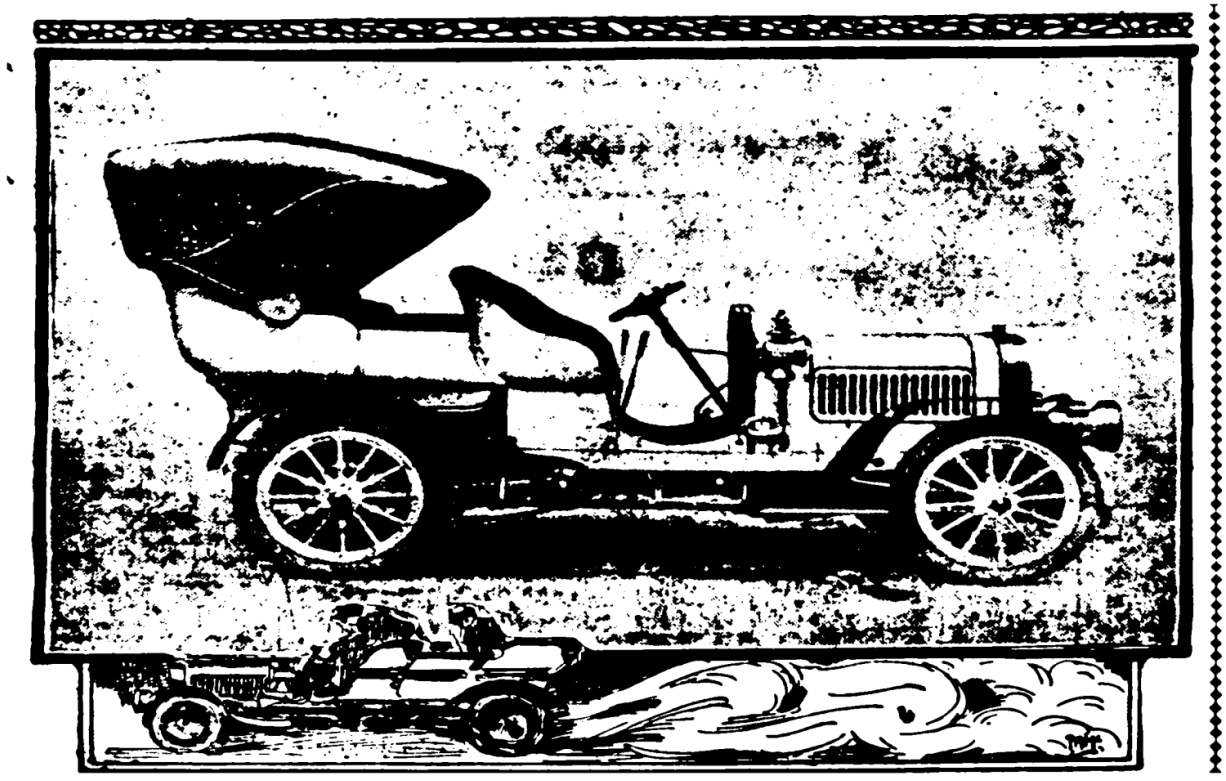
At this writing a number of counties in the most attractive and accessible regions of California, are struggling with automobile ordinances. There seems to be a decided prejudice against admitting motor vehicles of any description to passage over roads intersecting the garden spots of the State. The rural population, especially that element which is in possession of frisky or ill trained horses, is vehemently opposed to the admission of any innovation which shall increase the perils of driving along country and mountain roads. It is a matter of recent history that a few accidents, of more or less seriousness, due to horses taking fright at automobiles, have occurred throughout this big State. Most of these accidents have been the fault of the four-legged animals, sometimes with an incompetent driver as

Figure 2. "Automobile Legislation: Should California Restrict or Invite Motor Vehicles?" Source: *San Francisco Chronicle,* 6 March 1904, p. 22

Facing public pressure to address "the traffic problem" - some cities and counties adopted chauffeur's licenses before state license legislation was passed in 1905 (*San Francisco Chronicle*, 5 June 1903, p. 4; *The San Francisco Examiner*, 4 June 1902, p. 7). In Marin County in 1903, for example, the Board of Supervisors passed a series of automobile regulations, including speed limits and road restrictions, required safety features such as horns and working brakes, and a license ordinance (*San Francisco Chronicle*, 5 June 1903, p. 4). Under Marin's ordinance, the "automobilist" could get a permit if he took an oath swearing he was at least 18 years of age, a skilled driver, and had three months of continued experience (*San Francisco Chronicle*, 5 June 1903, p. 4). The President of the Auto Club of California, F. A. Hyde, pushed for a more lenient ordinance (or threatened legal action), but stated that a license would help identify and thus hold responsible drivers (*San Francisco Chronicle*, 5 June 1903, p. 4). Hyde

assured the Board that tensions between the horse and the auto were temporary. “A new era was dawning. Automobiles would soon greatly be reduced in cost and then become almost universal in use - in fact, within the income of the mechanic or laborer” (*San Francisco Chronicle*, 5 June 1903, p. 4). Hyde’s critics, however, claimed the general taxpaying public opposed the automobile, which tore up the roads they paid for and threatened life and limb (*San Francisco Chronicle*, 5 June 1903, p. 4).

AUTOMOBILE BILL BACKED BY THE CALIFORNIA CLUB



L. P. Lowe's New 45-50 H.-P. Pope-Toledo Car, Which Will Be in Commission by April 1st.

Measure Thought to Be Antagonistic to Owners' Interests Was Drawn Under Their Direction—Auto News

Figure 3. “Measure Thought to Be Antagonistic to Owners’ Interests Was Drawn Under Their Direction” Source: *San Francisco Chronicle*, 12 March 1905, p. 38

California passed its first statewide license statute in 1905, at the request of the state's Automobile Club (*San Francisco Chronicle*, 12 March 1905, p. 38). The purpose of the bill was to license chauffeurs "so as to place a liability upon them," to regulate their driving, and to distinguish chauffeurs from vehicle owners (*The San Francisco Examiner*, 19 April 1905, p. 5). Introduced by Senator Charles M. Shortridge, the statute required automobile owners to register their vehicle for a fee, and chauffeurs to register their names and addresses to the Secretary of State and pay a two-dollar fee in exchange for a chauffeur's badge (*The San Francisco Examiner*, 18 April 1905, p. 6; Chapter 612 of 1905 Statutes, p. 818-820). The Secretary of State was to turn over money from these fees to the Treasury Secretary, who funneled it directly into the state's general fund. The statute defined a chauffeur as any person operating a motor vehicle "as a mechanic, employee, or for hire" (Chapter 612 of 1905 Statutes, p. 818-820). Any registered chauffeur was required to wear an official badge conspicuously. If a vehicle owner or chauffeur violated any of the automobile-related ordinances in the statute, such as not stopping and exchanging information after a collision, then they could be subject to fines or imprisonment (Chapter 612 of 1905 Statutes).[15] The statue made no mention of license suspensions or revocations. Instead, a Judge could fine or imprison a person for violating the act's provisions, and impound a person's vehicle if they did not pay a fine (Chapter 612 of 1905 Statutes).

Who exactly qualified as a chauffeur, however, was hotly contested. Secretary of State Charles F. Curry interpreted the statute to mean that any owner who operated their own machine, including every family member (child and adult), should register as a chauffeur and wear the

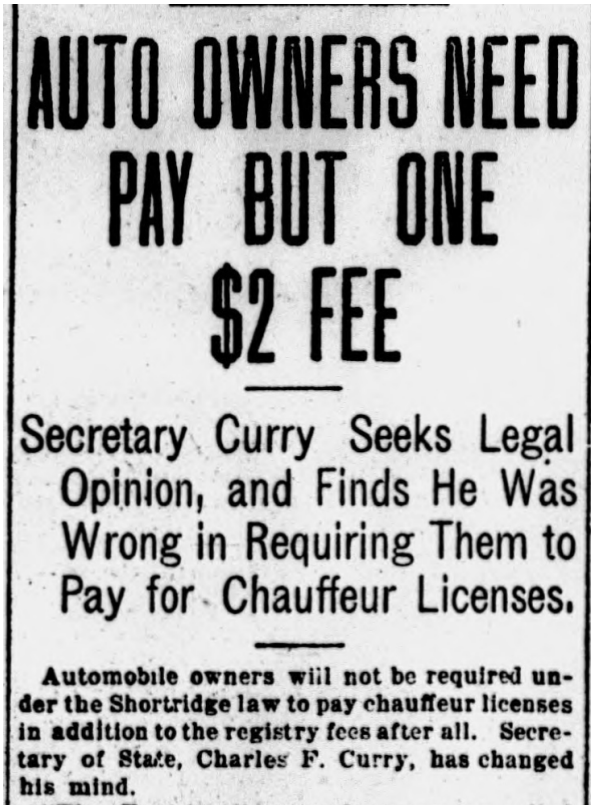
[15] The statute also specified that anyone injured in a collision, or whose property was damaged by a driver, could still prosecute a civil suit for damages (Chapter 612 of 1905 Statutes, p. 818-820).

badge to identify their role (*The San Francisco Examiner*, 18 April 1905, *Los Angeles Times, 16 April* 1905, p. I11). Much to the consternation of automobile owners, Curry instructed his office to send back vehicle registration fees that did not include a chauffeur fee (*The San Francisco Examiner*, 18 April 1905, p. 6). The irate automobile clubs immediately sent representatives to Sacramento to contest Curry's interpretation (*The San Francisco Examiner*, 18 April 1905, p. 6). Exactly one day after the *San Francisco Examiner* reported on the license kerfuffle, the Secretary sought legal advice and subsequently let automobile owners drive unlicensed (*San Francisco Chronicle, 19 April* 1905, p. 5).

CURRY STIRS WRATH OF OWNERS OF AUTOMOBILES

Secretary of State Rules That Under Shortridge Bill Each Must Pay for Chauffeur's License and Wear a Badge.

The Automobile Club of California has declared war on Secretary of State Charles F. Curry. Now, as this club includes in its membership some of the foremost citizens of the State and as Charlie Curry has aspirations for gubernatorial honors, it would be a very good idea for Curry to make peace with the owners of the hundreds of autos that ply the roads of this State.



AUTO OWNERS NEED PAY BUT ONE $2 FEE

Secretary Curry Seeks Legal Opinion, and Finds He Was Wrong in Requiring Them to Pay for Chauffeur Licenses.

Automobile owners will not be required under the Shortridge law to pay chauffeur licenses in addition to the registry fees after all. Secretary of State, Charles F. Curry, has changed his mind.

Figure 4 (left). "Curry Stirs Wrath of Owners of Automobiles" Figure 5 (right). "Auto Owners Need Pay But One $2 Fee" Sources from left to right: *The San Francisco Examiner*, 18 April 1905, p. 6; *The San Francisco Examiner*, 19 April 1905, p. 5

The office of the Secretary of State kept a registry of registered chauffeurs and vehicle owners. In the first few months after requiring drivers to register - and before Curry officially retracted the requirement that owners did not need to register as chauffeurs - 72 women registered their vehicles (making up just under three percent of the 2,475 registered vehicle owners), 44 of whom also registered as chauffeurs (*The San Francisco Examiner*, 27 June 1905, p. 14). Women drivers were rare and newsworthy, and *The San Francisco Examiner* prominently displayed their names and addresses in the paper (*The San Francisco Examiner*, 27 June 1905, p. 14). First on the list of women drivers was Miss Grace Speckels of 2080 Pacific Avenue, whose family owned four automobiles (*The San Francisco Examiner*, 27 June 1905, p. 14)). The column pointed out some of the more famous wives, such as the widow of author Robert Louis Stevenson, as well as prominent women in society, like Mrs. Georgiana Hopkins McNear, "one of the dashing belles of Menlo and she has carried all her dash into the handling of her motor" (*The San Francisco Examiner*, 27 June 1905, p. 14). The newspaper described them in flowery terms as "some of the state's most famous beauties - women whose fame is part of the state's pride - and all have the dash that comes with daring, and the health that is found in the sun and the wind…" (*The San Francisco Examiner*, 27 June 1905, p. 14).

Motoring Has Taken a Firm Hold of the Women of California.

FOUR WOMEN WHO ARE EXPERT AT HANDLING THE MOTORS THEY OWN.

MISS GRACE SPRECKELS.

MRS. FRED McNEAR.

TABER PHOTO

BUSHNELL PHOTO

MISS BESSIE HENRY.

MRS. P. E. BOWLES.

SEVENTY-TWO CARS OWNED BY THEM

Out of the musty graft of the Secretary of State's office has come a book that hints at eager, gleaming eyes; soft, but muscular hands; nerves that thrill with purpose; hair blown by the riotous breeze, and of the jump at the heart when beauty goes by upon the wind. It is the first catalogue of the motor owners and chauffeurs issued under the new law, which demands

NO WAGERING AT DELMAR TRACK

ST. LOUIS, June 26.—For the first time since the anti-betting law went into effect, on June 17th, the betting ring at the Delmar race track was deserted to-day by the members of the Central Turg Association.

Sheriff Herpel of St. Louis county took possession of the betting ring just before the horses went to the post in the first race, but only one arrest was made—Charley Celia, a member of the Central Association, who was later held under $1,000 bond to answer a charge

MUDDERS ARE WINNERS AT SEATTLE

[Special Dispatch to "The Examiner."]

SEATTLE (Wash.), June 26.—Mud horses and their backers got the money at the Meadows to-day. Rain Saturday and Sunday nights left the track heavy. Summary:

First race, three and a half furlongs, selling, maiden two-year-olds—Smiler (Logue), 7 to 10, won, place 1 to 4, out show; Rain Cloud (T. Sullivan) second, place 1, out show; Canton (Alvarado), third, out show. Time, 0:43½.

Second race, seven furlongs, selling, four-year-olds and up—Pearl Stone (W. Smith), 4, won, place 3 to 2, show 7 to 10; Bessie Welly (T. Clark), second, place 2, show 1; Lady Rice (Crosswaite), third, show 2 to 5. Time, 1:31½. Scratched, Oregon Girl, Chablis, Evermore.

Third race, six furlongs, selling, three-year-olds—Anona (W. Smith), 11 to 5, won, place 7 to 10, show 1 to 3; Indicate (Logue), second, place 3 to 5, show 1 to 3; Rice Chief (G. McLaughlin), third, show 2 to 5. Time, 1:16½. Scratched, Prince Magnet.

Fourth race, one and a sixteenth miles, selling, four-year-olds and up—Mordente (W. Smith) 5, won, place 2, show 1; Ethel Scraggs (B. Powell), second, place 3 to 2, show 3 to 4; Jingler (J. Clark), third, show 3 to 4. Time, 1:51½. Scratched, Homage.

Fifth race, six furlongs, selling, four-year-olds and up—Birdie P. (J. Clark), 7, won, place 5 to 2, show 6 to 5; Hogarth (T. Stewart), second, place 2, show 1; Harka (W. Wright), third, show 1. Time, 1:16½. Scratched, Paul E. Jones, Sir Christopher, Dusty Rhodes, J. Y. Kirby.

Sixth race, six furlongs, selling, three-year-olds and up—Lurene (Logue), 3 to 4, won, place 1 to 4, out show; Angelica (R. Butler), second, place 3, out show; Edroden W. Fitzgerald), third, out show. Time, 1:15½. Scratched, War Times, Sterling Towers.

Figure 6. "Motoring Has Taken a Firm Hold of the Women of California" Source: *The San Francisco Examiner*, 27 June 1905, p. 14.

Once the state passed license legislation, cities debated whether they could pass additional license regulations. A potential obstacle to local license efforts was state preemption, the legal doctrine that state law can nullify local ordinances. However, state legislation did not preclude local authorities from passing stricter ordinances. The automobile ordinance passed by the state legislature in 1905, for instance, stated explicitly that "nothing in this act contained shall be construed as limiting the power of local authorities to make, enforce and maintain further ordinances, rules or regulations affecting motor vehicles which are offered to the public for hire" (Chapter 612 of 1905 Statutes, p. 820). Nonetheless, local officials who wanted to more forcefully regulate driving were concerned that drivers might point to a state preemption case to block driving regulations (*Los Angeles Times,* 2 April 1905, p. II6). The courts had recently rejected the city's effort to enact a more stringent anti-boxing ordinance as the state had already passed boxing legislation (*Los Angeles Times*, 2 April 1905, p. II6). Drivers could argue that the existence of state regulations, such as speed limits for automobile drivers in incorporated cities, might prevent localities from further regulating drivers. Undeterred, Los Angeles City Council members and Fire Commissioners in 1905 sought to require all chauffeurs to pass exams "as expert engineers" and to require anyone operating a vehicle to have a license (*Los Angeles Times*, 2 April 1905, p. II6).

The biggest obstacle to stricter license regulations was not legal but political. Early auto advocates were an organized, politically connected group, who lobbied against ordinances that restricted their automobility. They did not want to go the way of the steam car, for example, vehicles that cities early on forbade outright. Cities banned steam cars because the public feared them - their speed, noise, exhaust, and potential for exploding (McShane, 1994). They banned

them not because of mechanical failures, but because they represented a break from traditional street use, and the public would not have them (McShane, 1994). The automobile had the benefit of good timing: by the time the internal combustion engine hit the streets, the public had already witnessed a range of fast-moving modes, from the steam car to the street car. Automobilists also could learn from the steam car's demise, and embrace legislation that established the right of the automobile to exist on public streets.

California residents quickly adopted the automobile: in just three years, from 1900 to 1903, the number of cars in the state jumped from 75 to 2,500, and branches of the Automobile Club dotted the state (*The San Francisco Examiner,* 19 November 1903, p. 8). "Automobilists," an article in 1903 described, were "rapidly growing and becoming a powerful factor in shaping the road legislation and in removing the prejudices of the public against the automobile itself" (*The San Francisco Examiner*, 19 November 1903, p. 8). When Los Angeles officials considered requiring license examinations for chauffeurs and licensing operators, for example, news coverage was skeptical that auto interests would accept license regulations without a fight: "The automobiles are lying low, evidently waiting for the gust of popular disapproval to pass by. Los Angeles has a world wide reputation as an ideal city for the benzine buggy, and they are of the opinion that a reversal of sentiment will soon follow the present outburst, that will enable them to secure the repeal of any unfriendly legislation adopted under the present stress of popular indignation" (*Los Angeles Times*, 2 April 1905, p. II6).

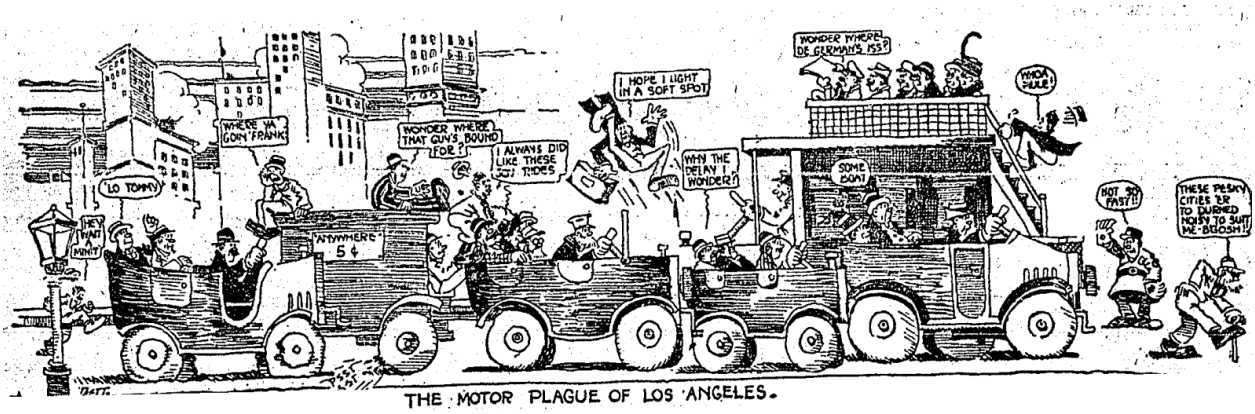
Licensing the Jitney Driver: Managing Traffic, or Limiting Competition?

Similar to the motivations among horse carriage drivers, public officials and competing travel services wanted to use license fees to limit jitney bus operations and keep dangerous drivers off

the streets. Jitneys, largely unregulated private motor vehicles, offered the public a novel, cheap and convenient way to travel "on rubber and on air," as their operators described it (Doolittle, 1915). Jitneys were particularly popular in cities with warmer climates like Los Angeles (Doolittle, 1915). For many men out of work, such as during the 1914 economic recession, jitney driving offered a new employment opportunity, particularly as the market for second-hand vehicles expanded (Novak, 2017; Doolittle, 1915). For many travelers, jitneys were a welcome alternative to streetcars, which were often crowded, uncomfortable, and slow, in part because of increased auto traffic (McShane, 1994). While jitneys provided less predictable service than fixed-route streetcar service, they transported passengers to the curb in front of their destination (Doolittle, 1915). For a time, jitneys did not face the same regulations, such as set fares and routes, as the highly regulated streetcars did. Rail companies were required to pay a range of fees and taxes that went toward both the streets, such as for street maintenance, and to the city's general coffers (Doolittle, 1915). Jitney drivers paid out of pocket to purchase and maintain their vehicles. However, they imposed costs on cities, including additional wear and tear on public streets and the loss of ridership on street railways, and, by extension, lost city revenues (Doolittle, 1915). In 1914, Mayor Rose of Los Angeles wrote to the City Council to advocate for stricter regulations for jitney buses, arguing that streetcars were obligated to benefit the public while jitney drivers could unfairly skirt various onerous liabilities (Doolittle, 1915). Among the regulations Rose proposed was a license for jitney drivers that included a fee, age minimum, physical and driving competency examination, sworn testimonial from at least two citizens regarding the driver's character, and photographs of the driver. The purpose of the license was twofold: "in order that (a) the jitney shall contribute to the common funds of the community; and (b) the casual and irresponsible driver may be eliminated" (Doolittle, 1915). Jitney advocates

argued that the underlying intent of these requirements was to regulate the jitney "out of existence" (*Los Angeles Times,* 29 March 1915, p. II3).

In a 1915 article on the economics of the jitney bus, F. W. Doolittle surveyed 40 cities in 19 US states and noted that jitney buses were a serious safety threat: "Numerous accidents resulting in injuries and death have been noted, and it is of particular interest to observe that in certain cities the earnings of the street railway show, following each accident, an immediate and perceptible increase" (Doolittle, 1915). The jitney driver's license was part of a larger early effort on the part of public officials to defend streets from automobiles, which were increasingly congesting city streets (*Los Angeles Times,* 6 December 1914, p. VII2). An article from 1915 included the opinions of various "prominent citizens" on jitney buses, many of whom argued that jitney drivers should be licensed to improve public safety and to pay their fair share for using the streets (*Los Angeles Times,* 5 January 1915, p. II1). Judges, juries, and law enforcement tended to side with pedestrians, a majority that was long accustomed to using streets as they wished and were now vulnerable to getting struck by drivers (Norton, 2011).



THE JITNEY BUS MOTOR PLAGUE.

Los Angeles has Many Machines in Service on Streets Carrying Passengers which Tie up Traffic and Worry Drivers of Private Automobiles in the Business Section.

Figure 7. "The Jitney Bus Motor Plague" Source: *Los Angeles Times* 6 December 1914, p. VII2.

Cities began to license professional drivers at the same time that motoring interests, rail companies, public officials, and pedestrians were fighting over who had the right to the streets (McShane, 1994). Auto interests in the 1910s and 1920s wanted to reconstruct streets as spaces for travel, where motorists could exercise their individual right to travel quickly on public roadways. Early motor advocates were largely part of the social elite rather than the general public, and auto groups allied with city planners in their push to redefine streets as a space for cars (Norton, 2011). Motor advocates needed to tow a line, however, between embracing regulation that constrained automobility and redefining streets to make driving easier. If cars were too dangerous and public opposition too strong, private automobiles might also be regulated out of existence. As the *Los Angeles Times* editorialized in 1916, drivers should be examined before getting a license to drive, and could lose their license for reckless driving; "Such a law as suggested would doubtless be welcomed by automobile men. The interest of the manufacturer of automobiles is to make motor driving safe. It is to his interest to have his cars driven by people who will not break them up, but who will achieve for them a record for safety

and good behavior. The worst enemy of the automobile trade is the fool who runs wild at the steering wheel" (*Los Angeles Times,* 7 December 1916, p. II4).


Ask Protection.

AUTO CLUB WANTS "JITS" REGULATED.

Figure 8. "Auto Club Wants "Jits" Regulated" Source: *Los Angeles Times,* 3 June 1917, p. VI11.

Early automobile owners distinguished themselves from jitney drivers, making sure license policies differentiated between operators and chauffeurs. Unlike affluent auto enthusiasts, jitney drivers tended to be members of the working class, either offering jitney services as part of their own commute or as a way to supplement their income while looking for work (McShane, 1994). In addition to safety concerns, cars added congestion, and private auto owners alongside transit and taxi companies had to vie for street space with jitney drivers (McShane, 1994). City residents increasingly purchased and drove cars prompting the first use of the term "traffic jam" in 1910 (McShane, 1994). Auto clubs pushed for regulations such as licenses alongside transit and taxi companies, all of whom stood to benefit from fewer automobiles on the streets. In 1917, for example, the Auto Club of Southern California endorsed "Measure Number Four," an ordinance to regulate jitneys with permits and zone restrictions (*Los Angeles Times*, 3 June 1917, p. VI11). Jitneys needed to be reined in with regulations, the Auto Club argued, since they created congestion in the business district, "menacing life and property" (*Los Angeles Times*, 3 June 1917, p. VI11). License fees, insurance costs, and fixed route and scheduling requirements added costs and rigidity to the jitney trade (McShane, 1994). And to everyone's chagrin, once cities largely priced jitneys out of the market, the "traffic problem" remained.

Standardization

Complicating license policymaking was a feature typical of early automobile regulation: the sheer number of private, public, and commercial actors involved in legislative reforms, and the various ways each group sought to regulate the car (Vinsel, 2019). I use the term regulation broadly to include all efforts to address a public problem. Government action, such as legislation and codes, as well as private efforts at public education and technological innovation, fall under this broad use of the term regulation. Alarmed by motor vehicle deaths, citizen groups, professional and engineering societies, and auto industries such as insurance companies and auto manufacturers, wanted to improve road safety by regularizing, or standardizing, auto technology and rules (Vinsel, 2019). In 1916, Los Angeles Chief of Police Butler described how "the public who use the highways have awakened to the fact that a great number of these accidents are absolutely unnecessary and avoidable, and are forming safety-first societies and clubs all over the United States. They are sending lecturers to the schools; they are taking motion pictures, showing the dangers of street traffic accidents, and how to avoid them; they are holding meetings, to which officials are invited, to discuss with the organizations methods of accident prevention, and never fail to impress upon the officials their sincerity in their desire to be of service to the community in the suppression of this needless waste" (Butler, *Los Angeles Times,* 13 August 1916, p. II10).

Early on, automobile interest groups as well as law enforcement in Los Angeles participated in state legislative efforts to license and test drivers. State-level reform was key as drivers had to contend with different rules and regulations each time they crossed jurisdictions. Unclear rights-of-way at an intersection, for example, could prove disastrous; a 1921 article describes how "when two cars meet at an intersection the driver with the most nerve and bravado takes the right

of way, there being no very clear law of the road" (Tompkins, *Los Angeles Times*, 17 April 1921, p. II4). The president of a tourism association, Jonathan Hooper, supported a uniform traffic code for all of California at a state-wide traffic conference in 1926 (*Los Angeles Times,* 17 July 1926, p. 5). When visitors came to enjoy "the wonders of our climate," they could be met with fines in every town, each of which had its own set of traffic rules (*Los Angeles Times*, 17 July 1926, p. 5).

Local driving regulations would not only have confused drivers, but also have made enforcement more difficult. An article from 1912 reported on Los Angeles Chief of Police C. E. Sebastian, who, with support from the Automobile Club of Southern California, pushed for internationally uniform traffic regulations, additional traffic enforcement officers, as well as a driver's license system. Sebastian considered licenses and license suspensions for reckless driving a more effective way to prevent accidents than the existing system of state-wide speed limits (*Los Angeles Times,* 4 August 1912, p. VII4). Vinsel (2019) describes the period of the 1920s as one in which the conversation around auto safety reform became a national movement, whose members tried to reduce safety risks by standardizing the physical components of the vehicle (such as with brakes and headlights), the road (with signs, signals, construction), and drivers themselves (with traffic rules, driver's license exams, education courses, and psychological and vision tests).

Inconsistent traffic rules were, if anything, an example of how not to regulate travel. When California sought to license plane pilots in 1928, the assistant Secretary of Commerce, William P. MacCracken Jr. wanted to sidestep the regulatory mayhem that people faced driving across jurisdictions. Regulations should be "uniform and simple. Too many automobile accidents are

caused by drivers of one city finding different rules to obey in other cities" (*Los Angeles Times,* 8 August 1928, p. 8).

License requirements were, and remain, a patchwork of policies across the country, as each state addressed licensing differently. Drivers in South Dakota, for example, did not need a license until 1954, and did not have to take a driving exam until 1959 (FHWA, 1997). That licenses would remain under the jurisdiction of states was not a foregone conclusion. Representative Wanger of Pennsylvania introduced a federal automobile driver's license bill in 1911 (*Los Angeles Times,* 28 February 1911, p. III1). The measure created a license for driver's in addition to existing local licenses that would exempt travelers from the license requirements in the state through which they were driving (*Los Angeles Times*, 28 February 1911, p. III1). Twenty years later, at the 1936 annual American Road Builders' Association convention, 35 large American cities facing "a hopeless entanglement of regulations" unanimously supported federal overhaul of traffic policy (*Los Angeles Times,* 25 January 1936, p. 12). The Association wanted a federally-enforced driver's license, federally-enforced uniform traffic regulations, and a constitutional amendment to enable those changes (*Los Angeles Times*, 25 January 1936, p. 12).


UNIFORM TRAFFIC CODE FOR CALIFORNIA CITIES URGED

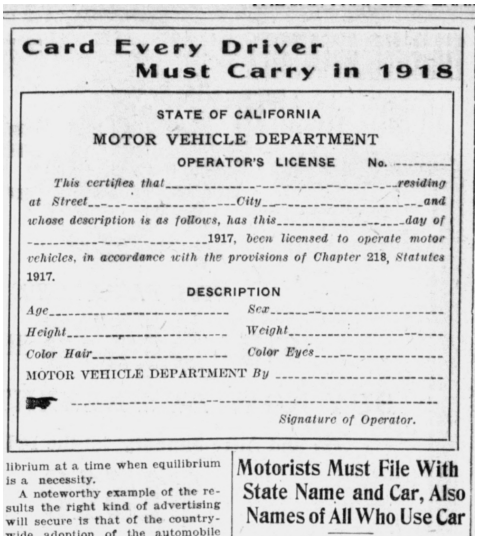
Problem Taken Up at State-Wide Conference in San Francisco; Los Angeles Plan Lauded

Figure 9. "Uniform Traffic Code for California Cities Urged" Source: *Los Angeles Times*, 17 July 1926, p. 5.

While license policy remained a state matter, state governments and motor advocates participated in voluntary efforts to standardize license policies across state boundaries. Which policies should be made the standard, though, was an important question that nationwide associations and conferences tried to address. California revised its driver's license provisions of the Motor Vehicle Act and adopted competency tests in 1925, a year before the National Conference on Street and Highway issued its Uniform Vehicle Code (Norton, 2011). Massachusetts set one of the strictest standards for automobile policy, and other states followed its example, including California. In 1921 motor vehicle departments in seven eastern states established the Conference of Motor Vehicle Administrators to create uniform auto regulations (Vinsel, 2019).

Commissioners typically had experience in tax collection - such as motor vehicle registration fees - and so they looked to other experts for safety and risk policies (Vinsel, 2019). Massachusetts and Missouri first adopted state-wide license requirements in 1903, and in 1907 Massachusetts required the first driver's examinations for chauffeurs (FHWA, 1997). The National Safety Council, along with various state motor vehicle commissioners, engaged in a nationwide effort to standardize driver's license policy in order to reduce automobile accidents (*Los Angeles Times,* 9 November 1924, p. G9). By 1924, a group of northeastern states had updated their laws to include uniform license exams, applications, and rules that triggered license revocations, as recommended by the National Conference on Street and Highway Safety (*Los Angeles Times*, 9 November 1924, p. G9; Barber, *Los Angeles Times*, 5 April 1931, p. E1). Robbins Stoekel, the motor vehicle commissioner of one of these states, Connecticut, predicted in 1924 that it would not be long before a driver who was refused a license in one state would be refused a license in all other states (*Los Angeles Times,* 9 November 1924, p. G9).

A New Form of Identification



Card Every Driver Must Carry in 1918

STATE OF CALIFORNIA
MOTOR VEHICLE DEPARTMENT
OPERATOR'S LICENSE No. ____

This certifies that _____ residing at Street _____ City _____ and whose description is as follows, has this _____ day of _____ 1917, been licensed to operate motor vehicles, in accordance with the provisions of Chapter 218, Statutes 1917.

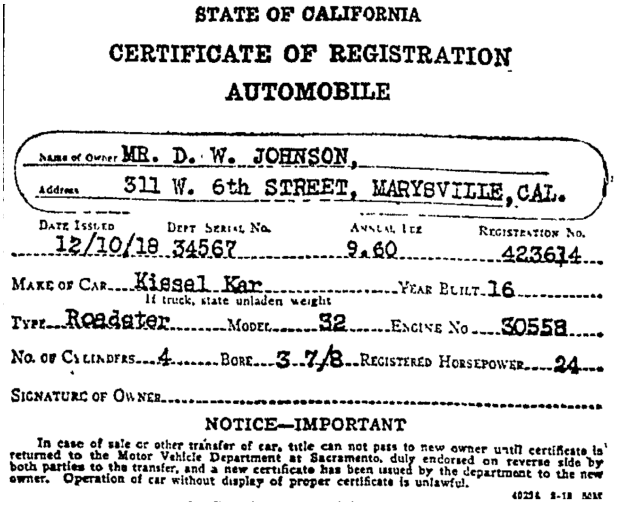
DESCRIPTION

Age _____ Sex _____
Height _____ Weight _____
Color Hair _____ Color Eyes _____
MOTOR VEHICLE DEPARTMENT By _____

_____
Signature of Operator.

librium at a time when equilibrium is a necessity.
A noteworthy example of the results the right kind of advertising will secure is that of the country-wide adoption of the automobile

Motorists Must File With State Name and Car, Also Names of All Who Use Car



STATE OF CALIFORNIA
CERTIFICATE OF REGISTRATION
AUTOMOBILE

Name of Owner MR. D. W. JOHNSON,
Address 311 W. 6th STREET, MARYSVILLE, CAL.

Date Issued	Dept Serial No.	Annual Fee	Registration No.
12/10/18	34567	9.60	423614

Make of Car Kissel Kar Year Built 16
If truck, state unladen weight
Type Roadster Model 32 Engine No 30558
No. of Cylinders 4 Bore 3 7/8 Registered Horsepower 24
Signature of Owner _____

NOTICE—IMPORTANT

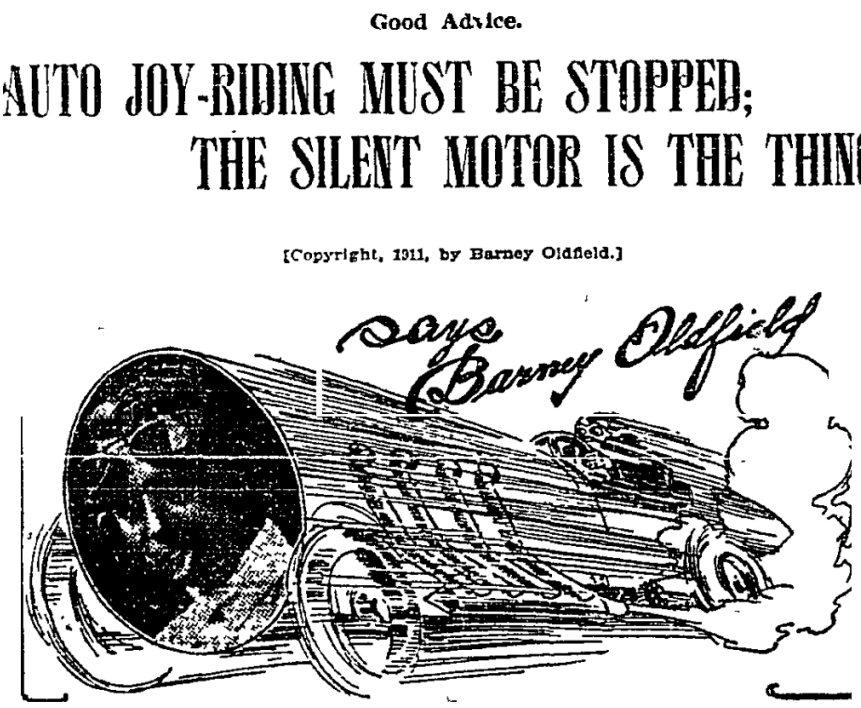
In case of sale or other transfer of car, title can not pass to new owner until certificate is returned to the Motor Vehicle Department at Sacramento, duly endorsed on reverse side by both parties to the transfer, and a new certificate has been issued by the department to the new owner. Operation of car without display of proper certificate is unlawful.

Figure 10. (left) "Card Every Driver Must Carry in 1918" Figure 11. (right) "State of California Certificate of Registration Automobile" Sources (left to right): *The San Francisco Examiner,* 16 December 1917, p. 45; *Los Angeles Times,* 15 December 1918, p. VI1

In 1905 California began to require vehicle owners to register their cars with the state and professional drivers to register and pay for a chauffeur's license (Act to Regulate Motor Vehicles, California Statute 1905). However, law enforcement still faced the problem of not being able to identify dangerous drivers, and if a suspect fled the scene, investigators had only vehicle records to go off. It was common for newspapers to run hit-and-run stories where law enforcement later identified the official owner of a vehicle involved in a collision, but could not determine the guilty driver. An article titled "Chauffeur Skips Out" in 1912, for example, asked readers for leads on a driver who had struck 14-year old paperboy Joe Peters and fled without reporting the incident to the police or offering to take the victim to the hospital, as he was legally required to do (*Los Angeles Times,* 4 September 1912, p. I16). The article lists the vehicle license plate number and the name and residence of the person to which it was registered, and states that in the past month parties involved in over thirty accidents in Los Angeles City had yet to report to the police (*Los Angeles Times*, 4 September 1912, p. I16). Identifying hit-and-run drivers was

particularly tricky if the driver in question was using a stolen, borrowed, or second-hand vehicle. A 1914 article listed the license plate number of a car that an "ungallant man" had crashed into an excavation site and abandoned his injured companion (*Los Angeles Times,* 23 January 1914, p.II6). The car was second-hand, and while detectives were able to locate its most recent owner, the man's vehicle license number did not match that of the car in the collision (*Los Angeles Times*, 23 January 1914, p.II6). In a 1911 opinion article on the hazards of reckless speeding, professional car racer and auto safety advocate Barney Oldfield wrote: "The officials of the law have at least realized that it is often difficult and more often impossible to identify the car or driver responsible for running down pedestrians, other cars, and horse-drawn vehicles" (Oldfield, *Los Angeles Times*, 30 June 1911, p. III4).

All too often, drivers would flee the scene and victims would be left without much recourse. A 1912 article, for example, describes a hit-and-run incident which left a 14-year-old newsboy injured (*Los Angeles Times*, 4 September 1912, p. I16). The police were "prepared to take drastic action against motor-driven vehicles who lately seem to have grown lax in the matter of reporting accidents" (*Los Angeles Times*, 4 September 1912, p. I16). In the previous month, the paper reported that in none of the over thirty accidents in the city of Los Angeles did the driver come forward to the authorities (*Los Angeles Times*, 4 September 1912, p. I16).


Good Advice.

AUTO JOY-RIDING MUST BE STOPPED;
THE SILENT MOTOR IS THE THING.

[Copyright, 1911, by Barney Oldfield.]

Says Barney Oldfield

Figure 12. "Auto Joy-Riding Must be Stopped; The Silent Motor is the Thing" Source: *Los Angeles Times*, 30 June 1911, p. III4.

Punishment was not the only reason to identify drivers involved in collisions. As traffic accidents became increasingly commonplace, liability emerged as another critical issue. Hospitals were suddenly inundated with car crash injuries. So much so, that hospitals and ambulatory corps, such as the Los Angeles Receiving Hospital, needed to expand to accommodate these cases. In Los Angeles' Receiving Hospital, the city's first public hospital to offer emergency care, over 9,000 of 12,000 cases in 1915 were traffic-related, and nearly all auto-related (*Los Angeles Public Library Photo Collection,* 1957; *Los Angeles Times,* 6 October 1915, p. II3). The financial cost of expanding medical care for traffic accidents was "enormous," according to the Police Commission (*Los Angeles Times*, 6 October 1915, p. II3). To better identify hit-and-run drivers, the police commission recommended that auto mechanics be required to report to the police when they worked on a damaged vehicle (*Los Angeles Times*, 6 October 1915, p. II3).

In 1913 Los Angeles City Councilman Betkouski proposed "a remedy for the auto-accident situation" which would require every driver to pay a fee to have his name registered and receive a certificate in order to drive legally in the city (*Los Angeles Times,* 15 December 1913, p. II1). The news coverage of the proposal made clear that the driver's license requirement would apply to every family member who drove the vehicle, not just the vehicle owner, and that anyone caught driving without a license could face arrest, and anyone convicted of reckless driving could lose their driver's license. Though the journalist stated the proposal would doubtless be controversial as its sweeping provisions "touches every man, woman or child who touches a steering wheel of an automobile," he considered it less drastic than ordinances in jurisdictions outside Los Angeles that enabled law enforcement to confiscate a reckless driver's car (*Los Angeles Times*, 15 December 1913, p. II1). At the time in Los Angeles, police could only identify the owner of the vehicle based on the vehicle registration number. Betkouski tried to identify reckless drivers, rather than just their vehicles, and to revoke their driving privileges accordingly.

Charging for the License: User Fee or Just Another Tax?

As I note above, early on, California subjected only professional drivers to a license fee, and then subsequently required licensing to register and identify the general driving public. The state began to require driver's licenses for chauffeurs in 1905, and - on paper, at least - required all operators to be licensed under the 1913 Motor Vehicle Act.[16] The 1913 Motor Vehicle Act also

[16] The 1913 Motor Vehicle Act explicitly repealed the 1905 act regulating motor vehicles, and any provisions that were the same as the provisions in the 1905 were considered continuations of the previous act, not new enactments (Motor Vehicle Act Sections 40-41, 1913, p. 656 of the Statutes and Amendments to California Codes 1913).

included provisions for operators' licenses for a $0.50 fee ($15 today), but were not enforced in practice. A 1917 *Los Angeles Times* article described the first operator's license as "almost a dead letter" (*Los Angeles Times,* 18 February 1917, p. VI2). "It is a part of the law now that each driver must have an operator's license, but this feature has not been generally observed," a state official stated (*San Francisco Chronicle,* 16 December 1917, p.45). The Motor Vehicle Act established the Motor Vehicle Code, a set of regulations around the use and ownership of automobiles, including a vehicle registration and registration fee system, and chauffeur license requirements. The law required professional drivers to pay a $2 fee (approximately $60 today), fill out an application that included their name, address, their photograph, and some physical characteristics, and wear a chauffeur badge (*Los Angeles Times*, 1 April 1913, p. I3). The revenue went toward the Motor Vehicle Fund, a fund used to repair and maintain state highways and county roads (*Mariposa Gazette*, 7 March 1914, p. 2; *Los Angeles Times,* 19 January 1913, p. I9). State legislators continued to revise the Motor Vehicle Act, updating it every few years within the first decade of its inception to eventually include a license requirement for all drivers, age minimums for drivers, examination requirements, and a range of other license-related regulations, such as reasons for getting a license suspended or revoked.

In 1917, the state extended its license requirement in earnest to all drivers, with no fee or minimum age requirement for the operator's license. The DMV mailed vehicle owners blank applications and asked them to return them to Sacramento (*San Francisco Chronicle,* 16 December 1917, p. 48). Still, many drivers remained unaware of this new requirement, or mistakenly sent a license fee along with their application, or incorrectly thought they needed to renew their license (renewal requirements did not begin until 1927) (*Los Angeles Times,* 21 July 1929; *The San Francisco Examiner,* 8 December 1918, p. 43). Some drivers found the language

in the legislation confusing; “even ‘dyed at the bar’; court experts admit that the Vehicle Act furnishes material for much cud chewing and deep cogitation,” one article from 1918 explains (*Los Angeles Times,*15 December 1918, p. VI1). The Motor Vehicle Act still differentiated operators from chauffeurs (who still had to pay a fee). Who counted as a chauffeur was also up for debate. For example, the DMV superintendent had to clarify that students driving other students to school did not require chauffeur licenses so long as the driver did not receive “direct compensation” (*Los Angeles Times*, 29 December 1919, p. I1). Neighboring families often pooled funds to maintain a vehicle that a student would use to carpool to school (*Los Angeles Times*, 29 December 1919, p. I1). Despite confusion around license requirements, the DMV was overwhelmed by its first round of applications (*Los Angeles Times*, 15 December 1918, VI1). Facing a wartime labor shortage and with no operator’s fee to cover costs, the DMV could issue licenses only as quickly as their constrained staff of typists were able to process them (*The San Francisco Examiner,* 10 March 1918, p. 42).

Figure 13. "Applications Swamp the License Bureau" Source: *Los Angeles Times,* 27 January 1918, p. VI1

One source of contention during this legislative process was whether to collect a license fee from operators, not just chauffeurs. The revenue would address budget shortfalls at the California Department of Motor Vehicles (DMV), and could fund uniformed traffic officers who would enforce the many provisions of the Motor Vehicle Act, a demand supported by law enforcement and auto interest groups (*Los Angeles Times,* 18 February 1917, p. VI2). One article stated that auto clubs were of the "almost unanimous consensus of opinion" that an operator's license fee was necessary (*Los Angeles Times*, 18 February 1917, p. VI2). The California State Automobile Association proposed a $0.50 fee for operator's licenses (approximately $12.50 today), which, after paying for the administrative cost of issuing the license, would go toward a traffic inspector force. "This feature of the bill was very thoroughly discussed, and it was the almost unanimous

consensus of opinion that, in view of the purpose to which the money is to be put, the nominal charge of fifty cents a year will meet with practically no opposition from the motorists of the state. It is not as though the money were to be used for general state purposes. It is true that in some families five or six different people operate the family machine, but even in such cases the inestimable advantage gained in the way of safeguarding our highways will instantly overcome the impulsive protest of any motor-car owner" (*Los Angeles Times*, 18 February 1917, p. VI2). As I note above, while the 1913 Motor Vehicle Act included an annual $0.50 operator's license fee, in practice operator's license requirements were not enforced, and the fee was not included in the next iteration of the Motor Vehicle Act in 1915 (*Los Angeles Times*, 1 April 1913, p. I3).

Immediately after the Motor Vehicle Act was passed in 1913, drivers challenged it in the courts. Over 45,000 members of the Auto Club of Southern California submitted notes of protest alongside their license and vehicle registration applications once they were legally required to comply with the Act (*Los Angeles Times,* 1 January 1914, p. III4). Automotive interest groups challenged the constitutionality of the Motor Vehicle Act on various grounds.[17] Charles Stork, a professional but unlicensed chauffeur, challenged the driver's license fee requirement on the grounds that requiring chauffeurs to get a license and to pay a license fee, while operators were exempt from such requirements, was an arbitrary distinction (*Los Angeles Times,* 25 February 1914, p. I1). Justice Henshaw, in his decision, argued that the distinction was valid, as chauffeurs offer their services to the general public, which is entitled to protections by the Legislature. Henshaw also argued that it was up to the Legislature, not the courts, to determine whether

[17] Some legal claims filed against the 1913 Motor Vehicle Act included that the vehicle registration fee was an unconstitutional tax for the benefit of counties and not cities, that the Act did not provide for cities to pass their own ordinances, that charging different rates based on a vehicle's horse power violated due process, and that collecting additional taxes on dealers with more than five vehicles constituted illegal discrimination (*Los Angeles Times,* 25 February 1914, p. I1).

licensing drivers addressed a public safety concern (*Los Angeles Times*, 25 February 1914, p. I1). In his decision, Henshaw wrote: "that the occupation of a chauffeur is one calling for regulation and therefore permitting a regulatory license fee is beyond question. When the calling or profession or business is attended with danger or requires a certain degree of scientific knowledge upon which others must rely, then legislation properly steps in and imposes conditions upon its exercise. That the occupation of a chauffeur is of this character may not be questioned" (*Los Angeles Times*, 25 February 1914, p. I1).

Yet drivers continued to get operator's licenses free of charge for several years. Public officials may have had an easier time requiring fees for a chauffeur's license, since it functioned to regulate a business akin to other existing professional licenses. An operator's license was distinct in that it regulated private citizen's travel, and motorists at the time were fighting to claim road use as an issue of political and market freedom (Norton, 2011). Law makers, auto interest groups, and the DMV, however, continued to advocate for operator's license fees. The chairman of the DMV's committee on administration recommended charging an operator's license fee to pay for additional state traffic inspectors (*The San Francisco Examiner,* 2 January 1921, p. 43). In 1921, Assemblymember Spence proposed a bill to establish a "transfer and operator's license fund" that would be made up of operator's and chauffeur's license fees as well as fees from transferring licenses, half of which would go to the DMV and the rest to a county road fund (*San Francisco Examiner*, 2 January 1921, p. 43). Yet twenty years would pass without an operator's license fee. The Highway Patrolmen urged the state to charge one dollar per driver's license in 1926 (*Los Angeles Times,* 12 November 1926, p. A10). A few years later, in 1931, the Chief Deputy of the State Department of Finance again proposed a $1 operator's license fee every two years (nearly $19 in 2022) that would pay for additional highway patrolmen (*Los Angeles Times,*

30 April 1931, p. A10). His proposal was immediately and "strongly opposed by organized motordom," particularly the Automobile Club of Southern California and the California State Automobile Association (Jones, *Los Angeles Times*, 2 May 1931, p. A10). In contrast, in 1932 the Los Angeles Citizens' Traffic Safety Committee advocated for a more stringent license application process, including a $0.50 fee ($10 in 2022) to cover the administrative costs (*Los Angeles Times*, 8 September 1932, p. A1). But in 1935 drivers still paid no fee for an operator's license (*Los Angeles Times*, 1 September 1935, p. D4). In 1946, the DMV again recommended charging for driver's licenses and using the revenue to finance more thorough driver's license examinations, thereby reducing accidents (*Los Angeles Times*, 12 September 1946, p. 1; Hanson, *Los Angeles Times*, 11 June 1947, p. 1). Only in 1947, thirty years after the state first required operator's licenses, did it begin to charge for them (Hanson, *Los Angeles Times*, 11 June 1947, p. 1). As part of the Collier-Burns highway bill, drivers were required to pay $2 for a four-year license ($27 in 2022), down from earlier iterations of the bill that ranged from up to $5 for three years (nearly $70 in 2022) (Hanson, 21 May 1947, p. 1).

In addition to an identity document, the chauffeur's license, and later the operator's license, was a form of user fee. Drivers demanded more paved routes, and the sheer number of cars wore down roads quickly. In support of automobile license legislation, in 1913 highway commissioners opined that it was "evident that the 90,000 automobiles of the state, which require better and more costly roads than other traffic, should bear part of the additional burden of construction and upkeep" (*Los Angeles Times,* 19 January 1913, p. I9). Until the 1930s, urban streets were primarily funded by property taxes and special assessment districts that taxed property owners near street improvement projects (Taylor, 2000). With the Great Depression, property tax and special assessment revenues steeply declined, and cities successfully pushed the

state legislature to pay for state highways that ran through cities using the state gas tax, which had remained stable even through the Depression (Taylor, 2000). By the 1940s, in order to fund the Interstate Highway System, the states and federal government increasingly relied on highway user fees, particularly the gas tax (Taylor, 2000). But while auto interests supported building and maintaining roads to accommodate driving, charging drivers continued to be an uphill battle (*Los Angeles Times,* 30 April 1931, p. A10). Drivers were accustomed to free driver's licenses, and already felt they were paying enough to drive, shelling out for vehicle registration fees, gasoline taxes, and automobile insurance. Auto interests and legislators punted the burden of paying for new highways as they drafted the 1947 Collier-Burns highway bill, which first charged drivers for operator's licenses (Hanson, *Los Angeles Times,* 22 June 1947 p. 1). In discussing the different groups at odds over how to finance highways, one article describes that each "insists his opposition must not be construed as meaning he is opposed to an adequate highway program. But when all points are added up, they don't produce much in the way of financing the highway program, the proponents of the bill insist" (Hanson, *Los Angeles Times,* 7 April 1947, p. 2).

One reason that auto interest groups argued against license fees was that the funds would not actually benefit drivers, a quickly growing population. For most of auto history in the 20th century, Americans paid for local roads with property taxes and highways with fuel taxes[18]

[18]California implemented its first gas tax in 1923 to finance direly needed road repairs and to expand an increasingly used highway network, for which existing revenue streams from property and corporate taxes were insufficient (Brown et al., 2016). At the time, policymakers were not necessarily focused on the concept of using user-fees to fund transportation; rather, they saw an opportunity in the fuel tax to generate revenue that rose with increasing auto ownership and use. The success of the fuel tax as a reliable way to fund transportation established a pay-as-you-go system for transportation finance in the US for much of the 20th century. Throughout the twentieth century, during periodic budget shortfalls, earmarked funds, such as highway trust fund monies, were diverted to other uses, which later led to increased budgetary pressures on state resources to pay transportation bond debt (Brown et al., 2016). In response to the government's repeated violations of the user fee system promised by fuel taxes and transportation-dedicated trust funds where the revenues were deposited, voters and legislators, beginning

(Brown, Garrett, and Wachs, 2016). In both cases, the users who most benefited were, in theory, the ones who paid most (Sorensen and Taylor, 2006). During periodic budget crises, the state legislature diverted money earmarked for the motor vehicle fund toward general fund purposes, frustrating drivers (Boarnet, 2014). From 1932 to 1935, more than $300 million in gasoline-tax and motor-vehicle revenues (over $6.5 billion in 2022) went towards general purposes, and nationally, from 1927 to 1933, diversions increased by 600 percent (*Los Angeles Times,* 6 January 1935, p. E8). In a 1929 letter-to-the-editor, a reader responded favorably to columnist Harry Carr's frustration with the DMV, which required rote license examinations regardless of a person's driving record, and turned out new license cards "like shingle nails" (Carr, *Los Angeles Times, 29 July* 1929, p. A1). The reader argued that motorists' money was now unnecessarily being diverted to these requirements, and that law enforcement should only examine drivers who have a history of violations (Sanford, *Los Angeles Times,* 23 July 1929, p. A4). License exams and renewals were "just another way to divert the motorists' tax money into channels not intended when levied. And if the people do not wake up to this insolence they will find that in addition to the burdensome auto taxes they now pay - several millions more will be added when they apply for their next driver's license and find that it costs - … maybe $2, or as much as the taxeaters think the motorists will stand for" (*Los Angeles Times*, 23 July 1929, p. A4). By the 1930s, auto interest groups pushed against a range of proposed driving-related fees, including operator's fees. The Auto Club of Southern California in 1937 argued against additional regulations on drivers, including the expense of fingerprinting driver's license applicants, on the grounds that some of the revenue went toward purposes unrelated to traffic enforcement, "And the motoring public pays the bill" (*Los Angeles Times,* 14 March 1937, p. F5).

in 1947 with the Collier-Burns Act, passed a series of limits on fuel and excise taxes to ensure that revenues dedicated to transportation really be used on transportation.

AUTOMOBILE CLUB OPPOSES NEW LAWS

Added Taxes and Fees Characterized as 'Racket' on Motoring Public

Figure 14. "Automobile Club Opposes New Laws" Source: *Los Angeles Times*, 14 March 1937, p. F5

And while first adopters of the automobile were particularly affluent, car ownership became far more affordable and widespread, most notably with the enormous popularity of the relatively affordable Ford Model-T (U.S. Census Bureau: Series G 244-339, 1917-1919, 1935-1936). Drivers and auto interest groups pushed back against additional fees, arguing motorists were an increasingly overtaxed class (*Los Angeles Times,* 14 March 1937, p. F5). The Auto Club of Southern California in 1933 claimed that "the ever increasing imposition of tax burdens upon automobiles is fast returning this vehicle to the luxury class. When it is considered that the entire social and economic structure of the nation is based upon widespread use of the automobile… the immeasurable loss which would follow restricting the use of the motor car through excessive taxation is readily apparent" (*Los Angeles Times,* 20 August 1933, p. E3).

AUTOISTS BEAR CRUSHING LOAD

In California Imposts Cost Motorists $38 Per Car

New Federal Fuel Tax Said to Be Last Straw

Formidable Array of Facts Compiled by Auto Club

Figure 15. "Autoists Bear Crushing Load" Source: *Los Angeles Times*, 20 August 1933, p. E3

Establishing Social Norms

That drivers could get licenses on the DMV's dime for so long may be because officials felt they still needed to convince the driving public to take license requirements seriously before they could start to charge them for it. Social norms around carrying identification while traveling were still new and flimsy well into the 1930s (*Los Angeles Times,* 21 August 1927, p. 15; *Los Angeles Times,* 3 December 1933, p. E2). A sizable minority of drivers did not renew their licenses, or were caught by law enforcement officers for driving without a license (*Los Angeles Times,* 6 January 1935, p. 9). The state first adopted the operator's license in 1913, and began to require it in 1917, but Auto Clubs and newspapers continued to remind drivers to have their licenses on them through the 1920s (e.g. *Los Angeles Times*, 21 August 1927, p. 15). One article warned that the DMV had started a "vigorous campaign" against drivers caught without a license; any driver who couldn't show "the festive pasteboard" to an officer would have to pay five dollars bail (*Los Angeles Times,* 4 September 1921, p. VI1). "The fact that you left it home in your other suit of clothes or handbag is not accepted as a valid excuse by the big men with the

silver badges," the *Los Angeles Times* warned (*Los Angeles Times*, 4 September 1921, p. VI1). In another article in 1921, the Auto Club of Southern California offered its members a list of suggestions to make sure they were up to date on the latest driving requirements, including that drivers carry their licenses with them, make sure the license was signed, and that chauffeurs wear their chauffeur badge in a conspicuous place on their outer garment (*Los Angeles Times,* 3 July 1921, p. VI1).

OPERATOR'S LICENSE A NECESSITY.

Auto Club Warns Motorists to Carry Card With Them at All Times.

"Good morning. May I have a look at your operator's license."

A good many hundreds of our leading motorists have heard this salutation recently, delivered by a stern limb of the law. Those who were able to produce their operating licenses proceeded on their way rejoicing. Those who couldn't were politely requested to pay a visit to the desk sergeant at the city bastille and deposit a few bucks bail.

Figure 16. "Operator's License a Necessity" Source: *Los Angeles Times*, 4 September 1921, p. VI1.

Drivers needed to learn to remember to carry their license with them and to regularly renew it. But with only episodic enforcement and poor public messaging, many drivers did not keep up with changing license requirements. In October 1929, ten months after all licenses issued prior to

January of that year were null, an estimated 20 percent of drivers had not renewed their operator's license (*Los Angeles Times,* 20 October 1929, p. E3). In 1935, the DMV estimated that 350,000 motorists in California were driving without a license or with an expired one (*Los Angeles Times,* 6 January 1935, p. 9). Drivers continued to disregard license renewal requirements well into the 1940s. In October 1943, the DMV's chief of the driver's license division urged the 20 percent of drivers with expired licenses to renew them (*Los Angeles Times,* 21 October 1943, p. 1). Auto clubs and officials warned drivers to carry their license with them or risk a fine, sometimes backed by short periods of enforcement by patrolmen and judges, well into the middle of the twentieth century (see the section "Regulating the Driver, Not the Machine" in the Safety and the License chapter). An article in 1929 cited that approximately 20 percent of drivers had failed to renew their license in time and warned drivers that they could be arrested for driving with an out-of-date card (*Los Angeles Times,* 20 October 1929, p. E3). Those threats were mostly hollow. In the 1930s, it was customary for the California Highway Patrol to warn drivers if they were caught driving without a license, rather than cite them (*Los Angeles Times,* 3 December 1933, p. E2).

Every now and then, officials publicized that traffic officers would start to crack down on license requirements. A *Los Angeles Times* article from July 1921, for example, warned drivers that it was "the season when police authorities throughout Southern California are going to consider "pinching" motorists who evade the law," and then listed some of the Auto Club of Southern California's suggestions for drivers "in a desire to help motorists as far as possible in their knowledge of what is unlawful" (*Los Angeles Times,* 3 July 1921, p. VI1). In another campaign, the California Highway Patrol declared a "war" against drivers without licenses, escorting all drivers found without a license to the nearest magistrate. They were especially determined to

catch drivers whose licenses were suspended or revoked, Chief Cato declared: "Although the Department of Motor Vehicles has the right to revoke or suspend a driver's license for traffic violations, it cannot take the offender's vehicle from him. Hence, the most dangerous of unlicensed vehicle operators is often at large and is not caught until a patrol officer apprehends him on another charge and then demands his driver's license" (*Los Angeles Times,* 22 December 1935, p. 13). Yet despite periodic police orders to crack down on license requirements, law enforcement seemed to treat driving without a valid license lightly (*Los Angeles Times,* 10 April 1928, p. A12). In 1933 the Chief of the State Highway Patrol, E. Raymond Cato, instructed officers to charge drivers caught without a driver's license with a misdemeanor, arguing that drivers were taking the requirement too lightly (*Los Angeles Times,* 3 December 1933, p. E2). Officers customarily simply warned drivers that they needed to carry their licenses, a policy that Cato argued "resulted in general laxity concerning licenses and a general disregard for the provisions of the law governing their issuance and use. The new policy, it is believed, will tend to build up public respect for the operator's license" (*Los Angeles Times*, 3 December 1933, p. E2).

In an effort to perhaps imbue traffic laws with greater moral weight, traffic safety advocates encouraged travelers of all modes to take oaths that they would obey the rules of the road. In one article written about "a west coast city" in 1930, a police department asked motorists to "hereby promise that I will obey all traffic regulations, watch out for pedestrians and children, and drive safely to the end that the appalling sacrifice of life caused by carelessness may be stopped and the streets made safe" (*Los Angeles Times,* 11 January 1930, p. A16). Judges were asked to pledge that they would punish drunk and careless drivers as harshly as they could; police were asked to arrest people regardless of their citizenship status, good looks and charm, or social

prominence; and DMV officials were asked to promise to revoke all driver's licenses for repeated or flagrant rulebreakers (*Los Angeles Times*, 11 January 1930, p. A16). Another article begins by listing the traffic fatality and accident counts in Los Angeles for the first months of 1922, and then asks the reader: "Were you one of the careless drivers? If so, make a vow that you will never be guilty again" (Curry, *Los Angeles Times,* 4 April 1922 p. II3). Local branches of the National Safety Council (NSC) established public safety campaigns to admonish travelers - drivers, pedestrians, and streetcar riders alike - for not following traffic regulations. Typically lasting a week, these public safety drives stemmed from the NSC's origins as an industrial safety movement composed of insurance companies and employers in industries with hazardous workplaces, both of whom wanted to prevent worker accidents. Educating workers about safe practices was more cost-effective than purchasing newer, safer machinery (Norton, 2011). Under the motto "Safety First," the NSC established public safety campaigns that laid the groundwork for the NSC's role as an advocate for motor safety (Norton, 2011).

Figure 17. “Pedestrian License” Source: Criswell, *Los Angeles Times,* 9 June 1929, p. G15. A cartoon from an article satirizing traffic experts and mocking rules that privilege drivers over pedestrians.

If it was not naivete, experts contended, it was a willful disregard and poor attitude at the root of the traffic problem. Authorities had traditionally relied on public shaming to maintain order. Older methods of social control emphasized individual responsibility, custom, and community disapproval, such that urban traffic was mostly self-regulated (Seo, 2019). These methods proved inadequate when fast-moving cars began to congest the roads. Road safety advocates tried to appeal to people’s sense of dignity to increase compliance with the traffic code. Judges and newspapers could put a spotlight on reckless or drunk drivers who were caught and punished, and perhaps deter other drivers from committing the same mistake. Drivers who had their licenses suspended were listed in newspaper articles alongside their violation, their home address, and sometimes their occupation. A typical example of a traffic report in the first half of the twentieth century states “Joseph Smith, 45 years of age, a printer living at 8715 South Hoover street, and Larry E. Steere, 24, of 1559 North Commonwealth avenue, were given thirty days each by Judge Reed when they pleaded guilty to charges of reckless driving” (*Los Angeles Times,* 4 April 1928, p. A5).

Conclusion

When confronted with a new social problem, officials turned to a familiar remedy: the license. Just as officials regulated other businesses to preserve public health and safety, they regulated the automobile by licensing its driver. From the onset, the license proved a flexible regulatory tool. Officials could choose to grant or withhold licenses to limit the number of jitney operators that clogged the streets and competed with streetcars, or to keep unskilled or reckless drivers off

the roads. They could charge for chauffeur licenses, once again to limit the number of jitney drivers and also to generate additional state revenue. The license was also an important identification document. With it, officials could identify drivers involved in collisions and hold them liable.

But for the license to serve these purposes effectively, drivers first had to learn and follow license requirements. Officials, too, needed to create the administrative apparatus to license drivers and enforce license rules, establishing a Motor Vehicle department, maintaining a registry of drivers and their records, and employing more and more traffic officers to monitor drivers. Moreover, officials and auto interests more broadly had to establish social norms around the license. It was not enough to have a license ordinance. When the state first required operator licenses in the 1913 Motor Vehicle Act, it was considered a "dead letter" law (*Los Angeles Times,* 18 February 1917, p. VI2). In part, the state failed to clearly communicate requirements to drivers. But more importantly, drivers needed to fear enforcement if they were caught without a license on them, and they needed to feel some social stigma for breaking the traffic rules.

Auto interests shaped regulations. Regulations were to their benefit insofar as they lowered public resistance to the car. A safer car and a safer driver kept the public, and their elected officials and judges, from regulating the motor vehicle out of existence. The public by this point already had some experience with fast moving traffic in the form of streetcars, bicycles, and steam cars. Auto interests generally supported driver's license requirements and ordinances that punished reckless or financially irresponsible drivers with license suspensions. But auto interests supported regulations *to a point*. They quickly mobilized against stringent speed limits, speed governors, and other regulations that constrained their automobility. It is not surprising that state-

level auto regulations were in many ways more lenient than the state's first automobile statute with license requirements in 1905. Whereas in 1905, revenue from license and registration fees were funneled into the general fund to benefit the broader public, the 1913 Motor Vehicle Act specified that revenue was earmarked for a "motor vehicle fund" to pay for roads. And while a Judge could impound and then sell a person's car if they did not pay their fine in 1905, by 1913 impounding a vehicle was a much more radical proposal. Auto interests couched their arguments in terms of liberty and equality to use streets as any other traveler. They successfully transformed streets into spaces for auto travel, and established the license as a key way to govern the individual driver.

3. Safety and the License

The bicycle required paved streets, a roadway infrastructure that also benefited motor vehicles. Like its predecessors, the automobile posed new safety threats. Traveling at high speeds on urban streets where people did everything from carrying out business to socializing to traveling by streetcar, horsecart, and bicycle, the car quickly wreaked enormous harm. As more people switched from walking to auto travel, the dangers of navigating the streets grew (Norton, 2011). Auto advocates joined forces with traffic safety groups to develop common-ground measures. To prevent officials from outlawing these dangerous new vehicles outright, these two groups chose to collaboratively address "the traffic problem."

The driver's license offered auto interests a strategic policy tool they could publicly support. In theory, officials could identify and weed out a careless and dangerous driver with strict license exams or suspend their license after they were caught violating traffic rules. In other words, rather than muzzle a car's speed with a speed governor or a narrow street, the automobilists

could place responsibility on the "accident-prone" driver, a reckless driver who made up a small minority of the general safe and conscientious driving population. In practice, however, the license proved impotent in the face of land and street use policies that increasingly enabled fast moving traffic and made other forms of travel not just inconvenient and unpleasant but dangerously risky (Norton, 2011). Blaming the enormous safety problems wrought by ever increasing automobility on a few bad-apple drivers proved a convenient trope for auto advocates, but ignored the costs that driving generally imposed on city life. The accident-prone driver was, to a great extent, a convenient trope, but one that informed license policy and agency and legislative decisions long after autos dominated the streets.

Democratizing the Automobile

By 1930, driving was no longer just a luxury hobby of the affluent. Far from it. Society was already beginning to organize around the car. Cars helped city dwellers become footloose, pushing residential development beyond the reaches of even streetcar suburbs (Giuliano and Hanson, 2017). By the 1910s, urbanites preferred closed cars with door locks, features that allowed suburban commuters to travel in inclement weather and to leave their cars unattended (McShane, 1994). By 1930, drivers successfully established streets as corridors for travel, and made "jaywalking" a crime (Norton, 2007). Driving offered faster and easier travel than other modes, particularly when roads were paved and wide, and parking was free and abundant (Brown et al., 2009).

The same attributes of the built environment that made driving convenient also made other modes of travel more difficult. With destinations spread farther apart and roadways noisy and dangerous, not having a car became increasingly costly as well (King, Smart, and Manville

2019); it was not just inconvenient but a real obstacle to mobility in a world where everyone was assumed to drive. With mass produced automobiles, payment plans, and a growing second-hand vehicle market, lower-income households were increasingly able to afford their own cars (McCarthy, 2007). They began to rely on driving for their livelihoods, and made sacrifices to purchase and maintain vehicles as needed (Lynd and Lynd, 1929).[19]

Americans quickly adopted and then relied on the car, a trend reflected in automobile registrations. When California first required owners to register their vehicles with the Secretary of State in 1905, owners registered 7,890 automobiles (FHWA, 1997). Three decades later, registrations jumped to over 1.9 million vehicles. Automobiles per capita increased seventy-five-fold between 1905 and 1935, despite depressed car sales during the Great Depression (FHWA, US Census Bureau, 1997) (see Figure 17, below).

[19] "I'll never cut on gas! I'd go without a meal before I'd cut down on using the car" the wife of an unemployed worker in Middletown exclaimed in the 1920s (Lynd and Lynd, 1929).

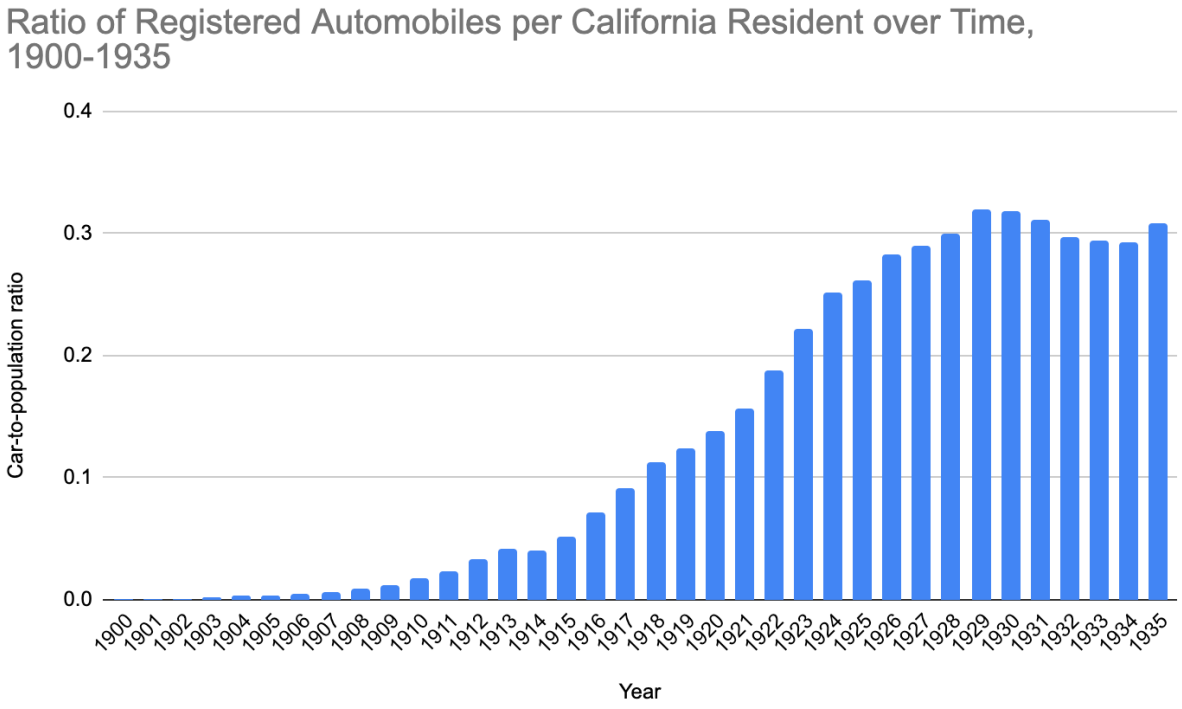


Figure 18. Automobiles per Capita in California over Time. Sources: FHWA Registered Motor Vehicles by State, 1997; U.S. Census Bureau, Resident Population in California [CAPOP], retrieved from FRED, Federal Reserve Bank of St. Louis

Over the first half of the twentieth center, lower-income households increasingly purchased automobiles. The U.S. Census Bureau surveyed families in cities to learn about their household expenditures, and the trend was clear: lower-income families in 1917-1919 spent far less on auto expenditures than on other transportation costs, but by the mid-1930s, those figures had reversed, even among the poorest families (U.S. Census Bureau, see Figure 18). Poor households continued to purchase automobiles during the Second World War, amidst rubber and gasoline rationing. By 1950, auto expenditures dwarfed other transportation spending.

Table 2 U.S. Household Transportation Expenditures. Source: U.S. Census Bureau (1917-1919, 1935-1936, 1941, 1950).

Household Transportation Expenditures, Indexed for Inflation to January 2022 Values						
	Income Class (after taxes)	Average Auto Expenditure	Average Auto Expenditure Adjusted for Inflation	Average Other Transportation Expenditure	Average Other Transportation Expenditure Adjusted for Inflation	Sample Size
1917-1919*	Under $21,626	$24	$431	$187	$3,358	332
	$21,626-$28,835	$68	$1,221	$307	$5,513	2,423
	$28,835-$36,044	$153	$2,748	$392	$7,040	3,959
1935-1936**	Under $10,187	$224	$4,810	$142	$3,049	780
	$10,187-$15,280	$366	$7,859	$183	$3,929	1,448
	$15,280-$20,373	$713	$15,309	$264	$5,669	2,284
	$20,373-$25,466	$1,793	$38,499	$41	$880	1,821
1941**	Under $9,969	$458	$9,625	$100	$2,102	750
	$9,969-$19,940	$777	$16,329	$239	$5,023	2,287
	$19,940-$29,909	$1,555	$32,678	$538	$11,306	2,703
1950**	Under $11,964	$1,591	$20,061	$263	$3,316	284
	$11,963-$23,927	$1,436	$18,106	$419	$5,283	982
	$23,927-$95,710	$3,015	$38,016	$610	$7,691	1,962

*U.S. Census Bureau: Series G 244-339: Consumption Expenditures, in Current Prices, of Families of City Wage and Clerical Workers of 2 or More Persons, by Income Class: 1874-75 to 1950
**U.S. Census Bureau: Series G 353-426: Consumption Expenditures, in Current Prices, of all Families of 2 or More Persons in Cities of 2,500 and Over, by Income Class: 1935-1936
Other transport costs includes: expenditures for automobile parts, repair and maintenance, gasoline and oil, luggage, and 1909-1927 for horse-driven vehicles and equipment, and blacksmith's services.

A Menace on the Streets

As more people took to the roads, auto fatalities skyrocketed in the 1910s, prompting people to seek safety reforms in a largely ad hoc manner. Central to the public's safety concerns: speeding. Vehicle speeds are affected by a number of factors, including: a driver's decision to accelerate, vehicle design, road design, traffic rules, and traffic enforcement (Hauer, 2009). All else equal (vehicles, road design), faster moving cars are more likely to be involved in severe collisions (Hauer, 2009; Aarts and van Schagen, 2006). Drivers traveling more quickly have less time to brake, and more kinetic energy at impact (Richter et al., 2006).

Vehicle injuries and deaths climbed in the 1910s the more people adopted the car. In the face of a well-publicized and pressing public safety problem, elected officials began to study the traffic problem. Nationally, from 1910 to 1920, highway fatalities shot up by 660 percent, from 1,599 in 1910 to 12,155 in 1920 (FHWA, see Figure 20 below). In the City of Los Angeles, motor vehicle accidents between January and March in 1916 compared to 1917 increased by 36 percent, and injuries and deaths increased by ten percent (*Los Angeles Times,* 15 April 1917, p. VI1; see Figure 20 below).

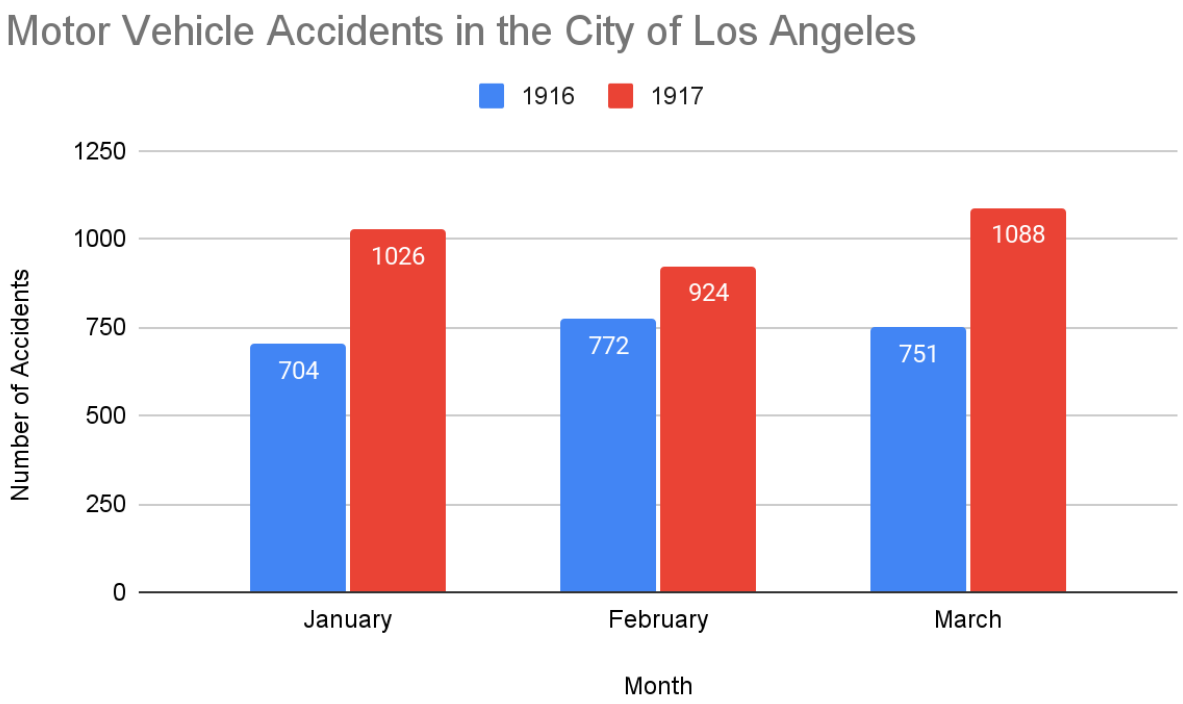


Figure 19. Motor Vehicle Accidents in the City of Los Angeles, Source: *Los Angeles Times*, 15 April 1917, p. VI1

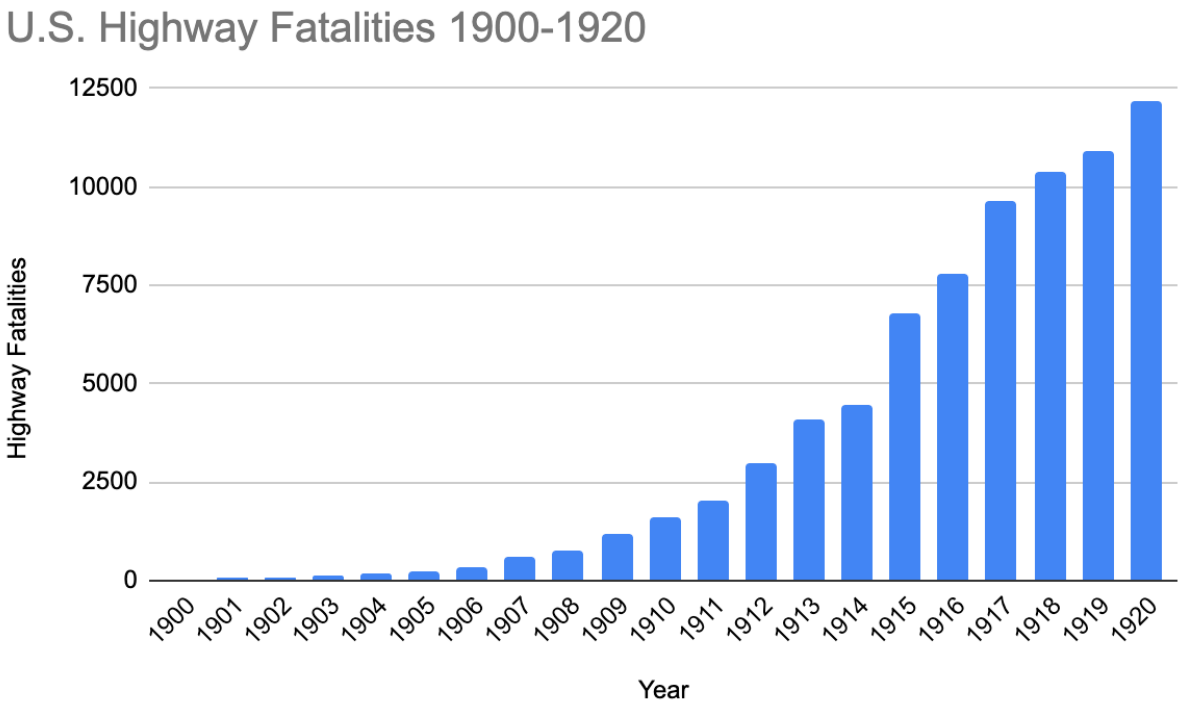


Figure 20. U.S. Highway Fatalities, Source: Federal Highway Administration (January 2009, Motor Vehicle Traffic Fatalities, 1900-2007, Table FI-200)

Over the 1920s, automobile accidents continued to climb. From 1922 to 1927 deaths due to automobile accidents increased by 70 percent compared to a 15 percent increase in the population over the same time period. (See Figure 21 from the California Legislature's 1929 report below.) Insofar as the public adopted speed regulations, they chose to set speed limits and other traffic signals such as stop lights and signs that police could only enforce some of the time, and relied on technological fixes that made driving safer for passengers in collisions. Today, we continue to rely on the same speed regulations that the traffic safety movement adopted a century ago. And then as now, drivers and officials often disapproved of regulations that limited how fast a driver could travel. Speed regulations that studies find substantially reduce traffic injuries and deaths, including speed cameras and traffic-calming street designs (Richer et al., 2006; Dumbaugh and Gattis, 2005), remain a political third rail. A primary way we limit speeds is not by regulation but by congestion. The speed limits we do enact are both prone to creeping upwards (Hauer, 2009) and infrequently enforced (Ritchey and Nicholson-Crotty, 2011; Taylor and Hwang, 2020).

Table 1.

Deaths from Automobile Accidents in California.

Year	Deaths*	Deaths†
1922	953	1,085
1923	1,223	1,413
1924	1,232	1,364
1925	1,329	1,484
1926	1,449	1,623
1927	1,619	1,782
Increase over 1922	70%	64%"

(California Legis. 45th Session Report Vol. 4 p. 15 of Committee's Report.)

*Not including deaths in collisions with heavier vehicles.
†Including deaths in collisions with heavier vehicles.

Figure 21. Deaths from Automobile Accidents in California; Source: *California Legislature 46th Session Report* (1929) Vol. 4

Regulating the Driver

Auto regulations can target individual traveler behavior, vehicle design, and road design. From the early auto era to the present, officials have tended to regulate the road and vehicle insofar as drivers could more safely travel at high speeds, and regulate the (minority) individual with a discretionary and unevenly enforced system of traffic rules.

The auto experts who designed, marketed and sold vehicles identified and found regulatory technological fixes for many problems in order to attract consumers (Vinsel, 2019). When the government intervened in vehicle design, officials tended towards technological solutions to auto safety, such as government-set performance standards, that offered consumers safer vehicles without having to change their own behavior (other than perhaps paying a higher price for a car) (Vinsel, 2019). But just as often, auto manufacturers developed a safety feature only to remove it

in the next model, or were pushed into addressing a problem they otherwise would not have without government-imposed requirements (like seatbelts), or faced safety problems outside their purview, such as insufficient or uneven traffic regulations and enforcement (Vinsel, 2019).

As driving shifted from being an expensive hobby of the wealthy to a more common mode of travel, the Everyman now faced the very real risk of causing a traffic collision (Seo, 2019). Road safety advocates thought that driver's license requirements, including driving tests, age minimums, and driver education, as well as better enforcement would address the traffic problem. Motor interest groups backed driver license legislation that punished individuals for driving recklessly, rather than regulations that restrained how large or fast manufacturers could build vehicles or street designs and traffic rules that slowed cars down (*Los Angeles Times,* 3 August 1932, p. A3). "If we come to Federal regulation, under the welfare clause of the Constitution, could it be so framed as to apply to a neglectful and wilful minority without imposing on the majority?" writer Silase Bent asked in 1936 about regulating vehicle speeds with speed limits and manufacturing requirements (Bent, 1936).

From its first iteration, the Motor Vehicle Act gave law enforcement the authority to revoke and suspend individual driver's licenses and automobile registrations. But proposals to limit the automobile, such as to impound a reckless driver's vehicle or to require speed governors in cars, were swiftly rejected (Norton, 2011). Speed governors offered a technological fix: they set a maximum travel speed a car could go. Rather than punish the vehicle, governments and auto interests pursued technological fixes that made cars safer for vehicle occupants in collisions, and punished and tried to reform a subset of drivers.

Removing and Reforming the Driver

Ever since the state legislature began to license drivers, it has given its enforcement branches the authority to take the license away. The state began with an expansive suspension policy, which it quickly shrank in early iterations of the Motor Vehicle Act. When the state tentatively issued its first operator's licenses in 1913, it included in the first Motor Vehicle Code a provision that a court could suspend or revoke an operator's or chauffeur's license for violating any of the act's provisions. A few years later, the state narrowed the reasons for suspensions: in 1923, the Vehicle Code specified three reasons a person could lose his or her license, each connected to driving unsafely: manslaughter in a collision, any violation considered a felony in the Vehicle code, or reckless or speeding charges (Vehicle Code section 73). The 1917 Motor Vehicle Act amendments also gave the State Highway Commission the authority to revoke an operator's license for reckless driving or for being mentally or physically unfit to drive (*The San Francisco Examiner,* 29 April 1917, p. 39). While the power to revoke a license was not new, few judges up until that point had done so, a state official stated (*San Francisco Chronicle,* 16 December 1917, p. 4A).

Punishments for reckless driving can be divided into two broad categories: incapacitation and compensation. Officials could incapacitate a reckless driver by placing them in jail or by taking their car or driver's license away. They could also make them pay a fine for their crime, which punishes drivers, and thus might deter future violations, and could also compensate victims. Judges generally turned to fines, which were quick to administer, simple to monitor for compliance, and had the added benefit of raising revenue. In an ongoing series in the *Los Angeles Times* on drunk driving, a writer described how fictitiously-named Joe X took advantage of "the preference of most Los Angeles Municipal Court judges to fine, rather than jail, drunk

drivers" (*Los Angeles Times,* 7 December 1949, p. A1). Fines were an easy way for reckless drivers to escape punishment, many - including judges - argued. "Violators of traffic laws in Los Angeles do not pay fines for their misdemeanors. Instead they pay a license - so they may get out and do it again" Judge William McKay said in a speech to the Women's Breakfast Bridge Club (Wilson, *Los Angeles Times,* 17 October 1941, p. A9). When the state first required licenses, some safety advocates viewed suspensions as a promising alternative to fines. Police and traffic court judges rarely enforced speeding statutes, and the few who were convicted did not pay enough, the *Los Angeles Times* opined (*Los Angeles Times,* 18 February 1917, p. VI1). "There is only one way to punish the reckless driver and that is to revoke his license," the newspaper declared (*Los Angeles Times*, 18 February 1917, p. VI1).

Sure enough, as soon as the state began to punish reckless drivers with suspensions, drivers broke those rules as well. For driver's license suspensions to effectively incapacitate reckless drivers, they needed to be coupled with automobile suspensions. The only way to keep streets safe, the *Los Angeles Times* editorialized, was to suspend reckless driver's licenses and deprive habitual offenders of their cars to keep the streets safer (*Los Angeles Times*, 18 February 1917, p. VI1). Though safety advocates in the early auto era often called for taking away the cars of reckless drivers, the policy did not carry enough support to be implemented at a wide scale. The Chief of California's DMV in 1924, Will H. March, proposed linking license suspensions with impounding a reckless driver's vehicle (*Los Angeles Times,* 6 July 1924, p. F11). Rather than fine drivers, March suggested that judges lock up their cars (*Los Angeles Times*, 6 July 1924, p. F11). Two judges in the 1930s in Los Angeles spearheaded an effort to impound more cars. In January of 1935, traffic judges Brand and Dawson teamed up with Chief of Police Davis to offer persistent traffic violators and reckless drivers a choice: they could spend ten days in jail or place

their car into storage for three months (*Los Angeles Times,* 30 January 1935, p. A1). A month later, the headlines crowed: "More Autos Impounded in Drive on Recklessness," listing the drivers who had lost their vehicles under judges Brand and Dawson (*Los Angeles Times,* 16 February 1935, p. 1). However, the campaign to impound cars did not have legs. Drivers continued to drive on suspended licenses despite judges and police periodically declaring a war on unlicensed drivers (e.g. *Los Angeles Times*, 28 October 1947, p. 1; (Connelly and Stewart, *Los Angeles Times*, 1 September 1990, p. VCB7).

Incarceration offered judges a harsher sanction than fines. However, more recent studies have found that it serves as no more of a deterrent (Wagenaar et al. 2007; Martin, Annan, and Forst 1993). Certainty and swiftness in punishment, more than severity, deters crime (Nagin, Cullen, and Jonson 2018; Nagin 2013). Drivers are less motivated by high fines than the high probability of a ticket: if a driver thinks they will get a fine, they will respond by slowing down to avoid the penalty (Ritchey and Nicholson-Crotty, 2011; Feess et al., 2018; Dušek and Traxler, 2022; Bjørnskau and Elvik, 1992). But with traffic fatalities mounting in the early auto era, and a limited police force to visibly enforce traffic rules, early auto safety advocates pushed for punishments that they felt would scare drivers straight. Suspensions offered one way to frighten drivers into complying with the law. When fines and jail sentences did not stop someone from recklessly driving, "the only thing left is to take from him his 'right' to menace others… nothing but putting him on foot can break this habit," Judge Paonessa declared (*Los Angeles Times,* 8 February 1932, A1). Suspensions not only kept bad drivers off the roads, but also served to teach them that there were consequences for their recklessness. If they wanted to drive in the future, they would need to learn to follow the rules. In the language of criminology, license suspensions were thus both a "specific deterrence," meaning that a person punished once was less likely to

reoffend, and a "general deterrence," a punishment whose threat scared people into driving safely (Nagin, 2013).

Auto clubs were quick to pounce on regulations that they felt were unduly restrictive. Though they supported suspension statutes, auto advocates often argued that not all drivers should be punished equally for breaking the traffic rules. The line between reckless driving and speeding was a blurry one, and open for auto clubs to contest. Cars were becoming a more reliable and safer mode of travel. If a driver sped but did not damage any property or injure someone, could they really be punished for reckless driving? An attorney for the Auto Club of Southern California, William Kellogg, argued no. In 1925, Kellogg represented a driver in a Pasadena police court, Charles Jennison, who was caught speeding and charged with reckless driving (*Los Angeles Times*, 7 December 1925, p. A8). Jennison's car was equipped with four-wheel brakes. He would have been able to stop the car very quickly even while driving at 35 miles per hour, and so should have been charged with just speeding, Kellogg argued (*Los Angeles Times*, 7 December 1925, p. A8). The presiding judge, Judge Dunham, agreed with the City Prosecutor: a driver can be convicted of reckless driving even if they avoided a collision (*Los Angeles Times*, 7 December 1925, p. A8).

While officials like Los Angeles Chief of Police Davis attributed nearly every auto collision to speeding, they were quick to place responsibility on the individual driver. "An ethic sense of respect for a necessary law and an instinct of courtesy toward a fellow-being are the only requisites for proper enforcement of traffic regulations," Davis advocated (*Los Angeles Times,* 13 July 1930, p. A4). Safety advocates often preferred traffic education (including exams for driver's license applicants) and a courteous attitude to punishment. Drivers needed to both know

how to operate a car and the rules of the road (easier when uniform) and to feel a sense of responsibility. “A campaign of education can succeed if it can be made to reach the brain of the motorist as strongly as it can be made to touch his heart,” the *Los Angeles Times* opined (*Los Angeles Times*, 13 July 1930, p. A4). Using educational campaigns, they tried to impress upon drivers (and later pedestrians) that it was their individual responsibility to self-regulate (*Los Angeles Times*, 13 July 1930, p. A4). The National Conference on Street and Highway Safety said of the “human problem”: “it demands of the individual citizen a new order of self-restraint and responsibility corresponding to the enhanced degree of freedom which the new means of transportation has given us” (*Los Angeles Times*, 13 July 1930, p. A4). Warning signs and voluntary campaigns could only do so much to change driver behavior, of course. In a telling example of the limits of traffic safety sloganeering, two cars, both decorated with “Safety First” stickers, sped at 50 miles an hour and crashed into one another (*Los Angeles Times*, 13 July 1930, p. A4). The writer suggested such stickers belonged not on a windshield but “on the brain pan of the driver” (*Los Angeles Times*, 13 July 1930, p. A4). That humans themselves were not designed to safely handle machinery at that speed was not up for debate.

Restricting the Vehicle

Early automobiles were prone to mechanical failure and lacked many safety features that were became standard a few decades later, such as turn signals, brake lights, and mirrors (Vinsel, 2019). A person driving in 1901 after dark faced the very real risk that their car’s lamp could catch on fire (Vinsel, 2019). Once enclosed cars became mainstream in the 1920s, drivers could not hear or see their surroundings as well as they could driving in an open car (Vinsel, 2019). After-market automobile parts promised drivers some added safety, such as electric headlights, bumpers and fenders, and even squirt guns to spray at dogs that strayed too near (Vinsel, 2019).

Auto manufacturers made some of these safety features available on luxury cars and then later standardized them (Vinsel, 2019). Periodically manufacturers would tout a new line of cars with additional safety technologies, only to quietly remove those features the following year or two (Vinsel, 2019). Still other features, like costly safety glass, manufacturers only installed when states required them to (Vinsel, 2019). But regulations that would constrain a driver's mobility - limiting how fast a car could be built to travel - could not pass political muster. It was easier politically to establish traffic regulations that could be selectively enforced than to uniformly make driving safely costly.

Driver's license regulations punished individual drivers, rather than restricting how fast or safe a vehicle or road could be designed. If speed was the cause of accidents, officials could have directly regulated the vehicle rather than the driver. In a letter to the editor, reader H. Tompkins suggested the state pass a law to require auto manufacturers to put speed governors on motors that would allow them to drive no more than 30 miles per hour (Tompkins, *Los Angeles Times,* 25 November 1921, p. II2). "Reading of so many accidents, caused by careless and reckless driving, also the many ordinances, precautions, etc., to stop these reckless drivers. It seems to me that we have been on the wrong end, in other words, making laws for the last of a thing instead of the beginning" (Tompkins, *Los Angeles Times,* 25 November 1921, p. II2).

However, auto clubs, which actively lobbied in favor of stricter driver's licensing regulations and enforcement, strongly opposed speed governors. In 1921 the Los Angeles City Council considered requiring speedometers on all automobiles and speed governors on all trucks (Los Angeles City Council Minutes, 23 November 1921, No. 1752). The Auto Club of Southern California opposed the ordinance. Only businesses selling governors and speedometers would

benefit, not the general public, they wrote to the City Council (Los Angeles City Council Minutes, 23 November 1921, No. 1752). Speed governors would need to enable trucks to operate at the maximum speed allowed on open country highways, and so would be "useless" in congested urban streets. Speedometers were a similarly futile tool to curb speeding, argued the Mayor of Los Angeles. In his message to the City Council disapproving the proposed ordinance, he wrote: "The careless, reckless driver will continue to violate the law by speeding, whether his car is or is not equipped with a speedometer" (Los Angeles City Council Minutes, 18 July 1921, p. 376-377). Speedometers were not just ineffective but also, they were expensive. A city-wide speedometer ordinance was, moreover, unconstitutional, as it was a police measure that extended far beyond the city's jurisdiction. If other jurisdictions required different devices, interurban travel would be nearly impossible without violating one ordinance or another. Without a speedometer, however, drivers could claim they were not aware they had violated a speed limit, the City's Police Court Judge, Ray Chesebro, countered. Chesebro urged the council to reconsider and pass the ordinance: "I wish to impress upon you if I can that these excuses are offered many times each day in our courts," he reiterated (Los Angeles City Council Minutes, 18 July 1921, p. 378).

Auto interests across the country tried to quell attempts to regulate speeds with technology. Speed governors offer one example of how auto interests successfully transformed how the public conceptualized streets and the types of regulations they supported. In the early 1920s, police and the general public tended to support speed governors. Judge Chesebro was one of many police chiefs who supported governors. In a survey conducted by the magazine *American City* in 1926, two out of every three police chiefs supported speed governors (Norton, 2011). Over ten percent of Cincinnati's population signed in support of a referendum in 1923 to require

governors on automobiles that would cap speeds at 25 miles per hour. The city's automotive interests organized a campaign to "vote no" and voters rejected the proposal by a wide margin (Norton, 2011).

Cincinnati's proposal propelled auto interests across the country to mobilize against any measures that might limit a driver's freedom to speed (Norton, 2011). In 1936, journalist and author Silas Bent wrote that "any Congress which passed a law requiring such devices in interstate traffic (this would meet but a fraction of the problem) would be retired from public service almost automatically by enraged constituents" (Bent, 1936). After the Secretary of Commerce, Daniel Roper, began a federal inquiry into highway safety, a committee representing auto manufacturers sent him a report claiming speed governors could *exacerbate*, not ameliorate, dangerous driving. When a driver wanted to attempt to pass another, a speed governor would prevent them from traveling around them quickly enough to avert colliding into oncoming traffic, so they argued. The very same dangerous driver that regulations were aimed at would find a way to circumvent them: "the dangerous driver would 'jimmy' the governor, while only those willing to be governed would be controlled" (Bent, 1936).

Regulating the Street

In their fight to protect and expand automobility, auto interests lobbied for street designs and traffic regulations that made driving faster and more convenient, and opposed those that made driving slower and costlier. In addition to mandatory driver's license examinations, the *Los Angeles Times* advocated for more parking, wider roads, and a highway code of traffic rules uniform across the country. "The ever-lasting parking problem still cries for adjustment. And finally, there is the big question of constructing new highways to fit the new era of speed and

congestion - or of reconstructing the roads and streets designed for the old days of the leisurely horse and buggy with lots of space to spare," the paper editorialized (*Los Angeles Times,* 13 July 1930, p. A4). Sure enough, the *Los Angeles Times* would get its wish. Los Angeles, and cities across the country, were soon paved over for auto traffic (Norton, 2011).

When the Los Angeles City Council prohibited parking in the central business district, the Auto Club of Southern California were quick to oppose it, arguing that "the ordinance is discriminatory because it prohibits parking in the congested district by passenger vehicles, but allows it by truck and delivery wagons" (Scharff, 1988). The ban lasted just a few days before public protests convinced the Council to replace the ban with limited parking hours (Wachs, 1984). Even these restrictions proved controversial. "The present no parking regulations are unreasonable, unjust and an infringement on the rights of the public," George Babcock, director of the Business Men's Co-operative Association proclaimed (*Los Angeles Times,* 4 February 1922, p. II1). The Los Angeles Traffic Association, a voluntary group of civic leaders, together with the Automobile Club called on the City Council to adopt a comprehensive highway and street plan in the early 1920s that aimed to improve traffic flow with street widenings, straightening and extensions (Wachs, 1984; *Los Angeles Times,* 2 October 1922, p. II3). The City Council enthusiastically adopted the auto-oriented proposal and rejected a competing transit-oriented plan (Wachs, 1984). By the 1930s, the City began to require minimum parking requirements in their zoning ordinances to control traffic congestion, establishing a legacy of car-oriented land use (Chester et al. 2015).

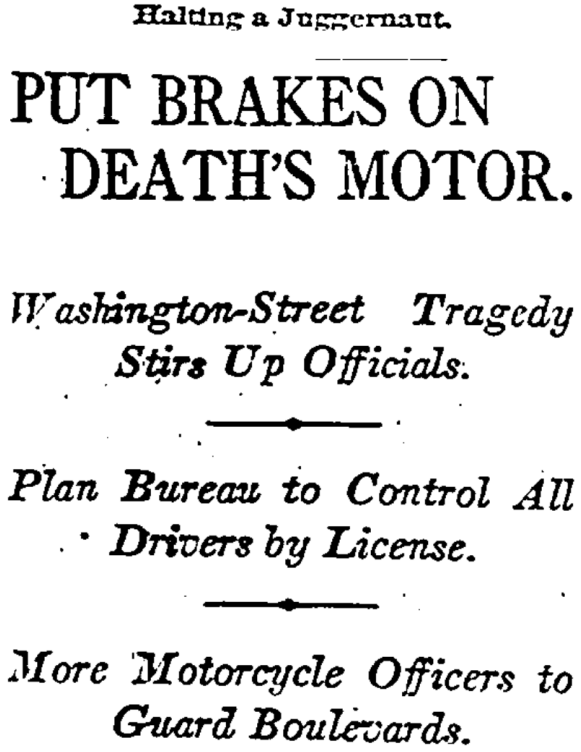
Auto clubs generally supported speed limits. Just like license suspensions, however, speed limits did not physically prevent a driver from driving fast and/or recklessly. They instead gave

officials the option to sanction certain drivers for driving speeds at which both the road and the automobile were designed to accommodate. Speed limits offered auto interests a way to regulate drivers, but only a minority of drivers; those that law enforcement caught and chose to sanction. In an earlier example of collaborative regulation among public agencies and auto interests, the Auto Club of Southern California adopted a resolution in 1904 that "endorses the new (speed) regulations, pledges its support to the police in enforcing them, requesting all members of the club to report to the city authorities any violations of the ordinance… and declares that the club 'does not look with favor upon the efforts to make record-breaking time upon the public highway, and believes that such efforts are not productive of good, but are against the interests of the owner, the dealer and the public'" (*Los Angeles Times,* 16 June 1904, p. A6). Auto interests benefited from, and advocated for, traffic regulations insofar as they placated early opponents of the new "menace" to the streets.

Driver's Ed: Making Drivers Learn and Follow the Rules of the Road

In addition to standardizing auto safety designs, road safety proponents also pointed to inexperience and inadequate driving education as areas in need of reform (Townsend, *Los Angeles Times*, 23 May 1909, p. II14). Early on, drivers contested the license system as either inadequate or unnecessary. While some drivers argued the license was simply an unfair tax, others argued licensing should include additional requirements. Other countries, such as England, Germany, Australia and France, and some other US states offered California blueprints for developing a licensing scheme (*Los Angeles Times,* 8 November 1913, p. II1). Rhode Island first required statewide driver's competency tests in 1908; they then became part of the standard license requirements in Northeastern states (Federal Highway Administration, 1997). In a 1909 editorial in the *Los Angeles Times*, George H. Townsend, a newspaper contributor, derisively

stated that licenses in Connecticut and New Jersey were just a way to extract money from drivers. He argued that California should instead follow the French example of requiring driver competency tests: "make the state have examiners to judge these facts (driving experience) before turning loose a crowd of incompetent drivers to heap coals of fire on our heads" (Townsend, *Los Angeles Times*, 23 May 1909 p. II14).



Halting a Juggernaut.

PUT BRAKES ON DEATH'S MOTOR.

Washington-Street Tragedy Stirs Up Officials.

Plan Bureau to Control All Drivers by License.

More Motorcycle Officers to Guard Boulevards.

Figure 22. Halting a Juggernaut. Put Brakes on Death's Motor. Source: *Los Angeles Times*, 8 November 1913, p. II1

The 1905 state legislation did not mention driving examinations, but local governments across the state debated and adopted them (e.g. (*The San Francisco Examiner,* 19 November 1903, p. 8). For example, as early as 1903, any driver entering Golden Gate Park in San Francisco first needed the Park Commissioners to issue him or her a license, which required a fee, photograph, and examination (*The San Francisco Examiner*, 19 November 1903, p. 8; *The San Francisco Examiner,* 24 October 1904, p. 8). One Commissioner, who arrested a driver that entered without

a valid license, opposed admitting cars into the park even with the license regulations: "There is too much danger to the public in admitting these automobiles to the park… The park should not be monopolized by the rich. It is the taxpayers of moderate means who support it, and who should be entitled to its use" (*The San Francisco Examiner*, 24 October 1904, p. 8; *The San Francisco Examiner*, 19 November 1903, p. 8). In 1909, the Los Angeles City Council tried to "reduce speed mania" with license regulations. Councilman Wallace proposed that chauffeurs be registered just as vehicles were, and wanted to "hold them responsible to some particular official - perhaps an "inspector of chauffeurs" - who would be empowered to punish them for violations of the rules of driving" (*Los Angeles Times,* 16 June 1909, p. II2). Those who violated the speed limit could forfeit their "right to use the public streets" for a period of 30 to 90 days, depending on their transgression (*Los Angeles Times*, 16 June 1909, p. II2).

Faced with mounting vehicle fatalities, public officials tried to tack on examination requirements and additional license enforcement to existing state license requirements. Los Angeles City officials, police, and automobile interest groups and vehicle distributors met in 1917 to discuss different license reforms that would better address reckless driving through improved enforcement and driving restrictions (*Los Angeles Times,* 6 May 1917, p. VI6). They focused on two license reforms: using the license itself as a driving record to track a person's violations, and creating a system of graduated licenses based on driving ability. Officials at the meeting considered a passport-like license system. Every driver, after passing a driving exam, could be issued a booklet with their photograph and personal characteristics. Judges would record traffic violations in the booklet, which drivers were required to carry at all times. To prevent evasion, pages in the booklet were numbered. The license in this way could perform the important administrative task of compiling a person's driving record. The second reform that Los Angeles

officials debated was graduated licensing. Drivers could be placed into three classes: novice, probation, and passed expert, based on their driving experience and record (*Los Angeles Times*, 6 May 1917, p. VI6).

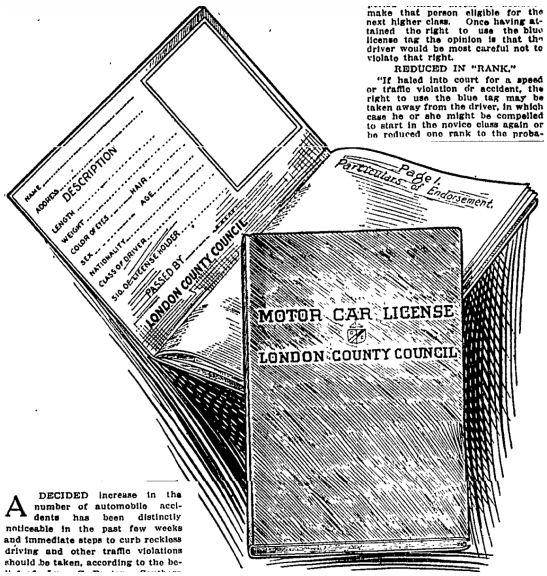


Figure 23. Passport-like Driver's License. Source: *Los Angeles Times*, 6 May 1917, p. VI6

State officials, private citizens, and auto interest groups, were increasingly vexed over how to enforce road safety. Long before the state finally adopted examinations for license applicants, road safety advocates pushed for them. In 1911 and in 1913, for example, Los Angeles Traffic Lieutenant Butler proposed to the City Council "the Berlin system of licensing automobiles for Los Angeles" whereby every driver must pass an exam and carry a card that identifies him and the car he is driving (*Los Angeles Times,* 8 November 1913, p. II1). Auto dealers even took to offering driver education to their customers (Westgate, *Los Angeles Times*, 10 December 1916, p. VI2). In a 1916 article, the writer regrets that "dealers who do this are the exception, and not the rule. In many cases, a few hours' instruction is given, and if the new owner expresses confidence in his or her ability to drive alone, the check is pocketed, and the transaction

considered complete. Many accidents, according to the traffic officers, can be traced to inexperience" (*Los Angeles Times*, 10 December 1916, p. VI2).

Send Them to School.

AMATEUR DRIVERS ARE MENACE, SAYS EXPERT.

Law Needed Providing forSevere Tests Before Licenses are Granted—Inexperienced Men and Women Buy Cars, Take an Hour's Instruction, and "Go it Alone"—Public Entitled to Protection.

Figure 24. Send Them to School. Amateur Drivers are Menace, Says Expert. Source: *Los Angeles Times*, 10 December 1916, p. VI2

Proponents of driver's license examinations pointed to accident rates as a proof of concept. As Table 3 (below) shows, participating northeastern states experienced a 127 percent increase in collisions during the 1920s, while states with only a license fee experienced a 224 percent increase; collisions increased by 347 percent in states with no license requirement (Barber, *Los Angeles Times,* 5 April 1931, p. E1). States with license exams also experienced high rates of automobile ownership relative to their fatality rates compared to the rest of the country (*Los Angeles Times*, 5 April 1931, p. E1; *Los Angeles Times,* 15 June 1930, p. F2). At the National Conference for Street and Highway Safety in 1930, road safety advocates tied licensing systems to fewer traffic incidents and lower accident-related costs (*Los Angeles Times*, 15 June 1930, p. F2). In 1934, the National Safety Council conducted a study of license laws and safety across states and found similar trends: while all states experienced increasing death tolls from cars

between 1932 and 1933, death rates were far lower among states with license requirements than those without them (a four percent increase, versus increases between eight and 15 percent) (*Los Angeles Times,* 5 August 1934, p. D4).

Table 3. Motor Vehicle Fatality and Vehicle Registration Rates. Source: *Los Angeles Times*, 15 June 1930, p. F2

	Motor Vehicle Fatality Rate 1921-1930	Motor Vehicle Registration Rate 1921-1930
License with exam and driving test	127%	223%
License only for fee	224%	175%
No license requirement	347%	242%

For Col. A. B. Barber, the Director of the National Conference on Street and Highway Safety, it was clear that license requirements improved road safety. Safer roads in turn encouraged more people to drive (*Los Angeles Times*, 5 April 1931, p. E1). He was firm in the opinion that it was states, not the federal government, that were responsible for regulating driving. Barber advocated that states adopt a standard licensing system and share their driving records and experiences with one another. Barber was appointed by U.S. Secretary of Commerce Herbert Hoover, who wanted to minimize government intervention in the private sector (Norton, 2011). Rather than rely heavily on experts to solve social problems, Hoover sought to give private interest groups, often trade associations, a platform to cooperate (Norton, 2011). The National Conference on Street and Highway Safety, also called the "Hoover Conference," preferred business self-regulation to state regulation (Norton, 2011). One of the conference's key concerns was to draft model uniform traffic laws. After the conference's first meeting, Barber, Hoover and others established

a Committee on Uniformity of Laws and Regulations; the committee asked a lawyer from the Automobile Club of Southern California to draft a model state code (Norton, 2011). Members of the committee presented this "Uniform Vehicle Code," which included a model driver-licensing act, at the second meeting in March 1926, and auto clubs across the country lobbied their state legislatures to adopt it (Norton, 2011).

After over a decade of debate, in 1925 California began to require driver's license applicants to take and pass competency exams. Chief of the state DMV, Will H. Marsh, gave peace officers ten rules to follow when establishing driver's license exams, including: "Let applicant start car. See how he shifts gears...See if he has any physical defects and note if they affect his carefulness while driving… Give him a copy of the Motor Vehicle Act and tell him to study it" (*Los Angeles Times,* 5 August 1925, p. 1). Based on the Motor Vehicle Act revisions, applicants had to prove physical and mental fitness, as well as their knowledge of traffic law and ability to drive (*Los Angeles Times,* 3 July 1929, p. A6). And given how rudimentary early cars were, drivers needed to be strong to shift and steer them (McShane, 1994; Vinsel, 2019; Kline and Pinch, 1996). It was up to the discretion of DMV examiners whether to require actual physical exams, and it seems most applicants could sign an affidavit affirming their physical ability to drive (*Los Angeles Times,* 31 May 1925, p. H2). Even the driving test was discretionary. Individual DMV offices and police departments offered these exams; they could dispense with driving tests based on a person's written exam results. Articles alerting drivers of changes to the Motor Vehicle Act were quick to assure the motoring public that the tests were simple, quick, and free: "Persons who have had experience as motor-vehicle operators should have no trouble in getting a license," a 1925 article states (*Los Angeles Times,* 19 July 1925, p. H2). Without an on-road driving test, the entire license process could take approximately fifteen minutes, a 1929 article states (*Los*

Angeles Times, 3 July 1929, p. A6). The Automobile Club of Southern California also renewed and issued licenses for its members, and had the authority to "weed out incompetent and habitually reckless drivers" (*Los Angeles Times,* 21 July 1929, p. E1). A few years later, as part of a broader traffic safety effort to standardize and streamline auto regulations, however, a state traffic safety advisory committee advocated that only the DMV issue driver's licenses (*Los Angeles Times,* 8 March 1936, p. F3).

Identifying the "Accident-Prone" Driver

As the traffic safety movement of the early auto era experimented with how best to regulate the auto, the driver's license emerged as a convenient way to address road safety. When traffic fatalities mounted, auto advocates could point to judges and police officers for not suspending reckless driver's licenses, and to policymakers for not weeding out incompetent drivers with license exams and stricter license standards. Auto clubs lobbied the state DMV to more actively suspend the license of habitually reckless drivers (*Los Angeles Times,* 3 August 1932, p. A3). The Automobile Club of Southern California offered "suggestions for greater administrative authority and activity on the part of the Department of Motor Vehicles in investigating the more serious accidents and eliminating unfit drivers" (*Los Angeles Times*, 3 August 1932, p. A3). It was the reckless individual who was to blame for dangerous roads, not the machine or the road. If the DMV could eliminate the few bad drivers, then the "traffic problem" would be solved. With psychological studies, exams, and special analysts, the DMV tried to identify people who were predisposed to be reckless.

If bad drivers, who were often presented by auto advocates as a small minority of all drivers, could only be weeded out through driving tests, then safety conditions would surely improve.

L.A. Chief of Police Butler opined in 1916 that "I believe that fully ninety percent of all motor vehicle drivers are conscientious citizens who desire to obey the rules" (Butler, *Los Angeles Times*, 13 August 1916, p. II10). Inexperience, he contended, was responsible for accident rates. If drivers were required to pass a written exam regarding traffic laws and a driving test, and each driver was required to carry a proof of identity with their photograph, then "the identity of each driver could be much more easily established than under the present system. These interventions would automatically remove the ignorant, incapable driver from the streets, and the public would feel a sense of security" (*Los Angeles Times*, 13 August 1916, p. II10). Butler's statements reflected the popular scientific belief of the time that certain people were more prone to causing traffic accidents than others (Vinsel, 2019).

Identifying the reckless minority was easier said than done. Just because someone was caught speeding, for example, did not necessarily mean they had lost control of their vehicle, or so went the Everyman mythology. One person could safely drive at a high speed, while "some other person may drive the same machine at the same speed on the same highway and endanger every vehicle or person upon that highway," Judge Blake opined in the *Los Angeles Times* (*Los Angeles Times,* 12 January 1925, p. 6). The difference between the two drivers was "one of individuality" (*Los Angeles Times*, 12 January 1925, p. 6). It would be "unjust to good drivers" if officials set speed limits to cater to the non-expert driver, and law enforcement were to indiscriminately jail speeders, another writer in the *Los Angeles Times* opined (*Los Angeles Times,* 3 January 1930, p. A4). "The only alternative that presents itself is some means of clearing poor drivers off the streets by a wholesale campaign of license suspension and cancellation, a very difficult matter under the present law" (*Los Angeles Times*, 3 January 1930, p. A4).

Some judges argued that it was the most experienced drivers that were more likely to be reckless. Drivers with many years of experience, who were confident in their driving ability, were behind the wheel in nine out of ten reckless driving cases, one judge estimated (*Los Angeles Times,* 8 February 1932, A1). "Because of this self-assurance they have become imbued with the idea that they are immune from accident. Their driving ability enables them to avoid so many near-collisions that the very thought of a crash is absent from their minds until it actually occurs," Judge Paonessa argued (*Los Angeles Times*, 8 February 1932, A1). When punishments like jail and fines failed to reform such drivers, suspending their license would (*Los Angeles Times*, 8 February 1932, A1).

Driver's license exams and suspensions can, in part, be traced back to psychology popular in the early automotive era. The National Research Council funded psychological tests that could identify safe drivers from reckless ones, an undertaking of researchers since their efforts in the 1890s with streetcar and railroad drivers (Vinsel, 2019). Psychologists on the Committee on the Psychology of the Highway, a group within the National Research Council in the mid-1920s through late 1930s, were one of several groups involved in the associational auto safety movement (Vinsel, 2018). They identified the "traffic problem" as one that is fundamentally psychological rather than technological. "Accident-prone" drivers were to blame for the majority of collisions (Vinsel, 2018). Psychologists recommended educational safety campaigns and better driver education to help improve driver competency, driver's license exams to weed out the accident-prone, and strict suspension policies that would then ensure that dangerous drivers would stay off the roads (*Los Angeles Times,* 7 May 1928, p. A11; Vinsel, 2018). "Some people are so constructed that they never will be competent to act correctly in a sudden

emergency. These people are dangerous in traffic crises. Certain tests can be devised to reveal characteristics in men and women that make them unfit for a driver's license," head of UCLA's psychology department, Professor Shepherd Ivory Franz stated (*Los Angeles Times*, 7 May 1928, p. A11). If psychology were incorporated into license tests, Franz argued, the roads would be safer. The "accident-prone" driver reached national prominence in the eponymously-titled "The Accident Prone Driver," a 1936 report on traffic conditions to the U.S. Congress (Vinsel, 2018). But other psychologists soon debunked the report. Analyzing driving records and license exams from drivers in Connecticut, researchers in 1939 found that the driver tests that psychologists had devised were very poor predictors of a driver's accident liability (Vinsel, 2018).

In the 1940s, the DMV hired professional "driver improvement analysts" who would conduct traffic hearings, attempt to understand a driver's "mental attitude toward driving," urge the driver to acknowledge his mistakes and responsibilities, and ultimately recommend to the DMV whether or not they should suspend their license (*Los Angeles Times,* 2 July 1964), p. SF5). "The object of the hearing is to instill in John Doe a desire to become a good and safe driver… By means of analytical suggestion we try to make Doe look at his motivations and faults," Morris Farell, a trained expert in driver improvement analysis and president of the Driver Improvement Association of California, explained (*Los Angeles Times*, 2 July 1964, p., SF5).

Focusing on the reckless minority offered the state a way to conserve resources during wartime when fewer officers were policing the roads. President Roosevelt endorsed the Automotive Safety Foundation's wartime highway safety program, which sought to "strip the motor transport system of all nonessentials and dedicate it to the winning of the war" (Francis, *Los Angeles Times*, 9 November 1942, p. 10). The Foundation recommended local, state and federal actions

to conserve vehicles, tires, roadways, and manpower (*Los Angeles Times*, 9 November 1942, p. 10). Rather than indiscriminately police drivers, state legislatures should keep a closer watch on unskilled, reckless, and drunk drivers (*Los Angeles Times*, 9 November 1942, p. 10). In addition to suspending driver's licenses, some judges even chose to punish reckless drivers by suspending their gasoline ration books (*Los Angeles Times,* 24 November 1942, p.1).

Once established in bureaucratic procedure, accident proneness was tough to wrest from auto safety policy. The DMV continued to fund studies on the subject decades after the NRC's psychologists distanced themselves from it, studying whether personality and psychometric tests could predict driving records (Harano, 1974) and the types of accidents that accident-prone drivers were likely to be involved (Peck and Coppin, 1971). In an attempt to learn how - if at all - the DMV could reform "accident-prone" drivers, the agency tracked the records of drivers involved in a reported traffic incident (*Los Angeles Times,* 13 January 1947, p. 5). Most - nine in ten - drivers kept clean records after their first citation. To deal with "the ones who have driving judgment but just never used it," the DMV could examine a driver, a practice the DMV said reformed about eight in ten habitually reckless drivers (*Los Angeles Times*, 13 January 1947, p. 5). And for those who could not be reformed, the last remaining option was to take their license away, which "either ends in his not driving or, eventually, in his going to jail" (*Los Angeles Times*, 13 January 1947, p. 5).

The Driver Improvement Program was expansive and expensive. In 1969, 200,000 drivers attended hearings and group sessions, and 65,000 of which were put on probation and 35,000 lost their license (Goff, *Los Angeles Time*s, 15 July 1970, p. 3). How effective the program was is up

for debate.[20] In one month in 1947, examiners in Los Angeles interviewed more than 1,500 drivers; of that group they revoked 278 licenses, suspended another 85, placed 72 on probation, and let the rest go "as probably reformed" (*Los Angeles Times,* 13 January 1947, p. 5). The analyst Morris Farell claimed that 89 percent of drivers improved their driving records after attending a hearing (*Los Angeles Time*s, 2 July 1964, p., SF5). The director of the DMV, Robert Cozens, was convinced the program had some effect on accident rates, but said it was difficult to measure exactly how much (*Los Angeles Time*s, 15 July 1970, p. 3). In 1970 the Legislature cut the program - which cost $1.4 million ($10.8 million in 2022) - based on the Legislative Analyst Alan Post's recommendation. "In some respects the department's driver improvement program is worse than no program, because it gives the impression that something is being done to reduce the accident rate when in fact very little is accomplished," said Post (*Los Angeles Time*s, 15 July 1970, p. 3). He instead suggested the DMV automatically suspend the licenses of negligent drivers (*Los Angeles Time*s, 15 July 1970, p. 3).

Enforcing the Law

The "accident-prone" driver theory underlay and bolstered the discretionary system that officials relied on to enforce auto safety regulations. If only a fraction of drivers were to blame for auto collisions, then there was little need to police the Everyman. Officials only needed to identify and punish the minority of accident-prone drivers. With only sporadic and discretionary

[20] The program was also challenged in the courts. The expert analysts who conducted administrative hearings for the DMV were not attorneys, a point that driver Jerrold Gross used to challenge the suspension that a driver improvement analyst handed him. The judge in Gross' case, Superior Judge Kenneth Chantry, ordered the DMV to conduct a new hearing for Gross. Only attorneys with at least five years of experience could conduct administrative hearings, Gross argued. "If it were not so, the director of motor vehicles could appoint a butcher, a baker, or a candlestick maker," said Chantry (Villasenor, *Los Angeles Times*, 1 March 1968, p. 30).

enforcement, most drivers could generally get away with breaking traffic rules, and at most pay a fine for their crimes. Rare was the speeder who was caught; even rarer was the speeder convicted.[21] The handful of drivers who *were* at risk of losing their driver's license included Black drivers already at risk of being overpoliced (Sorin, 2020). (See the subsequent section for more on discriminatory policing.)

Enforcement in Theory…and in Practice

Before reckless drivers lost their license, every agent needed to play their part: the police, the judge, and drivers. Take for example the case of a speeding incident in the early automotive era. A police officer first had to stop and identify the driver, charge them with a traffic violation, and either arrest them or have them sign a written promise to appear in court. The judge would then need to determine his punishment, and if the officer felt a suspension was warranted, require the driver to physically return his driver's license to the DMV. It was easy for one of these steps to diverge from this script allowing the driver to continue to drive with a valid license. Very likely the police officer never witnessed the speeding incident in the first place. If the police officer witnessed the incident, he or she might choose to ignore it or to stop the driver and let the driver off with a warning. If the driver was charged and required to appear before a judge, that judge could also choose to simply warn the driver, fine the driver, or offer the driver some alternative punishment aimed at rehabilitation. If, however, the judge did suspend the driver's license, the driver could still choose to risk not returning his license to the DMV and continue to drive. Unless the police stopped the driver in a future driving incident, asked for the driver's license, and then made the effort to check court records for the driver's driving record, the driver could

[21] In one week in Los Angeles in 1917, 160 drivers were arrested for speeding, 14 of whom were convicted (*Los Angeles Times,* 18 February 1917, p. VI1).

easily continue to drive with an invalid license. It is no wonder that newspapers in early automotive history were brimming with articles from judges, police, elected officials, and the general public expressing outrage that drivers frequently got away with endangering the public.

Widespread enforcement was costly, both politically and financially. If the state could identify the reckless minority, they could spare resources unnecessarily monitoring, punishing, and restricting the Everyman's driving. "In Los Angeles, as in other cities, 95 percent of the so-called accidents could be avoided. As a matter of fact, 5 percent of the drivers are responsible for more than 90 percent of the deaths and injuries," the LA Deputy Chief of Police said in his address to the City Club in 1930 (*Los Angeles Times,* 2 October 1930, p. A12). Drivers all too often got away with endangering the public with just a light fine, the police chief exclaimed. Davis urged the public to elect judges who would adequately penalize dangerous drivers regardless of their station in life. "Although the judges may, at their discretion, suspend the operator's license for thirty days of any person convicted on (driving while intoxicated), seldom if ever is this slight check imposed," a writer in the *Los Angeles Times* in 1918 steamed (*Los Angeles Times,* 6 January 1918, p. II4).

For traffic violators to be punished they first needed to be caught. Police did not apprehend even one in ten speeders, according to a self-described conservative estimate in the *Los Angeles Times* in 1917 (*Los Angeles Times,* 18 February 1917, p. VI1). Safety advocates disagreed over whether the police were understaffed or focused on the wrong crimes such as petty theft and loitering (*Los Angeles Times,* 22 February 1917, p. II4). Generally, though, traffic safety advocates lobbied for increasing the number of police officers keeping eyes on the streets. Following a grand jury report that declared Los Angeles' police force inadequate, the City approved hiring

250 additional officers and shifting officers who were on clerical duty to patrol duties (*Los Angeles Times,* 18 October 1921, p. II3).

Pointing the Blame: The Political Costs to Enforcement

With responsibility for enforcing license policy distributed across multiple branches of government, it was politically expedient for any single agency or organization to shift responsibility for the traffic problem elsewhere. Judges, the police, the DMV, the general public, and elected officials blamed each other: the police for not catching criminals, the judges for issuing light fines rather than jail or taking away a person's driving privilege, the DMV for licensing unfit drivers, the elected officials for not adopting stricter licensing examinations and harsher punishments, and the public for electing lax regulators. Each could wring their hands in exasperation that the other had not kept up their part of the bargain. Just as Police Chief Davis asked the public to elect stricter judges, judges called on elected officials to authorize harsher punishments, such as impounding vehicles, for dangerous driving (*Los Angeles Times,* 2 October 1930, A12). The auto clubs also publicly called on the DMV to use their authority to better weed out unfit drivers. Headlined "Suspension of Licenses Seen as Traffic Toll Cure," a news article describes a letter that the Auto Club of Southern California sent to Theodore Roche, State Director of Motor Vehicles (*Los Angeles Times,* 3 August 1932, p. A3). If the DMV would suspend more licenses of drivers whose records were strewn with violations, the safety problem could be solved.

From time to time, auto clubs, judges, and police officials would publicly pledge to support each other's enforcement efforts. In one instance, the Los Angeles Traffic Association, the Deputy Police Chief Davis and the presiding Municipal Court Judge Pope met for a luncheon at the Biltmore Hotel in Los Angeles to rally support for judges who punished drunk drivers (*Los*

Angeles Times, 5 January 1932, p. A1). However, judges who punished traffic violators often quickly lost public support. Chief Davis noted that when Judge Chambers began to send traffic violators to jail, accidents declined 60 percent, "but he had stepped on the toes of so many sacred cows that he found himself transferred to San Pedro. Judges since then have been more careful" (*Los Angeles Times*, 5 January 1932, p. A1). Judge Pope confirmed that "You have no idea the pressure brought to bear upon judges when a traffic law violator faces the possibility of a jail sentence. Police and judges who try to protect the community should have the support of the community against this pressure," Pope urged (*Los Angeles Times*, 5 January 1932, p. A1). Drivers could scorn judges who punished drivers too harshly, too lightly, or too infrequently. Recounting a driver who was caught speeding twice in one day and was fined $10 in court in the morning ($250 in 2022, adjusted for inflation) and the choice of $20 ($500 in 2022) or a 20-day license suspension in the afternoon, speed officers alleged "that lack of cooperation in the prosecution of speed cases is responsible for much abuse of the privilege" of driving (*Los Angeles Times,* 19 October 1917, p. II2). The DMV could shoulder some of the enforcement. Pope suggested the legislature authorize the DMV to renew licenses frequently, and to use their authority to refuse renewals to drivers with poor records. Alternatively, if judges had less leeway in punishing certain violations, they could avoid some political flak for enforcing punishments. One writer proposed that judges punish certain violations indiscriminately, such as drunk driving, and others with more discretion, like speeding (though only judges who themselves drove a car should arbitrate automobile cases), a *Los Angeles Times* writer insisted (*Los Angeles Times,* 3 January 1930, p. A4).

Periodically, judges and traffic officers would mount "safety campaigns" where police would, for a short window of time, conduct widespread traffic stops and judges would hand down

uniform license suspensions. “In a move which he hopes will prevent Death from taking over the holiday, Municipal Judge H. Leonard Kaufman yesterday announced that speeders appearing in his traffic court between now and Christmas will have their driving licenses suspended,” an article on the latest “war” on speeders warned its driving readers (*Los Angeles Times,* 20 December 1946, p. A1). When educational campaigns to promote traffic safety failed to shift driver behavior, officials called for harsher penalties. “Having failed to get results by kindness, it now has become apparent that the only method is to enforce traffic laws rigidly, and that jail sentences be requested in flagrant cases,” Police Commission President Henry Bodkin said referring to the “futility” of “No Accident Week” (*Los Angeles Times,* 20 November 1940, p. A1). The courts set reckless drivers free far too easily; the Police Board and Chief agreed; if judges wanted to offer an alternative to jail they should turn to license suspensions (*Los Angeles Times*, 20 November 1940, p. A1).

Creative Punishments

Sometimes a judge might suspend a person’s license until they demonstrated they had made an effort to reform their behavior, such as by taking a traffic law exam (*Los Angeles Times,* 11 March 1928, p. 14). Some officials in the early auto era decided to creatively restrict driving privileges for offenses that were not delineated in legislation. For example, in 1930 Henry Fritz, a fifteen-year old boy, lost his license for three months for building a fire outside official campgrounds in the Los Angeles National Forest (*Los Angeles Times,* 9 August 1930 p. A9). The police chief in Redlands began to suspend operator’s licenses for one to six months for anyone caught driving near the Community Music Association’s outdoor summer concerts (*Los Angeles Times,* 1 August 1928, p. A11). Those who parked near the concert would have to wait until it

was over to leave so as not to disturb the music, or risk losing their license (*Los Angeles Times*, 1 August 1928, p. A11).

DMV officials could also set creative restrictions on driver's licenses. License examiners most commonly restricted licenses for adults with physical handicaps, such as impaired vision, to driving at certain times of day, on less-trafficked routes, or with the aid of glasses (Hillinger, *Los Angeles Times,* 5 November 1978, p. sd1).[22] Restrictions might apply to the type of vehicle. DMV officials sometimes required a person to drive with an automatic clutch or transmission, or only a Model T Ford (*Los Angeles Times,* 8 March 1950, p. B12). The DMV could also carve exceptions into age restrictions for licenses, such as allowing children not yet eligible for a license to drive if they had no other way to get to school, if they needed to drive for work, or to assist family members who were ill and there was no public transportation (*Los Angeles Times*, 5 November 1978, p. sd1). One boy was allowed to drive only until a bridge between his home and school was repaired, another could drive to his school which was said to take an hour and entailed 365 curves from the bottom of the mountain to his home at the top, one round-trip each day (*Los Angeles Times*, 5 November 1978, p. sd1). Another woman, Ellen Kadash, could only drive within her home County of Trinity, a rural area the judge deemed sufficiently safe and which would keep her from driving through the downtown in the neighboring county. "Hogwash," Kadash responded, "If I'm capable of drivin' these narrow, windy mountain roads in the Trinity Alps, it seems to me I should be good enough to drive everywhere else in this state. My God, what's happening to America?" (*Los Angeles Times*, 5 November 1978, p. sd1).

[22] Around 1950, the DMV issued 345,716 restricted licenses, 287,137 of which required drivers to wear eyeglasses (*Los Angeles Times*, 8 March 1950, p. B12). In 1978, the State issued 5 million restricted licenses annually, the vast majority of which were vision-related (*Los Angeles Times*, 5 November 1978, p. sd1).

Table 4. Variation in Punishments for Traffic Offenses in Los Angeles, California

Violation	*Punishment*	*Description*	*Year*	*Citation*
Drunk driving	50-day license suspension, told not to abstain from liquor for a year	Probation officer investigated case, and due to the driver's previous good record felt he deserved clemency, and that a jail sentence or fine would impose severe hardship on his family	1930	*Los Angeles Times,* 26 June 1930, p. A2
	None, judge recommends parents spank son	18-year old caught driving drunk and without license, judge suspends 30-day jail sentence and instead tells parents "A good old-fashioned spanking is what I advocate for this defendant"	1930	*Los Angeles Times,* 8 July 1930, p. A20
	30-day jail sentence	Sentenced for drunk-in-automobile charge	1935	*Los Angeles Times,* 1 March 1935, p. A1
	60-day license suspension, 120 days in City jail	Convicted of drunk driving	1947	*Los Angeles Times,* 22 October 1947, p. A16
Speeding	1-week license suspension	Four teenagers (ages 15, two aged 17, and 19) charged with reckless driving or speeding; "I think walking is a splendid exercise, especially for you young fellows who don't take time to think" Judge Farrell told the sentenced drivers.	1931	*Los Angeles Times,* 2 August 1931, p. C14
	Fines, required to visit County morgue	25 speeders caught in one day in LA County	1935	*Los Angeles Times,* 1 March 1935, p. A1
	30-day vehicle impoundment, 30-day license suspension	Drove 60 mph in 25 mph zone	1935	*Los Angeles Times,* 2 March 1935, p. A1
	30-day license suspension	Judge Kaufman sentenced 25 speeding men in one day; "If drivers insist on speeding through restricted zones, something must be done to take them off the streets ‘long enough to let them cool down,’ the jurist said."	1941	*Los Angeles Times,* 29 October 1941, p. A1

	Unspecified length of license suspension; suspended 5-day jail sentence, surrender gasoline ration books	Judge Kaufman suspended the jail sentence for 2 speeders if they surrendered their gasoline ration book for one month	1942	*Los Angeles Times,* 24 November 1942, p. 1
	30-day suspensions and 3-day jail sentences	Judge Roger Pfaff "continued his crackdown on speeders" and gave 5 three-day sentences	1948	*Los Angeles Times,* 31 July 1948, p. A1
	Choice of $150 fine ($1,875 in 2022) or 30 days in jail	Driver charged with speeding and cutting in and out of traffic; he did not have the $150 and went to County jail	1948	*Los Angeles Times,* 6 October 1948, p. 2
Driving without (valid) license	30-day jail sentence	Driving with a suspended license	1935	*Los Angeles Times*, 1 March 1935, p. A1
	1-day jail sentence	Second time caught driving without an operator's license; sentenced by Judge Kaufman	1944	*Los Angeles Times,* 3 June 1944, p. A3
	10-day jail sentence	Judge Kaufman sentenced person driving with suspended license	1946	*Los Angeles Times,* 30 July 1946, p. 2
	Penalties ranged from 10- to 15-day jail sentences	"Municipal Judge H. Leonard Kaufman continued his campaign against traffic law violators. Stiffest sentences were given to four men found guilty of driving cars after their licenses had been suspended."	1947	*Los Angeles Times,* 8 April 1947, p. 2
Collision	None	Two collisions that seriously injured victims, one person "will probably die" according to surgeons at the Receiving Hospital; "Neither motorist was held, both accidents being found unavoidable."	1930	*Los Angeles Times,* 4 February 1930, p. A1
	3-year jail sentence, 10-year license suspension	Person guilty of killing three in collision	1932	*Los Angeles Times,* 12 April 1932, p. A5

	30-day license suspension, 60-day vehicle impoundment, 5-day jail sentence	Under new plan adopted by Municipal Court judges, offer drivers in fatal crashes an alternative to maximum jail time by impounding their vehicles	1935	*Los Angeles Times,* 5 February 1935, p. 1
	60-day license suspension, 30-day vehicle impoundment, $25 fine (nearly $550 in 2022)	Lost car and operator's license under new plan to avoid jail time	1935	*Los Angeles Times*, 5 February 1935, p. 1
	90-day license suspension, 60-day jail sentence, license plates and registration certificate handed over to court "to insure his not driving"	Article offered a "typical and current traffic accident, presented for the lesson which it conveys to other drivers."	1935	*Los Angeles Times,* 3 June 1935, p. A1

Discretion and Discrimination

In establishing and meting out license punishments, judges, police, and lawmakers confronted a difficult trade-off between efficiency and fairness. With so many traffic violators to catch, police selectively apprehended rule-breakers. Judges, too, were constrained in how much individual attention they could offer to each case. Discretionary punishments, however, left room for bias. Despite public outcry over the "traffic problem" and periodic enforcement, drivers continued to violate the Vehicle Code largely unabated. The public swallowed the discretionary nature of law enforcement and the risk of fines in exchange for their automobility. Marginalized populations who were more likely to be stopped by police, and poor drivers who were less able to afford fines, felt the sting of license punishments more acutely (*Los Angeles Times,* 22 February 1917, p.II4; Sorin, 2020). One writer in 1917 described that in Los Angeles, "It would almost seem sometimes as though some of the officers employed and empowered to enforce the law and the judges drawing salaries for interpreting and administering justice were reluctant to exercise their respective functions on any save the more helpless elements of society" (*Los Angeles Times*, 1917 p. II4).

Traffic stops are one of the most common ways that people interact with law enforcement (Seo, 2019). Without surveillance technology, police officers must judge whether and which parts of the municipal code to enforce. An officer's decision to invoke the law, according to sociologist Donald Black's theory of law, may depend on the officer's social position relative to the driver (Black and Black, 1980; Rojek, Rosenfeld, and Decker, 2012). It follows that in a discretionary enforcement system, people stigmatized for their race, income, gender, or other characteristics are more likely to be stopped and sanctioned. And this theory, when tested with traffic stop data,

is borne out (Rojek et al., 2012). How and whom scholars study varies. When scholars try to measure racial bias in traffic stops, they generally first establish a benchmark estimate of the racial/ethnic distribution of the driving population, and then compare the benchmark to the distribution of drivers stopped (Grogger and Ridgeway, 2006). Scholars have studied traffic stops and searches in different places (cities and suburbs within and outside the US), different geographic scales (individual data and aggregated), controlled for different factors (crime rates, policing rates, officer's race) and with different methods (survey data, field observations, descriptive comparisons, propensity scores, and other forms of regression analyses) (Engel and Calnon, 2004; Meehan and Ponder, 2002; Gaines 2006; Roh and Robinson, 2009; Gelman, Fagan, and Kiss, 2007; US Department of Justice, 2015). Most studies, including meta-analyses, find that Black and Hispanic drivers are more likely to be stopped and searched by police than White drivers (National Institute of Justice, 2013; Carvalho, Mizael, and Sampaio, 2021; Lytle, 2014).

Seo (2019) documented the history of road regulation and enforcement, and argued that in response to the spread of the automobile, laws and police enforcement needed to greatly expand to maintain public safety. Traffic laws afforded police generous discretion in enforcing traffic laws, and U.S. courts have largely protected officers in cases challenging police action, ultimately enabling discriminatory traffic enforcement.

Stories on traffic stops dot newspapers from the early auto era to the present, and often highlight disparities in traffic punishments. In 1917, a writer in the *Los Angeles Times* described how the police would expend their resources conducting raids on vulnerable members of society, while letting much more life-threatening traffic violations go unpunished: "They will make a great to

do over arresting some peddler without a license, a tramp who has stolen a pair of pants off a clothesline or a drunk who has gone to sleep in a doorway," a writer in the *Los Angeles Times* describes of the Los Angeles police in 1917 (*Los Angeles Times*, 22 February 1917, p. II4). The writer mentions a case in which "a local judge who condemned a Mexican to six months in jail for stealing a bottle of milk. It is such as these that the law is coming down on all the time, while the automobile driver who kills and maims through sheer recklessness and irresponsibility often escapes with a light sentence or a hollow reprimand that does little or nothing to discourage others of his kind" (*Los Angeles Times*, 22 February 1917, p. II4). A discretionary system of policing the road could all too easily become discriminatory (Seo, 2019).

Black newspapers offer a different lens and cast light on traffic policing and license policy. In driving, Black drivers in particular found new freedom, as well as risks. Automobility offered Black travelers privacy and comfort, a stark contrast to traveling on Jim Crow-era segregated bus and rail systems, where Black travelers confronted hostility and violence (Sorin, 2020). Black drivers could avoid the shame of moving to the back of the bus, or re-entering through the back door (Sorin, 2020). They could also shield their children somewhat from being humiliated while traveling from one Black neighborhood to the next (Sorin, 2020). The car and driver's license, however, were no panacea for Black mobility. While automobiles created new opportunities to travel and explore the country, Black drivers could accidentally end up in dangerous neighborhoods and encounter racist gas-station attendants, restaurant workers, car mechanics, or even angry mobs (Sorin, 2020). Drivers could come across overtly racist signs; travelers in Little Rock, Arkansas in 1959, for example, came across a sign posted on telephone poles across the city by the KKK, instructing drivers to "Be a real citizen. Renew your driver's license. Pay your

poll tax. Join the U.S. Klans, Knights of the Ku Klux Klan" (*Los Angeles Sentinel,* 7 May 1959, p. A4).[23]

Rather than protect travelers, law enforcement, representing their communities, used their authority to constrain Black mobility (Sorin, 2020). Black drivers were especially at risk of escalating encounters with police following contentious Civil Rights marches or integration efforts (Sorin, 2020). Driver's license policies offered pretext to police protestors. For instance, after Martin Luther King Jr. was arrested in a sit-in demonstration in Atlanta in 1960, authorities in the neighboring county of Dekalb demanded he be transferred to their jail and held without bond for a "failure to have a driver's license" charge there (*Los Angeles Sentinel,* 27 October 1960 p. A1). While there is a lack of academic studies of racial profiling from the early auto era to the 1940s, Black newspapers and magazine routinely published stories of race-based discrimination at traffic stops, and how best to avoid conflicts (*Los Angeles Sentinel,* 16 July 1970, p. D2; Sorin, 2020).[24] The police often pinned the responsibility of traffic collisions on Black drivers, regardless of the circumstances; and many Black drivers preferred to admit fault and quickly exchange information, rather than prolong interactions with law enforcement (Sorin, 2020).

[23] Governor Faubus claimed he did not approve, but felt there was little to be done about the signs, which, he said, were likely motivated by the integration "dispute" (*Los Angeles Sentinel*, 7 May 1959, p. A4).

[24] In 1999, California Governor Davis vetoed a bill that would have required law enforcement agencies to collect data on race and ethnicity on drivers they stopped. In 2000, 70 percent of municipalities voluntarily agreed to collect the data. Los Angeles did not collect data voluntarily, and refused to conduct a study racial profiling in law enforcement, which Sherrif Lee Baca argued would require too many resources to implement (*Los Angeles Sentinel*, 17 February 2000, p. A1). The ACLU filed a federal suit against the LAPD for racially profiling in traffic stops (*Los Angeles Sentinel*, 17 February 2000, p. A1). In 2015, the State Legislature passed, and the Governor signed, AB 953, the Racial and Identity Profiling Act, which prohibits racial profiling and requires law enforcement agencies to report the race or ethnicity of persons stopped (AB 953: The Racial and Identity Profiling Act of 2015, California Office of Attorney General, 2016).

The driver's license is notably one of the first items an officer can request from a driver at a traffic stop, and can spark what is already a tense interaction into a volatile one. "Not knowing who you are, the officer will be interested in seeing your hands. Passengers should remain quietly in the vehicle. A lot of activity may raise suspicion in the officer's mind that something is being hidden, such as an open bottle of alcohol, narcotics, or gun," Captain Goodwin of the California Highway Patrol advised *Sentinel* readers (*Los Angeles Sentinel*, 16 July 1970, p. D2). An officer might interpret a driver bending over to find their license, and unintentionally obscuring their hands, to be searching for a weapon, as was likely the case for Betty Ann Scott. Scott, a Black driver, was shot by the California Highway Patrol after she reached into the glove compartment for her driver's license in 1975 (Price, *Los Angeles Sentinel*, 23 October 1975, p. A1). In other instances, police aggressively grabbed Black drivers' licenses, or refused to return them, escalating matters (*Los Angeles Sentinel,* 26 February 1970, p. A1). In one of several similar incidents between Black drivers and private security at the University of Southern California, a security guard beat a Black student driver, Carl McIntosh, after McIntosh asked for and was denied his license back (*Los Angeles Sentinel*, 9 September 1976, p. A4).

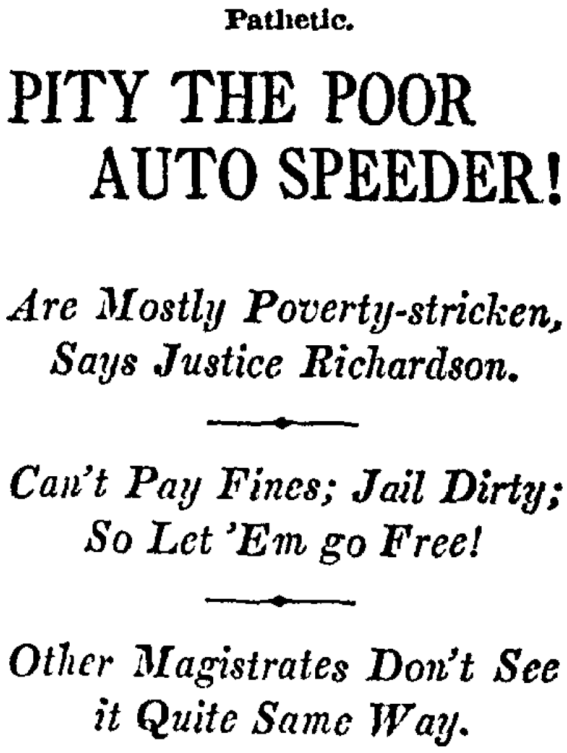
Black newspapers offered an important outlet for the Black community to document discrimination on the road, and to push back against police aggression. As part of a series in 1969 titled "The Police and the Urban Negro," the historically Black newspaper the *Los Angeles Sentinel* reported on a police officer who stopped a Black driver in Venice, California, and after examining the driver's license, reportedly exclaimed "How can I tell if this is you? All of you people look alike to me" (Robertson, *Los Angeles Sentinel*, 7 August 1969, p. B6). "Did they have to talk to me as they did? Am I less than a human being?" the driver countered (*Los*

Angeles Sentinel, 7 August 1969, p. B6). In an article dating back to 1951, the *Los Angeles Sentinel* described another incident in which two drivers, one Black and one White, rolled through a stop signal and were stopped by a police officer (*Los Angeles Sentinel,* 26 July 1951, p. A8). The Black driver promptly showed his driver's license and received a ticket. The White driver could not produce a license, yet drove away unpunished (*Los Angeles Sentinel*, 26 July 1951, p. A8).

Letters to the editor in Black newspapers also offered readers the opportunity to voice their frustrations and ideas on traffic enforcement and license policy. Edythe L. Williams, a *Sentinel* reader, argued that poverty was a major factor underlying tensions between the police and the public (Williams, *Los Angeles Sentinel*, 25 June 1964), p. A6). Drivers who could not pay traffic tickets often felt that they were at the mercy of police officers, who had much more information about them from their driver's license and auto registration than drivers had about the officer (*Los Angeles Sentinel*, 25 June 1964, p. A6). Williams suggested that the public should equally be able to identify a police officer's name, serial number and rank; "This identification would not only discourage unworthy behavior on the part of bad policemen, it would encourage good policemen to continue in their dedicated service to the public," she wrote (*Los Angeles Sentinel*, 25 June 1964, p. A6).

If the Everyman could better skirt a traffic citation, he could also avoid stricter judgment in the courthouse. Judges, public officials and police often promised the public *they* would not let the elite drive away with just a slap on the wrist, implying that many others did. Journalists and law enforcement criticized state authorities for letting affluent drivers get away with reckless behavior by paying fines. When Chief of Police Davis urged Los Angeles voters to elect only

judges who had the courage to penalize dangerous drivers, he specified that judges punish drivers "regardless of their station" (*Los Angeles Times,* 2 October 1930, A12). The *Los Angeles Times* published one unnamed west coast city's safety pledge, which notably asked police officers to pledge to "arrest all traffic violators whether prominent citizens or not," DMV officials to "promise that the licenses of all who repeatedly or flagrantly break the traffic laws shall be revoked in every case," the judge to "clap the full penalty of the law on every driver," and "Mr. Prominent Citizen" to "promise to turn a stony ear to all appeals from my friends to call up headquarters and make it right for them with the chief" (*Los Angeles Times*, 11 January 1930, p. A16).



Pathetic.

PITY THE POOR AUTO SPEEDER!

Are Mostly Poverty-stricken, Says Justice Richardson.

Can't Pay Fines; Jail Dirty; So Let 'Em go Free!

Other Magistrates Don't See it Quite Same Way.

Figure 25. "Pity the Poor Auto Speeder!" Source: *Los Angeles Times,* 8 October 1915, p. II1

Some judges in the early auto era tried to mete out progressive punishments for drivers based on their ability to pay. A judge in El Paso, Texas, after himself becoming crippled in an auto

collision, campaigned on the promise that he would fine "the richest banker in town" the maximum fine, and a minimum fine for the poor man hurrying to work in the morning and found speeding for the first time (*Los Angeles Times,* 27 August 1924, p. 16). Charging an equal amount would not be fair, the judge contended, for "it is a real punishment for the poor man to dig up $5, while the wealthy one is shy only the price of his lunch the next day" (*Los Angeles Times*, 27 August 1924, p. 16). In Los Angeles, a police court judge, Justice Richardson, appealed to the City Council to reform its speeding ordinance, which authorized $25 fines (approximately $650 in 2022 after adjusting for inflation) and jail sentences for speeders, punishments that constituted a real hardship for poor drivers (*Los Angeles Times,* 8 October 1915, p. II1). Richardson claimed that the majority of people who went to court for traffic offenses were poor men, which, if true, would clearly indicate that law enforcement likely targeted poorer drivers or poorer neighborhoods, since automobile owners in 1915 were wealthier than the typical resident (US Census Historical Statistics of the United States, Series G). The article noted, however, that Richardson held a minority opinion among police court judges (*Los Angeles Times*, 8 October 1915, p. II1).

Court decisions suggest and license statutes confirm that early license punishments were regressive. A wealthy driver could pay a civil judgment after colliding into someone and continue to drive, whereas a driver who could not pay would also lose his license.[25] A wealthy driver in the early auto era likely also had a chauffeur, who was liable for speeding even if it was at the behest of his employer (*San Francisco Chronicle,* 3 December 1922, p. E10). Fines offered judges lighter alternatives to incarceration or suspensions, for those who could afford

[25] I discuss this topic in greater detail in the following chapter.

them. Judges sometimes offered traffic violators their choice of punishment, often in addition to losing their license: pay a fine or go to jail. For those who could pay, a fine was a less prolonged and unpleasant option. For others, like Warren G. Tucker, a roofer caught speeding and weaving through traffic, jail was the only option they could afford (*Los Angeles Times,* 6 October 1948, p. 2).[26] In court cases in the 1930s over suspensions for failure-to-pay civil judgments, legal scholars and judges debated whether penalizing a driver's license for nonpayment discriminated against drivers with less ability to pay.

Suspension Efficacy

Uneven license punishments meant that the Everyman could continue to drive with little risk of getting stopped for speeding, rolling through a stop sign, or running a traffic light - crimes that were quickly becoming penumbral, or a crime that is pervasive, carries little social stigma, and is infrequently enforced (Raymond, 2002). Driving without a valid license might also be considered a penumbral crime. Officials had trouble enough encouraging drivers to carry their valid licenses with them, let alone suspended or revoked ones. As American society quickly oriented around automobile travel, drivers with suspended licenses risked losing their livelihoods (O'Keeffe, 1930).[27] Unsurprisingly, they often resorted to risking car travel (*Los Angeles Times*, 30 January 1935, p. A1).

Suspensions were a policy failure, some critics argued. License suspensions were meant to incapacitate drivers, similar to the way incarceration incapacitates people from committing

[26] Municipal Judge Mildred L. Lillie offered Tucker the option of either a fine ($15) or 30 days in County jail. "Tucker did not have the $15" and instead went to jail (Los Angeles Times, 6 October 1948, p. 2).

[27] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

additional crimes. Yet people continued to drive, only to be punished if they were found breaking traffic rules again, an exasperated traffic court judge Brand said before advocating for more jail time for speeders (*Los Angeles Times*, 30 January 1935, p. A1). Just how many drivers with suspended or revoked licenses kept sitting behind the steering wheel was up for debate. The newspapers of the early auto era regularly described traffic court proceedings, and many of the drivers brought in came with already tarnished driving records. It was fairly common for judges to sentence drivers brought in on other charges who were found driving on a suspended or revoked license. Estimates of the proportion of people who continued to drive on suspended or revoked licenses ranged from 80 percent (Ruhlow, *Los Angeles Times*, 10 November 1968, p. oc1) to between 60 and 90 percent (*Los Angeles Times*, 6 February 1967, p. sf8). By the 1960s, the DMV started to measure the problem. Using a random sample of 95,000 drivers over a three-year period in the early- to mid-1960s, researchers found that one percent of cited drivers failed to appear in court for a traffic citation (Blake, *Los Angeles Times*, 10 February 1967, p. A6).[28] In another study in the same period, the DMV found that 33 percent of drivers whose license was suspended for negligence and 68 percent with revoked licenses, continued to drive. The study estimated that drivers with suspended or revoked licenses (approximately 23,000 per year) were involved in 475 collisions, 133 injuries, and 6 deaths (Blake, *Los Angeles Times*, 10 February 1967, p. A6). In 1980, the DMV surveyed drivers, and found that 65 percent of 1,111 drivers who lost their licenses for drunk driving offenses surveyed admitted to driving on a suspended license (*Los Angeles Times,* 22 August 1980, p. b22).[29] The most common reasons they gave for

[28] At the time 10,321,000 people were licensed to drive in California (Blake, 1967).

[29] After matching the respondents to their driving records, the DMV identified 96 survey respondents who stated they did not drive after losing their driving privilege, despite being involved in a collision or convicted of another moving violation while their licenses were suspended or revoked (*Los Angeles Times,* 22 August 1980, p. b22).

driving on an invalid license? They needed to get to work, and had no other way of getting there (*Los Angeles Times*, 22 August 1980, p. b22).

The suspension problem was twofold: people needed to drive and suspensions were difficult to enforce. It was both a problem of enforcement and of deterrence. On the enforcement side, drivers were inconsistently punished with suspensions, and inconsistently caught for driving on a suspended license. Weak enforcement compounded the second problem of deterrence: Someone with a suspended license could break the law by continuing to drive, and not be deterred from driving recklessly again. Officials debated how to best deal with the suspension problem. Some, like Judge Brand, advocated for more immediate and harsher sanctions for traffic violations. Suspensions did not meaningfully prevent people from breaking the law all over again. Taking a person's car away, or putting a person in jail, would. Traffic safety advocates suggested, but rarely implemented, impounding vehicles (*Los Angeles Times,* 30 January 1935, p. A1). "How can reckless motorists be made to respect the law?" began an article from 1924 (*Los Angeles Times,* 6 July 1924, p. F11). Taking someone's license away was not enough of an inconvenience to keep him off the road, argued Chief of the DMV, William H. March. A much more effective punishment was to take his car in addition to his license, March proposed (*Los Angeles Times*, 6 July 1924, p. F11).

On the flip side, since driving was so important, people would risk driving illegally; other judges and policymakers tried to make it easier for drivers to abide by suspensions. Public transit was simply not a viable alternative for many Californians who needed to drive to work, Assemblyman David Negri from the San Fernando Valley argued (Estes, *Los Angeles Times*, 6 February 1967, p. sf8). Negri reintroduced legislation in 1967 that would allow people with

Financial Responsibility suspensions to drive to and from work (*Los Angeles Times*, 6 February 1967, p. sf8). "If we had a good public transportation system, the need would not be so great. But without any indication that the system will be provided, everyone needs the automobile," Judge Cochran, a traffic court judge in Van Nuys said in support of the measure (*Los Angeles Times*, 6 February 1967, p. sf8). But reforming suspensions was an uphill and lengthy battle. Opponents claimed that such loopholes made it easier for people to flout driving restrictions entirely (*Los Angeles Times*, 6 February 1967, p. sf8). Negri's bill had been introduced in previous legislative sessions before passing in 1985 under the Mello-McAlister Restricted Employment Driving Privilege Act (*Los Angeles Times*, 6 February 1967, p. sf8).[30]

Driver education offered another lighter alternative to suspensions. If punishments such as license suspensions were not effective in motivating safe driving, some judges and traffic safety proponents believed that traffic school might teach improved driving behavior (Ruhlow, *Los Angeles Times*, 10 November 1968, p. oc1).[31] Education programs seemed to reduce traffic fatalities, particularly among children (Whitney, *Los Angeles Times*, 25 October 1931, p. E3), and insurance companies and auto clubs lobbied the state and organized safe driving programs in public high schools (*Los Angeles Times,* 28 October 1948, p.16). In New York City between 1922, when schools began to introduce traffic safety lessons, and 1931, traffic fatalities rose

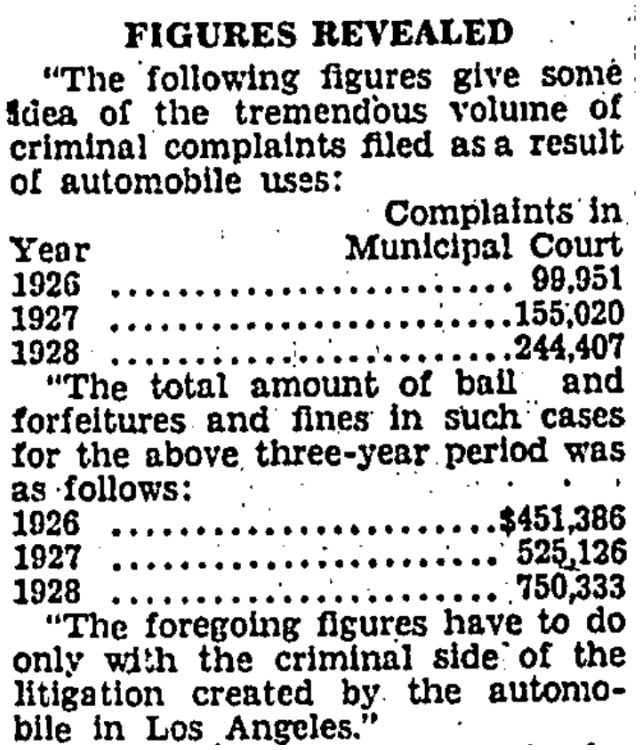
[30] The act amended Vehicle Code § 16072 to allow drivers with Financial Responsibility suspensions who showed proof of insurance and paid a penalty fee to drive to and from work, as well as in the course of employment (SB 855, Mello Financial Responsibility, 1985).

[31] A municipal court judge in 1968 said that courts were attempting to rely less on fines alone (*Los Angeles Times*, 10 November 1968, p. oc1). Instead, judges were increasingly sending traffic violators to special traffic schools, which, the judge (Calvin Schmidt) said, had proven effective in reducing recidivism among repeat offenders in Anaheim and Fullerton. A California Highway Patrol officer, Harry Gillespie disagreed: "We can point out the danger and lecture all day, but the only way the public seems to get the message is when it hits them in the pocketbook" (Los Angeles Times, 10 November 1968, p. oc1).

among adults by 38 percent but declined among children by two percent (*Los Angeles Times*, 25 October 1931, p. E3). Conceivably educating reckless drivers was a more pragmatic alternative to taking their license away for a brief time. The automobile was "marvelous as a servant, but terrible as a master… He who is unwilling or unable to learn must be excluded from the highways," Albert Whitney, the head of the National Bureau of Casualty and Surety Underwriters, wrote, arguing for more traffic education (*Los Angeles Times*, 25 October 1931, p. E3). Early in license history, some judges preferred to make drivers pass exams rather than suspend their licenses after driving recklessly (*Los Angeles Times,* 11 March 1928, p. 14). Judge Chambers, a San Diego Police Court judge, preferred to temporarily suspend a driver's license until they passed a traffic law exam, rather than to fine or jail them (*Los Angeles Times*, 11 March 1928, p. 14). Many drivers were completely unaware of the traffic laws, or could not understand them because they were in English, Chambers reasoned (*Los Angeles Times*, 11 March 1928, p. 14). Other judges found creative ways to more viscerally teach drivers the consequences of reckless driving. Judge Gibbens, the self-described "nutty judge with the screwy sentences," was particularly well-known for ordering traffic violators to visit emergency hospital wards and auto junkyards, sweep streets, wash stop signs, and act as crossing guard (Folkart, *Los Angeles Times,* 19 September 1985, p. A33; *Los Angeles Times,)* 31 August 1962, p.1). He placed a coffin draped with flowers in his courtroom, and would tap it for emphasis when he judged traffic violators (Folkart, *Los Angeles Times,* 19 September 1985, p. A33). Judge Scherb ordered a driver to visit the body of a traffic victim, a sentence the coroners doubted morgue regulations permitted (*Los Angeles Times*, 22 November 1947, p. 3).

With ever mounting traffic rules to contend with, a machine built for speed, and infrequent enforcement, drivers could often get away with flouting traffic laws and face little social stigma.

The police departments in California and across the country quickly ramped up in a hasty effort to bring order to the streets (Seo, 2019). And though records in 1925 showed that police were increasingly citing drivers for traffic violations, they simply could not keep up with drivers, whose accident rates continued to climb (*Los Angeles Times,* 13 November 1925, p. 22). Police courts, too, were quickly overwhelmed with traffic cases. "In the matter of litigation, not only are new problems confronting us, but the volume of legal business created by the automobile is tremendous," Judge Brogue described in 1929. Brogue documented the spike in auto-related criminal cases (see Figure 26), and estimated that in 1929 one-third of all civil cases in Los Angeles County related directly or indirectly with the automobile (*Los Angeles Times,* 11 March 1929, p. A1).



FIGURES REVEALED

"The following figures give some idea of the tremendous volume of criminal complaints filed as a result of automobile uses:

Year	Complaints in Municipal Court
1926	99,951
1927	155,020
1928	244,407

"The total amount of bail and forfeitures and fines in such cases for the above three-year period was as follows:

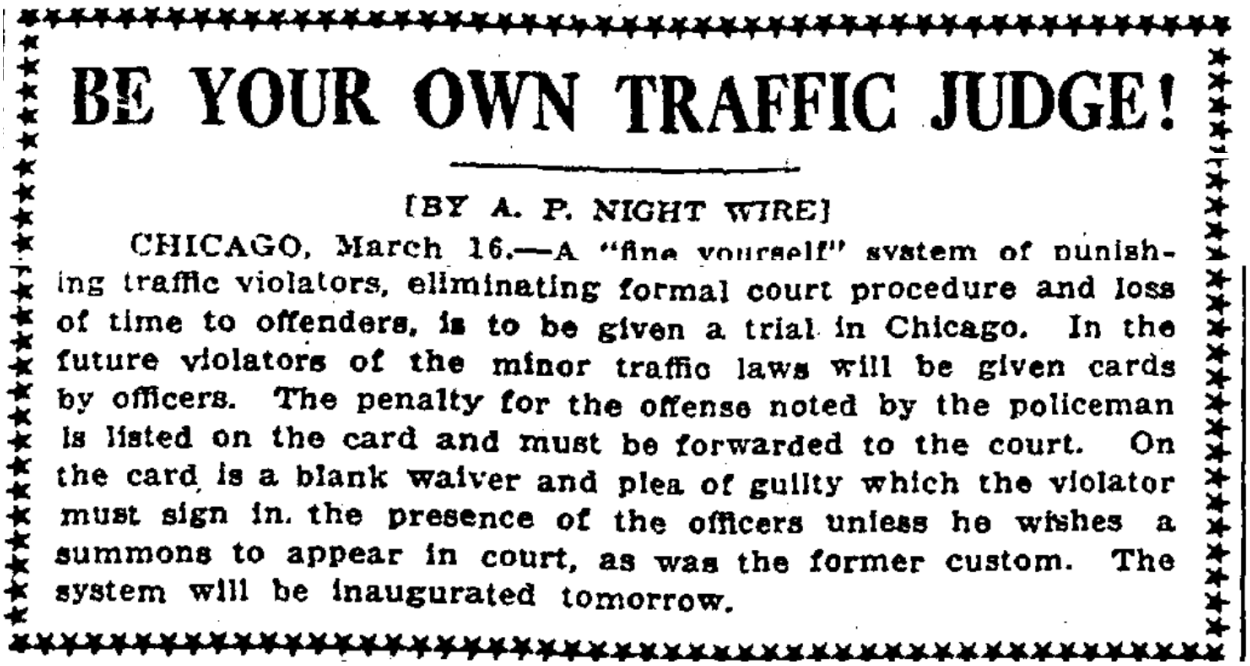
1926	$451,386
1927	525,126
1928	750,333

"The foregoing figures have to do only with the criminal side of the litigation created by the automobile in Los Angeles."

Figure 26. Automobile Litigation. Source: *Los Angeles Times*, 11 March 1929, p. A1

The courts needed to find a way to be more efficient. Judges could lighten their court's dockets if they established separate traffic courts, or simply allowed violators to pay their way out of

attending court in the first place. Following Chicago's example, Los Angeles Municipal Court Judge McConnell and the city prosecutor created a "cafeteria" system that allowed speeders to go directly to the City's Prosecutor's office to pay a standardized fine based on their violation so long as they waived their rights to a trial (see image below for a description of the Chicago "fine yourself" system) (*Los Angeles Times,* 21 August 1926, p. A1). By 1929, courts enabled people to mail their fines for minor traffic violations, making it even easier for violators to pay and avoid the hassle of court (*Los Angeles Times,* 27 May 1929, p. A18). "If one suffers stage fright in court, or if no one can be got to take care of the baby," drivers could mail their fine rather than spend half a day waiting in court, a news article explained (*Los Angeles Times*, 27 May 1929, p. A18). As early as 1925, police court judges began discussing creating separate traffic courts (*Los Angeles Times,* 3 April 1925, p. A1). Los Angeles Police Court Judge Pope proposed a traffic court system that categorized "ordinary" traffic cases as engineering, not police, problems, prioritized cases that implicated public safety, and would "eliminate the common idea" that traffic violations were a revenue source (*Los Angeles Times*, 3 April 1925, p. A1). A year later, the city's Traffic Commission and Municipal Court judges in charge of traffic cases approved a plan to funnel minor traffic violations to a Traffic Fines Bureau (*Los Angeles Times,* 13 November 1926, p. A1; *Los Angeles Times*, 20 March 1926, p. A18). "No man can be expected to bear the burden of deciding from 300 to 400 cases in a morning session," Miller McClintock, the city's Traffic Commission consultant explained (*Los Angeles Times*, 13 November 1926, p. A1). Traffic courts could help Municipal judges focus on weightier crimes, and reduce wait times in the overloaded courts (*Los Angeles Times*, 13 November 1926, p. A1).



BE YOUR OWN TRAFFIC JUDGE!

[BY A. P. NIGHT WIRE]

CHICAGO, March 16.—A "fine yourself" system of punishing traffic violators, eliminating formal court procedure and loss of time to offenders, is to be given a trial in Chicago. In the future violators of the minor traffic laws will be given cards by officers. The penalty for the offense noted by the policeman is listed on the card and must be forwarded to the court. On the card is a blank waiver and plea of guilty which the violator must sign in the presence of the officers unless he wishes a summons to appear in court, as was the former custom. The system will be inaugurated tomorrow.

Figure 27. "Be Your Own Traffic Judge!" Source: (*Los Angeles Times*, 16 March 1926, p. 4)

In both the early auto era and in our present day, judges suggested doing away with treating certain traffic violations in criminal court (Fay, *Los Angeles Times*, 11 October 1948, p. A4). If the public generally found traffic violations socially acceptable, then the punishment should better fit the crime, Judge Fay argued in 1948 (*Los Angeles Times*, 11 October 1948, p. A4). The public could not support a system that relied heavily on fines and that treated someone who unintentionally but carelessly drove through a traffic signal. Instead, Fay believed drivers should be classified as either intentional or unintentional violators. Just as other licensing agencies had the authority to suspend or revoke a license, the DMV could discipline licensees "where no crime (in the true sense) has been committed" rather than a criminal court (*Los Angeles Times*, 11 October 1948, p. A4). Just how "the sheep would be separated from the goats" was not just unclear, a writer in the *Los Angeles Times* countered, but beside the point (*Los Angeles Times*, 29 September 1948, A4). Whether someone was struck by a careless driver or a malicious one did not matter to the victim.

Fay's proposal never came to pass. And the under-resourcing problem - too many traffic cases, too few police and court resources - proved perennial. By 2015, minor traffic infractions made up the vast majority of criminal court filings (75%) in California, and judges again advocated for reforms to the adjudication system (Commission on the Future of California's Court System, 2017).[32] Too many drivers clogged the criminal courts with minor traffic infractions, judges argued, violations that all too often left defendants facing a complex judicial system with no counsel, and which took attention away from more serious cases (Commission on the Future of California's Court System, 2017).

Do driver's license requirements and suspensions make roads safer? The evidence is mixed. Research on the driver's license tends to focus on safety outcomes among older adult and young drivers (Dobbs, 2008; Shope, 2007; Williams, Tefft, and Grabowski, 2012). Certain policies that require novice drivers to practice under supervision (so-called graduated licensing laws), or that identify drivers with poor vision, seem to prevent collisions (Shope et al., 2001; Levy, Vernick, and Howard, 1995). If state laws require teenagers to drive a few years with a learner's permit, research shows that they are less likely to break traffic rules or get into crashes (Chapman, Masten, and Browning, 2014).

Less persuasive, however, are some of the most long-established license policies. Studies find that mandatory driver training and driving tests have a negligible effect on road safety (Potvin, Champagne, and Laberge-Nadeau, 1988; Conley and Smiley, 1976). Suspension studies

[32] Infractions, unlike misdemeanors or felonies, can only be punished with a fine. All three offenses are handled by the Superior Court's criminal or traffic division, and require the same criminal law procedures that were designed for more complicated cases. Since traffic infraction cases do not require a prosecuting attorney, but still involve many formal procedures, many defendants contend with a system they are unfamiliar with without counsel (Commission on the Future of California's Court System, 2017).

consistently find that drivers (approximately 75 percent) continue to drive on a suspended license (Neuman et al., 2003). Whether suspensions change driver behavior depends on the underlying reason behind the loss of the license. A driver who lost her license for unsafe driving is more likely to drive dangerously compared to a driver who lost her license for financial or other reasons (American Association of Motor Vehicle Administrators (AAMVA), 2021; Carnegie and Eger III 2009). In an analysis of driver records from six states across the country between 2002 and 2006, the American Association of Motor Vehicle Administrators (AAMVA) found that drivers with suspensions for both road and non-road violations were more likely than the average driver to be involved in a crash (American Association of Motor Vehicle Administrators, 2021). The gap in crash rates between the two types of suspended drivers, however, was wide. Thirty-five percent of drivers suspended for road violations committed a moving violation while under a suspension, compared to just seven percent of drivers suspended for other reasons (and compared to a national average of three percent) (American Association of Motor Vehicle Administrators, 2021).

Suspending someone's license may well, on the margins, improve traffic safety. Regardless of their safety record, a suspension takes (some) drivers off the road, and so is a blunt tool to reduce collisions. But there are costs to suspensions - to the affected driver, the Motor Vehicle agency, the courts, and to law enforcement. A suspended driver might stay off the road, but most do not. If they are involved in a collision they might flee the scene, whether or not they are the victim (AAMVA, 2021). Courts, law enforcement agencies, and DMVs spend additional time and resources dealing with drivers caught driving without a license, nearly 40 percent of whom lost their license for reasons unrelated to road safety (American Association of Motor Vehicle Administrators, 2021). The DMV spends considerable resources training staff, fielding inquiries,

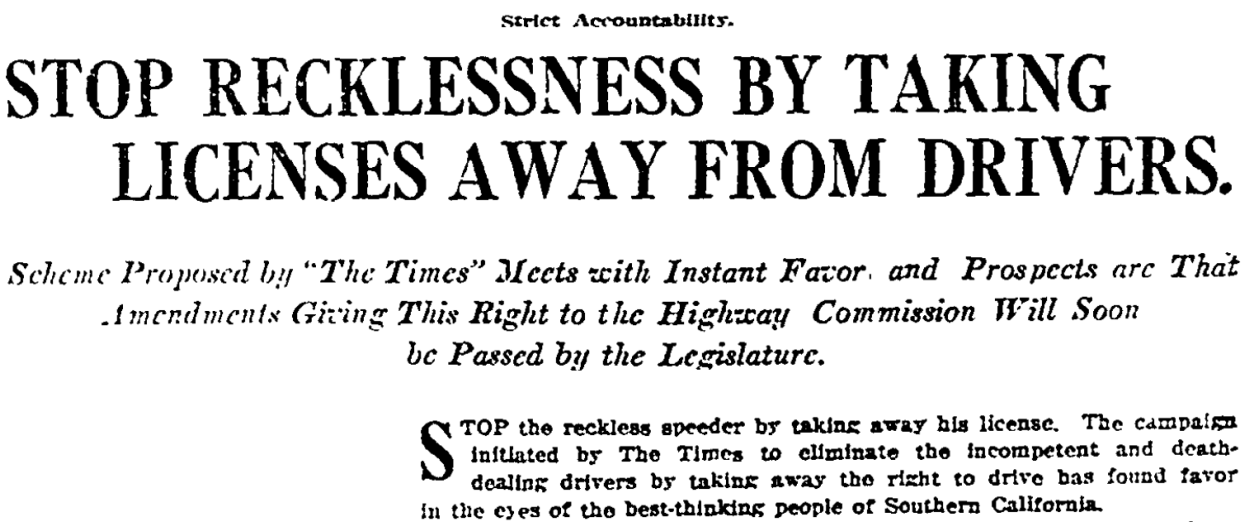
processing suspensions and reinstatements - resources that could be allocated to more directly accomplish the agency's ostensible mission of addressing road safety (American Association of Motor Vehicle Administrators, 2021).

Conclusion

Under the motto "safety first," early auto groups organized to standardize traffic rules, elected officials pushed for speed limits, and judges in collision cases tended to hold drivers to a higher standard than pedestrians (Norton, 2011). At the beginning of the century, judges and most of the public viewed the automobile as a relatively new but menacing technology for which drivers bore responsibility. But by 1930, cars had become mainstream. Traffic safety educational campaigns and enforcement targeted both individual reckless drivers as well as pedestrians. Carelessness and recklessness were the culprits for auto fatalities, not the car. Auto advocates placed the safety onus on the individual driver. The reckless driver, a minority of drivers, could lose his or her driving privilege. The Everyman could continue to drive safely, unhampered by enforcement.

While the first road regulations generally consisted of speed limits that varied by geography, local, state, and sometimes federal policymakers began to implement traffic rules and regulations that regulated road designs, vehicle manufacturing specifications, and any number of driving behaviors. Traffic rules quickly proliferated to keep up with the many driving-related hazards, and traffic enforcement expanded in kind (Seo, 2019). One of the most common ways that legislators sought to deter and punish rule-breaking was to restrict a person's driving vis-a-vis license suspensions and revocations. The Motor Vehicle Act authorized state authorities to revoke licenses for violating its provisions ever since the Act was first passed. However, license

restrictions were up to the discretion of State courts and motor vehicle departments, and were rarely enforced in the early years of automotive history. Whose license was taken or restricted, for how long, and for what reason, depended on the individual discretion of police and judges. Since the State began to license drivers in 1913, judges and law enforcement officers intermittently cracked down on enforcement. The legislature, also, has varied in determining for which offenses a judge or DMV can suspend or revoke a person's license. Sporadic and uneven traffic enforcement left the Everyman free to ignore the rules of the road. Individual reckless drivers were to blame for dangerous streets, not the automobile itself or streets designed for high speeds.



Strict Accountability.

STOP RECKLESSNESS BY TAKING LICENSES AWAY FROM DRIVERS.

Scheme Proposed by "The Times" Meets with Instant Favor and Prospects are That Amendments Giving This Right to the Highway Commission Will Soon be Passed by the Legislature.

STOP the reckless speeder by taking away his license. The campaign initiated by The Times to eliminate the incompetent and death-dealing drivers by taking away the right to drive has found favor in the eyes of the best-thinking people of Southern California.

Figure 28. "Stop Recklessness By Taking Licenses Away From Drivers." Source: (*Los Angeles Times,* 18 February 1917, p. VI1.

The driver's license offered auto and traffic safety advocates common ground. It allowed them to regulate the car just enough to keep it on the road. Newspapers like the *Los Angeles Times*, alongside the "automobile men,"[33] early automobile adopters, lobbied for license laws. License

[33] "Automobile men" was a term used in early auto history to refer to automobile owners.

restrictions could stop the reckless driver and protect the Everyman driver and pedestrian alike. California's reputation as a "motoring paradise" was at stake without better protections, advocates for license suspensions cautioned (*Los Angeles Times*, 18 February 1917, p. VI1). "We have everything needed to keep this the greatest motoring country in the world and it will be shameful to have our success interfered with because a few irresponsible idiots insist on breaking every law on the statutes and piling up a long list of dead and injured throughout the year," the *Los Angeles Times* insisted (*Los Angeles Times*, 18 February 1917, p. VI1).

The state chose to restrict drivers through license suspensions early in auto history, and continues to do so, despite the lack of strong evidence that license suspensions prevent, or even reduce, crashes. License policies, including suspensions unrelated to driving, traffic education, and license examinations, are costly to individuals and to agencies, and offer minimal - if any - added public safety (Glendon et al., 2014). Discretionary enforcement means that marginalized drivers, such as people of color and low-income drivers, are most likely to be stopped by police (Seo, 2019; Sorin, 2020) and more likely to be burdened by license suspensions. Agencies, however, are path dependent. Auto interests pushed for these policies in the early auto era, and agencies remain hampered by outdated theories of traffic safety.

4. Monetary Sanctions and the License

Ostensibly, the State initially required drivers to be licensed in order to identify and hold them responsible in collisions, and to keep dangerous drivers off the road. But using the license to enforce policies divorced from road safety was not unprecedented. From its early history, the license served a number of disparate policy purposes distinct from addressing liability and road

safety, such as regulating professional drivers and managing competition among travel modes, and generating revenue from chauffeur's license fees to build roads.

Exacting payment proved to be a particularly popular, albeit controversial, use of the license. In the early auto era, the State enacted - and courts debated - license suspensions to coerce drivers to pay civil judgments arising from collisions they were responsible for. Early auto proponents, including auto clubs and traffic safety advocates, lobbied legislators and state agencies to enact and enforce these license suspensions for drivers who did not, or could not, pay. Low-income motorists took to the court to fight failure-to-pay suspensions, arguing that suspensions for nonpayment were both discriminatory and punished people for their inability to pay, rather than their driving. A rich man could pay the judgment and continue to drive, but a poor man could not.[34]

Once technology enabled agencies to share data and track and administer suspensions more efficiently and automatically, elected officials increasingly leaned on license suspensions to pressure people to pay monetary sanctions. Such sanctions, also called legal financial obligations, refer broadly to court-related financial liability, including fines, fees, surcharges, and restitution (Martin et al., 2018). In the era of Broken Windows policing, officials used suspensions to coerce drivers to pay monetary sanctions for violations increasingly removed from road safety.

[34] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

Financial Responsibility: Liability and the License

With the automobile, society faced a major liability problem: ordinary people could - suddenly and in a short moment of inattention - inflict expensive and deadly damage for which drivers could be held responsible. In contrast, victims had to fight uphill battles in the courts to get damages, if they could even identify the driver at fault. Legislators leaned on the driver's license to address the liability problem in three ways: as a document to identify drivers culpable in collisions, as a way to coerce reckless drivers to drive more safely, and as a mechanism to motivate drivers to purchase automobile insurance or risk losing their license. Too many people were left injured by an anonymous hit-and-run driver, leaving officials with little recourse. By requiring every driver to carry an official license, authorities hoped they could identify them in the event of a crash and hold them accountable in court. Legislators also used the license as a threat: drive safely and take financial responsibility for your recklessness, or lose your driving privilege. The DMV could take away a person's license for violating traffic regulations and endangering the public. They could also take away a person's license if they failed to compensate victims (California Financial Responsibility Act, passed 1929).

During the early auto era, before most traffic cases moved out of the court and into the offices of auto insurance claims adjusters, the main recourse that victims had was to go to civil court and fight for damages (Friedman, 2002). There were few winners under this litigious system of managing the risks of the automobile. Civil litigation was neither ideal for the victim nor the defendant. Victims who went to court to claim damages had to prove not just that the defendant had been negligent, but that they themselves were not to blame and had not missed their "last clear chance" to avoid an injury (Simon, 1997). If they *were* found liable, uninsured drivers could suddenly owe vast sums of money. Without insurance, drivers could quickly go bankrupt,

in some cases owing up to $25,000 for a single accident (nearly $450,000 in 2022) (Vinsel, 2019; Hord, 1919). Even then, victims were unlikely to receive compensation since most defendants were not particularly wealthy and did not own significant assets (Simon, 1997). Consequently, drivers in the 1920s and 1930s who could afford to do so increasingly purchased private automobile insurance to avoid the sting of the tort system (Friedman, 2002). Legislators tried to motivate drivers to buy auto insurance by threatening to suspend their driver's license if they were involved in a collision but were uninsured (California Financial Responsibility Act, passed 1929). Most drivers in the early auto era, however, remained uninsured, and most traffic cases were resolved in the courts. By 1930, only about one-third of drivers in the US were insured, and car accidents crowded court dockets (Vinsel, 2019, Friedman, 2008).

To address "the traffic problem," auto safety advocates relied on familiar regulatory techniques. In particular, they saw worker's compensation laws as a blueprint to manage the risks of driving (Simon, 1997). Like drivers, industrial workers faced serious physical risks working with new technology. Under worker's compensation laws, employers spread the risks of industrial workplace injuries across a broad population by purchasing insurance (Simon, 1997). Worker's compensation requirements also encouraged employers to prevent injuries and maintain safe workplaces (Vinsel, 2019). Auto insurance requirements could similarly distribute the risks of automobility across drivers. With a broader insurance base, drivers could enjoy lower insurance rates. Moreover, victims were more likely to be compensated when a driver was insured (Simon, 1997). Albert Whitney, the head of the National Bureau of Casualty and Surety Underwriters, an insurance association, and vice president of the National Safety Council, believed strongly that insurance benefited the public good: "The power of insurance for prevention lies in the fact that it commutes an indefinite, unrealized hazard into a tangible money equivalent, thus bringing it

clearly into view was an economic factor. And secondly that by concentrating many risks it makes possible the inauguration of comprehensive movements of great scope and effectiveness" (Whitney, *Los Angeles Times,* 25 October 1931, p. E3; Vinsel 2019). Just as businesses were motivated to improve workplace safety conditions after the labor movement successfully pushed for worker's compensation laws, auto insurance companies were motivated to improve road safety.

While the automobile offered new opportunities for insurance companies, the insurance companies also resisted government interference in the setting of premiums and in efforts to compel insurance companies to accept risks at those premiums (Simon, 1997). Unlike industrial workers, people injured in car collisions were more dispersed and difficult to organize. Victims of car crashes in the 1920s were often pedestrians of varying backgrounds; they lacked the same ready political identity that characterized the labor movement (Simon, 1997). Insurance companies, a small group that could more easily mobilize than dispersed collision victims, opposed legislative auto insurance mandates. The auto insurance industry was heavily involved in legislative efforts to regulate automobiles. Insurance companies benefited from a bigger customer base, and from safer drivers and vehicles. Auto clubs themselves offered insurance to their members, such as the Auto Club of Southern California (AAA). The driver's license offered them a tool to weed out incompetent drivers.[35] Just as early auto interests concentrated regulations on the individual reckless driver rather than more forcefully limit vehicle or street design, auto insurance requirements concentrated liability on individual drivers.

[35] Many automobile service clubs and some insurance companies went bankrupt during the Great Depression, shifting the costs of automobile accident judgments back to their former members (Cohan, *Los Angeles Times*, 28 August 1932, p. E3).

Massachusetts enacted the earliest and boldest insurance statutes, and its State Supreme Court's opinions on the matter shaped similar auto insurance statutes across the country. In 1925, members of Massachusetts' Congress asked its Supreme Court justices to offer their opinions on the constitutionality of a proposed law - the first in the nation - that would require motor vehicles owners to purchase auto insurance before registering their automobiles. The proposed statute was actually an appendix to a 1924 report from a joint legislative committee that studied the different problems that motor vehicles posed on highways, particularly the many deaths and injuries caused by drivers each year. The study found that just 30 percent of auto owners had insurance, and that an undefined but large number of victims and representatives of the deceased were left without financial redress. The justices concluded that the study offered more than enough evidence for legislators to require auto insurance.

The Massachusetts opinion extended the state's police power to protect travelers on public streets.[36] Compulsory insurance would diminish and remedy driver-inflicted danger. The Massachusetts judges noted that while compulsory auto insurance was "an extension of the police power into a new field, so far as we are aware," it was justified in that it provided recourse for victims of auto collisions. Liability requirements were toothless without the finances to back them up. Driving a motor vehicle, the justices argued, was not a natural right. It was subject to "reasonable regulation for the benefit of the general public." The justices argued that legislators had "extensive" power to regulate travel in the interest of the general welfare. "No one has a right to use streets and other public places as he chooses without regard to the presence of others. It is an underlying conception of streets and highways that they shall at all times be reasonably

[36] In re Opinion of Justices, 251 Mass. 569, 147 N.E. 681, 1925 Mass.

safe and convenient for public travel and that travelers thereon in the exercise of due care may be secure from preventable danger."[37] The justices stamped the law constitutional, including the provision that enabled the state to suspend a person's license for failing to purchase insurance. They reasoned that just as the state had the power to regulate public streets and to require licenses before driving on them, it also had the power to take away licenses for violating these regulations.[38]

The auto industry in California generally opposed auto insurance requirements (*Los Angeles Times,* 1 June 1924, p. F2). Auto clubs lobbied against them, asserting that only a handful of victims would benefit from this requirement at the expense of all drivers (*Los Angeles Times*, 25 March 1929, p. A4). The Auto Club of Southern California instead supported suspending licenses for failure-to-pay judgments (*Los Angeles Times*, 25 March 1929, p. A4). Public opinion was divided as to whether a driver who paid for insurance was more or less likely to drive recklessly (*Los Angeles Times,* 15 November 1927, p. 9*; Los Angeles Times*, 1 June 1924, p. F2). Insurance companies were concerned with the former, and argued loudly that a state-mandated insurance law might also require them to swallow a lower premium and assume more risk than without one (*Los Angeles Times*, 1 June 1924, p. F2).

After several attempts, the 1929 California legislature passed the "Motor Vehicle Financial Responsibility Statutes," which included proof of financial responsibility requirements as well as suspensions for failing to pay a judgment for negligent driving. As a warning to drivers about

[37] In re Opinion of Justices, 251 Mass. 569, 147 N.E. 681, 1925 Mass.

[38] "The power to regulate, even to the extent of prohibition of motor vehicles from public ways, includes the lesser power to grant the right to use public ways only upon the observance of prescribed conditions precedent."

recent changes to the Motor Vehicle Act, the *San Francisco Examiner* published an article with the headline: "New Act Hits at 'Pauper' Auto Driver" (*The San Francisco Examiner*, 19 May 1929, p. 72). Like Massachusetts, California's financial responsibility statute stemmed from recommendations in a 1929 Joint Legislative Committee report on road safety (California Legislature 46th Session Report (1929) Vol. 4). The report highlighted the significant increase in traffic fatalities in the State (See Figure 26).

Financial responsibility laws increased the costs of auto ownership while limiting liability for drivers who were involved in collisions. California State legislators included limits in the 1929 Motor Vehicle provisions: a driver's liability was capped at $5,000 for one death or injury ($86,600 in 2022), $10,000 for multiple deaths or injuries in a single accident ($173,200 in 2022), or $1,000 in property damages (*The San Francisco Examiner*, 19 May 1929, p. 72). And a driver could only have their license suspended for failing to pay judgments in excess of $100 that related to negligent driving (just over $1,700 in 2022). The maximum penalty for violating the provision was one year of prison, a $1,000 fine ($17,320 in 2022), or both. The legislature instructed the DMV to record every license suspension and incident of reckless driving on the back of each license (*The San Francisco Examiner*, 19 May 1929, p. 72). Not only would a traffic officer or court more easily access a driver's history when they stopped a driver and checked their ID card, but it would "keep the operator mindful of his record in these respects and caution him to drive more carefully and exercise more observance for the traffic laws" (Sandford, *The San Francisco Examiner,* 9 June 1929, p. 85). After paying the judgment, a driver could only get their license reinstated after proving they could pay for future judgments by taking out insurance or paying a bond (*The San Francisco Examiner*, 19 May 1929, p. 72). It was not just the driver who could lose their license if they failed to pay a civil judgment; if the driver

did not own the vehicle, the owner was held responsible, provided they gave express or implied permission that the driver could operate their vehicle (the issue of owner versus driver liability was contested in the courts well into the 1960s). How often drivers actually lost their license for violating the financial responsibility laws is unclear. A 1932 report from Columbia University suggested that enforcement in states across the country was practically non-existent (Simon, 1997).

If the state wanted drivers to purchase automobile insurance, a more straightforward path would have been to require drivers to show proof of financial responsibility in order to license themselves or their vehicle (something the DMV only began to require in 1996, but did not initially enforce[39]). Financial responsibility suspensions were akin to other types of suspensions that punish drivers after breaking a rule. Rather than design a system that would require or facilitate compliance at the onset, the state chose to punish individuals only after it found they had violated a statute. In contrast, compulsory insurance forces individuals to prove financial responsibility before they purchase a vehicle or get a driver's license. Instead, California's approach gave drivers leeway to risk not purchasing insurance on the assumption they would not be caught for a moving violation. When the Financial Responsibility statute was passed, the head of the DMV was quick to reassure drivers that they were not required to purchase insurance: "This is not compulsory insurance as the term is known ordinarily inasmuch as it affects only those persons involved in accidents who fail to satisfy judgments. The new law emphasizes the need of careful driving to keep out of trouble. But the careful driver has nothing to fear from it," said DMV Chief Snook (*Los Angeles Times,* 19 August 1929, p. 1).

[39] Stats 1996 ch 124 § 114 (AB 3470); Reich, *Los Angeles Times*, 15 December 1996, p. OCA18

Financial Responsibility legislation represented a concerted, if imperfect, effort to govern automobile risk. Legal scholars across the country published law review articles dissecting suspensions for failure-to-pay judgments (e.g. Padway, 1930; O'Keeffe, 1930). The automobile posed a liability problem at an unprecedented scale. Legislatures and courts drew on workplace liability cases as well as cases involving streetcar and railroad regulations for analogous arguments. The Massachusetts judges cited common law that had long held individuals to be responsible for injuring others.[40] Since 1855 in Massachusetts, for example, a person who had sold or gifted alcohol to an intoxicated person could be held liable for damages that person caused (ALM GL ch. 138, § 49). More recent cases in the 1910s and 1920s upheld workmen's compensation requirements for employers on behalf of their injured employees, as well as jitney operators for injuring their passengers or travelers on public roads (e.g. Packard v. Banton, 264 U.S. 140).

Just as the labor movement inspired the traffic movement's Safety First advocacy, workman's compensation cases informed judicial opinions on financial responsibility statutes, including key failure-to-pay suspension cases. But the car posed a regulatory problem that did not translate easily from previous license cases. As driving became mainstream, the Everyman could, in an instant, be held responsible for vast sums of money from a collision. Being uninsured, as most drivers in the early auto era were, could quickly result in the loss of a driver's license for failure to pay.

[40] In re Opinion of Justices, 251 Mass. 569, 147 N.E. 681, 1925 Mass.

Who Pays For Not Carrying Insurance? Tracking Financial Responsibility Suspensions Over Time

Time and again, the State Legislature increased penalties for driving uninsured, and added tools to enforce those penalties as well (1984 Stats., ch. 1322, § 1). Over the course of the twentieth century, the state expanded Financial Responsibility (FR) enforcement from drivers liable in collisions to all vehicle owners. Auto insurance rates had long been tied to the residential location of the vehicle owner and miles driven. Advocates for low-income drivers tried to lower barriers to driving for people who could ill afford to lose automobility based on where they lived: rural drivers and people in urban neighborhoods with especially high insurance rates.[41]

In an effort to encourage drivers to purchase auto insurance, the State increasingly penalized Financial Responsibility violations, at the same time that they turned to enhanced database technology to more easily catch someone violating the Financial Responsibility law.[42] The DMV found that in 1970, 12 percent of drivers who were involved in reported accidents were uninsured (Willman, *Los Angeles Times,* 8 February 1970, p. SFA1). That proportion is an underestimate of the actual proportion of uninsured drivers, as it does not include either licensed drivers involved in unreported incidents or unlicensed drivers. The State Legislature tried to increase insurance rates, both by broadening the base of drivers who could be required to show insurance and by automating punishments.[43] Whereas Financial Responsibility requirements set

[41] King v. Meese, 43 Cal. 3d 1217

[42] In one instance, the State Supreme Court acknowledged that many Americans depended on driver's licenses for their employment, and in turn offered more due process protections to drivers facing suspensions. In Rios v. Cozens (1971) the court decided that a driver must be afforded the opportunity to contest a suspension in person in a hearing if they are contesting that they were not at fault in a collision, the court decided in Rios v. Cozens (1971).

[43]Robbins-McAlister Financial Responsibility Act 1984 Stats., ch. 1322, § 1

in 1929 had only applied to drivers found at fault in a collision, in 1974 the legislature expanded its scope to every driver involved in an accident regardless of fault.[44] At this point, the DMV had only just started to use computer technology to monitor suspensions, and enforcing Financial Responsibility suspensions was still uneven. By one estimate, a mere four to six percent of drivers found violating the Financial Responsibility Act lost their license (Willman, *Los Angeles Times,* 8 February 1970, p. SFA1). John Allen, the Executive Secretary for the Governor's Automobile Accident Study Commission and former manager of the DMV's financial responsibility division, attributed the meager enforcement to judges who did not want to keep a person from earning a living: "The penalties are strong enough, if only the courts would make use of them. But many judges seem to regard driving as a right and give a light sentence" (Willman, *Los Angeles Times,* 8 February 1970, p. SFA1). In 1984 the Legislature tried to sharpen the bite of the Financial Responsibility Law and induce more drivers to get insured. Under the Robbins-McAlister Financial Responsibility Act, any time a driver had been involved in a collision, they had to be able to show proof of Financial Responsibility or risk getting their license suspended (1984 Stats., ch. 1322, § 1). In 1996, the state also began to check driver compliance when a driver was pulled over for a moving violation or after they renewed their vehicle registration.[45] The Legislature coupled these requirements with funding to immediately automate Financial Responsibility suspensions.[46] Drivers caught violating Financial Responsibility requirements also faced much higher fines, ranging from $1,375 to $2,750

[44] Stats. 1974, ch. 1409, § 8, p. 3101

[45]Stats 1996 ch 124 § 114 (AB 3470)

[46] In providing the automation funding the Legislature stated: "It is the intent of the Legislature to provide for immediate automation of the Financial Responsibility Section . . . to reduce the number of uninsured motorists on the highways" (1984 Stats., ch. 1324, § 16.) (Woods v. Dep't of Motor Vehicles, 211 Cal. App. 3d 1263).

($2,500 to $5,000 in 2022), compared to $250 ($450 in 2022) previously (*Los Angeles Times,* 7 January 1997, p. B6). Whether agencies would enforce Financial Responsibility requirements was another matter: in 1997, both police and the DMV initially refused to enforce the requirements, citing administrative costs (*Los Angeles Times*, 15 December 1996, p. OCA18; Hernandez, *Los Angeles Times*, 29 November 1997, p. VYA14).[47]

A minority of elected officials and legal advocates for low-income drivers continued to push back against Financial Responsibility suspensions throughout the twentieth century. These advocates echoed the inability-to-pay arguments that FTP critics had made in the 1930s. Advocates for suspension reform argued that FTP suspensions discriminated by income and by geography (Kendall, *Los Angeles Times*, 2 December 1967, p. B6). Rural drivers, for example, had a particular need to drive, and often could not afford auto insurance. In a 1967 case, the California Rural Legal Assistance, for example, argued that Financial Responsibility suspensions discriminated against low-income drivers in a 1967 case (Kendall, *Los Angeles Times*, 2 December 1967, p. B6; Werner v. DMV). "Essentially, it is the poor person in our society who cannot afford high insurance premiums or security deposits," an attorney from the rural legal assistance organization stated, adding that they had many clients with Financial Responsibility suspensions (Kendall, *Los Angeles Times*, 2 December 1967, p. B6).

Activists began to raise the issue of race-based discrimination in Financial Responsibility cases beginning in the late 1970s and 1980s. Automobile owners often face premiums for automobile insurance in areas with larger poor and minority populations, and these geographic discrepancies

[47] Police had to pay administrative costs per citation which they did not recoup when judges dismissed tickets after drivers showed proof of insurance (*Los Angeles Times*, 29 November 1997, p. VYA14).

remain true after scholars account for individual driver characteristics and driving records (Ong and Stoll, 2008). Insurance companies could set higher rates based on higher place-based risk factors, or on prejudice towards people living in disadvantaged areas, a discriminatory process also known as "redlining" (Ong and Stoll, 2008). Studies that attempt to measure risk and redlining factors find that both are at play, though risk factors such as higher traffic volumes, as well as claim and loss rates play a bigger role than socio economic characteristics and individual factors like driving records (Ong, 2004; Ong and Stoll, 2008). Auto insurance redlining - a process that goes hand in hand with historical residential segregation by race and income in the US - makes car ownership that much more expensive for the very drivers who are most sensitive to price hikes (Williams, 1991).

Elected officials such as then-Assemblywoman Maxine Waters (D-LA) pushed back against Financial Responsibility requirements for placing a particularly high burden on low-income drivers in underserved[48] urban neighborhoods (Waters, *Los Angeles Sentinel*, 25 July 1985, p. D1). In an op-ed piece she authored in the *Los Angeles Sentinel* in 1985, Waters rallied her readers to join her in fighting the insurance lobby and stopping unfair auto insurance requirements. Waters specifically opposed legislation that would make citations for violating Financial Responsibility requirements mandatory rather than up to the discretion of an officer, as well as legislation that would increase the mandatory minimum coverage for auto insurance without addressing affordability for low-income drivers (Waters, *Los Angeles Sentinel*, 25 July 1985, p. D1).

[48] According to the California Code of Regulations (§2646.6), "underserved" is a neighborhood with a majority (⅔) minority population, the per capita income is below the 50th percentile in California, and the proportion of uninsured motorists is ten percentage points above the statewide average (Stith Jr, Hoyt, and Hall, 2012).

Pushing for reform alongside Waters was the Southern California American Civil Liberties Union (ACLU) and the City of Compton, who filed a suit against the California Insurance Commission for permitting red-lining (targeting certain areas with premium rates, typically with larger minority and low-income populations). In 1985, Gary Williams, a lawyer for the ACLU, wrote in the *Los Angeles Sentinel* in 1985 that Financial Responsibility requirements created two classes of people: those who could drive lawfully wherever they wanted because they could afford high insurance premiums and/or live in places with lower insurance rates, and those who could not afford high rates and would drive illegally or not at all (Williams, *Los Angeles Sentinel*, 5 December 1985, p. A7). Red-lined areas such as the City of Compton, would end up costing additional tax revenues when uninsured drivers damaged their city's property but had no insurance coverage to pay to repair the damage. In 1987, a group of low-income drivers in South Central Los Angeles contested Financial Responsibility requirements, arguing they were unable to purchase reasonably priced insurance or contest those rates to the State (King v. Meese, 43 Cal. 3d 1217). The State Supreme Court upheld the requirements on the grounds that the drivers could apply for the state-sponsored plan, which offered rates there were "fair and equitable" but not necessarily affordable (Judge Broussard, King v. Meese, 43 Cal. 3d 1217). The judges agreed that "When it comes to automobile liability insurance, the poor pay more or do without." Nonetheless, the court did not strike the statute down as unconstitutional.[49]

[49] Judge Broussard continued to list the various inadequacies of the program: "The state's program for assuring the availability of insurance, however, has not kept pace with its financial responsibility laws. Certain problems are apparent: the failure to consider affordability in regulating private rates and setting assigned risk rates; the failure to consider the unfairness of charging a good driver higher rates because of the poor driving habits of his neighbors; the injustice of geographic boundaries which discriminate against the poor; the procedural deficiencies in the Commissioner's office which make it virtually impossible for an individual to challenge the rates and terms offered him" (King v. Meese, 43 Cal. 3d 1217).

Punishing Poverty or Protecting the Public? Early Debates over Police Power and License Restrictions

Failure-to-Pay Suspension Cases Then and Now

On February 16, 1929, Lester Thomas Lindley, a chauffeur, collided into Julia Chavez while driving. Chavez filed for damages, and the Superior Court of the State of California determined that Lindley owed her $5,000 (just over $86,600 in 2022).[50] Fifteen days after the court issued the judgment, Lindley had not paid the judgment.[51] And according to recent changes the legislature had made to section 73(g) of the Motor Vehicle Act, a driver could lose their license for failing to pay judgments for negligent driving. Accordingly, the California Division of Motor Vehicles suspended his license on April 11, 1930. Just over two weeks later, on April 30, Lindley was caught and arrested for driving on a public highway with a suspended license.[52] The municipal court gave Lindley two options; he could spend three days in jail, or pay a $15 dollar fine. Lindley could not afford to pay the fine and, therefore, the judge sent him to a jail in the City of Los Angeles.

Nearly a century later, in March 2013, Guillermo Hernandez was ticketed for not having a valid registration and failing to update the address on his driver's license.[53] He went to the court twice to resolve the ticket, but was told each time that his violations were not in the system. When he failed to pay the initial citation and did not appear in court for his hearing, the court tacked on additional fees and civil assessments. Instead of owing $500, Hernandez owed over $900. When

[50] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

[51] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

[52] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

[53] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

Hernandez went to the DMV to renew his driver's license, he learned that the DMV had automatically suspended his license for failing to pay his 2013 ticket and failing to appear in court, and therefore the DMV refused to renew his license (Vehicle Code § 13365; Vehicle Code § 12807).[54]

From their onset, failure-to-pay statutes had critics. Drivers in the early automotive era of the 1920s and 1930s challenged their suspensions in court, claiming they discriminated against low-income drivers and violated their due process.[55] Judges and legal scholars debated whether failure-to-pay statutes were aimed at preventing and punishing driving negligence or coercing payments (O'Keeffe, 1930). Even if suspensions were related to the purpose of the statute, courts debated if taking someone's license away was a reasonable exercise of police power.[56] They also debated whether it discriminated against poor drivers. In an age where people increasingly depended on driving for their daily mobility, losing a license could pose a serious barrier to a person's employment and quality of life (O'Keeffe, 1930).

Just months after they were inscribed into law in 1929, failure-to-pay suspensions were challenged in the California courts by low-income drivers who claimed that they were discriminatory. Judges went back and forth as to whether the challenges had merit. One such driver, Lester T. Lindley, filed a writ of habeas corpus and challenged the constitutionality of failure-to-pay suspensions on the grounds they discriminated against lower-income drivers. Just

[54] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[55] Sheehan v. Division of Motor Vehicles, 140 Cal. App. 200, 35 P.2d 359, 1934 Cal. App.

[56] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931; In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

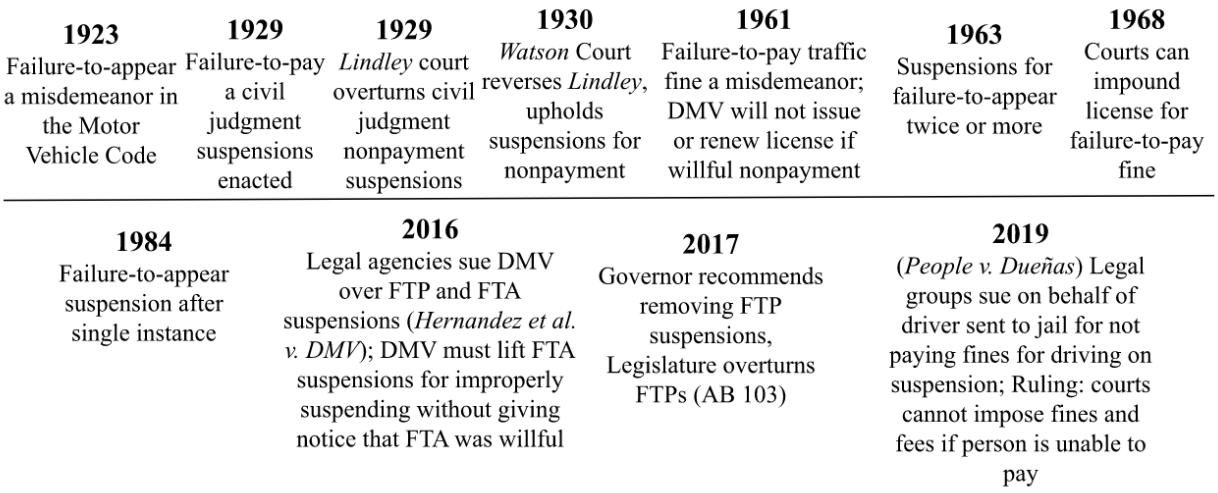
a few months after the Legislature had passed the 1929 FTP provision, the State court of appeals sided with Lindley and struck it down. Frank Snook, chief of the DMV, began to restore 256 driver's licenses and dropped 158 failure-to-pay cases that were still under investigation (*Los Angeles Times,* 17 September 1930, p. 4). Yet six months later in Watson v. Division of Motor Vehicles, the California Supreme Court reversed the court of appeals' decision and upheld section 73(g) of the Motor Vehicle Act. The Watson decision was cited in another case against the DMV in 1934 that again upheld the constitutionality of section 73(g) (Sheehan v. Division of Motor Vehicles, 140 Cal. App. 200).

License suspensions for failure-to-pay traffic and infraction fines and failing to appear in court are a relatively recent punishment (see Timeline 2, below). Punishing drivers for failing to appear in court is not directly a debt collection tool, but civil rights and legal aid advocates argue the state treats it as such (Miller, 2021). Failing to appear is tied to a person's financial ability, akin to failure-to-pay suspensions, advocates argue, both because low-income motorists do not have the financial means to pay what they worry a court will hold them to and because they lack the resources to get to the hearing. Someone who does not appear in court may not have access to childcare, transportation, or time off from work in order to attend the hearing (Miller, 2021). They may not even be aware of the court date if they do not have a stable mailing location to which the DMV can reliably send them a notice. Moreover, until recently, some counties refused to offer drivers a court hearing until they paid their citation in full (Miller, 2021).

Since 1923, the State has treated failure-to-appear in court for violating the vehicle code as a misdemeanor, for which someone could be arrested, (Vehicle Code chapter 266 section 154, as enacted 1923). But it was not until 1963 that the State began to authorize license suspensions for

failing to appear in traffic court, a penalty only applied after someone failed to appear two or more times (Vehicle Code chapter 354 section 1, as enacted 1963). Only in 1961 did the State legislature begin to refuse to issue or renew driver's licenses for failing to *pay* a traffic fine - a violation that the state also considered a misdemeanor (Vehicle Code section 12807, as amended 1961).[57] Police could arrest someone the courts determined had willfully not paid a traffic fine (Vehicle Code section 40508(b) added in 1961). Soon thereafter, in 1968, the Legislature expanded failure-to-pay from a fine related to violating the Motor Vehicle code, to a fine for violating any local ordinance pursuant to the Motor Vehicle code or for *any* unpaid infraction (Vehicle Code 40508(b), as amended 1968). Courts could impound a person's license for up to thirty days for not paying an infraction, unless the court determined that someone needed to drive to work (Vehicle Code section 40508, as amended 1968). When they were passed, the statutes went uncontested - in the courthouse, the statehouse, and newspapers. Both the Assembly and the Senate unanimously supported the legislation, and news coverage of the statutes was cursory. Like with Financial Responsibility suspensions, the Everyman could, for the most part, continue to avoid suspensions for failure-to-pay fines and fees. So long as he paid the ticket, he could avoid the hassle of contesting it in court. Meanwhile, backed by the courts, the Legislature authorized suspensions for activities increasingly divorced from road safety.

[57]The state legislature authorizes arrests for failing to appear in traffic court under California Vehicle Code section 40508 and California Penal Code section 853.7. The California Legislature classifies both failure-to-pay and failure-to-appear as misdemeanors under Vehicle Code section 40508, and so affect a person's criminal record (Bender et al., 2015). Under AB 103 in 2017, courts may no longer automatically notify the DMV to suspend a person's license for failing to pay a traffic fine. A court may, however, still impound a driver's license or order a person not to drive for up to thirty days for failing to pay (Vehicle Code section 40508(d)).



Timeline 2. Suspensions to Coerce Payment Over Time.

Equality of Right, Not Enjoyment: Justifying Police Power

While the courts in California and Massachusetts in the late 1920s and 1930s agreed that states had broad authority to regulate streets in the interest of public safety, they disagreed over just how much police power states should yield. Cars were dangerous, and the driver's license suspension was a tool that states could use to address road safety. But failure-to-pay suspensions mostly punished drivers who could not afford to pay for their negligence or non-conformity with various administrative rules, and even then, only a minority of drivers who the policy caught. As I note in Chapter Three, traffic rules were unevenly enforced, setting the stage for drivers to routinely break them (Seo, 2019). Motorists who were not caught breaking traffic rules, and those who could afford to pay if they were caught, kept driving legally.

In an early and precedent-setting court case for failure-to-pay (FTP) suspensions, a plaintiff Harry Watson questioned whether his failure-to-pay suspension actually contributed to public health and safety. Under section 73(g) of the California Motor Vehicle Act, a person could only

lose his license after driving into someone and then being unable to pay. Watson argued that California's statute, "which allows each motorist his first accident, like a dog his first bite, is in no sense a "regulation" and can serve no useful purpose in either preventing accidents or keeping reckless and incompetent drivers off the highways."[58] Whether suspending a person's license for failing to pay a judgment would reduce negligence was "pure guess-work" on the part of the Legislature.

Unlike cases in California in the 21st century, where low-income motorists contested suspensions for failing to pay traffic citations, early FTP cases centered on liability in auto collisions. Whereas compulsory insurance statutes in Massachusetts required a person to submit proof of financial responsibility in order to register or operate a vehicle, California's statute only applied to drivers and vehicle owners who were found liable after the fact. Even the Automobile Club of Southern California, in their amicus brief in the Watson case, conceded that, compared to compulsory insurance requirements, California's statute "furnishes less protection to the public in that there may be no security for a first judgment obtained" (Automobile Club of Southern California, 1930). The Auto Club contended that California's statute "offers every inducement to careful operation and assures a penalty for failure to furnish protection to the public" (Automobile Club of Southern California, 1930). Supporters of FTP suspensions argued that they still provided an important deterrent effect.[59] If a person could lose their license as an indirect result of reckless driving, then they would refrain from driving carelessly or offering

[58] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

[59] In his decision in Sheehan v. Division of Motor Vehicles (1934), Judge Barnard also argued that the California statute would have "a marked tendency to prevent negligent driving and a not inconsiderable effect in eliminating drivers who may be a menace to those properly using roads" (Sheehan v. Division of Motor Vehicles, 140 Cal. App. 200, 35 P.2d 359, 1934 Cal. App.). He did not expand much more on that point.

their vehicle to an untrustworthy driver.[60] And a person who was unable to follow the law and repair the damage they caused, could be considered unfit to responsibly drive and classified as "not worthy of a license to operate again," as the Massachusetts court called it.

Central to early legal and policy discussions over road safety was how fairly and accurately FTP suspensions identified reckless drivers. Elected officials and judges upheld FTP suspensions on the assumption that reckless drivers were financially irresponsible.[61] Someone who was unable to pay a traffic-related judgment, judges argued, were more prone to drive recklessly. Watson quoted the Legislature's report on road safety, which claimed that the majority of negligent drivers at fault in accidents had purchased their vehicles on conditional sales contracts and did not outright own the vehicle, knowing that victims would have no recourse and the driver could continue to recklessly take to the streets. But elected officials could only assume that rich drivers were less likely to drive recklessly than poor ones.[62] They could not back these claims with evidence. Judge Thompson, in his opinion in *Lindley*, conceded that FTP suspensions would, as the Massachusetts judges stated, "have a tendency to keep off the highway those shown by their conduct to be dangerous to other travelers." Yet only drivers too poor to pay a judgment would be affected. Those who could afford to pay could continue to drive as they did before. "The negligent we will always have with us. The tendency to be negligent cannot be cast off like a

[60] They relied on the Massachusetts opinion regarding suspensions for failure to pay judgments, which stated: "It may be thought that an indirect result of such regulation will be to cause the exercise of greater care on the part of such operators and of higher caution on the part of owners of motor vehicles in refusing to entrust them to careless operators" (In re Opinion of Justices, 251 Mass. 569, 147 N.E. 681, 1925 Mass.).

[61] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

[62] Petitioner's reply brief, Walter J. Little and Kenneth W. Kearney, in Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931.

coat. A proper exercise of the police power would be exhibited by a statute designed to keep from the roads all persons who have shown an incurable tendency to refrain from the exercise of due care in the operation of their cars, but not by one designed to deny the highways only to those who do not pay judgments against them, leaving those who do pay to rampage along the thoroughfares at will."[636465]

In 1942 John Samson contested his FTP suspension after his out-of-state insurance did not cover the judgment against him after a collision. Judge Doran used the opportunity to argue that the *Watson* and *Sheehan* decisions failed to treat driving as a right and FTP suspensions as discriminatory and unwarranted acts of police power (Samson v. State, 55 Cal. App. 2d 194).[66] FTP suspensions were an unusual form of punishment, and constituted punishing debt. He went

[63] Judge Works goes on to say "A certain portion of mankind will be careless in the operation of their motor vehicles because they cannot be otherwise, while a certain portion will be careful because they cannot be otherwise. There is as much difference between men in these respects as there is in the shapes of their noses, and while the form of the nasal feature may be altered by plastic surgery, the tendency of men to be careless is susceptible of no considerable amelioration, even by the payment of judgements against them obtained on the very score of their negligence" (In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.).

[64] Thompson's language draws on the popular contemporary understanding of "accident proneness" - that a certain share of the population was more likely to drive recklessly (see Vinsel, 2019).

[65] In 1971, the California Supreme Court no longer justified Financial Responsibility suspensions on the basis that they took negligent drivers off the road. Instead, the court argued that "the primary purpose of the financial responsibility law is not to assure that careless drivers are denied the use of the highways -- since the most grossly negligent drivers who can post security or are exempt from complying with the requirement may retain their licenses -- but, rather, to afford monetary protection to those who suffer injury or property damage by virtue of the carelessness of financially irresponsible drivers" (Bell v. Burson, 1971).

[66] Doran wrote: "Although it may be more hazardous, there is no difference in principle between transportation in an automobile and transportation in a horse and buggy. Before the perfection and use of the automobile, could it have been urged successfully that horseback riding was not a right or that driving a horse attached to a cart was anything but a natural right? Although the methods may have changed, the applicable doctrine remains the same. Government is not the custodian of the people and their welfare and no government is called upon to remove or prevent all of the hazards of life. The argument in support of the weight of authority, to the effect that to deny a license to one unable to pay a judgment will tend to prevent accidents, is only an opinion or assumption" (Samson v. State, 55 Cal. App. 2d 194).

so far as to say that the state does not assure every traveler's safety when they use public roads. Doran's opinion was in the minority, however. The court upheld Samson's suspension.

In the decade after *Watson*, drivers made a few more attempts in the courts to contest FTP suspensions on equity grounds. In 1934, a married couple, Justine and Harry Sheehan, were unable to pay a judgment after their insurer became insolvent and did not cover their liability in a collision.[67] They argued that Section 73(g) of the Motor Vehicle Code discriminated against people unable to pay. Judge Barnard, in his opinion, made the case that when a person causes an automobile collision, he interferes with another person's use of the highway. When the guilty party is unable to afford to repair the damage to the victim, then that degree of interference is even greater. Similarly, in *Escobedo*[68] (1950), the court argued that in claiming that FTP suspensions discriminated against low-income drivers, the plaintiffs misunderstood the equal protection granted by the Constitution, which "is the equality of right, and not of enjoyment" (citing Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931). "Those who cannot afford to possess automobiles are as little able to enjoy the opportunity of driving on the public highways as those who cannot afford insurance or security."[69] A driver might not afford insurance, but that driver's victim might also be unable to afford to bear the cost of their negligence.

[67] Sheehan v. Division of Motor Vehicles, 140 Cal. App. 200, 35 P.2d 359, 1934 Cal. App.

[68] Escobedo v. State, Dep't of Motor Vehicles, 35 Cal. 2d 870, 222 P.2d 1, 1950

[69] Escobedo v. State, Dep't of Motor Vehicles, 35 Cal. 2d 870, 222 P.2d 1, 1950

Is Driving a Right or a Privilege?

A driver's license is a type of contract to which a person implicitly agrees when they apply for one.[70] In exchange for being allowed to drive on public streets and highways vis-a-vis a driver's license, a person agrees to adhere to the regulations that govern its use, so long as those regulations are reasonable. When legislators enacted license requirements and restrictions, and when judges sustained them, they often relied on this concept of "implied consent" (O'Keeffe, 1930).

In the 1930s, the question over failure-to-pay required judges to determine whether driving was a protected right or a privilege that states could easily revoke in the name of public safety. While judges agreed that states had broad powers to regulate streets to protect the public, and license suspensions were a valid punishment for dangerous driving[71], they left questions of discrimination and failure-to-pay suspensions largely unsettled. Over the course of the next century, as driving assumed ever-greater dominance in American life, low-income drivers continued to push back against failure-to-pay suspensions, with little judicial success. A minority of judges and civil rights advocates, however, argued that in an increasingly automotive society, driving required more protections (O'Keeffe, 1930). A person should not be able to suddenly lose their license for reasons not directly related to negligent driving (O'Keeffe, 1930). Coercing payments for past offenses, they claimed, discriminated against drivers unable to pay. These debates were never resolved, and today's arguments over failure-to-appear suspensions echo those in the 1930s.

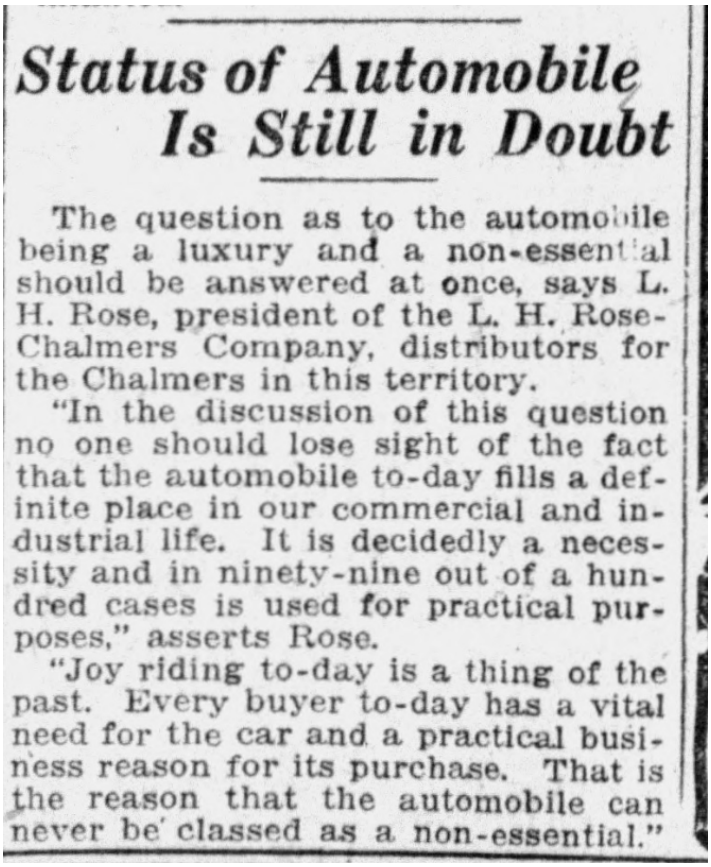
[70] Implied consent could only be invoked when regulations were reasonable (O'Keeffe, 1930). Failure-to-pay suspensions, O'Keeffe argued, did not reasonably relate to the aims of the legislation, and so did not justify the extent to which a person was deprived of his right to drive.

[71] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

The prevailing opinion, set by early court cases in the context of the horse-and-buggy era, considered driving to be a privilege that could be taken away to achieve ends beyond just safer roads.[72] In a changing transportation landscape, where driving had become necessary for employment and daily mobility, losing one's license could inflict painful consequences.[73] Judges needed to decide whether driving was a right that states could take away, or if it was a privilege that could be revoked on the grounds of only being lightly tied to negligent driving.

[72] The privilege doctrine was established when the automobile was competing with various travel modes in the streets, such as horse carts, streetcars, bicyclists, and pedestrians, rather than the automobile competing with other automobiles (Reese, 1965). Early influential cases that established driving as a privilege rather than a right includes People v. Rosenheimer (209 N.Y. 115, 102 N.E. 530 (1913), which granted the state legislature in New York the authority to regulate automobiles under their police power and exclude them from certain streets and highways if they are justified in doing so (Reese, 1965). In LaPlante v. Board of Public Roads (47 R.I. 258, 131 Atl. 641, 642 (1926)), the court in Rhode Island upheld the right for administrative officials to suspend a license without a hearing; in their decision, they analogized revoking a driver's license to revoking the license to sell milk, which treats driver's licenses closer to occupational licenses rather than distinct licenses that enable mobility (Reese, 1965).

[73] The *Lindley* court explicitly tied employment to license policy, arguing that FTP suspensions were an unreasonable application of police power: "It is a well known fact that the present use of a motor vehicle is frequently the true source of a man's ability to earn a livelihood for himself and his family. To deprive him of this privilege unnecessarily is not a reasonable police regulation. Many a person could not satisfy a judgment for damages within fifteen days, yet a longer length of time spent in his vocation might enable him to do so. Many vocations require the use of the motor vehicle. The classification provided for in subdivision (g) places an undue premium on the means to satisfy a judgment rather than upon the ability or care with which a person drives his motor vehicle" (In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.).



Status of Automobile Is Still in Doubt

The question as to the automobile being a luxury and a non-essential should be answered at once, says L. H. Rose, president of the L. H. Rose-Chalmers Company, distributors for the Chalmers in this territory.

"In the discussion of this question no one should lose sight of the fact that the automobile to-day fills a definite place in our commercial and industrial life. It is decidedly a necessity and in ninety-nine out of a hundred cases is used for practical purposes," asserts Rose.

"Joy riding to-day is a thing of the past. Every buyer to-day has a vital need for the car and a practical business reason for its purchase. That is the reason that the automobile can never be classed as a non-essential."

Figure 29. "Status of Automobile Is Still in Doubt." Source: *The San Francisco Examiner,* 16 December 1917, p. 48

Judges and legal scholars in the early auto era debated whether failure-to-pay suspensions discriminated against low-income drivers for being poor and in doing so violated equal protection. And these legal discussions were taking place as Americans' travel choices and transportation infrastructure were increasingly organized around the automobile. Further, taking a person's license away for nonpayment was, from this perspective, counterproductive. It would be "economically absurd" for a government to imprison a person for debt, Watson argued (though the Massachusetts judges specified that "even imprisonment for debt does not violate

constitutional guarantees").[74] A chauffeur who lost his license and had no other source of earning a living would never be able to pay a judgment against him.[75]

The window of opportunity for equity-based reform around failure-to-pay suspensions proved short-lived. The *Lindley-Watson* debates arose in the months immediately after FTP suspensions were codified and enforced. Once *Watson* set a judicial precedent for failure-to-pay cases, the motoring public accepted the threat of FTP suspensions in exchange for unprecedented mobility. Drivers may have been unconcerned about FTP suspensions in part because the Everyman could largely escape such suspensions.

The Everyman could likely also afford to pay the costs required to lift a FTP suspension or the costs of maintaining insurance to avoid FTP sanctions in the first place (Auto Club Amicus Brief, 1930; Ballantine, 1932). In their amicus brief in Watson, the Auto Club stated that it was common knowledge that insurance could be quite affordable: public liability insurance ranged from $26 for lower priced vehicles to $34 for higher priced ones ($450 and $590 in 2022), and property insurance ranged from $8 to $12 (nearly $140 and $208 in 2022), though rates might be higher for people with poor driving records or a damaged vehicle (Auto Club Amicus Brief, 1930). Adjusted for inflation to 2022 using Consumer Price Index data, liability insurance could be as low as $434.

Arthur J. O'Keeffe Jr., a law instructor writing in the *Southern California Law Review* in 1930, countered prevailing court opinion and argued that failure-to-pay suspensions amounted to

[74] In Re Opinion of the Justices, 251 Mass. 617, 147 N.E. 680-681 (1925).

[75] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

unreasonable police regulation. The judges in *Lindley* were correct when they overturned FTP suspensions, O'Keeffe argued. Whether or not the statute classified drivers based on their ability to pay or their reckless driving was unimportant: the state could have a legitimate interest in both compelling payment and improving road safety. The deeper question regarding license regulations, however, was whether the state could arbitrarily take away a person's license, or if driving was a right that was entitled to greater protection. "In view of the widespread use of the automobile and, in many cases, its necessity as a means of survival in the economic struggle" (O'Keeffe, 1930). Suspending a driver's license, according to O'Keefe, would not be an unreasonable punishment in all cases. Nor was the legislature's intent - coercing payment - an improper one. But he argued that suspensions for nonpayment were a roundabout way to address road safety and coerce payment.[76] Taking away a person's means of getting to work would only make it more challenging for a person to pay a judgment.

The *Watson* decision, not the *Lindley* decision, set the stage for future court decisions around failure-to-pay suspensions: driving was a privilege that the state had broad authority to regulate. Since *Watson*, fifty-four court cases in California cited Watson in their decision (see Table A2 in the Appendix for California suspension cases that cite *Watson* and their outcomes). By treating driving as a privilege, courts could punish violators without their full due process rights (Seo, 2019).[77] The California Supreme Court again affirmed its interpretation from *Watson* fifty years

[76] If the legislature primarily cared about getting reckless drivers off the streets, they could do so more effectively if they impounded a person's vehicle, O'Keeffe argued (O'Keeffe, 1930). And if the state primarily cared about extracting payment, they could simply garnish a person's wages.

[77] Justice Wilson made this explicit in a 1948 case due process hearing around automatic license suspensions in Ratliff v. Lampton: "Since a license to drive a car is merely a privilege the suspension of the license does not deprive the licensee of property or of rights without due process of law. A licensee's privileges are no greater than the rights of business organizations that the legislature has authorized to be

later in the case *Hernandez v. DMV* (1981).[78] By now, driving was long solidly entrenched in American society and, for many, integral to accessing employment. For Mr. Hernandez, a six month suspension for refusing to submit to a chemical test meant he could not earn his living as a bus driver.[79] Hernandez argued that driving was a fundamental constitutional right, and to take that right away required a strict scrutiny test.[80] While the majority opinion[81] in *Hernandez* upheld the notion that driving was a privilege which did not require the additional due process protections including a judicial review, California State Supreme Court Justice Stanley Mosk dissented. The State's Supreme Court had already determined that judicial review was warranted when an administrative decision affects a person's legitimately acquired right, and that right implicates a person's well-being (Bixby v. Pierno, 1971). The U.S. Supreme Court reached a similar decision in *Bell v. Burson* (1971), where they determined that the State of Georgia violated a driver's due process of law when they denied him a meaningful hearing prior to suspending his license. The court argued that "[once] [driver's] licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood. Suspension of issued

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suspended when conditions warrant such action" (Ratliff v. Lampton, 187 P.2d 421). He also leaned on Watson in arguing that a license was not a natural right but a privilege subject to reasonable regulation.

[78] Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70, 634 P.2d 917, 177 Cal. Rptr. 566, 1981 Cal.

[79] In the decade leading up to Hernandez, the California Courts of Appeal rejected numerous challenges to chemical test requirements, which require a driver to submit to a blood-alcohol test.

[80] If a right is considered fundamental, then infringing on that right requires a two-tier strict scrutiny standard: first, the state must have a compelling interest, and second, the state must narrowly tailor the means by which it infringes on that right (Fondacaro and Stolle, 1996).

[81] Judge Tobriner, in his opinion of the court, acknowledged that driving was "without question an important aspect of life in contemporary California society" but that the "area of driving is particularly appropriate for extensive legislative regulation, and that the state's traditionally broad police power authority to enact any measure which reasonably relates to public health or safety operates with full force in this domain" (Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70, 634 P.2d 917, 177 Cal. Rptr. 566, 1981 Cal.).

licenses thus involves state action that adjudicates important interests of the licensees" (Bell v. Burson, 402 U.S. 535).

Early suspension cases gave the State authority to automatically suspend someone's driver's license for nonpayment without first holding a judicial hearing. Yet, the Watson court did not single handedly foreclose reform around failure-to-pay suspensions. Later courts had alternative decisions to which they could refer. Though *Watson* established the dominant line of judicial reasoning, cases such as *Lindley*[82] and *Bell* (1971), as well as dissenting opinions from judges like Mosk[83] and Doran (*Samson v. State*, 1942) offered alternative opinions for future justices to weigh.

Tracking License Data

Financial Responsibility sanctions, along with suspensions more generally, posed much more of a threat once the State had the technology to track driver records and enforce suspensions. The DMV established the Bureau of Statistics and Public Safety in 1927 to gather data and analyze data on traffic collisions, using data from accident reports and arrest data from courts (*Los Angeles Times,* 10 December 1927, p. 4). Before driving records were computerized, however, it was prohibitively expensive for the police to find out-of-towners with warrants for traffic violations. Even if a violator did attend traffic court, the judge had no way of knowing whether they had previous convictions in another state. To address this problem, in 1963 California adopted the National Driver Register (NDR), a database with driving violation records shared

[82] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

[83] Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70, 634 P.2d 917, 177 Cal. Rptr. 566, 1981 Cal.

among participating states, as part of the Driver's License Compact, enabling States to share information about drivers that currently or previously had their license denied or withdrawn (Blatch and Nocerino, 1979; *Los Angeles Times,* 6 September 1964, p. F6).[84] When a driver committed a violation in another state, their home state would be notified of a warrant and could determine whether to suspend/revoke or fail to renew their license (Blatch and Nocerino, 1979). Prior to this agreement, a California DMV official would need to send an inquiry about a specific out-of-state driver to every other state regarding a driver's record outside California. Yet even with these agreements, the paper process from writing a violation to issuing a warrant to sending the warrant to the home state, or for a DMV to request another state's driver record and receive a reply, proved inefficient (Blatch and Nocerino, 1979). Sharing records by regular mail was slow and, therefore, rarely used by law enforcement. Once notified that they must return their driver's license, drivers were asked to mail them back to the DMV, which, according to the Motor Vehicles Director Doris V. Alexis, "sometimes works and sometimes does not" (Gillam, *Los Angeles Times*, 9 November 1981, p. B3).

[84] Cal Veh Code § 15000, Stats 1963 ch 237 § 10

Figure 30. Cartoon depicting hotel cleaner finding a traffic citation a guest left behind. Source: *Los Angeles Times,* 6 September 1964, p. F6.

In 1969, the Automated Want and Warrant System (AWWS) debuted in Los Angeles County. Police could call in queries of a driver's identity and license plate to search for matches in local warrants for unpaid traffic/parking violations, a Department of Justice wanted-person database, and a national stolen vehicle database. Police officers used their "intuition" in deciding whether or not to run checks on drivers pulled over for traffic violations (Trout, *Los Angeles Times*, 1 November 1971, p. A3). With the advent of computer technology to store administrative data, states digitized the NDR, and participating states could more quickly determine whether a person had an existing license or traffic violation in another State.

With computer technology, police officers could more efficiently enforce license policy. But technology followed existing social norms and inequities, rather than shaped them. Black drivers and other minorities, who were already more likely than White drivers to be stopped by law enforcement (Sorin, 2020), now had another layer of enforcement to contend with. A 1978 article from the *Los Angeles Sentinel* described the traffic checks as a "chief community antagonism" that caused drivers "ridicule, humiliation, and embarrassment… whether the motorist is carted to jail or not" (*Los Angeles Sentinel,* 26 October 1978, A8). The Greater Watts Justice Center handled many cases that began with a computerized check and escalated from there. The Center's director, Larry Williams, cited computer checks as a major point of tension between Black drivers and the police (*Los Angeles Sentinel*, 1978, A8). However, the courts upheld computer warrant checks in a series of court decisions (*Los Angeles Sentinel*, 1978, A8).

In 1978, the State Supreme Court permitted law enforcement to temporarily detain drivers to conduct computer warrant checks so long as the police officer could reasonably suspect a driver of being involved in criminal activity and the warrant was reasonably related to the purpose of the stop.[85] The Attorney General defended routine warrant checks at traffic stops on three grounds: they permitted police to verify a driver's identity, whether a driver's license was valid, and whether the driver had any outstanding fines and was therefore subject to arrest (*Los Angeles Sentinel*, 26 October 1978, p. A8). The DMV received 732,520 notices of "failure to appear" or "failure to pay" in 1977, which the Attorney General pointed to as justification for enforcing motor vehicle laws in the "least intrusive" method.[86] Judge Mosk argued that routine warrant

[85] People v. McGaughran, 25 Cal. 3d 577, 601 P.2d 207, 159 Cal. Rptr. 191, 1979 Cal.

[86]Though the number of individuals charged with failure-to-pay or failure-to-appear in court is substantially smaller: Judge Mosk notes that the DMV also received a total of 474,082 "clearances" of notices of failure to appear or to pay, and among the remaining outstanding violations, drivers may also

checks constituted an "intolerable and unreasonable" intrusion into the lives of "the vast majority of peaceable citizens who travel by automobile," Mosk continued, citing the Court's recent decisions in People v. Superior Court[87] (Kiefer) (1970) and People v. Superior Court[88] (Simon) (1972) (*Los Angeles Sentinel*, 26 October 1978, p. A8).

FEEDING THE BRAIN- -Sgt. B. J. Barrett of Van Nuys Division coaches Mrs. Salley Roberts in operation of new TV tact system for L.A. police. She types driver license number, height, weight, etc., of suspect stopped by patrolman. Brain bank downtown receives information via TV set, searches bank and tells her if there's a warrant out on him. The operation takes only about 10 seconds. Times photo

Figure 31. "Feeding the Brain." Source: Hansen, 23 June 1968, p. SFB1

accumulate these violations, such that the total number of "scofflaws" is likely much smaller than the net figure the Attorney General cited (People v. McGaughran, 25 Cal. 3d 577, 601 P.2d 207, 159 Cal. Rptr. 191, 1979 Cal).

[87] People v. Superior Court of Yolo County, 3 Cal. 3d 807

[88] People v. Superior Court of Los Angeles County, 7 Cal. 3d 186

In 1994, California required driver's license applicants to provide their Social Security Number (SSN).[89] When the DMV began to require SSNs for licenses, it could link its records with other government agencies, both to verify a person's identity and to track their records from other public agencies. The requirement served a number of purposes: it prevented undocumented people from accessing a license, it identified applicants with multiple licenses under false names, and it helped authorities collect unpaid traffic fines and child support payments (Pool, *Los Angeles Times,* 4 April 1993, p. VCB9). The rules prompted confusion among employees and license applicants. As one *Los Angeles Times* reporter noted, "Explanations as to why officials are bothering with the numbers have varied depending on the DMV office. So has the interpretation of the DMV's rules" (Pool, *Los Angeles Times,* 4 April 1993, p. VCB9). California's Social Security requirement was soon adopted nationally in the context of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. Under this welfare reform bill, states risked losing Temporary Assistance for Needy Families funding if they did not record the SSN on various official documents or adopt laws that would suspend a person's license for falling behind on child support payments.[90] Driver's license applicants for the first time needed to share their SSN in order for the state to be able to ensure that welfare recipients were citizens and for DMVs to suspend licenses for parents overdue on paying child support.[91] The 1996 federal welfare legislation and California Governor Wilson's 1997 executive order expanded the definition of a welfare benefit to include professional licenses (Morain, *Los Angeles Times*, 28 February 1998, p. A1). Proponents, such as Consumer Affairs spokesman Bob Brown, argued

[89] Id. § 1653.5(d) (West 2000); id. § 12800(a); id. § 12801(b)

[90] H.R.3734 - Personal Responsibility and Work Opportunity Reconciliation Act of 1996

[91] Major Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). https://www.acf.hhs.gov/ofa/policy-guidance/major-provisions-welfare-law

that such licenses were "a valued commodity" (Morain, *Los Angeles Times*, 28 February 1998, p. A1). Governor Wilson proposed adding $1.16 million ($2.12 million in 2022) to the State budget to pay for the added labor of verifying every commercial driver's citizenship status.

As the role of a driver's license expanded from granting the right to drive a vehicle on public roads to proving one's identity and age and enabling financial transactions and welfare applications, so did the importance and value of obtaining a license (McDonnell, *Los Angeles Times*, 22 October 1986, p. SD_A1). Driver's licenses operated as proof of identity, or a "gateway" card, to access a range of services, including welfare and banking applications (*Los Angeles Times,* 4 August 1997, p. OCA21). In 1968, then Governor Reagan signed into law legislation that permitted the state to issue identification cards to residents without a driver's license (Fairbanks, *Los Angeles Times*, 10 July 1968, p. 3).[92] At the time, the state estimated that 300,000 residents did not have a driver's license but needed a document to prove their identity (Fairbanks, *Los Angeles Times*, 10 July 1968, p. 3). Nonetheless, people predominantly relied on driver's licenses, and state issued ID cards never gained the same traction. Despite the many security measures that aimed to safeguard against forged licenses, such as holographic images and coding, a California DMV investigation in 1997 indicated the existence of at least 25,000 fraudulent licenses (*Los Angeles Times*, 4 August 1997, p. OCA21). As legal pathways to a driver's license were blocked, stories of counterfeit documents and bribery schemes dotted the newspapers. The DMV's "Operation Clean Sweep" uncovered the extent to which people who were otherwise ineligible for a license, for having their license revoked or for being undocumented, sought alternatives (*Los Angeles Times*, 4 August 1997, p. OCA21). The

[92] Vehicle Code § 13000, added Stats 1968 ch 494 § 3

investigators estimated that 250 of its employees had accepted bribes in exchange for licenses over the past few years (*Los Angeles Times*, 4 August 1997, p. OCA21).

Automatic Suspensions and the Rise of the Administrative State

Over time, the state legislature amended the Motor Vehicle Code to make it easier to suspend a person's license. Initially, these statutory changes were at least a step removed from road safety. The legislature made it easier for a driver to lose her license by increasing penalties for using controlled substances, not carrying proof of financial responsibility, and failing to appear in court. Once tracking technology improved and the State was able to track individuals across multiple agencies' databases, the legislature could more easily use license suspensions to punish a range of violations outside traffic safety. *Watson* and other early suspension cases offered legal precedent to suspend a person's license for failing to pay, rather than for the quality of their driving. With interagency data sharing capabilities, the State could automate suspensions for violations previously outside the purview of the DMV.

In some cases, license suspensions provided elected officials with a potentially lighter alternative punishment to incarceration. While the Motor Vehicle Act had enabled failure-to-appear in court suspensions since 1963, the State removed some steps before failure-to-appear suspensions kicked in once administering them became automated with computer technology. From 1963 to 1983, a driver would not automatically lose her license until she had missed two or more court hearings.[93] [94] In 1984 legislators substituted one punishment for another. In an effort to reduce

[93] Motor Vehicle Code Ch 354 § 1

[94] They could, however, still be subject to arrest for failing to appear (Motor Vehicle Code Ch 858 § 1).

arrests for traffic offenses, they instead pushed for an automatic trigger for suspensions after a single failure to appear.[95] The proponents of the bill argued "the courts are trying to get out of the traffic arrest warrant business. An arrest warrant is too cumbersome a mechanism, triggers consequences of great embarrassment and inconvenience to the traffic offender, and may give rise to false arrest litigation if an administrative mistake was made to justify its routine use. Proponents would like to use the DMV license suspension mechanism as the enforcement tool" (Sen. Com. on Judiciary, Analysis of Assem. Bill No. 2539 (1983–1984 Reg. Sess.) as amended June 25, 1984, p. 2).[96]

Legislators viewed license suspensions as a less harsh alternative to incarceration. However, given the importance of automobiles, the loss of a driver's license had substantial consequences for households. Legislators were increasingly drawn to suspensions as they were easy to implement and, with technology-enabled enforcement, generated revenue for the state (Trout, *Los Angeles Times*, 1 November 1971, p. A3). Once the tracking technology was in place, and following decades of court decisions upholding the state's broad authority to suspend licenses, the stage was set for a new wave of non-driving-related suspensions. Lawmakers threatened suspensions to coerce people to pay for everything ranging from traffic fines and court fees to child support to repairing acts of vandalism.

A long-standing debate in license policy was the issue of how systematically suspensions should be meted out. In other words, how much discretion should judges, law enforcement officers, and DMV officials have in restricting driving, an important debate given advances in enforcement

[95] Stats. 1984, ch. 858, §§ 1 & 3, p. 2902

[96] Also cited in Hernandez v. DMV (2020) court opinion written by Simons.

technology that enabled more uniform implementation? When State Senator Waters voiced her opposition to automatic Financial Responsibility suspensions, the computer technology to immediately dole out suspensions was still maturing. Though the DMV started to adopt computer database technology in the 1970s, the department continued to rely heavily on typed and handwritten logbooks throughout the 1980s (Stewart, *Los Angeles Times*, 11 January 1987, p. B1). Even before computer databases, judges often wanted more flexibility in determining punishments. In 1959 a judge in Long Beach challenged the DMV when it began to suspend licenses immediately following someone's first drunk driving conviction (*Los Angeles Times,* 8 October 1959, pg. B1). The DMV policy violated the separation of powers: "punishment is a judicial, not an administrative process" Judge Charles T. Smith argued (*Los Angeles Times*, 1959, pg. B1). Two years later, the State Senate drafted a bill that would only permit the DMV to act if a court failed to intervene, arguing that it was up to the courts to determine whether and for how long licenses should be suspended (*Los Angeles Times,* 23 November 1960, p. 2). A court should be able to make exceptions, when, for example, a person's employment is jeopardized by a suspension, Senator Richard Richards (D- Los Angeles) opined (*Los Angeles Times*, 23 November 1960, p. 2).

But with automated enforcement technology, a growing driving populace, and more suspension statutes on the books, judges could not feasibly determine every individual suspension case. Moreover, following the New Deal, the government played a much larger role in American lives than it had in the early automotive era (Reich, 1965). New Deal programs, such as the Social Security Act, were based on the progressive belief that the government had an obligation to its citizens, and Americans in turn began to rely on government regulations and welfare programs (Reich, 1965). Administrative agencies now had to establish procedural safeguards to protect a

person's access to welfare (Reich, 1965), while also balancing the practical problem of providing hearings for a large population.[97]

In *Escobedo v. Dep't of Motor Vehicles* (1950)[98], the California State Supreme Court debated whether an administrative body could automatically suspend someone's license for violating the Financial Responsibility Act, and whether Financial Responsibility suspensions discriminated against low-income drivers. Pedro Escobedo, a gardener who needed to drive to work, automatically lost his license without a hearing after violating the Financial Responsibility Act following a collision.[99] The court upheld liability requirements and determined that Escobedo had been afforded adequate due process. Offering every single driver who violated the Financial Responsibility Act a hearing before suspending their license would constitute an enormous administrative burden to the DMV. And, given the overriding public interest in road safety, administrative review, the DMV could justifiably offer administrative reviews to drivers who contested their suspensions after the fact.[100]

In the 1970s, just as the state DMV started to adopt a computer database, the US Supreme Court weighed just how much procedural due process individuals were owed before the government

[97] Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287, 1970; Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18, 1976

[98] Escobedo v. State, Dep't of Motor Vehicles, 35 Cal. 2d 870, 222 P.2d 1, 1950

[99] In Rios v. Cozens (1971), the petitioner argued that low-income drivers in rural and urban areas frequently faced Financial Responsibility suspensions because they were unable to afford insurance or a security bond. The petitioner was an uninsured minor who lost his license for violating the Financial Responsibility law after an automobile accident. The California Supreme Court determined that suspending his license without affording him the opportunity for a hearing in person violated his due process. The court did not overturn Financial Responsibility suspensions, however.

[100] Escobedo v. State, Dep't of Motor Vehicles, 35 Cal. 2d 870, 222 P.2d 1, 1950

could take away certain entitlements. In *Goldberg v. Kelly* in 1970 (Goldberg v. Kelly, 397 U.S. 254), the Court expanded the definition of property. Under the traditional understanding of common law, the government was required to protect a person's life, liberty, and property, and the government could restrict or deny any benefit it extended so long as a person's protected interests were not violated (Chapman and Yoshino, Constitution Center).[101] In a modern welfare state, individuals were far more invested in government programs. In *Goldberg* the court blurred the distinction between a privilege and a right, and instead positioned welfare as an entitlement shielded with due process protections. Even though the government extended licenses at its discretion, it could not take them away without certain procedural steps.

Some administrative hearings, however, required more individual attention than others. And state agencies also had to pragmatically consider the administrative burden involved with suspension hearings. A few years after *Goldberg*, the Court looked to balance protecting an individual's private interests with the public's interest in minimizing administrative costs. In *Mathews v. Eldridge* (1976),[102] the justices established a three-part test that lower courts could use to determine whether a person was denied procedural due process during an administrative proceeding.[103] Judges had to balance three factors: 1) the importance of the private interest at stake, 2) the risk that a person could be erroneously deprived, and 3) the public interest, including the burden that added protections would pose to the government. The Mathews test was not a litmus test, however. The judges noted that determining whether a process satisfied

[101] Jerry Mashaw, in his book *Bureaucratic Justice* (1983), critiqued *Goldberg v. Kelly*, arguing the Supreme Court had "misunderstood what caused decisional errors and vastly overestimated the capacity of welfare bureaucracies to run a hearing system" (p.4).

[102] Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18, 1976

[103] Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18, 1976

due process was nuanced. A judicial hearing may not be the most effective method for decision making in every case, and the people who conducted administrative procedures should be given the benefit of the doubt that they act in good faith.[104]

Increasingly, both the State and Federal government turned to automated license suspensions - suspensions that the DMV immediately authorized without a judge's discretion. Tracking technology made these statutory shifts possible in ways that previous record-keeping had prevented. The DMV had established a record system for licensees early in its history. In 1931, the State authorized a record-keeping system that included every operator's accident reports and court records. Years before the Automobile Club of Southern California had advocated for a record system to track and weed out reckless drivers, and concluded that with the new database, the unsafe driver "will probably have difficulty in retaining his license" (*Los Angeles Times,* 6 October 1935, p. E2). "The motor vehicles department has been given greatly increased powers in the issuance and cancellation of drivers' licenses and the new checking system will make it possible to determine quickly the safety record of individual drivers" (*Los Angeles Times*, 6 October 1935, p. E2). The Auto Club's pronouncements proved optimistic. In the 1960s, just before the DMV began to digitize its records, neither traffic courts nor the DMV knew how many drivers actually had suspended licenses. "The department does not pretend to have the machinery that obviously is needed to effect with high efficiency the collection of licenses due to be surrendered," DMV director Tom Bright said in 1962 (*Los Angeles Times,* 6 February 1962, p. A1).

[104] Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18, 1976

The first large computer in Los Angeles was installed in the County Assessor's office in 1958, and by 1966 the Department of Charities' Bureau of Public Assistance also started to automate its data with a computer (Goff, *Los Angeles Times*, 25 January 1966, p. A8). In 1966, the County began the process of implementing a computer network that would store and share data among County and certain federal agencies. The system also would tie into a system that the State was concurrently designing and implementing, including a State-level DMV database that would offer quick access to information on vehicle registrations, driver's licenses, and traffic violations (Goff, *Los Angeles Times*, 25 January 1966, p. A8). A police officer could stop a driver and then radio an officer at a communication center with the driver's license information. The officer would then query a computer downtown to determine whether the driver had any outstanding warrants, and radio back the answer to the police officer (Hansen, *Los Angeles Times,* 23 June 1968, p. SFB1). Previously, warrants were written and stored in card files, and communication officers would exchange information by phone (Hansen, *Los Angeles Times,* 23 June 1968, p. SFB1). Consequently, traffic citation enforcement was slow and ineffective. Of the 350,000 citations that police agencies and the California Highway Patrol issued in 1971, 15 percent were ignored, and just half of the resulting warrants were successfully served due to manpower shortages, the enormous caseload, and a decentralized data system (Smith, *Los Angeles Times,* 19 September 1971, p. OC6). Under the new computer system, officers could more thoroughly enforce warrants for drivers who failed to appear in court for traffic tickets (Smith, *Los Angeles Times,* 19 September 1971, p. OC6). County officials unofficially described the system as a way to "nail the guy who tries to skip out on his traffic fine" (Smith, *Los Angeles Times,* 19 September 1971, p. OC6). The computer system struggled to keep up with the mounting number of warrants that officers were entering into the system; in 1971 officials at the Los Angeles City

Data Services Bureau asked other cities to wait before adding new warrants because the computer system lacked the capacity to accommodate them (Trout, *Los Angeles Times*, 1 November 1971, p. A3).

In the 1930s, the courts established a precedent that the Legislature could authorize license suspensions for nonpayment. But enforcing those suspensions was still costly. Computers considerably lowered the administrative costs of enforcing suspensions. Law enforcement officers no longer needed to find a driver to issue an arrest warrant. The DMV could simply mail notices to every driver in their database who had violated the Motor Vehicle Code. A driver did not need to physically surrender her license for police to recognize it was suspended. The officer could check their computer to verify whether their license was valid or not. The DMV could even simply refuse to reinstate a person's driver's license when it came time for them to renew it, a kind of "slow-motion suspension" (Conley and Levinson-Waldman, 2019).[105]

A Mountain of Monetary Sanctions: Suspending to Generate Revenue

Addressing road safety with suspensions was just one goal policymakers had in mind. Coercing payment to generate revenue was another. Judges had long turned to fines to deter and punish violators, but only in the 1990s did the California legislature and state judicial council formally codify base-level fines for each infraction as well as surcharges (Bales et al., 2019; Harris, 2016). The state legislature increased these fines and fees over time (Harris, 2016), and used license suspensions to coax drivers to pay increasingly untenable debts (Bender et al., 2015). License

[105]Under Cal Veh Code § 12808 (SB 335, passed in 2000), for example, the DMV must check an applicant's record for traffic violations and for failure-to-appear court before renewing or issuing a driver's license.

statutes added to, rather than substituted for, layers of punishment and enforcement in existing penalties.

Monetary sanctions, also called legal financial obligations, serve to punish and deter crimes, but also to pay the costs of bloated criminal justice budgets (Martin et al., 2018). Monetary sanctions refer to a wide range of penalties that serve different purposes; whereas fines are punitive, fees are intended to cover operational costs, and restitution pays the costs of damages to victims (Harris, 2016). Fines have a number of advantages compared to imprisonment. They can be matched according to the magnitude of a person's offense and their means to pay, and they are cheap to collect and can (but often do not) go directly to crime victims (Bentham 1962; Becker 1974; O'Malley 2011). Jeremy Bentham once described fines as "merely a license paid in arrears": a person pays for what would otherwise be a restricted or prohibited act (Bentham, 1962; O'Malley, 2009).

License suspensions are not themselves a monetary sanction.[106] License suspensions instead act as a lever to extract other payments. The state could dangle driver's license suspensions to compel people to pay court fines, fees, forfeitures, penalty assessments and surcharges. Over time, legislators allowed counties to penalize a growing number of infractions with a growing list of fees and surcharges, and in so doing established more opportunities for municipalities to generate revenue from traffic violations. In 1997, Compton Municipal Court Judge Thomas Townsend appealed to the State legislature to reform traffic court fines (Lowe, *Los Angeles Sentinel*, 24 April 1997, p. A1). Townsend noted that traffic fines, including penalty assessments,

[106] License suspensions do constitute a financial barrier as drivers must pay a fee to reinstate their license; the DMV began to charge a reinstatement fee in 1970 (Cal Veh Code § 14904, Added Stats 1970 ch 1017 § 1).

had tripled since the 1970s, far outstripping inflation (*Los Angeles Sentine*l, 24 April 1997, p. A1). If someone was too poor to pay the fine all at once, they could pay on an installment plan, but only so long as they paid an additional fee (*Los Angeles Sentinel*, 24 April 1997, p. A1). Townsend recommended that fines be indexed to a driver's income or the value of their automobile. The state instead continued to increase the price of various monetary sanctions. From 2002 to 2010, the cost of a traffic infraction almost doubled, outpacing inflation (California State Auditor, 2018). Traffic tickets had far reaching consequences for low-income violators. Mello (2018) studied traffic citations issued in Florida between 2011 and 2015 alongside credit reports and payroll data and found that the average traffic ticket was associated with a $500 welfare loss. He also found that fines triggered the biggest declines in financial well-being among people who already have unpaid bills (Mello, 2018).

Pushing monetary fines onto defendants without considering their ability to pay them was neither an optimal strategy to deter violations nor to recoup costs (Menendez et al., 2019). As Mello argued in his paper on traffic citations in Florida, when governments do not account for the welfare effects of fines, they will likely expend resources on policing that exceed the benefits of deterrence (Mello, 2018). Other recent evidence suggests that accounting for the costs of collecting and enforcing fines and fees, revenues from monetary sanctions were much lower than legislators expected (Menendez et al., 2019). A study of New Mexico and Texas found that counties spent 41 cents for every dollar from fines and fees on court hearings and jail costs alone (Menendez et al., 2019). State and local governments spent 121 times more collecting fines and fees than the IRS spent collecting taxes (Memendez et al., 2019). When public institutions relied on monetary sanctions to generate revenue (as they did and still do in California, where fines and

fees from the State Penalty Fund are funneled to the General Fund), they placed law enforcement in the position of collecting debt, rather than ensuring community safety (Martin et al. 2018).

Driver's license suspensions make it more difficult for debtors to travel to work to pay off those debts. The State, too, starves itself of revenue the more it burdens drivers with penalties. Despite increases in the cost of fines and fees over time, between 2013 and 2016 revenue collection for vehicle code violations, both per capita and as a proportion of the State's total budget, declined (see Chart 1).[107] At the same time, suspensions overall declined modestly. The California State Auditor found that between 2014 and 2017, several state agencies had to reduce or consider reducing services due to declining revenue from penalties and fees (California State Auditor Report, 2018).

[107] The California Legislative Analyst's Office reported that between 2005 and 2015, the number and size of charges the State authorized to add to base fines increased significantly (Taylor, 2016). The total fines and fees for a traffic stop violation, for example, jumped from $155 to $238 between 2005 and 2015.

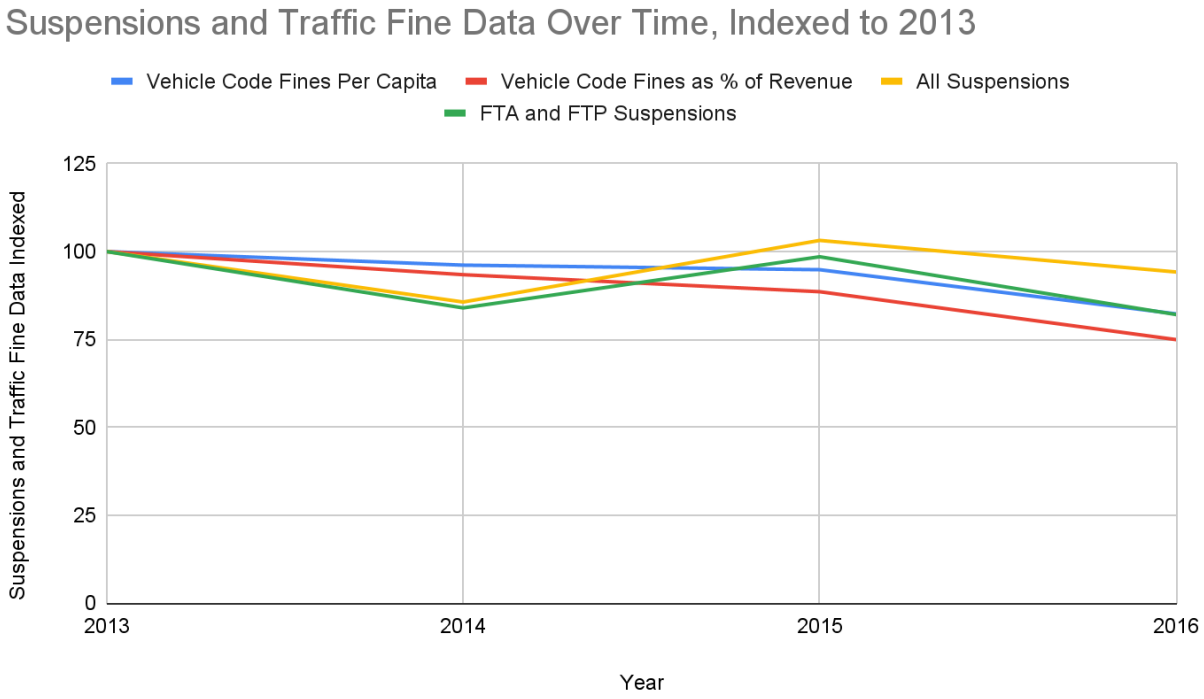

Chart 1. Suspensions and Traffic Fine Data Over Time, Indexed to 2013. Sources: California State Controller's Office: County Revenues Per Capita and California Counties Financial Transactions Reports, California Department of Motor Vehicles Suspensions and Revocations Report

License suspensions can constitute an alternative to incarceration. Not being allowed to drive, while incredibly restrictive and costly in its own right, carries less stigma and deprivation than a jail sentence. In practice, however, suspensions often add to rather than substitute for other punishments (Austin and Krisberg, 1982). The counterfactual punishment to a suspension for many non-driving violations may not be jail or a fine. It is often a combination of punishments, or a timeline of escalating punishments. For example, someone who received numerous citations for an expired vehicle registration and subsequently missed their court date could lose their license for failing to appear in court and accumulate debt from various court fines, fees, and surcharges, such as multiple civil assessments and court facilities fees (Bender et al., 2015). The

mix of punishments is up to the discretion of a court official, and studies of monetary sanctions find that they vary significantly by judge and jurisdiction (Harris, 2016).

There are two contexts in which a suspension can be a substitute for or a complement to other penalties: at an initial sentencing, and after someone failed to comply with previous sanctions. In the former, a judge might "throw the book" at someone, adding license suspensions to other penalties. For example, even before the State began to use suspensions as a cudgel, someone convicted of vandalism could face jail time, a fine, or both, *in addition* to losing their license (Cal Pen Code § 594, Cal Veh Code § 13202.6). The same penalties for graffiti remained on the books before, during, and after judges were authorized to suspend licenses. Alternatively, policymakers could authorize suspensions to coerce people who did not heed the court's initial punishments. Failure-to-pay traffic and infraction tickets, and failure-to-appear in court, offer two examples of the courts use of suspensions to double down on monetary sanctions. A court can inform the DMV that a person willfully skipped their court appearance or missed a payment, and authorize a license suspension to pressure them to pay.

Whether courts use suspensions as a substitute for jail time is a subject for future research. However, the evidence is clear that whether someone lost their license at initial sentencing or for subsequent noncompliance, they can still face jail time and additional monetary sanctions if they continue to drive. Drivers whose licenses are suspended but skirt jail can nonetheless eventually face jail time for nonpayment or for getting caught for another charge, such as driving on a suspended license (a misdemeanor in California).[108] When someone does not pay an infraction

[108] Not paying traffic tickets or appearing in court are two of the longest-standing violations to trigger a suspension. Legally, suspensions for failure-to-pay and failure-to-appear are a punishment a step removed from incarceration, and can be considered an alternative to incarceration (Herrera et al., 2019). If a person does not pay a judgment or willfully skips their hearing, they can be charged even more in penalty feess,

citation, a court can issue a warrant for their arrest or add late fees such as civil assessment penalties, but not both (Cal. Penal Code § 1214.1(c)). Many courts generally only issue bench warrants for non-traffic violations, but in either case, judges can suspend their license.[109] In theory, a judge could lighten a defendant's penalty if they determined they were unable to pay, a status that court officials across the country have struggled to define let alone consider as they pass judgment (Harris, 2016). In practice, however, courts routinely charge the maximum civil assessment penalties allowed without much in the way of considering a person's ability to pay, particularly when the revenue is used to offset court costs (Bender et al., 2015).

The officials that set license policy in the 1990s, however, worked in a political climate that emphasized personal responsibility (Friedman and Pattillo, 2019). License suspensions were part of a swell of policies that punished, rather than rehabilitated, perpetrators (Martin et al., 2018). Over the next few decades, monetary sanctions crept into nearly every section of California's legislative code (Verma and Sykes, 2022). A 2016 census of California's legislative codes found that just over 13 percent of statutes in the Vehicle Code were legal financial obligation statutes (Verma and Sykes, 2022).[110] Statutes reveal a state's capacity to punish. Incarceration rates highlight the impact of those statutes. The proportion of people incarcerated who owed legal financial obligations rose over the same period that states across the country dramatically expanded and enlarged monetary sanction statutes (Harris, 2016). A quarter of the nation's

found in contempt of court, and put in jail. If they want to contest a citation, they must first post the full bail before a court date can be set.

[109]After reform in 2017, courts could no longer suspend a person's license for failing to pay an infraction citation; they could, however, still suspend for failure-to-appear for an infraction, and judges could impound a person's license or order them not to drive for up to thirty days (Cal Vehicle Code § 40508).

[110] The same study found that over 7,000 of California's 165,607 legislative codes were legal financial obligation statutes (Verma and Sykes, 2022).

inmates owed monetary sanctions in 1991. By 2004, that rate rose to two-thirds, mostly for court fees, according to inmate surveys (Harris, 2016). License suspensions offered a policy response to growing monetary sanctions (Harris, 2016), an expanding population under correctional control (Alexander, 2012), and voter-imposed tax limits that governments needed to circumvent to continue to fund public goods and services (Gordon and Gault, 2015). Suspensions could push more convicted people to pay their debts and perhaps avoid (and help pay for) the criminal justice system. Suspensions thus offer policymakers, in theory, an alternative to fines, but more often than not they constitute an additional penalty, one that policymakers hope pushes debtors into paying other fines and fees.

Enforcing Child Support Payments

As I discussed previously, computing made suspending licenses much simpler, and allowed the DMV to more seamlessly update and share records with the courts, law enforcement, and other agencies, including notably the Department of Social Welfare. In 1972 the Los Angeles County Board of Supervisors approved plans to automate child support enforcement (Farr, *Los Angeles Times*, 18 October 1972, p. C3). The system would computerize child support records and link them with federal, state, and local justice, law enforcement and social welfare agencies. The District Attorney at the time, Joseph Busch, said the new system would be a cost-saving way to more easily track down violators (Farr, *Los Angeles Times*, 18 October 1972, p. C3). Looking to the future, Busch stated: “I anticipate that such a system as this would tie in with systems operated by the state Department of Motor Vehicles and the state income tax computer system. Sooner or later, even if an absent parent is trying to remain out of sight, they are going to have to

pay taxes, renew driver's licenses or make some other transaction which will help us find them" (Farr, *Los Angeles Times*, 18 October 1972, p. C3).

Twenty years later, as welfare reform gained bipartisan traction and took center stage in policy debate across the country, Busch's prediction came to fruition. In 1992, the State legislature authorized occupational license suspensions for child support delinquency, including licenses for bus and taxi drivers. Licensing agencies would suspend or withhold a parent's commercial license if they were at least 30 days overdue in child support payments (Ellis, *Los Angeles Times*, 24 November 1992, p.3). A parent was eligible for a 150-day temporary license, after which they would lose their license until they satisfied their child support responsibilities or made payment plans with a district attorney (Ellis, *Los Angeles Times* 24 November 1992, p. 3). Members of the Women's Legislative Caucus led the effort, buoyed by Governor Wilson's announcement on Father's Day that child support enforcement would be a top priority in his administration (Ellis, *Los Angeles Times* 24 November 1992, p. 3). The technology for automated driver's license suspensions quickly ramped up in tandem with federal mandates for child support enforcement and the recording and sharing of information.[111] The California Department of Social Services

[111]The U.S. House of Representatives' Committee on Ways and Means, in a 1996 document summarizing the Personal Responsibility and Work Opportunity reconciliation act and related legislation, wrote: "The new law addresses one of the most vexing social problems faced by the Nation today; namely, the remarkably low level of child support payments by noncustodial parents. Some scholars have estimated that a highly effective child support system could produce as much as $34 billion more for children than the amount now collected (Sorensen, 1995). The reformed child support program attacks this problem by pursuing five major goals: automating many child support enforcement procedures; establishing uniform tracking procedures; strengthening interstate child support enforcement; requiring states to adopt stronger measures to establish paternity; and creating new and stronger enforcement tools to increase actual child support collections. The law envisions a child support system in which all states have similar child support laws, all states share information through the Federal child support office, mass processing of information is routine, and interstate cases are handled expeditiously" (Committee on Ways and Means, US House of Representatives, "Summary of Welfare Reforms Made by Public Law 104-193, 6 November 1996).

was developing information systems to share the names of delinquent parents with other licensing agencies. The eventual goal, according to the California Department of Social Services public information officer, Kathleen Norris, was to match parent names with driver's licenses in order to suspend them for failure-to-pay child support (Ellis, *Los Angeles Times* 24 November 1992, p. 3).

Beginning in 1994, any parent who missed a child support payment was now eligible to lose their license. As part of a broader policy push for welfare reform, Governor Pete Wilson continued to push for legislation to suspend driver's licenses for parents who fell behind on child support payments (Martinez, *Los Angeles Times*, 18 August 1994, p. OCB9). If parents were pushed to pay, fewer custodial parents would need to rely on state assistance, and taxpayers would not be made to foot the welfare bills (Warren, *Los Angeles Times,* 29 September 1995, p. A3). When California adopted driver's license suspensions for child support delinquency in 1994, state officials predicted it would bring in an additional $84 million ($168.2 million in 2022) annually in child support payments (Warren, *Los Angeles Times* 29 September 1995, p. A3). The intent of the legislation was not that people lose their licenses, the bill's author, Speier, noted, but to encourage parents to go to the District Attorney's office to set up a payment plan (Senate Floor Analysis of AB 257, 29 August 1995). By 1995, President Clinton called on Congress to enforce child support laws by requiring states to suspend driver's and professional licenses for nonpayment and establishing a nationwide system to track delinquent parents (Shogren, *Los Angeles Times*, 19 March 1995, p. VYA1). "We all agree we have to end welfare as we know it…we'll have to offer more opportunity to move people from welfare to work and demand more responsibility in return," Clinton said in his radio address (*Los Angeles Times*, Shogren 19 March 1995, p. A1). Child support license suspensions proved "a rare harmonious"

agreement between Republicans and Democrats, who voted 426 to 5 to adopt them (Shogren, *Los Angeles Times*, 24 March 1995, p. EVA18). Even Maxine Waters, who just a few years prior tried to stymie Financial Responsibility suspensions on the grounds that they were automatic (rather than discretionary) and disproportionately burdened people of color, came out in strong support of child support delinquency suspensions. "Democrats and Republicans alike do not like deadbeat dads," U.S. House Representative Waters stated before voting to adopt the amendment (*Los Angeles Times*, Shogren 24 March 1995, p. EVA18).

A range of legal organizations and parent rights groups voiced their support or dissent for California's 1995 child support bill. Transportation organizations were largely absent from this debate. Groups like the Family Support Council and the California Judges Association supported the bill, extolling suspensions as an important policy tool to increase enforcement. The Coalition of Parent Support, Inc. was more critical, arguing that parents needed to drive to get to work in order to pay the support, and to visit their children (Assembly Floor Analysis of AB 257, 15 September 1995). Some legal organizations contended that the DMV was not the appropriate agency to process child support cases. "Regrettably, the DMV is not a reliable source of information for service," Family Law Section of the State Bar stated (Assembly Committee on Judiciary Bill Analysis for AB 257, 19 April 1995). If the DMV mailed a notice to the wrong address or to the wrong person with the same name, the consequences could be dire.

Child support delinquency marked a clear departure from previous nonpayment suspensions. As with Financial Responsibility requirements, suspensions were automatically triggered after a violation. Unlike Financial Responsibility suspensions, the payment of child support was unrelated to behavior mandated by the Motor Vehicle Code. The California Senate was well

aware of the discrepancy between the policy goal (coercing payment) and the means of carrying it out (suspensions) when they drafted the legislation. The "primary policy issue," according to the Senate Transportation Committee, was whether "whether the issuance or retention of drivers' licenses should be dependent upon factors and qualifications unrelated to driving skills and road safety" (Senate Transportation Committee Bill Analysis of AB 257, 12 June 1995). Among the points of discussion in the Senate Transportation Committee's bill analysis was whether licenses suspensions would lead to better support compliance or more unlicensed drivers. "Would persons denied driving privileges in turn lose their employment and the ability to make the required support payments?" (Senate Transportation Committee Bill Analysis of AB 257, 12 June 1995). The Legislature did lighten the punishment of a typical license suspension in one sense: people with child support suspensions would be exempt from the existing law, which authorized police officers to impound someone's car if they were caught driving with a suspended or revoked license (AB 257, 1995).

In 1998, Roger Sunpath Tolces took the issue of child support suspensions to the California courts. Child support suspensions were unconstitutional, he argued, because they violated his right to travel. Tolces, whose license was suspended for child support delinquency, provided several lines of reasoning to support his case. As with Hernandez,[112] Tolces argued that traveling on public highways was a fundamental right rather than a privilege. When the state extended child support suspensions from commercial to operator's licenses, it went from restricting a privilege (using highways for commerce, hire, and profit) to restricting a right (using highways

[112] Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70, 634 P.2d 917, 177 Cal. Rptr. 566, 1981 Cal.

for personal travel) (Tolces Opening Brief, 1996).[113] Tolces went on to argue that child support suspensions were not rationally related to driving. Not only was there no rational nexus, but the penalty outweighed the transgression. Tolces cited Hale v. Morgan (1978), in which the court argued that a penalty violates due process when it is "mandatory, mechanical, potentially limitless in its effect regardless of circumstance" and when "[i]ts severity appears to exceed that of sanctions imposed for other more serious civil violation" (Tolces Opening Brief, 1996). The penalty was disproportionate to the crime, and posed a disproportionate burden on low-income drivers. Hearkening back to the discussions in *Lindley*[114], Tolces argued that child support suspensions discriminated against low-income drivers and violated the equal protection clause. The statute classified people for their ability to pay rather than their ability to drive.

None of these arguments gained traction with the Court of Appeals, which, citing *Watson* (1931) and *Hernandez* (1981), reaffirmed that driving was a privilege, not a right. Mr. Tolces could travel, just not by driving himself. The Court also rejected Tolces' rational basis argument, albeit with arguably circular logic. The purpose of the suspension statute was to enforce child support orders, a legitimate governmental purpose. And since driving was a privilege that the state could legally leverage to enforce its policies, suspensions were rationally connected to child welfare policy, so the Court argued (*Tolces v. Trask*, 76 Cal. App. 4th 285).

[113] The private versus commercial street use argument threads much of license history: in 1915, a jitney driver in Venice was denied a license. The driver, backed by the Auto Bus Owners' and Operators' Association of Los Angeles sued the city, arguing that travel on public streets was a right and no legislative body could choose to whom to grant or deny a permit. The City Attorney Hanna argued that no one had the right to use public streets for profit. "The only right a person has on a public street is to travel on it from one point to another" (*Los Angeles Times,* 26 March 1915, p. II 12).

[114] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

Child support delinquency suspensions signaled a significant shift in license policy from penalizing drivers for failure-to-pay costs only tangentially related to road safety to penalizing hundreds of thousands of drivers for debt completely divorced from travel.[115] Child support delinquency was one of many violations that policymakers in the 1990s wanted to deter and punish with license suspensions.[116] Child support stands out, however, in both its magnitude and automated enforcement.[117] Violations such as vandalism and truancy offered both law enforcement and judges some discretion. A police officer could choose to cite a loitering student or let them off with a verbal warning. A judge could choose to sanction that student with the full force of the law, fining them the maximum amount and suspending their license, or they could send them to a rehabilitative program. A parent behind on child support, however, had few alternatives to losing his license. If he missed a payment and thirty days passed, the DMV was immediately notified; and, if the parent had not addressed his debt, the DMV automatically suspended his license. Officials in California chose automated child support suspensions, rather than judicial suspensions (whereby judges would, at their discretion, suspend a delinquent parent's license) to improve efficiency (Department of Health and Human Services, 1997). Under an administrative system, they could avoid attorney costs and improve court efficiency, but at the cost of judges accounting for circumstances and exercising situational discretion (Department of Health and Human Services, 1997).

[115] Albeit even tangential ones, such as fines for substance use outside the context of a vehicle.

[116] See Table A4 in the Appendix for other violations.

[117] In 2000, a few years after the Legislature authorized child support suspensions for non-commercial licenses, 834,908 individuals in California owed child support, totaling $14.4 billion (Sorensen et al., 2003).

Because the federal government mandates license suspensions for parents in arrears, states cannot abolish child support suspensions outright without losing Title IV[118] funding (42 U.S.C. § 666(a) (2012)). Yet states enjoy a certain degree of flexibility in how they choose to implement license suspensions, such as how long a parent must be in arrears for, and for how much money, before the state triggers a suspension (National Conference of State Legislators, 2019). Parents in California face some of the harshest rules: after just thirty days, a delinquent parent can lose his professional and/or driver's license (Cal. Fam. Code § 17520; Cal. Bus. & Prof. Code § 490.5; TFJP, 2019).[119] In 2017, over 81,700 parents lost their driver's license for falling behind in child support, which is just under ten percent of all cases in arrears (see Table 5). For a comparison, 112,221 drivers lost their license for Driving Under the Influence (DUI) and 109,555 for Financial Responsibility violations in 2017 (California DMV).

Table 5. Child Support Cases and License Suspensions in California. Source: California Child Support Services Federal Fiscal Year Performance Data Reports

Child Support Cases and License Suspensions in California					
Year	Child Support Suspensions	Child Support Cases Statewide	Child Support Cases with Arrears Due	Suspensions as % of Cases in Arrears	Suspensions as % of all Child Support Cases
2014	79,091	1,257,376	900,432	8.8%	6.3%
2015	86,581	1,237,737	883,955	9.8%	7.0%
2016	81,399	1,214,712	880,141	9.2%	6.7%
2017	81,771	1,187,333	872,403	9.4%	6.9%
2018	84,845	1,163,115	858,669	9.9%	7.3%

[118] Title IV refers to Title IV of the federal Social Security Act, the Child Support Recovery Act of 1992; states must comply with certain federal regulations for collecting child support, such as license suspensions for nonpayment, or risk losing financial assistance for welfare programs and enforcement.

[119] In contrast, parents in Alabama can be delinquent for six months before they lose their driver's license (Ala. Code §§ 30-3-170 through 30-3-179; TFJP, 2019).

2019	84,509	1,130,263	846,287	10.0%	7.5%

Immediately after California adopted suspensions for child support delinquency, officials reported some success (Dao, *The New York Times*, 7 August 1995, p. 1). In the first six months of the new suspension policy, officials sent nearly 23,000 delinquent parents warnings and saw their collections climb by $10 million (nearly $20 million in 2022) (Dao, *The New York Times*, 7 August 1995, p. 1). That spike, if it can be attributed to suspensions, tapered off. The proportion of child support suspensions to cases in arrears has remained steady over time, ranging between nine and ten percent (see Table 5). More recent studies find no clear relationship between collection tools like license suspensions and improved collection rates (Selekman and Johnson, 2019; Vogel, 2020).

Isolating the effect of license suspensions on payment can be challenging: a noncustodial parent might face multiple simultaneous enforcement tools (they might both lose their license and be reported to the credit bureau), and they might lose or gain employment or other forms of income during their suspension period that influence their ability to pay (Selekman and Johnson, 2019). Moreover, neither states nor the Office of Child Support Enforcement systematically collects data on how much of the child support they collect they can attribute to license suspension policies (Congressional Research Service, 2011). Based on a congressional report on child support enforcement tactics, withholding incomes is, unsurprisingly, the most effective way to collect child support (making up 67 percent of collections in fiscal year 2009) (Congressional Research Service, 2011). The authors of the report estimated that license suspensions *might* spur approximately four percent of collections (Congressional Research Service, 2011).[120] A state

[120] The authors assume that license suspensions affect four percent of the "other source category" (which made up 16 percent of child support collections in FY 2009), and that the remaining 12 percent comes

agency reported in one qualitative interview-based child support collection study that drivers in rural counties were far more likely to pay child support after losing their license than in urban counties because in rural communities "everyone knows if someone gets their license suspended and why" whereas in urban communities a noncustodial parent could lose their license for a number of reasons (Selekman and Johnson, 2019). Some state representatives in the study also stated that license suspensions do encourage payments, but that they generally induce large, one-time payments rather than regular payments on time (Selekman and Johnson, 2019).

License suspensions may be more punitive than productive (Meyer, Cancian, and Waring, 2020; Vogel, 2020). Studies that measure whether child support enforcement actions improve collections offer evidence that the costs of license suspensions likely outweigh the marginal collection benefits to the state (Congressional Research Service, 2011). Child support suspensions might even be counterproductive. Low-income parents are often ordered to make payments that they cannot nearly afford, and then suffer employment setbacks when they lose their license, making it even more difficult to pay (Robles and Dewan 2015; Pratt 2016; Insight Center et al., 2019; Grall 2013). A Wisconsin study found that driver's license suspensions (including professional and recreational licenses) were sometimes negatively associated with payment, perhaps due its negative effect on employment, or because caseworkers were more likely to suspend licenses in particularly difficult cases (Meyer et al., 2020).

from child support collected by financial institutions like banks and credit unions linked to child support databases (Congressional Research Service, 2011).

Conclusion

Since the inception of the driver's license, officials have used it to coerce payment. Low-income motorists, in turn, contested those policies in court, arguing that suspensions for nonpayment discriminated against people unable to pay, were unrelated to road safety, and failed to treat driving as a protected right in modern society. Those arguments, based in part on legal precedents that were established when driving was much less common, largely fell on deaf ears. The *Watson* case affirmed that driving was a privilege not a right, and failure-to-pay suspensions a legitimate use of police power. In cases that followed, judges continued to give legislators wide berth to authorize suspensions.

By the end of the century, policymakers adapted suspensions for not paying civil judgments and driving without insurance to enforce monetary sanctions more generally. Someone caught rolling through a stop sign could quickly owe several times the initial citation once courts had added on a range of court fines, fees, penalties, and surcharges (California State Auditor Report, 2017). Until the passage of the 2017 reforms, if someone did not pay their fines and fees for an infraction in time, they could lose their license. Courts and legislators may very well have viewed license suspensions as a lenient alternative to harsher penalties. But in an auto-oriented society, a suspension can stand in the way of someone's daily mobility and livelihood. Many, if not most, drivers continued to drive on suspended licenses and risked escalating monetary sanctions and jail time (Ruhlow, *Los Angeles Times*, 10 November 1968, p. OC1; Bender et al. 2015).

The threat of losing the license carried more weight as both driving and the license became more ubiquitous. Officials found a synergy between increasing the scope of suspensions and adding

penalties for driving without a license. Not only were there more ways you could lose your license, but the punishment for getting caught driving without one was more severe - a risk that the majority of suspended drivers were willing to take. This punitive license system did not affect every driver equally. For the most part, the resources of the Everyman enabled him to avoid getting caught in the escalating spiral of suspensions and monetary sanctions. The threat of these penalties instead fell disproportionately on low-income, non-white drivers who were the most policed and least able to pay.

5. From Mission Creep to Reform in License Policy

As the car became increasingly necessary for daily travel, the driver's license assumed the role of general identification (Grossman, 2005). Over time, drivers could use the license to verify their identity in applications for employment, renting apartments, welfare benefits, banking transactions, voting, and alcohol purchases (Castile, 2015). Just as drivers and institutions used the license for any number of daily interactions outside of driving, officials used the license for a number of policies outside of transportation (Redman, 2008).

Early court decisions established - though not unanimously - that driving was a privilege rather than a right.[121] The courts determined that officials could authorize suspensions for violations so long as they furthered a "proper" legislative interest.[122] Once tracking technology enabled agencies to share records and enforce suspensions more easily, state legislators began to implement wide-ranging suspension statutes to crack down on social disorder rather than road safety. Legislators began to threaten license suspensions for violations ranging from children

[121] Watson v. Division of Motor Vehicles, 212 Cal. 279, 298 P. 481, 1931

[122] Hale v. Morgan, 22 Cal. 3d 388; People v. Brown, 96 Cal. App. 4th Supp. 1

playing hooky to parents falling behind in child support payments. In the context of Broken Windows policing, officials used suspensions to sharpen existing punishments rather than substitute jail sentences. As suspensions snowballed, advocates for low-income drivers found only incremental reform in the courts. Criminal justice advocates instead found their moment of opportunity amidst a groundswell of support following the Ferguson, Missouri uprisings. Bigger change, it turned out, required political momentum among elected officials in Sacramento.

Broken Windows Suspension Statutes Snowball

A license suspension can be a debilitating punishment, but one that policymakers could implement with few legal restraints. By the end of the twentieth century, California's courts had long upheld non-driving-related suspensions. While judges in *Watson* upheld failure-to-pay judgment suspensions on the grounds that they were rationally related to road safety, by the latter half of the century judges okayed suspensions entirely removed from road safety. Suspensions went from having to somehow relate to road safety and driving to suspensions allowed to accomplish "a proper legislative goal" (Hale v. Morgan, 22 Cal. 3d 388; People v. Brown, 96 Cal. App. 4th Supp. 1). Suspensions were a valid use of police power and did not violate a person's due process rights, so found the courts, "so long as an enactment is procedurally fair and reasonably related to a proper legislative goal"[123] (Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70 quoting Hale v. Morgan, 22 Cal. 3d 388). That policymakers could suspend a person's driving privileges so long as the suspension furthered a "proper legislative goal" is a far looser standard than the one judges followed in the 1930s. "If the penalty were imposed simply for failure to pay a judgment, and had no relation to negligent operation of

[123] The court continued: "The wisdom of the legislation is not at issue in analyzing its constitutionality, and neither the availability of less drastic remedial alternatives nor the legislative failure to solve all related ills at once will invalidate a statute" (Hale v. Morgan, 22 Cal. 3d 388).

motor vehicles, it would be unconstitutional," Judge Waste wrote in the *Watson* court opinion (Watson v. Division of Motor Vehicles, 212 Cal. 279).

In the 1990s, California elected officials began to tie license policy with education policy and increasingly use suspensions to change people's behavior. Since early in license history, minors were subject to a different set of license rules, be it with graduated license requirements, liability requirements, or even separate hearings with DMV officials that included parents (*Los Angeles Times,* 1 May 1946, p. A7; *Los Angeles Times,* 1 February 1931, p. E1). Suspensions, officials found, could be used to punish any number of unwanted behaviors, whether or not they related to driving. In the case of truancy, many of the rule breaking minors may not even have had a license yet. At worst, they might need to wait before getting their license. In 1991 with SB 558, California's legislature used suspensions to deter students from skipping school.[124] Local authorities (school boards and local county district attorneys) could refer a student to a school attendance review board or truancy mediation program before being referred to the juvenile court, which the legislature granted the authority to suspend, restrict, or delay a juvenile driver's license for up to one year after a second truancy conviction.[125] Each time a student was habitually truant their driving privilege could be delayed or suspended for another year.[126] Four years later in 1995, finding that local authorities were insufficiently enforcing truancy laws, the state amended the statute. Rather than first going through a school attendance review board or

[124] Stats 1991 ch 425 § 2 (SB 558)

[125] A juvenile is defined as someone between the ages of 13 and 20 (which was changed to 13 and 18 years in a revision to the statute in 1994).

[126] A student is considered habitually truant after their fourth truancy; truancy is defined as being absent from school without a valid excuse or late for over thirty minutes for more than three days in one school year (Motor Vehicle Code § 13202.7 citing Education Code Section 48260).

mediation program, police officers could now immediately cite and arrest minors loitering during school hours. Students would then have to appear in front of a traffic court judge with their parent or guardian, and could have their license suspended if they accumulated multiple truancy infractions (Chu, *Los Angeles Times* 10 May 1995, p. VYB1).

In their use of truancy suspensions, policymakers addressed an important social problem by criminalizing it. As the ACLU submitted in their opposition statement, the same students who were most likely to drop out of school - particularly students in minority communities - were also those most likely to be caught up in the criminal justice system if local officials enforced the statute (Senate Floor bill analysis, SB 1728, 3 May 1994). When the Los Angeles City Council adopted the new truancy penalties, one Council member dissented, stating that "This is going to fall heaviest on minority children, because that's where many of the year-round schools are" (Chu, *Los Angeles Times* 10 May 1995, p. VYB1). Supporters, including the Board of Education president and the Los Angeles Police Commander, argued that truancy penalties would address daytime crime. The Los Angeles District Attorney argued that "today's truant is tomorrow's criminal" (Assembly Committee on Public Safety Bill Analysis, SB 1728 (Hughes), 30 June 1994). Truancy was the starting point for criminal behavior, the Legislative Analyst reported in the bill analysis (Assembly Committee on Public Safety Bill Analysis, SB 1728 (Hughes), 30 June 1994). If students could be deterred from skipping school with the threat of license suspensions, then they might not engage in crime later in life.

In addition to school truancy, from the 1990s through the 2000s the Legislature added vandalism, firearm possession or use by a minor, tax delinquency, and prostitution to the laundry list of

crimes that legislators tried to deter with license suspensions.[127] (See Table A4 in the Appendix for a list of statutes for non-driving suspensions over time, including the organizations that voiced support or opposition to them during the legislative process.) Each behavior was already a punishable offense. Now a person could also lose their license over them. Officials focused in particular on crimes that children committed and crimes that triggered fines and fees. By placing the punishment within the purview of the DMV, the Legislature added to the agencies involved in enforcement and, in some cases, extracting payment. The Department of Motor Vehicles was now tasked with administering policies that strayed far away from the agency's original purpose of regulating vehicles and their drivers.[128]

Suspensions offered a somewhat novel way for policymakers to crack down on social disorder. The policy tools they turned to were both new - suspending driver's licenses - and old - adding fines and jail time. James Q. Wilson and George L. Kelling's research on the "broken window" theory underpinned some of the policymakers' logic behind some of these suspension statutes (Wilson, 1982). The scholars argued that a neighborhood that shows visible signs of crime and neglect could encourage additional criminal activity, to the point that a community's social controls fray. To counteract weak informal controls, police could target relatively minor but

[127] "According to the bill analysis, "the power to suspend licenses would certainly enhance tax compliance and reduce the "tax gap." However, the suspension of licenses would also create a precedent for extending FTB's (Franchise Tax Board's) and BOE's (Board of Equalization's) tax enforcement powers beyond frozen bank accounts and garnished wages to the privilege of holding an occupational, professional, or driver's license. By limiting its application only to the top 1,000 tax debtors, AB 1424 carefully balances the state's needs to collect taxes owed with the taxpayers' needs to earn living in order to pay off those tax debts" (Bill Analysis, AB 1424, 2 September 2011).

[128] At the same time, the agency needed to contend with an increasing - and highly auto-mobile - population. The DMV's archive is replete with studies it funded to predict and accommodate the growing number of drivers it would need to examine and license, as well as studies analyzing the cost and safety tradeoffs involved in reducing license examination requirements and shifting some license functions to mail and online services.

visible crimes. Legislators explicitly cited the broken windows theory in their bill analysis for prostitution-related suspensions, writing that Wilson and Kelling "argue that in addition to fearing violent crime, people fear being bothered by the disorderly in their neighborhoods: the panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, and mentally disturbed" (AB 2949 Bill Analysis, Senate Committee, 6 May 1996). Many violations that the Legislature targeted for suspensions fall under these "broken window" crimes, including openly carrying firearms, graffiti-covered public spaces, prostitution in public, and school children loitering and drinking alcohol.

When legislators turned to license suspensions for violations outside the Vehicle Code, they invited another agency into the punishment process. The DMV quickly became responsible for implementing sanctions for crimes completely divorced from their agency's original purpose. They were not just a licensing agency anymore, but a collection agency as well. For example, revenue, and who should collect it, was a central point of debate around proposed suspension statutes for crimes such as vandalism. The author of the graffiti bill, Assemblymember Ronald Calderon (D-District 30, Los Angeles), wanted to require the DMV to collect court-imposed fines from a minor convicted of vandalism, a minor's estate, or a minor's parents through the vehicle registration renewal process (AB 2923 Bill Analysis, 26 May 2006). City graffiti abatement programs faced budgetary constraints, and the bill's supporters tried to enlist the DMV to collect payments that would help cities reduce blight by mitigating declining property values associated with graffiti (AB 2923 Bill Analysis, 26 May 2006). Though ultimately the Assembly Appropriations Committee eliminated the DMV's collection role, the agency was left responsible for delaying or suspending a person's license once a court notified them that a person was convicted of vandalism.

Policy debates around truancy suspensions also centered around revenue - how to collect it, allocate it, and distribute it - rather than transportation impacts. Truancy was an infraction punishable with fines that escalated up to $500 under California Education Code § 48293 even before legislators added the threat of a driver's license suspension.[129] When students were truant, their schools lost money in attendance funds. Suspensions would pressure students required to be in school or in a continuing education program to pay those fines, so long as they were caught and punished for skipping school.[130] According to the bill analysis of the amended 1994 truancy statute, one of the key issues of the bill was that it shifted the responsibility of punishing truant behavior from local authorities, including school boards and local county district attorneys who were understaffed or had different priorities, to traffic hearing officers (Senate Floor bill analysis, SB 1728, 3 May 1994). And law enforcement could now wield a much heavier hand. Police officers could, at their discretion, issue a warning or detain students. Parents and guardians were jointly liable for fines that truant students incurred. State officials did not know how much revenue this bill would generate, according to the Senate Floor analysis, but "would depend on the willingness of local law enforcement to pursue truants" (Senate Floor Analysis for SB 1728, 3 May 1994). How the revenues would be split among cities, counties and the state was another point of contention legislators discussed in the floor debate (Senate Floor Analysis for SB 1728, 3 May 1994).

[129] Truancy is defined as being absent from school without a valid excuse or late for over thirty minutes for more than three days in one school year (Motor Vehicle Code § 13202.7 citing Education Code Section 48260).

[130] Their parents or guardians were jointly liable for the $100 truancy fine (SB 1728, Chapter 1023, Statutes of 1994).

Not only were elected officials adding ways that people could lose their license, but also they added penalties for those caught driving without a valid license. In addition to the fines and fees a person faced for committing crimes that triggered suspensions (e.g. vandalism, prostitution, truancy, and the like) drivers also faced additional penalties for driving unlicensed. Under the Safe Streets Act of 1994, Assemblyman Katz (D-Sylmar) aimed to "crack down" on drivers who kept driving after losing their license. If a police officer stopped a driver, requested a routine license check, and found the driver could not verify that they had a proper license, the officer was authorized to impound his vehicle. In addition to losing a car, the bill added other costs to driving without a license. The towing and storage costs of impounding a car also fell to the driver. And if he failed to surrender his license to the DMV, he had to pay a reinstatement fee when the suspension period ended (AB 3148 Bill Analysis, Concurrence in Senate Amendments, 27 August 1994). Legislators predicted that the bill's fiscal effect would be substantial: "Major increase in revenues to local government as scofflaw drivers with unpaid traffic citations are encouraged to clear them" (AB 3148 Bill Analysis, 27 August 1994). Selling impounded cars would generate revenue that would more than cover administrative costs and shore up local government general funds (AB 3148 Bill Analysis, 27 August 1994).

From path dependency to reform

In the end, it was the Legislature, not the courts, that first struck down failure-to-pay suspensions in California in 2017. The stakeholders involved in suspension debates had shifted from those in the transportation arena to those in the criminal justice field. Early on, a wide range of auto interests collaborated in the 1920s and early 1930s to shape auto regulations to standardize traffic rules and make roads safer (Vinsel, 2019). License suspensions offered auto interests a mechanism to keep the Everyman on the road. Following *Watson*, the Legislature used

suspensions to punish individuals for nonpayment for violations that, over time, strayed further and further from infractions related to the automobile. By the end of the century, not only had the auto safety movement splintered and shifted focus, but also elected officials had turned to using licenses to coerce monetary sanction payments and criminalize behavior unrelated to driving.[131] Civil rights organizations, such as the American Civil Liberties Union and the Western Center for Law and Poverty, were now leaders in advocating for suspension reform.

It is not surprising that courts and the legislature once again debated failure-to-pay suspensions in 2016. Following the 2014 police shooting of Michael Brown, a Black teenager in Ferguson, Missouri, and after the subsequent grand jury decision not to indict the officer, thousands of people across the country protested violent and extractive police practices and racial bias in law enforcement (Robertson, Dewan, and Apuzzo, 2015; *BBC News,* 2014). In the wake of Ferguson, public agencies began to more thoroughly investigate and address criminal justice. The Department of Justice conducted a review of the Ferguson police department and found a culture of policing and judicial practices that emphasized revenue over public safety (US Department of Justice, 2015). Police officers were rewarded for their "productivity," measured by the number of citations they gave out, and routinely violated Fourth Amendment protections in carrying out traffic stops and arrests (US Department of Justice, 2015). One officer admitted to citing and often arresting any passenger who refused to show their identification at a traffic stop for failure to comply (US Department of Justice, 2015). Ferguson's municipal court routinely issued arrest warrants for people who missed court appearances or fine payments for

[131] In different iterations; see Peter Norton's "Four Paradigms: Traffic Safety in the Twentieth-Century United States" (2015).

generally minor violations, such as parking infractions and traffic tickets (US Department of Justice, 2015).

The Department of Justice specifically highlighted the detrimental and broad-reaching consequences that result when courts liberally punish people with driver's license suspensions. Missouri state law authorizes suspensions for failing to appear in court over a moving traffic violation, a penalty that the Ferguson municipal court sharpened. The court refused to reinstate driver's licenses suspended for failure-to-appear in court until a person had paid the fine they owed in full, and added penalties for each missed payment or court appearance (US Department of Justice, 2015). Alternatives to driving in Ferguson and the surrounding areas were "substandard," according to City officials (US Department of Justice, 2015). Someone who lost her license for failing to appear in court could easily miss subsequent court dates simply because she could not travel to the courthouse without a car (US Department of Justice, 2015). The report described a Black woman whose license was suspended for failing to pay fines from overdue parking tickets as well as failing to appear in court (US Department of Justice, 2015). She attempted to make payments on her debt, but the court refused to accept anything less than a full payment (US Department of Justice, 2015).

The Ferguson report spurred new research and highlighted existing scholarship on policing and law enforcement practices that emphasized punishment and revenue over public safety. Ferguson's use of fines was not unique. As of 2012, most U.S. cities derived at least some of their budget from fines, fees, and asset forfeitures, with an average of $8 per person per year (Sances and You, 2017). Cities with larger Black populations relied more on fines and fees, though findings were mixed as to whether Black political representation reduced a city's reliance

on fines.[132] Yet evidence of a widespread practice of relying on fines for revenue is mixed. Ferguson was certainly not alone in handing out monetary sanctions, but it may not represent the typical US city. Using data from the Annual Survey of State and Local Government Finances, Gordon and Gault (2015) measured the proportions of city budgets that came from fines and forfeitures. They found that the extent to which a city relies on fines and fees for its budget varies by place. Ferguson's heavy use of fines and forfeitures (12.9 percent of its general revenues were derived from fines and forfeitures in 2012) was an outlier compared to comparably-sized cities (1.8 percent) and other Missouri cities (2.5 percent).

What factors help to explain geographic variation in city reliance on revenues from fines? City size and tax limitations play a role. The tax revolts of the late 1970s pushed voters across the country to impose limits on how easily governments could raise taxes (Gordon and Gault, 2015). In 1978 Californians notably approved Proposition 13, which capped property tax rates and assessments. In the face of meager property taxes, cities had to find alternative ways to prop up their budgets; they looked to intergovernmental transfers, user fees and monetary sanctions. During economic downturns when intergovernmental transfers shrink, local governments have to rely on their own resources, oftentimes turning to non-tax sources for revenue (Park, 2017). Among the nontax sources that governments use when they cannot raise taxes is revenue from

[132] Sances and You (2017) sampled over 9,000 U.S. cities and found that cities with larger Black populations obtained more of their revenues from fines and fees, but the presence of Black members on city council reduced a city's reliance on fines. Cities with the highest Black population proportions on average collected $20 per capita more per year than cities with the smallest Black populations (Sances and You, 2017). Counties with Hispanic majorities may also be subject to disproportionate traffic fines (Su, 2020). Noli Brazil (Brazil, 2020) analyzed 2016 parking ticket data from L.A. City and found that parking tickets were concentrated in areas with more renters, Black residents, and young adults. Brazil studied the prevalence of parking tickets from the perspective of political representation. He concluded that Black city council representation did not alleviate the burden of disproportionate ticketing among Black residents, but that Hispanic representation did shift the ticketing burden from Hispanic residents to visitors.

traffic citations. Law enforcement officers are more likely to give out more and higher speeding fines in places where other revenue sources, such as the property tax, are more limited (Makowsky and Stratmann, 2009). Smaller cities, such Ferguson, Missouri and Stockton, California were especially likely to rely on higher levels of government for aid (Urban Institute; Gordon and Gault, 2015). California, the most populous state, collected more revenue in fines, fees and forfeitures in the fiscal year 2019 ($10.8 billion) than any other state government; similarly, Los Angeles ranked fourth in top 100 most populated cities for aggregate fine, fee, and forfeiture collections ($149 million) (Boddupalli and Mucciolo, 2022).[133] As a share of their general revenue budgets, however, states generally clustered in the south relied more on fines and fees, as did smaller municipalities - cities, towns and townships - particularly those in rural or high-poverty places (Boddupalli and Mocciolo, 2022).

In general, elected officials who set transportation policy want to hide transportation costs while delivering benefits to voters. Tax exporting, whereby governments shift the burden of a tax onto non-locals, is one way to increase voter support for a revenue tool. Given that political participation is associated with socioeconomic status (Brady, Verba, and Schlozman, 1995), cities might export traffic tickets onto those who are less likely to vote - namely, low-income residents and non-locals. Studies of traffic enforcement provide support for the theory of tax exporting. Su (2020) studied traffic fines across California counties and found that low-income counties and counties that rely more on revenue from non-locals (revenue derived from a transient occupancy tax) relied more on traffic fines for revenue. Makowsky and Stratmann (2009) also found that nonresidents who traveled from out-of-town, and low-income drivers who

[133] Fines, fees and forfeitures made up just one percent of Los Angeles' total funds; in comparison, among larger cities, Fremont, California relied heavily on fines, fees and forfeitures for revenue in comparison (3.5 percent of their budget in 2019) (Boddupalli and Mocciolo, 2022).

could not afford to miss work, were both vulnerable to disproportionate enforcement. Therefore, the consequences of relying on monetary sanctions are borne unequally. When traffic enforcement is used to generate revenue, rather than regulate public safety, drivers in low-income areas are particularly vulnerable to fines.

In recent years the driver's license, too, started to become a more prominent area of study and activism. Unfortunately, data on driver's license records are limited. State DMVs vary in the type of data that they collect, how they store these data, and how willingly they share them. The agency tracks license suspensions insofar as it suits its needs and not necessarily to meet the needs of policy analysts. Suspension data are often studied at aggregated geographic scales, such as zip codes (Zimmerman and Fishman, 2001). Studies also rely on data at one point in time, making it difficult to assess longer-term suspension patterns such as whether drivers have multiple suspensions on their record over the course of a year. Scholars are to some extent stymied in studying the long-term implications of license policy. No data set is perfect, of course, and scholars nonetheless try to measure the extent of license suspensions. One of the earliest and only studies on driver's license suspensions not related to driving came out of New Jersey in 2001 (Zimmerman and Fishman, 2001). The scholars used DMV suspension data aggregated for the entire state to determine the extent of license suspensions by type. They also surveyed participants in job training workshops, a third of whom had recent license suspensions, to try to understand the impact of suspensions on mobility outcomes. The majority of participants had suspensions for nonpayment and not for driving behavior. Respondents without a license could not access employment or found themselves in a downward spiral of debt and suspensions if they were caught driving without one (Zimmerman and Fishman, 2001). More recently, scholars followed individuals with failure-to-pay suspensions over the course of two years (Mughan and

Carroll, 2021). Mughan and Carrolll tracked drivers who failed to pay traffic tickets in Marion County, Indiana to determine whether failure-to-pay suspensions affected the likelihood they would receive additional traffic tickets (Mughan and Carroll, 2021). White drivers were less likely to reoffend after losing their license for failure-to-pay, but not so for Black drivers, who were more likely to be ticketed again (Mughan and Carroll, 2021). The authors concluded that the most likely explanation for race-based differences in ticketing was differences in policing, rather than driving behavior (Mughan and Carroll, 2021).

Disparities in driver's license suspensions are widespread. In North Carolina (Crozier and Garrett, 2020), New Jersey (Joyce et al., 2020), and Florida (Craven and Nuzzo 2018), studies find a positively relationship between the share of the population that is low-income and non-white and non-driving-related suspensions. In fact, the majority of states and Washington DC suspend licenses for failure-to-pay court debt (Salas and Ciolfi, 2017). In 2020, 44 states and DC suspended licenses for failing to pay fines and fees, adding to over 11 million debt-related license suspensions nationally (Brown, Stuhldreher, and Pakdaman, 2020). The most common suspensions in states such as Texas are non-driving-related, with failure-to-appear in court suspensions topping the charts (Craven and Nusso, 2018).

Legal scholars have examined how revenue incentives have structured driver's license sanctions in California. According to these reports, California was guilty of many of the same discriminatory traffic enforcement practices and extortionist policies as in other states and cities. Various legal advocacy organizations collaborated to map 2016 suspension data from the California DMV by zip code and relative to demographic census data (Bingham et al., 2016). Between 2006 and 2013, the DMV suspended more than four million licenses (17 percent of

licensed drivers in California) for failure to appear in court or to pay fines and penalties (Bingham et al., 2016). Not appearing in court and unpaid infraction fines are, unsurprisingly, the two most common reasons that drivers arrested for driving with a suspended license lost their driving privilege in the first place (Bender et al., 2015, Bingham et al., 2017). Rising fines during the Great Recession particularly affected low-income drivers who, until they paid their traffic fines in full, lost their licenses. At the time of the report, California had over $10 million in uncollected court-ordered debt (Bender et al., 2015).

With the public aware - and sympathetic - to an unjust traffic enforcement system, a network of civil rights and legal aid organizations actively pursuing license reform in the courts and the statehouse, and a handful of key legislators and judges ready to embrace it, longstanding suspension statutes began to topple. After decades of adding punishments for poor drivers, in 2015 California began to subtract them. The path to reform was not linear. It came in jumps and starts from different directions: with pilot programs, county-level judicial changes, a mixed bag of court decisions, and some failed and some successful state-level legislative efforts. A key obstacle to enacting legislative reforms was pecuniary: fewer fines and penalties would negatively affect the state's budget. In 2013 and in 2014, the legislature failed to pass a bill that would guarantee a hearing to someone who could not pay their debt and who missed their court appearance (Romney, *Los Angeles Times,* 10 April 2015, p. B4). The legislature also failed to pass a major piece of suspension reform legislation (SB185), put forward by Senator Hertzberg in 2017, SB 185; this legislation would have ended suspensions for failure to pay and failure to appear in court and required courts to determine a defendant's ability to pay (SB 185, 2017).[134]

[134] By the time the bill reached the Assembly Appropriations Committee, another bill, AB 103, a trailer to the Governor's budget, had passed and was in effect. AB 103 eliminated automatic suspensions for failure-to-pay fines for infractions.

Legal aid organizations, charities, religious groups, and many other civil rights-oriented groups lined up in support of suspension reform, arguing that ending failure-to-pay suspensions was an important step toward a more just criminal justice system (Senate Rules Committee, 27 May 2017, SB 185).[135] Just a handful of organizations opposed the bill, a group that included district attorneys, tax collectors and treasurers, and boards of supervisors (Senate Rules Committee, 27 May 2017, SB 185). Opponents to reform argued that if they could not threaten debtors with meaningful punishment - license suspensions - then they could not effectively collect fines and fees. The opponents won, though not on all fronts. A concurrent bill similar in spirit did pass. Assemblyman Lackey (R-Palmdale) put forward a bill in 2017, AB 503, which reduced fines and penalties for parking violations. Indigent people qualified for payment plans and reduced parking fines, penalty assessments and fees. The DMV could no longer refuse to issue a license or register a vehicle if someone had not paid their parking ticket. Although a similar coalition supported both SB 185 and AB 503, the opponents of the two bills differed. Groups that relied on parking revenue - various cities in California, the California Public Parking Association, and the California State University - opposed the bill (AB 503, Senate Committee on Transportation and Housing bill analysis, 3 July 2017). Community colleges and state universities worried that reducing penalties and fines challenged their ability to pay for parking and transit, particularly because a large proportion of their student body qualified as indigent (AB 503, Senate Committee on Transportation and Housing bill analysis, 3 July 2017).

[135] Some of the supporters for SB 185 included the ACLU of California, Community Housing Partnership, the Western Center on Law and Poverty, East Bay Community Law Center, California Catholic Convention, and Homeboy Industries (Senate Rules Committee Bill Analysis, SB 185, 26 May 2017).

Reform also required the right players to be in key positions in the legislative process. Robert Hertzberg (D-Los Angeles) was one of several state legislators who made repeated efforts to strike down suspension statutes and unduly burdensome monetary sanctions. Hertzberg proposed numerous bills to reform fines and suspensions, as did Assemblyman Tom Lackey (R-Palmdale) and Senator Jim Beall (D-San Jose). Senator Beall occupied a key position as chair of the Committee on Transportation and Housing, as did Senator Hertzberg, who from 2015 to 2017 was chair of the Government and Finance Committee. Reformers also had an ally in the governor, Jerry Brown, who actively supported license reform. Both Governors Brown and now Newsom not only signed license policy reforms that came out of the state legislature, but encouraged the legislature to adopt more reforms by proposing them in their respective budget plans.

Successful pilot programs offered policymakers evidence around which to pursue additional reforms. Governor Brown proposed and implemented two traffic ticket amnesty programs: one that lasted just six months in 2012, and another larger-scale program (Bizjak*, The Sacramento Bee*, 1 October 2015). In his 2015-2016 budget, Governor Brown proposed a traffic ticket amnesty pilot program in an attempt to encourage more drivers to pay more manageable amounts (Liebenbaum, 2017). Brown proposed reducing citations for minor traffic violations by 50 percent for court-ordered debt incurred prior to 2013 (Dolan and Romney, *Los Angeles Times*, 24 May 2015, p. B1). In tandem with the governor's budget, Senator Hertzberg authored and passed a temporary amnesty program that also helped reinstate licenses of low-income motorists (SB 405, 2015). The statute required the DMV to reinstate participating driver's licenses, and to notify all drivers who lost their license for failing to pay fines and fees that they were eligible to participate (SB 405, 2015). The program lasted 18 months, and helped 246,000 Californians

become eligible to reinstate their licenses (Liebenbaum, 2017). Qualifying participants still had to pay a fee to participate in the program and a license reinstatement fee, in addition to reduced fines and fees. The Legislative Analyst's Office opposed the proposal, worrying it would negatively affect future revenue collection (Romney, *Los Angeles Times*, Romney, 10 April 2015, p. B4).

Counties also experimented with policies to help struggling debtors pay in amounts that they could manage. Several counties in California piloted an online traffic court program in 2019 which assessed a violator's ability-to-pay online and established a payment program (Judicial Council of California, 2021). The Judicial Council found that the program reduced penalties for the majority of low-income defendants (Liebenbaum, 2017; Lewis, 2021). Its success spurred Governor Newsom to include funding from the General Fund to expand the program statewide in his 2021-2022 budget (2021-2022 California Governor's Budget).

San Francisco offered a case study in license reforms, showcasing that removing some driving penalties could mutually benefit drivers and public revenues. The city/county was the first in the nation to dedicate an arm of its Treasury Office to study and reform inequitable fines and fees (The Financial Justice Project, 2021). With the administrative capacity in place, and a mayor, treasurer, and officials in the superior court dedicated to collaboration on issues of racial and economic justice, San Francisco was poised to lift onerous driver's license suspensions (San Francisco Office of the Mayor, 2019). San Francisco launched the first major reform to license policy in the state, overturning failure-to-pay traffic ticket suspensions in 2015 (Brown, Stuhldreher, and Pakdaman, 2020). After they eliminated FTP suspensions, court officials relied on more frequent "common sense" ways to compel payment, such as sending notices and

offering payment plans (Brown et al., 2020). Suspensions, it seems, were not just harsh but unnecessary. According to an analysis by the Financial Justice Project, on-time collections actually increased in the years following reform (Brown et al., 2020).

San Francisco's reform of failure-to-pay suspensions proved a successful pilot project for the state. In his 2017-2018 budget, Governor Jerry Brown recommended that the legislature overturn suspensions for failure-to-pay fines and penalties (Governor's Budget Summary 2017-2018). Too many people had accumulated debts from fines and penalties that they could not afford to pay, the Governor argued (Governor's Budget Summary 2017-2018). Suspensions were more effective in limiting a person's mobility than collecting payments. If the state wanted to shore up the State Penalty Fund, the evidence suggested that monetary sanctions were an inefficient and unjust way to do it. In 2017 the legislature adopted his proposal under Assembly Bill 103. In the initial version of AB 103, senators intended to repeal suspensions for failure-to-appear (Senate Committee on Budget and Fiscal Review, AB 103, 8 June 2017). By the time the bill reached its final stages and senators on the budget committee were addressing amendments made in the Assembly, legislators had swapped failure-to-appear for failure-to-pay (Committee on Budget, AB 103, 8 June 2017).

Failure-to-appear remains one of the most common suspension types (see Chart 2, as well as Table A3 in the Appendix). Chart 2 documents trends in suspensions from 2013 to 2019. Child support delinquency suspensions remained nearly unchanged over the same period, and FTA/FTP[136] suspensions show a slight decline, perhaps because drivers could better afford to

[136] Failure-to-appear and failure-to-pay suspensions are combined in DMV data collections as they both fall under the same underlying violation code in the Vehicle Code (section 40509).

pay due to the traffic amnesty programs Governor Brown initiated, and because AB 103 removed FTP suspensions in 2017.[137]

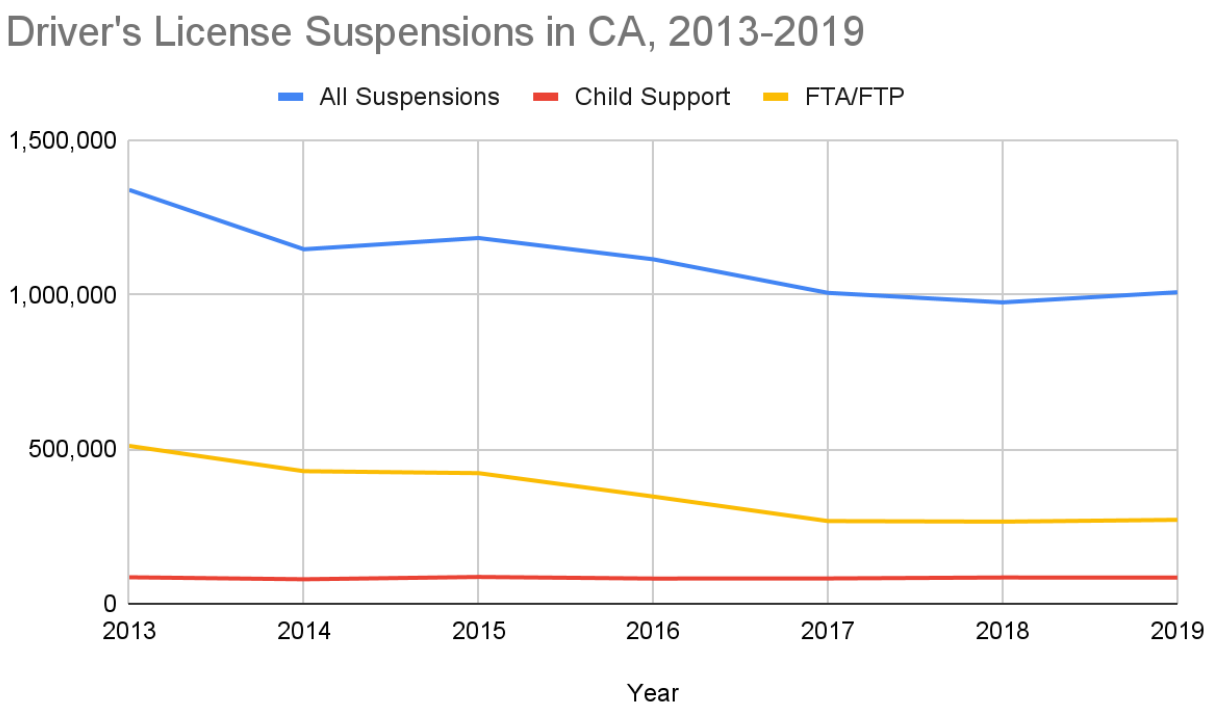

Chart 2. Driver's License Suspensions in CA, 2013-2019. Source: California Department of Motor Vehicles

One obstacle to reform was simply a lack of awareness. Many people–elected officials and others–had no idea of the various violations that could trigger driving and monetary penalties. When Senator Hertzberg introduced the traffic ticket amnesty program to help low-income drivers pay off their tickets and get their licenses reinstated (SB 405, 2015), the *Los Angeles Times* published an opinion piece about the "plague" of exorbitant traffic tickets (Lopez, *Los Angeles Times*, 6 May 2015, p. B1). Hundreds of readers responded with outrage over traffic

[137] The decline in failure-to-pay and failure-to-appear suspension may also reflect a general decline in traffic convictions. DMV suspension records show that the number of convicted traffic offenses declined from nearly 5 million in 2015 to just under 2.5 million in 2021.

penalties they had never known existed, for example, pedestrians receiving tickets for entering a crosswalk after the flashing countdown had started (*Los Angeles Times*, Lopez, Steve, 6 May 2015, p. B.1). Readers were not the only ones who were surprised - neither the journalist nor Los Angeles City Councilmember Mike Bonin were aware (“"No I didn't, and I'm sure I have been a serial offender," Bonin said”) (*Los Angeles Times*, Lopez, Steve, 6 May 2015, p. B.1).

The laws related to traffic infractions and penalties confused the public, elected officials, and courts alike. Until 2015, some counties refused hearings to drivers who wanted to contest their ticket if the deadline had passed unless they first paid the amount in full (*Los Angeles Times*, Dolan and Romney, 24 May 2015, p. B1). Once a driver had missed the ticket deadline, however, the court automatically sent a state-contracted collection agency to collect the original fine and additional civil penalties and notified the DMV to suspend the debtor’s driver’s license (*Los Angeles Times*, Dolan and Romney, 24 May 2015, p. B1). California Supreme Court Chief Justice Tanil Cantil-Sakauye called the Judicial Council to set an emergency order clarifying to drivers that they did not have to pay traffic infractions in order to get their day in court.[138] While traffic fines are set by state law, Cantil-Sakauye said “the law is confusing and may result in inconsistent practices or policies throughout the state" (*Los Angeles Times*, Dolan and Romney, 24 May 2015, p. B1). Despite opposition from judges who were worried that drivers would overwhelm courts and take up valuable time from law enforcement, the Judicial Council enacted the emergency order (Dolan and Mejia, *Los Angeles Times,* 9 June 2015, p. A1). Facing public pressure to address suspensions and traffic court-ordered debt that placed residents in what he referred to as "a hellhole of desperation,” Governor Brown signed a law outlawing the practice

[138] The Judicial Council is an entity tasked with “ensuring the consistent, independent, impartial, and accessible administration of justice” and is headed by the Chief Justice of the State Supreme Court (California Courts).

(McGreevy, *Los Angeles Times,* 1 October 2015, p. B4; SB 405, 2015; *Los Angeles Times*, Dolan and Romney, 24 May 2015, p. B1).[139] The Chief Justice also asked a state commission on the future of the court system to study mandatory and discretionary penalties and public access to the state's court system (*Los Angeles Times*, Dolan and Romney, 24 May 2015, p. B1).

Reform generated momentum. Once the legislature ended suspensions for failure-to-pay traffic infraction citations, they continued to assess and eliminate suspension policies that had been adopted during the Broken Windows era. In 2018, state legislators amended truancy suspensions. Juvenile courts were now required to consider a child's special circumstances, such as whether they needed to drive to work to support their families or travel far to attend school, before suspending or delaying their driving privileges (AB 2685, 2018). The author of the bill, Assemblyman Lackey (R-Palmdale), explained that lower-income students were more likely to be truant than students from higher-income households, and their families were more likely to depend on them for additional income (Assembly Committee on Public Safety Bill Analysis, AB 2685, 10 April 2018). The state's budget was also constrained, and could not provide school buses for many students who did not live within walking distance of a school (Assembly Committee on Public Safety Bill Analysis, AB 2685, 10 April 2018).

A year later, the legislature removed the court's authority to suspend licenses for a laundry list of offenses not related to driving: prostitution, vandalism, firearm and alcohol offenses for minors, tax delinquency (SB 485, 2019). Punishing those crimes with license suspensions overstepped

[139] The law was part of Senator Hertzberg's ticket amnesty program (SB 405, 2015). In the same legislative session, the legislature passed a bill prohibiting fees for taking high school equivalency or proficiency tests, hoping to help homeless youth get high school diplomas (McGreevy, *Los Angeles Times*, 1 October 2015, p. B4). The bill is of a piece with SB 405: both aimed to dismantle the system of fines, fees, and other penalties that disproportionately burdened low-income people.

the DMV's authority, the bill's authors argued, and increased the DMV's workload and inefficiency rather than served the public benefit (Senate Rules Committee Bill Analysis, SB 485, 5 September 2019). The bill's supporters, a large coalition of legal aid organizations, argued that license suspensions added unnecessary hurdles for low-income people whose job prospects were limited without a valid license (Senate Committee on Public Safety Bill Analysis, SB 485, 25 March 2019) (See Appendix for Table A4, which includes a list of supporters and opponents for suspension bills).

The state stumbled at times while implementing these reforms. A month into the traffic ticket amnesty program, state Attorney General Kamala Harris issued a consumer alert. The state had contracted with some debt collection agencies that told eligible drivers that they did not qualify for the amnesty program, pressuring drivers to make "good faith" payments though that would disqualify them for reduced fines, and failing to tell the DMV about drivers who met the criteria to get their licenses reinstated (Romney, *Los Angeles Times*, 3 December 2015, p. A1). Legal aid groups kept a close eye on this effort and were quick to advocate for their clients. Within weeks of the ticket amnesty program, legal organizations in Los Angeles sent the Superior Court a letter outlining problems and their recommendations to correct these implementation issues (*Los Angeles Times*, Romney, 3 December 2015, p. A1).[140] In some instances, courts and public agencies were slow to put reforms into practice. When the Judicial Council ended "pay-to-play" court practices that required debtors to pay before getting a court hearing, some court clerks were unaware of the rule or unsure how to implement it (*Los Angeles Times*, Dolan and Mejia, 9 June 2015, p. A1). Immediately after it went into effect, some of the people waiting in the long lines at

[140] They recommended adding more oversight over collection agencies and public outreach in several languages, for instance.

the metropolitan courthouse in downtown Los Angeles successfully got a trial date without paying while others did not (*Los Angeles Times*, Dolan and Mejia, 9 June 2015, p. A1).

It is difficult to reform a hidden system. In the case of driving penalties, the system is downright labyrinthian. License punishments touch large swaths of California's 29 legislative code sections, including the Vehicle, Family, Penal, and Government Codes[141] (Verma and Sykes, 2022). As officials stripped away one layer of driving penalties, another came to the surface. The public, too, became more aware of license penalties and traffic debt thanks to news reports and studies that followed the Ferguson uprisings. Advocates, as is their job, continued to push for additional reforms. The topic of license suspensions and monetary sanctions for driving violations became a hotly discussed topic in newspapers in the late 2010s. Readers, scholars and advocates voiced their outrage over what they deemed excessive driving penalties (*Los Angeles Times*, Lopez, Steve, 6 May 2015, p. B.1). After decades of the increasing traffic citations, it was not just the poorest drivers who found the fees and surcharges financially onerous, but the Everyman as well (*Los Angeles Times* online, 15 August 2017). Alternative punishments, such as community service or payment plans, were simply "Band-Aid" solutions (*Los Angeles Times* online, 15 August 2017). Drivers argued that the state should reassess decades of piled-on surcharges (*Los Angeles Times,* 1 May 2015, p. A16; Stuhldreher, *Los Angeles Times,* 1 January 2021; *Los Angeles Times* online, 15 August 2017). "When a $100 ticket remains a $100 ticket,

[141] For example, based on the 2016 California Legislative Code, driving on a suspended license activates ten different code sections, including Penal Code § 1464 (penalty assessment), Penal Code § 1465.7 (criminal surcharge), Penal Code § 1465.8 (Court operations assessment), Government Code § 70372 (Court construction), Government Code § 76000 (County fund), Government Code § 76104.6 and 76104.7 (DNA Fund), Government Code § 76000.10 (Emergency Medical Air Trans. Fee), Government Code § 76000.5 (EMS Fund), Government Code § 70373 (Conviction assessment), and Vehicle Code § 42006 (Night court assessment) (Verman and Sykes, 2022). If a driver missed any of the payments, three more codes are activated (Verman and Sykes, 2022).

we won't have 4 million people driving with suspended licenses," Robert Newman, a West Hills resident wrote in (*Los Angeles Times* online, 15 August 2017). In 2019, after a Court of Appeals ruled in Dueñas[142] that courts needed to consider a defendant's ability to pay, a *Los Angeles Times* editorial concurred, stating that existing reforms were simply not good enough. "The state Legislature in recent years has curbed some of the most abusive fines and fees, but what's missing is a comprehensive look at, and overhaul of, the justice system, with the role of wealth and the impact of poverty in the forefront," the *Los Angeles Times* declared (*Los Angeles Times,* 22 January 2019, p. A8).

Reform through the courts proved much more incremental. For most of license suspension case history, courts ruled to uphold suspensions for failure-to-pay (e.g. Watson, 1930; Escobedo, 1950; Hernandez, 1980). The U.S. Supreme Court offered states some precedent for reform, however. The *Bearden* case was particularly influential in ability-to-pay cases. In 1983, the U.S. Supreme Court determined in *Bearden* that a person can only be incarcerated if they "willfully" fail to pay or do not make sufficient efforts to find ways to pay, including looking for employment (*Bearden v. Georgia*, 461 U.S. 660 (1983)).

The California Court of Appeal cited *Bearden* when they forced the DMV to change its suspension policy for failure-to-appear in *Hernandez* (2020).[143] In 2013, Guillermo Hernandez was stopped and cited for not updating his driver's license information and for driving without a valid registration. When he attempted to pay the tickets, the court clerks told him they could not find his case in their system. When it came time to renew his license, he learned that his license

[142] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

[143] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

was on hold for not paying over $900 in fines and fees.[144] Hernandez, along with a handful of other low-income drivers in similar situations in Alameda County represented by legal aid groups, sued the DMV for suspending the licenses of people who had not *willfully* failed to appear or pay.[145] The DMV, the plaintiffs argued, violated the drivers' equal protection and due process rights. "A driver's license is not a luxury; for many it is essential to their pursuit of livelihood," they went on to say in their petition to the Alameda Superior Court to halt the DMV's suspension practices until they complied with constitutional protections.[146] Before the ruling, the state legislature had already passed AB 103, overturning suspensions for failure-to-pay traffic citations. The *Hernandez* court therefore limited its decision to failure-to-appear suspensions. It ruled that DMV could only suspend a person's license if a traffic court notified them that a person willfully did not show up to court before the DMV.[147]

Following *Hernandez* (2020), the DMV lifted 554,997 suspensions for drivers who lost their license without a formal notice from the traffic court that their failure to appear was willful (Western Center on Law and Poverty, 29 June 2021). San Francisco went one step further, ending all failure-to-appear suspensions. In 2019 the City and its Superior Court partnered to clear all outstanding FTA suspensions (San Francisco Treasurer, 2019). However, FTA suspensions are still common practice in much of California. As of January 2021, the DMV

[144] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[145] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[146] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[147] Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70, 634 P.2d 917, 177 Cal. Rptr. 566, 1981 Cal.

stated that over 600,000 suspensions remained for failing to appear in court (Western Center on Law and Poverty, 29 June 2021). Legal aid organizations have also reported that some courts in California refused to lift FTA suspensions until a driver had paid their overdue ticket or completed community service work (Miller, 2019).

In 2019, the Court of Appeal made another rather narrow and technical - but not insignificant - ruling for failure-to-pay cases. The case centered around Velia Dueñas, a low-income driver who was caught driving on a suspended license, after she was unable to pay for three juvenile citations.[148] Dueñas, represented by numerous legal service organizations, sued the Superior Court of Los Angeles County for not considering her ability to pay when they imposed additional fines and fees for violating her license suspension.[149] Citing *Bearden*, the court ruled in Dueñas' favor. Trial courts in California must now assess a person's ability to pay before they impose court assessment and facilities fees.[150]

Compared to the courts, legislators could act more nimbly and respond to moments of political opportunity. Political movements around discriminatory policing practices, supported by studies of monetary sanctions and racial bias in law enforcement, provided a foundation for additional legislative efforts. As of 2022, legal advocates in California continue to push to end suspensions unrelated to road safety, such as for child support and failure-to-appear in court (Western Center on Law and Poverty, 2021; Stuhldreher, *Los Angeles Times*, 1 January 2021, p. A11). The legislature and governor jointly approved reducing the $300 civil assessment to $100, and shifted

[148] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

[149] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

[150] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

future civil assessment revenue from the courts to the General Fund (Western Center on Law and Poverty, 2022) Reforms in California spurred change elsewhere. Since California ended failure-to-pay suspensions in 2017, 22 other states and Washington D.C. passed some kind of reforms (Hirsch and Jones, 2020; Free to Drive, 2022). These changes have enabled some drivers to reenter the job market, helped families with their household travel, and generally improved their mobility and quality of life (Phoenix Economic Assessment, 2017; Hirsch and Jones, 2020). The U.S. Congress also is considering a policy (the Driving to Opportunity Act (S. 998)), which would help states cover costs to reinstate licenses of those who had their licenses suspended due to unpaid fines and fees (S. 998, Coons). And while some states adopted policies that were far from perfect (e.g. did not apply retroactively, were limited in scope, or were vaguely worded), these efforts are a promising start (Hirsch and Jones, 2020).

To make meaningful change, stakeholders first need to understand the scope of the problem. When agencies like the DMV do not keep track of suspension records such that we can easily track individual records over time, policymakers cannot estimate the long-term impacts of license suspensions. They are then left making decisions blindly. License penalties and monetary sanctions have, for too long, occupied a dark corner of the law. Only now, with political pressure, are they coming to light. Judges and policymakers must first understand violations and their relationship to driving and monetary punishments in order to enact comprehensive reform. Reforms must be specific. A statute that strikes down suspensions for failing to pay fines and fees without specifying *which* fines and *which* fees is vulnerable to a court that considers the statute too vague. Moreover, broadly worded statutes run the risk that counties interpret them differently. Still, civil justice advocates have reason to be optimistic. These initial efforts are a

start; they have begun to chip away at counterproductive monetary sanctions and license suspension statutes that states built up over the decades.

Conclusion

Driver's license suspension policy evolved from a tool to deter and punish reckless driving to a tool to coerce payment for a variety of reasons unrelated to safe driving. In the early automotive era, auto interests lobbied for failure-to-pay civil judgment suspensions. Better to weed out a few reckless drivers and make them responsible for paying the costs of their negligence than to slow down the Everyman with stricter regulations for cars or street design. When low-income drivers pushed back against suspensions for nonpayment, judges pushed aside their equal protection arguments. Ability-to-pay was secondary when roads were becoming sites of bloodshed. Following the path set by the *Watson* court, policymakers and judges upheld and extended suspensions for nonpayment decades thereafter.

In California, policymakers were able to dismantle some of the unequal and unduly burdensome barriers to automobility in ways that the court system could not. Reforming suspension policy through the courts proved to be an uphill and incremental battle. Consider two pairs of cases: *Lindley* and *Watson* (debated in 1930 and 1931), in which judges and legal scholars debated whether suspending licenses for failure-to-pay punished poor drivers, and *Hernandez* (2020)[151] and *Dueñas* (2019)[152], in which civil rights lawyers lobbied the same equal protection arguments, but this time over suspensions for failure-to-pay traffic fines and fees and for failing to appear in

[151] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[152] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

court to contest traffic tickets. Whereas in *Watson* the court largely dismissed ability-to-pay arguments and instead focused on the road safety implications of allowing reckless drivers to go unpunished, in *Hernandez* (2020)[153] and *Dueñas* (2019)[154] the judges insisted that courts must consider whether a person willfully did not appear in court or was unable to pay court fines and fees. Though judges and plaintiffs in each instance pointed to how necessary a driver's license was in daily life, only in the *Lindley* case did the court manage to (briefly) overturn suspensions for failure-to-pay. In 2017 it was the legislature, not the courts, that overturned automatic suspensions for failure-to-pay fines and fees. On the heels of AB 103, California courts enacted additional reforms; notably in *Hernandez* (2020) and *Dueñas* (2019), the courts added due process protections for low-income drivers and, in the case of San Francisco, worked with City officials to remove automatic FTA suspensions (San Francisco Office of the Mayor, 2019).

In many ways, the *Lindley* and *Watson* debates were far more radical than their 21st century counterparts. The elected officials, auto clubs and other proponents of suspensions in the 1930s had a stronger case in arguing that Financial Responsibility suspensions related to road safety. Not paying for damages after a collision is a step away from reckless driving behavior, and not paying a parking ticket or appearing in traffic court takes two steps. Falling behind in child support or skipping school requires a leap. Yet one of the core issues in *Lindley* and *Watson* was over how fundamental driving was, and to what extent drivers could be protected from losing their licenses - questions that future courts took as settled for decades. Failure-to-pay suspensions were designed to "secure the payment of judgments by those who cannot ordinarily pay and to

[153] Hernandez v. Department of Motor Vehicles, 49 Cal. App. 5th 928, 263 Cal. Rptr. 3d 500, 2020 Cal. App.

[154] People v. Duenas, 30 Cal. App. 5th 1157, 242 Cal. Rptr. 3d 268, 2019 Cal. App.

deprive them alone of the right to operate cars, this, be it plainly stated, not because they have been negligent but because they have not paid", so said Judge Works in his concurring opinion.[155] The State Supreme Court argued the reverse: driving was not a right, but a privilege. And it was this opinion that remained the through line in future court decisions.[156] [157]

6. Conclusion

In the early auto era, auto advocates voluntarily collaborated with a wide range of public officials, safety organizations, and private citizens to ensure that automobiles could operate on public streets and roads without being regulated out of existence. Elected officials chose regulations that let the Everyman drive relatively unconstrained: they supported vehicle safety standards that placed little burden on consumers (Vinsel, 2019), created road design standards that encouraged fast driving and discouraged all other forms of travel (*Los Angeles Times,* 2 October 1922, p. II3; Wachs, 1984), and established a discretionary enforcement system that let most drivers violate traffic laws with impunity (Seo, 2019). Officials and drivers opposed regulations that made driving more constrained and costlier, such as narrow streets with little parking, speed governors, and, later, speed cameras and congestion pricing schemes (Richet et al., 2006; Dumbaugh and Gattis, 2007).

[155] In re Application of Lindley, 108 Cal. App. 258, 291 P. 638, 1930 Cal. App.

[156] See Table A5 in the Appendix for a table that compares the language the courts used in the early auto era compared to present-day related to whether driving is a right or privilege, equal protection, and how license suspensions relate to the public's interests.

[157] Even in Hernandez (2020), the court chose not to engage with the right/privilege arguments that the plaintiffs and the defendant discussed in their briefs.

Much of the state's regulatory approach to driver's license policy can be explained simply by America's increasing car dependency. More drivers meant more auto collisions. The license offered officials a way to address public safety in a number of ways: they could better identify and track the records of drivers in collisions, withhold driving privileges until a driver had paid for the damage he caused, and weed out poor drivers with examinations and eligibility requirements. As Americans increasingly purchased cars and drove them, driver's licenses became ubiquitous in everyday life. The more burdensome losing a license could be, the better the state could leverage suspensions to coerce payment and deter undesired behavior. The state could use suspensions to coax drivers into paying civil judgments. Later, enabled by database sharing technology that the state established in the 1960s and 70s, officials used suspensions to exact mounting fines and fees the state increasingly turned to generate revenue. Child support suspensions in particular marked a turning point in license policy: the violation was completely distinct from driving; the punishment was automatic and administered at a massive scale. In the era of Broken Windows policing, officials used suspensions to punish social disorder, such as school truancy and graffiti. A bureaucratic procedure, such as license suspensions, once established is hard to wrest. A political movement for criminal justice reform following the Ferguson uprisings offered suspension advocates - a mix of elected officials, legal aid and civil rights groups, and judges - the opportunity to collaboratively lift some regressive traffic fines and license suspensions.

The most direct way to improve auto safety would be to simply limit driving or the speed a car or road can be designed to drive at. Driver's license suspensions are, in theory, meant to do just that. In practice, however, alternatives to driving are few and inferior, such that drivers who do lose their license are more likely than not to continue to drive (American Association of Motor

Vehicle Administrators, 2021). That we chose to rely on driver's license suspensions, rather than aggressively limit how fast a car can drive, or the speeds that roads are designed to accommodate, highlights our broader hands-off regulatory approach to traffic safety. Driver's license suspensions offered officials a punishment they could use when they selectively enforced the many traffic rules and regulations that often went unenforced. The driver most likely to get caught and punished for penumbral traffic crimes, like speeding or running a stop sign, was the minority driver most likely to be policed in the first place.

We are thus left with two driver's license systems. One that the majority of us are familiar with, and a second that is hidden in plain sight. The first is quite basic, and for most, at most a headache. You learn the basics of driver education, often just once as a teenager, navigate the lines of the DMV, take the exams, and, subject to periodic renewals, are securely licensed to drive. You might get ticketed and attend an online traffic school, and at the extreme be caught driving under the influence and temporarily lose your license. In general, however, the Everyman can drive relatively unencumbered by license restrictions for most of his life. The second system involves a web of license rules and punishments, many of which kick in even if a person has a perfect driving track record. This second tiered system is a minefield of violations that trigger license restrictions, and catch even some children who are too young to be licensed but have to delay driving. Juvenile infractions like skipping school, low-level social crimes like graffiti, and crimes completely divorced from driving such as prostitution, can all trigger suspensions. These, along with suspensions for child support delinquency, failing to pay and failing to appear in court, mostly apply to lower-income drivers who cannot afford to take the easiest escape route: simply paying what the government charged them. And many of the violations that trigger these suspensions are also penalized with fines, fees, and jail time.

This second system can entangle people in the criminal justice system after a single misstep. It also ensnares them in paperwork and confusing administrative rules. Drivers in this second system face a "time tax" - the cost of figuring out the rules, filling out the paperwork, and finding time off and potentially child care to travel to appear in court. The time tax is a way the government rations its benefits (Lowrey, 2021), but also how it punishes those who can least afford to lose their driver's license. It is consistent not just with how the government allocates welfare, but also tracks how it views transportation. Rather than offer low-income people transportation benefits that match the mobility that the rest of society enjoys (i.e. automobility), we offer them an inferior alternative: slow, unreliable, and less pleasant or convenient public transportation.

Instead of recognizing driving as a prerequisite to any number of personal, professional, or civic activities, the courts and the legislature have historically treated the license to drive as a privilege. A license suspension may prevent someone from driving themselves, but it does not preclude them from traveling by other means, judges contended (e.g. McGue v. Sillas (1978).[158] Failure-to-pay suspensions only limited travel options, and, therefore, did not violate a person's fundamental right to travel.[159] Despite pushback from low-income drivers and their advocates,

[158] "The right to travel cases concern themselves solely with the right of an individual to reach a given destination; they do not establish a constitutional right to travel by a particular mode of transportation. As previously noted, suspension of a driver's license does not prevent an individual from traveling wherever and whenever he chooses. It merely limits his options as to his mode of transportation. Thus, the right of an individual to operate a private automobile cannot be equated with the fundamental constitutional right of an individual to travel" (McGue v. Sillas, 82 Cal. App. 3d 799).

[159] As argued by the District Attorney of Riverside in Tolces v. Trask. In his brief to the court, the District Attorney cited McGue v. Sillas, and argued that a man whose license was suspended for child support delinquency "may travel freely throughout the United States of America from sea to shining sea. He just can't drive the automobile himself. Mr. Tolces may use public transportation, taxis, limousines, or a bicycle just to name a few basic transportation methods" (Tolces v. Trask, 76 Cal. App. 4th 285).

California courts took for granted how feasible alternative travel modes could be, particularly in areas outside of transit-rich neighborhoods (which themselves are few and far between).

Court opinions, of course, represent a particular segment of society. Judges, alongside elected officials, tend to reflect the attitudes of people least likely to suffer the consequences of a license suspension. Judges and elected officials mirror our broader societal conception of welfare policy, one that tends to silo social programs into buckets and often discounts the role that mobility plays in connecting people to the many policy sectors that welfare touches, be it housing, jobs, education, or healthcare. Our license laws are one of many transportation policy areas, such as parking and other land use policies, that cemented driving in American life (Shill, 2020). In a country built around the automobile, the legal and statutory framework facilitates and subsidizes driving for the Everyman, and lets the driver who is unable to pay fall through the cracks under the assumption that an infrequent and sparse public transit system will catch him.[160]

When the alternatives to driving inevitably fail - a service worker misses their shift because their bus route changed, a parent must travel an hour rather than twenty minutes to pick up their child from daycare, a student must walk or bike to school along a sun-beaten, trafficked highway - the consequences of not having a license can be severe. Mobility is key to a person's well-being. And when mobility requires automobility, a driver's license suspension can mean the difference between employment and eking by on welfare benefits (Pawasarat and Stetzer, 1998). Automobility improves a person's access not just to jobs (and therefore economic outcomes) but

[160] See Shill's "Should Law Subsidize Driving" (2020) for a more detailed analysis of how our legal system lowered the price of driving and created a "state of choice deprivation" for travelers.

to a wide range of daily destinations and opportunities (e.g. Blumenberg and Pierce, 2014; Klein, 2020; Gurley and Bruce, 2005).

The driver's license was, from the beginning, a regulatory tool that allowed the Everyman to travel relatively undisturbed. It was the minority driver most likely to be stopped by law enforcement and punished in the courts who felt the sting of a suspension, and the additional criminal penalties of getting caught driving without a license. If he lost his license, this driver had to contend with a regressive second system of licensing and a usually inferior transportation mode. Losing a license can certainly circumscribe a person's mobility. But in a society where everyone is assumed to drive, the driver's license plays the role of a national ID card; institutions ranging from banks to voting booths use licenses to verify identities. By relegating vulnerable drivers to this second license system, we deny them equal participation in society.

Appendix

Table A1: Themes in Newspaper Research

Terms	*Encompasses Additional Topics*
Celebrity	Famous people, includes politicians/actors/religious figures
Child support delinquency	
Citizenship status	
Counterfeit/Fraud/Cheating	Fake IDs; cheating in process to get ID
Disability	
Driving unlicensed	Includes driving without a license in the car, driving without a valid license
Drugs/alcohol	
Eligibility	
Employment	
Federal legislation/policy	
Fees	
Fines	
Fingerprinting	
FTA	Failure to appear in court
Identification	This is the broad category that includes subcategory terms. All uses of license to identify a person; includes Voting ID, Travel ID, National ID, ID for banking, housing
Immigration	
International travel	
Lawsuit	Involves court cases
Licensing Process	Exam; driver's test; written test; driving test; cost of getting license; eligibility for license
Literacy	
Lost license	

Minors	
Mobility	Relates to a person's ability to travel after losing/getting license
National ID card	
National Security	
Op ed	
Organ Donation	
Personal interest story	
Photo	Either the article contains a photo, or it may pertain to photo on the license ID itself
Police stop	
Religion	
Road safety	Collision, Accident, Danger to other drivers/pedestrians/people
Rodney king	
Sports	
Suspension	All forms of losing a license: includes revocation, suspension, cancellation
Voting	Voter ID laws
War	
State legislation	
Liability	
Car insurance	
Aging	
Jail/Prison	
Interstate travel	
Women	
Taxi/Chauffeur/Bus/School bus	May relate to people paid to driver others - taxi cab or bus or jitney

Shaming	Articles that name-call unsafe drivers (e.g. "the idiot who takes the wrong side of the street")
Reform	Refers to reforming policies considered too harsh - e.g. lifting jail sentence and instead giving DL suspension; also refers to alternatives to suspensions
Education	Discussions of educating drivers to improve their driving as well as articles that try to educate drivers about rules/regulations for licenses
Moral appeal	Appealing to someone's good nature to drive more carefully - could be a pledge to be a safe driver, could be op-ed articles, could be sticker on car saying "good driver"
Traffic court	
Prohibition	May relate to losing license for violating prohibition laws
Language	
Renewal	License Renewal
Reinstatement	Revoked/rescinded/suspended license gets reinstated
Exception	Exception to general rule/regulation/law made
Warning	Can refer to warning system - before getting DL suspended a person is warned it may happen following an additional violation
License types/Graduated DL	Refers to different DL types - chauffeur license, operator's license, endorsed license; can also refer to graduated license - different levels of license
Database/records	May relate to keeping track of who is licensed/suspended/revoked
Administration	Related to administrative tasks/roles - e.g. who is new head of DMV
Points	Relates to point system for violations
Revenue	Relates to generating revenue for government
Vehicle code	As opposed references to legislation
Judge/discretion	When judge determines punishment with discretionary power

Example policy	Example of policy elsewhere related to DLs (e.g. other state or country)
Study	A poll or study related to DLs
Necessity/employment	Importance of having DL for everyday life/access to employment/etc.
Due process	
Bicycle	
Minority	
Data	Selling DL information
Privacy	
Environment	Implications of reducing number of drivers on environment
Technology	New technology
Discrimination	
Professional license	
Attitude/personality	
Multiple suspensions	
Vehicle impound	
Real ID	
AB 60	

Table A2. Cases Citing Watson

Case	*Date*	*Summary*	*Court*	*Upholds Suspension?*
People v. Mason, 8 Cal. App. 5th Supp. 11	2016	Implied consent case	Cal. Super. Ct.	N/A
People v. Arredondo, 245 Cal. App. 4th 186	2016	Implied consent case	Ca. App. 6th Dist.	N/A
Tolces v. Trask, 76 Cal. App. 4th 285	1999	Child support case	Cal. App. 4th Dist.	Yes
King v. Meese, 43 Cal. 3d 1217	1987	Financial Responsibility Act violation - uninsured drivers argued the 1984 Robbins-McAlister Financial Responsibility act fails	Supreme Court Cal.	Yes

		to provide drivesr with procedural due process of law; lost case		
Lander v. Dep't of Motor Vehicles, 198 Cal. Rptr. 810	1984	DL suspended retroactively for DUI statute	Ca. App. 4th Dist.	No
Burg v. Municipal Court, 35 Cal. 3d 257	1983	DUI case	Supreme Court Cal.	Yes
Alderette v. Department of Motor Vehicles, 135 Cal. App. 3d 174	1982	DUI case and automatic suspensions	Cal. Court of Appeal, 1st Divison	Yes
Hernandez v. Department of Motor Vehicles, 30 Cal. 3d 70	1981	Implied consent case; right to drive v privilege	Supreme Court Cal.	Yes
Yeoman v. Department of Motor Vehicles, 273 Cal. App. 2d 71	1969	DUI case	Cal. App. 4th Dist.	Yes
People v. Fite, 267 Cal. App. 2d 685	1968	DUI case, implied consent	Cal. App. 3d Dist.	Yes
Serenko v. Bright, 263 Cal. App. 2d 682	1968	DUI case, implied consent	Cal. App. 2d Dist.	Yes
People v. Lamb, 230 Cal. App. 2d 65	1964	Drug case	Cal. App. 2d Dist.	Yes
People v. Kimbley, 189 Cal. App. 2d 300	1961	Drug case	Cal. App. 2d Dist.	Yes
Beamon v. Department of Motor Vehicles, 180 Cal. App. 2d 200	1960	License record	Cal. App. 2d Dist.	Yes
Johnson v. Department of Motor Vehicles, 177 Cal. App. 2d 440	1960	Suspension for negligent driving	Cal. App. 4th Dist.	Yes
Escobedo v. State, Dep't of Motor Vehicles, 35 Cal. 2d 870	1950	Financial responsibility violation and due process	Supreme Court Cal.	Yes
Ratliff v. Lampton, 187 P.2d 421	1948	Driver argued deserved hearing before surrendering license	Ca. App. 2nd District, Div. 2	Yes

Samson v. State, 55 Cal. App. 2d 194	1942	Suspension for failure to pay judgment for damages	Ca. App. 2nd District, Div. 1	Yes
People v. Noggle, 7 Cal. App. 2d 14	1935	Challenged judgment for driving without license after getting license revoked without a hearing	Ca. App. 3rd District	No
Sheehan v. Division of Motor Vehicles, 140 Cal. App. 200	1934	Financial responsibility case	Ca. App. 4th Dist.	Yes
People v. O'Rourke, 124 Cal. App. 752	1932	DUI case - driver did not get hearing after losing license for drunk driving	Ca. App. 3rd District	Yes

Table A3. Suspension Cases in California, 2013-2019

Year	All Suspensions	Child Support*	FTA & FTP**
2013	1339622	85542	510811
2014	1147439	79091	428976
2015	1183819	86581	422636
2016	1114973	81399	346884
2017	1006249	81771	267502
2018	975495	84845	265635
2019	1008264	84509	271456

*Child Support suspensions under Family Code 17520

*FTA/FTP suspensions combined (only FTA 2017 onwards) under Vehicle Code 13365

Table A4. Broken Windows Era Suspension Legislation

Year Passed	*Bill*	*Enacts*	*Support*	*Opposition*
2019	SB 485	Repeals suspensions for vandalism, prostitution, firearm possession or use by minor, tax delinquency, underage alcohol-related offenses	Conference of California Bar Associations; ACLU of California; California Bus Association; California Public Defenders Association; Courage Campaign; Freedom 4 Youth; Initiate Justice; National Association of Social Workers – California Chapter; Pacific Juvenile Defender Center; Youth Justice Coalition	
2018	AB 2685	Repeals repealed a provision of law (Vehicle Code Section 13202.7) allowing a juvenile court to suspend or delay the driver's license of a habitual truant or ward of the state for up to one year.	Advancing Communities Together, Antelope Valley YouthBuild (Sponsor), ACLU of California, California Public Defenders Association	
2017	AB 103	Repeals failure-to-pay suspensions		
2011	AB 1424	Authorizes DMV to suspend or refuse to renew or issue driver's license for tax delinquency if a person's name is on the list of 500 largest tax delinquencies in excess		

		of $100,000. (Business and Professions Code § 494.5)		
2006	AB 2926	Increases penalties for vandalism - Requires the collection of all costs associated with graffiti abatement imposed upon a minor to be included with the renewal or registration of a motor vehicle. This bill would also authorize a court to suspend a person's driving privilege for up to three years.	Azusa Police Department; California Peace Officers' Association; California Police Chiefs' Association; City of Hermosa Beach; Los Angeles County Police Chiefs' Association; Monrovia Police Department	
1996	AB 2949	Authorizes suspensions for prostitution committed within 1,000 feet of a private residence and involves the use of a vehicle	Committee on Moral Concerns	American Civil Liberties Union, California Attorneys for Criminal Justice, California Public Defenders Association
1994	SB 36	Authorizes suspensions for minors convicted of public offenses involving a firearm	California District Attorneys Association, California State Sheriffs' Association	California Attorneys for Criminal Justice

1994	AB 257	Extends child support delinquency license suspension to all driver's licenses, not just commercial	California Judges Association, California District Attorneys Association, Harriett Buhai Center for Family Law, California Family Support Council, Legal Services of Northern California; Opposition: Family Law Section of the State Bar, California Association of Photocopiers and Process Servers, Coalition for Parent Support, Inc. (COPS) Single Parents United 'N Kids (SPUNK), individuals; California District Attorneys Association; Children NOW; County of San Mateo; Department of Social Services; Los Angeles District Attorney; State Board of Equalization	
1994	SB 1728	Amends truancy suspension statute	Hawthorne School District; Numerous letters from individuals	American Civil Liberties Union
1991	SB 101	Authorizes suspensions for business and commercial driver's licenses for child support delinquency		
1990	SB 1977	Authorizes suspensions for vandalism		

Table A5. Failure-to-Pay Suspension Court Case Language, Past and Present.

Right v. Privilege	"The legislative power to regulate travel over the highways and thoroughfares of the state for the general welfare is extensive. It may be exercised in any reasonable manner to conserve the safety of travelers and pedestrians. Since motor vehicles are instruments of potential dangers, their registration and the licensing of their operators have been required almost from their first appearance. The right to operate them in public places is not a natural and unrestrained right, but a privilege subject to reasonable regulation, under the police power, in the interest of the public safety and welfare" (Opinion in *Watson*, 1930)	"A driver's license is a fundamental property right that the U.S. Supreme Court has found to be essential in the pursuit of a livelihood" (Petitioners' Writ of Mandate and Complaint for Declaratory and Injunctive Relief (p. 10) in *Hernandez* (2020), citing *Bell v. Burson*, 402 U.S. 535, 539 (1979)).
Discriminates against low income drivers	"The equality of the Constitution is the equality of right, and not of enjoyment. A law that confers equal rights on all citizens of the state, or subjects them to equal burdens, is an equal law…"There is no inequality or discrimination in a constitutional sense from the standpoint of the judgment debtor. Those who do not pay their debts arising from their fault in the operation of a motor vehicle on the public way may be classified by the legislature as not worthy of a license to operate again. . . "" (Opinion in *Watson*, 1930,	"Drivers who can afford to resolve their traffic citations by paying the required fines and fees generally do so. In contrast, low-income and indigent drivers cited with the same traffic violations, but who cannot afford to pay the fines, also face the additional penalty of a license suspension solely because of their inability to pay" (Petitioners' Writ of Mandate and Complaint for Declaratory and Injunctive Relief (p. 10) in *Hernandez* (2020)

	citing 251 Mass. 617 [147 N. E. 680]).	
Public Interest	"The revocation of the privilege for nonpayment of judgments arising from negligent operation of motor vehicles is a reasonable regulation, and one which may well tend to eliminate from the highways persons shown to be dangerous to life and property" (Opinion in *Watson*, 1930).	"[The DMV's] wrongful conduct also harms the public interest by, among other things, negatively affecting individuals' abilities to work or improve their employment opportunities, and interfering with individuals' and their family members' access to education and medical care, thereby further burdening public agencies responsible for providing safety net support" Petitioners' Writ of Mandate and Complaint for Declaratory and Injunctive Relief (p. 13) in *Hernandez* (2020).

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