



Building a Bicycle Friendly America for everyone

May 3, 2023

Associate Administrator Chou-Lin Chen
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Request for Comment; Draft Model Minimum Uniform Crash Criteria (MMUCC) Guideline, Sixth Edition (DOT-NHTSA-2023-0002)

Dear Associate Administrator Chen,

The League for American Bicyclists (League) appreciates the extension provided by the U.S. Department of Transportation (USDOT) and the National Highway Traffic Safety Administration (NHTSA) for commenting on the Draft Model Minimum Uniform Crash Criteria (MMUCC) Guideline, Sixth Edition.

The MMUCC plays an important role in creating data that allows the United States to understand its traffic safety challenges and the policy choices that might improve traffic safety. The USDOT has adopted a Safe System Approach as part of its National Roadway Safety Strategy that embraces the goal of zero traffic deaths on America's roadways. In reviewing the proposed update to the MMUCC, the League has identified several concerns about the proposed MMUCC and appreciates the attention of the USDOT as the Safe System Approach becomes a guiding principle-based approach to all traffic safety efforts.

One of the principles of the Safe System Approach is that "Humans Make Mistakes. People will inevitably make mistakes and decisions that can lead or contribute to crashes, but the transportation system can be designed and operated to accommodate certain types and levels of human mistakes, and avoid death and serious injuries when a crash occurs." The League is concerned that the proposed MMUCC does not embrace this principle equally for all road users and perpetuates the collection of data that is used to blame people for crashes rather than seeks to design and operate the transportation system to avoid death and serious injuries when crashes occur.

Different Language for Drivers and Non-Motorists

The proposed MMUCC treats the mistakes and actions of drivers differently than the mistakes and actions of other road users. In the proposed MMUCC, there are two analogous data elements that deal with human mistakes and actions:

1. "D10. Related Factors – Driver Level" lists more than thirty attributes, of which no more than four are to be selected for a crash. These attributes include mistakes, such as "overcorrecting," and actions, such as "Fleeing/Evading Law Enforcement."
2. "NM4. Non-Motorist Contributing Circumstance(s)" lists more than a dozen attributes, of which no more than two are to be selected for a crash. These attributes include mistakes, "Traveling Wrong Way" and actions, such as "Fleeing/Evading Law Enforcement."

The attributes that will be listed in crash forms are similar for these two data elements and the value of them is to understand the mistakes or actions of the people involved in the crash. However, the

proposed language in the MMUCC treats the mistakes and actions of the driver as “factors related to the driver” rather than as actions/circumstances “that may have contributed to the crash” as it does for non-drivers. Consistency demands that both drivers and non-motorists have their actions treated the same way, rather than implying that the actions of non-motorists contribute to the crash while actions of drivers do not. To imply that non-motorist actions contribute to the crash, but the actions of drivers do not, blames the most vulnerable users of our roadways while not recognizing the responsibility of driver behavior in crashes. The League recommends using consistent terminology, with “related factors” being an adequate description that does not imply blame. The “related factors” language could also be used for the data element “V41. Contributing Circumstances, Motor Vehicle” for consistency.

Victim Blaming Data Attributes

Under the data element “NM4. Non-Motorist Contributing Circumstance(s)” there are three attributes that are unnecessarily victim blaming and which do not advance data collection that will inform the design and operation of a transportation system that avoids death and serious injury.

1. The data attribute “Dart/Dash” is not specific and implies a reckless action by the non-motorist.
 - a. The explanation of this attribute describes it as “Dart/Dash – Non-motorist entering from off the roadway, including running, jogging, or stumbling, etc.” In its own explanation, it provides an example, “stumbling,” that is not well described by the term “Dart/Dash.” In the [NHTSA Fatality and Injury Reporting System Tool \(FIRST\)](#), there were 150 pedestrian fatalities between 2017-2021 where “Dash - Run, No Visual Obstruction Noted” or “Dart-Out - Visual Obstruction Noted” is indicated for people killed while walking who were 75 or more years old. While it is possible these were able bodied older adults who dashed, it is also possible that they stumbled. The imprecise, but judgmental, language may make system designers more likely to blame the non-motorists who died in these crashes instead of seeking to change the system through design or operation to prevent future similar deaths. The League recommends the use of a less judgmental, more descriptive term, such as “Non-motorist entering from off the roadway” for this attribute.
2. The data attribute “Not Visible (Dark Clothing, No Lighting, etc.)” is not specific and implies that a completely legal action - wearing dark clothing - may have caused a crash.
 - a. Light conditions are already covered in more detail in “C10. Light Condition.” This attribute informs no public policy and provides no value to crash analysis. The League recommends that the data attribute “Not Visible (Dark Clothing, No Lighting, etc.)” be removed.
3. The data attribute “Improper Crossing of Roadway or Intersection (Jaywalking)” is not defined in the proposed MMUCC and unnecessarily perpetuates a term that does not have a purpose aside from victim blaming.
 - a. This data attribute does not provide information that is more specific than the information provided by the attribute “Crossing Roadway - is used when the non-motorist was moving across or in the travel lanes with the goal of crossing the roadway immediately prior to the crash” under “NM2. Non-Motorist Status Prior to Critical Event.” To determine whether a crossing is improper is jurisdiction dependent and depends upon whether a roadway is signal or stop sign controlled, which is part of the element “V31. Traffic Control Device.” The circumstances of crossing the road

properly include the traffic control devices that control the roadway, the distance between legal crossings, and the distance between traffic controls, not a summary judgment of the person hit being a jaywalker - a term [popularized by the auto industry to prevent regulation of autos](#). The attribute “Improper Crossing of Roadway or Intersection (Jaywalking)” asks officers to make a judgment call rather than rely on reporting the conditions of the roadway in a way that can inform public policy and crash analysis. The proper focus of data collection should be on the circumstances of the roadway in order to inform the design and operation of the roadway to prevent future deaths and serious injuries. If USDOT is interested in addressing the issue of people hit while crossing the roadway, then it should focus on roadway circumstances by collecting data on the distances between legal crossings and applicable traffic control devices when a person is struck while crossing the roadway. The League recommends that the data attribute “Improper Crossing of Roadway or Intersection (Jaywalking)” should be removed.

Missing Bicycle Facility Data Elements

In addition to six principles, the National Roadway Safety Strategy articulates five objectives of a Safe System Approach. One of those objectives is “Safer Roads: Design roadway environments to mitigate human mistakes and account for injury tolerances, to encourage safer behaviors, and to facilitate safe travel by the most vulnerable users.” The League is concerned that the proposed MMUCC does not embrace this objective and may miss opportunities to understand how roadway environments encourage safer behaviors and facilitate safe travel by the most vulnerable users.

Generally, the League is concerned about the loss of Roadway Elements as a distinct type of data element, especially the data element “R13 Presence/Type of Bicycle Facility Data element.” While we understand that similar data attributes are now collected under “NM7. Non-Motorist Specific Location,” we are concerned that this will lead to the collection of data on the presence of bicycle facilities only when a non-motorist is struck in those facilities. Failing to note the presence or absence of bicycle facilities in all crashes will provide transportation system designers an incomplete picture of roadway designs involved in crash locations. Bicycle facilities are often created as part of traffic calming measures or complete streets design processes and noting their presence or absence for all crashes might provide insight on whether these are effective at reducing deaths and serious injuries.

The League is also specifically concerned about the loss of differentiation in “NM7. Non-Motorist Specific Location,” which provides for one attribute for “Painted Cycle Lane (including sharrow markings and painted buffers)” compared to the the last edition which provided three attributes for “Shared Lane Markings,” “On-Street Bike Lanes, and “On-Street Buffered Bike Lanes” under “NM4. Non-Motorist Location at Time of Crash.”

- According to [FHWA’s Bikeway Selection Guide](#), there are significant differences for the appropriateness of the three bicycle facility types that are put into one attribute under the proposed MMUCC. Specifically, shared lane markings or sharrow markings are only appropriate for streets with speed limits of 25 miles per hour or less, painted buffers are preferred on streets with speed limits of less than 35 miles per hour, and a physically separated bike lane is appropriate for streets with speed limits of 35 miles per hour or more.

- NHTSA's [Fatality and Injury Reporting System Tool](#) currently does not provide data that allows an understanding of whether an appropriate bike facility exists on a roadway where a fatal crash occurs, including for fatal bicyclist crashes. The data element "Bicyclist position" instead includes a grouped field for "Bicycle Lane / Paved Shoulder / Parking Lane" each of which has its own attribute field in the MMUCC.

Creating safe bicycle facilities appropriate to their roadway context is an important part of a Safe System Approach to Safer Roads that facilitate safe travel by the most vulnerable users. The League recommends aligning MMUCC data attributes with FHWA's Bikeway Selection Guidance so that USDOT can use collected crash data to understand not just the presence or absence of bicycle facilities on the roadway where a crash occurs, but whether or not those facilities were appropriate given the conditions. The conflation of "sharrow markings" and painted cycle lanes with buffers is inconsistent with FHWA Bikeway Selection Guidance and those data attributes should be separated as they were in the 5th Edition of the MMUCC.

Support for other comments

The League is pleased to see interest in the MMUCC and other comments. We support and reiterate the following comments:

- The League supports the [comment](#) of the Center for Policing Equity, which recommends "expanding collection to include demographic information and using language to explicitly include non-police crash investigators would assist researchers and organizations analyzing inequities in crash data."
 - NHTSA's FIRST data currently provides demographic data for the driver striking and killing a person walking in less than .25% of fatal pedestrian crashes. The race/ethnicity of the striking driver is provided in only 160 crashes out of more than 73,000 fatal pedestrian crashes between 2007-2021.
- The League supports the comments of Amanda Merck and [Salud America](#), especially the need to collect data on the height of vehicles.
 - Research shows the height of a vehicle, specifically the height of the vehicle part that makes initial contact with a person biking, walking, or otherwise outside of a vehicle when hit and the height of the top of the hood that allows or prevents a body from vaulting onto the hood of a vehicle has a large impact on the kinematics of a crash and the injuries that result. In a recent study by the [Insurance Institute for Highway Safety](#), they found that the height of collision points resulted in "only cars caus[ing] injuries by vaulting bicyclists onto the vehicle's roof and only SUVs caus[ing] injuries by running bicyclists over."
 - No proposed MMUCC data element or attribute currently captures the height of the vehicle's initial contact point (most likely to be the bumper) or height of the hood. Collecting this data could inform public policy by showing the increased injury severity in crashes with taller vehicles on a more widespread basis than allowed by existing data.

- The League supports the [comment](#) of the National Transportation Safety Board, especially its comment that proposed attributes in data element NM9 will “likely satisfy Safety Recommendation H-22-26” to “include data elements for electric scooters and electric bicycles.”
- The League supports the [comment](#) of the Ohio Bicycle Federation, especially the inclusion of a data element and/or guidance that relates to “dooring” the act of a driver or motor vehicle passenger improperly opening a motor vehicle door.
 - [Forty two](#) states have a law that requires a person to not open a motor vehicle door unless it is reasonably safe to do so. “Dooring” could be included as an attribute under “D10. Related Factors – Driver Level” with a description such as “opening door” where “opening door” means a driver or occupant opens a door and the crash occurs when a person or vehicle first contacts the opened door. “Dooring” could also be included through guidance about how to indicate dooring in the narrative or diagram of a crash. The structure of “C6. First Harmful Event” makes it a poor fit for indicating “dooring” as “non-motorist” is its own attribute under that data element.

The League appreciates the efforts of USDOT to update the MMUCC and promote the collection of crash data to inform a Safe System Approach to our nation’s roadways. Please contact me at ken@bikeleague.org if you have any questions.

Sincerely,

Ken McLeod

Policy Director

League of American Bicyclists