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ENFORCEMENT: THE FINAL FRONTIER

By Meghan Cahill and Andy Clarke

“There is a learning curve with cyclists and police to take cycling more seriously. Our goal is to create a polite and informed bike riding public.”

*- Caroline Samponaro,
Transportation Alternatives*



THE LEAGUE'S RULES OF THE ROAD

1. Follow the law. Your safety and the image of bicyclists depend on you. You have the same rights and duties as drivers. Obey traffic signals and stop signs. Ride with traffic; use the rightmost lane headed in the direction you are going.

2. Be predictable. Make your intentions clear to motorists and other road users. Ride in a straight line and don't swerve between parked cars. Signal turns, and check behind you well before turning or changing lanes.

3. Be conspicuous. Ride where drivers can see you; wear bright clothing. Use a front white light and red rear light and reflectors at night or when visibility is poor. Make eye contact with drivers. Don't ride on sidewalks.

4. Think ahead. Anticipate what drivers, pedestrians, and other bicyclists will do next. Watch for turning vehicles and ride outside the door zone of parked cars. Look out for debris, potholes, and utility covers. Cross railroad tracks at right angles.

5. Ride Ready. Check that your tires have sufficient air, brakes are working, chain runs smoothly, and quick release wheel levers are closed (ABC Quick Check). Carry repair and emergency supplies appropriate for your ride. Wear a helmet.

6. Keep your cool. Road rage benefits no-one and always makes a bad situation worse.

Although the consequences are rarely so tragic, if our mailbag is anything to go by it happens quite a lot to cyclists. Across the country we hear from riders who have to deal with uninformed police officers, unsympathetic courts, and a hostile media ... when all they are doing is riding their bikes! The sense of injustice aroused by the angry motorist yelling at you to get out the way, or the police officer giving you a ticket for the same — even after you've been hit by a car — is powerful and simmers in you for hours, if not days and weeks. Why are you being punished for doing such a simple and good thing!?

Enforcement is one of the five Es that make up a Bicycle Friendly Community (BFC) — and some would argue that it's one of the most critical. The one thing we can unfortunately all agree upon is that it's the weakest element in the hundreds of BFC applications we have received over the years. We've made tremendous strides in engineering, education, encouragement and evaluation ... but we haven't made much progress with enforcement. In many communities, it is the final frontier.

FOLLOW THE RULES!

Before we go any further, however, let's be clear about one thing. Following the rules of the road is a core principle of the League's Smart Cycling program; it's woven into every education program, brochure, curriculum, story we write, and presentation we give to any audience. All of our club ride information and risk management materials stress rule-following. "We have no problem with cyclists being ticketed for bad behavior, particularly when they are a danger to themselves and others," says Andy Clarke, League president. "We know that cyclists aren't always

THE OUTRAGEOUS CASE OF Raquel Nelson, the Atlanta mother charged with vehicular homicide for the death of her own child, made national headlines recently. At the end of a long, tiring day and a lengthy bus trip home, Nelson and her children followed fellow bus passengers, mid-block, across a suburban street to get home. In the median, one of the children broke free of her grip and was hit and killed by a drunk driver who fled the scene. Astonishingly, Nelson was charged and convicted of vehicular homicide, which provoked a massive nationwide response in support of her plight. The injustice — not to mention the insensitivity — of the charges brought against this mother was clear for all to see. Poor road design, lousy transit service, illegal and dangerous driving all let Nelson down, and yet, she was the one facing 36 months in jail. The driver — a repeat hit-and-run offender — got just six months. How can this sort of thing happen? What is going on with law enforcement and the court system to allow this ... and how often does it happen without the eagle eyes of a Streetsblog reporter there ready to shine a light on the story?

paragons of virtue; however, there are countless examples nationwide every year of outrageous police action — individual and systemic — that make dealing with police inconsistent and unpredictable.”

NYC'S NEW ENFORCEMENT CAMPAIGN

In January 2011, New York City began an enforcement campaign known as “Operation Safe Cycle” to ticket cyclists’ infractions of the law; however, the city ticketed some bicyclists who didn’t actually break the law. For the campaign, the New York Police Department (NYPD) issued a document that itemized ticket-able cycling infractions. However, three of the “infractions” are actually New York state laws and do not apply in NYC: failure to use bicycle lane/keep right; more than two abreast; and failing to stop, entering roadway from a private road, driveway, alley or over curb. The *NY Post* cited an unnamed police source in May saying there were almost 14,000 tickets issued to NYC cyclists — an almost 50 percent increase over the same time frame as last year.

Caroline Samponaro, director of bicycle advocacy at NYC’s Transportation Alternatives (TA), indicated the city has limited enforcement capacity, and that the police should target the most dangerous behavior.



“New Yorkers must follow the law, regardless of their choice in vehicle, and bicycles are no exception.”
-Caroline Samponaro

“New Yorkers must follow the law regardless of their choice of vehicle, and bicycles are no exception,” says Samponaro. “But it’s motor vehicles, not bicycles that are responsible for hundreds of deaths and more than 70,000 injuries every year.” TA believes that New Yorkers deserve data-driven enforcement that targets the most dangerous behaviors on their streets. To do this, TA made sure that crash information was public to demand better enforcement. TA’s Saving Lives Through Better Information Bill mandated that the New York Police Department post crash data on their Web site. “The largest takeaway is that traffic crashes are preventable things,” says Samponaro, “and with education and enforcement, we can bring these numbers down to zero. The bogus tickets undermine enforcement which is supposed to target dangerous behavior.”

TA, with the police, has recently done education checkpoints on popular routes to spur positive

interactions between police officers and bicyclists while simultaneously educating bicyclists and motorists. “We have been going through some growing pains, and there has been an explosion of cyclists on the streets,” says Samponaro. “There is a learning curve with cyclists and police to take cycling more seriously. Our goal is to create a polite and informed bike riding public.”

OMAHA, NEBRASKA – RURAL ENFORCEMENT

Enforcement efforts and issues differ in changing landscapes. Cyclists outside of Omaha, Neb. are unable to get police to do anything about a known driver who consistently and dangerously harasses cyclists as they ride down the county road he lives on. Members of the Blair Bike Club (BBC) have dubbed this man “Mad Max”, as several of them have encountered his dangerous and aggressive driving.

You Tube Video Takes on Cycling Enforcement Laws in NYC

Casey Neistat, a NYC resident and filmmaker, received a \$50 ticket this year for not riding in the designated bike lane and made a video displaying how, at times, it’s difficult to ride in the lanes. “I didn’t think much of it, and I paid the ticket,” says Neistat. “It was when I heard

about police cracking down on cyclists in New York City that I thought I could do something about it, especially when I learned that I hadn’t done anything wrong.” Many who received the bike lane ticket weren’t riding in the designated lanes because they were blocked with delivery



“As far as the police go, they just discourage us from riding on County Road P43 — it’s a scenic, country road with no shoulder. We have a right to ride,” says Trudy Arndt-Woksa, president of the BBC. “Mad Max slammed on his breaks in front of my friend, she wiped out, and then he proceeded to back up his car into me. It was shocking!” says Arndt-Woksa. “The district attorney said he was going to be charged with reckless driving but it was dropped. The authorities hardly do anything.”

The *Pilot Tribune and Enterprise* has printed five letters to the editor describing similar incidents. Bob Haschenburger’s Letter to the Editor is telling of area cyclists’ fear.

Unfortunately, one person living on that road has taken to harassing passing cyclists. In the past two years I have had two run-ins with him. The first time, he hurled obscenities with a close passing by the car ... The second last fall involved the obscenities and close passing of myself and riding partner, followed by twice suddenly stopping in front of me on a downhill, resulting in a crash. Thankfully, this involved only scrapes and bruises — this time. The driver did not stop to offer aid and about hit my partner as she tried to stop him from leaving. These types of actions could get someone killed or seriously injured.

trucks, cones or other obstacles. The video has made the rounds on YouTube (just search NYC bike lanes), and Neistat says the film started a dialogue about what is correct when enforcing cycling laws. “I think with New York city being so new to cycling, they are trying to figure out how to walk that line.” Neistat was quick to point out that the city is trying really hard.

According to the BBC, the local deputy said cyclists can file complaints but that they would go nowhere. The club is planning to file a civil suit against “Mad Max.”

SOUTH CAROLINA IS GETTING IT RIGHT

Fortunately, there are some stories that offer hope that things can be improved. On October 1 last year, 15 cyclists left Outspokin’ bike shop in Augusta, Ga. on their weekly ride across the state border into Aiken, S.C. A truck collided with the group and injured four cyclists and tragically left one other, Dr. Matthew Burke, critically injured with severe head trauma. After months in a coma, Dr. Burke passed away on February 6. The driver, Daniel Johnson, claimed to have been distracted while reaching for something. Dr. Burke, a U.S. Army major and orthopedic surgeon, had been home from Iraq for about a year.

The Palmetto Cycling Coalition and South Carolina cycling attorney Peter Wilborn worked on the case. Johnson was charged with reckless homicide. “The police originally said it was just an accident,” says Wilborn. “We asked the police to just consider the data, and you know what? They listened. They did their job ... and charged the driver with reckless homicide — the most serious thing that a driver could be charged with.” The South Carolina Highway Patrol and the Aiken County Solicitor’s office performed the investigation. “This case was an example of how it should be done, and in order to do it right, we need to understand what the best practices are,” says Wilborn.

Wilborn points out that cycling advocates too often

cry injustice before they do their due diligence. “Cycling advocates point fingers at the police before knowing how to work the system,” says Wilborn. “There is a difference about complaining about injustice and doing something about it. We need a much more professional and mature approach.”

Wilborn, along with the Palmetto Cycling Coalition, has trained police officers for free 25 different times. They explain how accident investigation should work. “A serious crash is defined by a cyclist in a hospital. The police will often investigate without asking the cyclist what happened,” says Wilborn. “We

BEST PRACTICES FOR IMPROVING CYCLING ENFORCEMENT

1. Create positive relationships with law enforcement prior to accidents.

When something bad happens, call in those relationships. Get involved in the process.

2. Offer resources.

Ask your police department what you can do to help inform their force about cycling rights and safety. It might be accident reconstruction, reviewing data, or a refresher in bikes laws. Be proactive.

3. Make sure the right person is communicating for the victim.

They must be knowledgeable about the legal situation, not necessarily the most passionate advocate. This person can make the police officer’s job easier, and therefore create a close bond with the cycling community.

have trained the police to not do that.” Wilborn, the Palmetto Cycling Coalition and Safe Streets Saves Lives have made it a priority to go to the police and ask them what they need before there is a problem to develop those relationships.

“My experience is when you participate in the process, police are very open-minded. They can’t get it right without our help.”

In order to get it right, though, cyclists much change their approach to police and local officials. Wilborn acknowledges that it is an uphill battle. “But you are not helping the process by just being a victim, and that just because bicycling advocates are passionate, doesn’t mean they are persuasive with police,” says Wilborn.



Photo courtesy of Safe Streets Save Lives campaign (safestreetssavelives.org) – a joint project of the Palmetto Cycling Coalition and BikeLaw.com.

“You can’t just do lycra protests without creating relationships and trusting the police.” Wilborn’s method is based on the notion that police are not anti-cyclists radicals; they are just overworked and underpaid. He believes they care the most about safety but we as cyclists aren’t doing a good

enough job giving them the resources they need. “Cycling enforcement is a skill that they don’t have, and we have to figure out how to help.”

So far this year, there have been 10 cyclists’ deaths in South Carolina, and every single one has been caused by a crime. Not one death in 2011 was deemed the cyclist’s fault.

“South Carolina is worse than most states for bicycling,” says Wilborn “but if we can do it by a case-by-case basis here, then we can do it anywhere.”

THE LEAGUE HAS YOUR BACK

“The reality,” said Clarke in a recent interview broadcast on AAA Radio, “is that motorists and cyclists are going to be sharing the same roads and highways for the foreseeable future and we have to do everything we can to make sure that the shared experience is safe and enjoyable for everyone. We share responsibility for traffic safety with motorists, law enforcement, city and state leaders to do all we can to encourage sharing the road safely and harmoniously.”

The good news is that more and more communities are realizing that becoming more bike friendly is good for their city and citizens. This means that they are stepping up their enforcement efforts and that

police and courts are starting to get it right. Oregon was the first state to pass a Vulnerable Road User law in 2007; Delaware followed suit and just passed a safe passing law as well.

Los Angeles, Calif., where this year an alleged drunken motorist hit a group of 100 cyclists, recently

LEGAL RESOURCES

Local bicycle advocacy groups are an incredible resource if you are involved in a crash or need local legal advice.

The San Francisco Bicycle Coalition has an extensive library of resources including a “Bicyclists Legal Guide” documenting what to do in the event of a crash; an excellent training video used by the police department; and advice on what to do if you are ticketed. *Visit sfbike.org for more information.*

The Bicycle Transportation Alliance in Portland, Ore. has an impressive array of legal resources — and an impressive array of cycling attorneys. Bob Mionske (*Bicycling’s* legal authority); Mark Ginsberg (long-time chair of the Bicycle Advisory Committee); and Ray Thomas, doyen of bicycling lawyers and author of a veritable library of useful bicycling articles. *Visit bta4bikes.org for more information.*

Chicago’s Active Transportation Alliance has a Bicyclists Crash Support Group. *Visit activetrans.org for more information.*

Pittsburgh has great post-crash advice. *Visit bike-pgh.org for more information.*

The Washington Area Bicyclists Association has a crash report form they use to gather additional data. *Visit waba.org for more information.*



Photo: safestreetssavelives.org

passed an ordinance that makes it a crime for drivers to threaten bicyclists verbally or physically. L.A. victims of harassment will also be able to file a civil suit even if there are no criminal charges.

Even though these examples are a step in the right direction, there are still too few state and local laws and comprehensive education efforts. However, cyclists, motorists, the police and the legal system are beginning to learn to work together. “It just takes the right approach and participating in enforcement efforts early — hopefully, before an accident occurs,” according to Gary Brustin, League board member and part of the League’s fledgling legal network. Brustin is an accident lawyer who specializes in protecting the rights of

injured cyclists. He believes that one of the big problems with the legal profession is that “we are uneducated about cyclists’ rights to the road, the rules and laws. We need to educate police, the district attorneys and, diplomatically, the judges,” says Brustin. “The League’s new legal affairs committee will be able to make this happen ... education is critical. If everyone knew the rules of the road, the system would work better for cyclists.”

The League is educating new and returning cyclists all across the country with our Smart Cycling curriculum and network of League Cycling Instructors. We are partnered with AAA, who represents 51 million motorists — most of whom are also cyclists from time to time – to deliver our Share the Road Message and

safety tips to our nation’s drivers. We are encouraging communities and states to get a better handle on and enforce bike-related laws, and writing the road map for better enforcement for each community that applies for the BFC designation. It’s a steep hill we are climbing but we will be persistent and relentless to receive justice and equality for our nation’s bicyclists. Brustin’s advice for reaching an acceptable enforcement standard? “I think every cyclist should be involved in three advocacy organizations: the League and your state and local group,” says Brustin. “Join ’em all.”

You heard the man — participate in the process. |||

For more information, visit bikeleague.org/legal

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