Can a bicyclist pass on the right?

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Can a bicyclist pass on the right?

This is a question that we've come across more than once, most recently in a crash that happened in California. As the cyclist explained,

> *I was doored by a passenger door in the right traffic lane on a busy California road. I typically ride to the far right of that lane about 2-3' left of parked cars which I monitor very closely for doors opening or pedestrians walking quickly of the sidewalks to enter on driver side. When I approach a light, the right lane traffic starts to stop and I proceed up to the light. It was a surprise to have a passenger door flung open by the driver in this case in my path to allow a pedestrian to enter the car.*

Doorings are a common type of car-on-bike collision, but as you will see, this one is a little different. In most jurisdictions, cyclists are required to ride as close to the right as is safe for the cyclist. So how close is safe? Because cyclists are at risk of getting doored while riding in the door zone, a reasonable interpretation of "as close to the right as is safe" would mean outside of the door zone.

At the same time, many bike lanes are placed directly in the door zone of cars parked along the curb. Many jurisdictions require cyclists to ride in a bike lane if one is available, but this requirement typically allows cyclists to leave the bike lane to avoid "hazards." So what is a "hazard"? The law specifies some hazards, but doesn't spell out every single hazard (that's a good thing). But one example of a common "hazard" for cyclists is getting doored, so again, a reasonable interpretation of the law is that cyclists are not required to ride in the door zone.

But as I said, this case is a little different. The most common type of dooring occurs when a driver or passenger of a vehicle parked along the right curb opens a vehicle door directly into the path of a approaching cyclist. But that's not what happened in this dooring. Instead, the cyclist was doored by a vehicle to his left. The cyclist was sharing the lane, riding as close to the right as he felt was safe, and was closely monitoring the parked cars to his right to avoid being doored. The vehicles to his left had come to a stop as they approached an intersection. Because he was sharing the lane, he filtered forward to the intersection. And then a driver in the traffic lane (to his left) suddenly flung open the passenger door of his vehicle to allow his son, who was stepping into traffic from the curb, to enter the vehicle while it

was stopped in traffic. The cyclist, who had been filtering forward to the intersection, collided with the opened door and sustained non-life-threatening injuries.

The cyclist was transported to the hospital for treatment; while he was there, a police officer investigating the collision took the cyclist's statement. But later, when he saw the police report, the cyclist was shocked. The investigating officer had reached the conclusion that the cyclist was at fault for passing on the right (the cyclist was not ticketed for a violation, however).

Now, remember, this article asks the question "Can a bicyclist pass on the right?" But there's another question here: Can the driver open the passenger door into the path of a approaching cyclist? Under California Vehicle Code ("CVC") Section 22517,

> *No person shall open the door of a vehicle on the side available to moving traffic unless it is reasonably safe to do so and can be done without interfering with the movement of such traffic…*

Now, if the cyclist was operating legally, the motorist was in violation of this statute. But the investigating officer claims that the cyclist was breaking the law by passing on the right. So lets take a look at the officer's argument to see if it is accurate.

Imagine a common scenario—a cyclist is sharing the lane with motor vehicles (or, alternatively, is riding in the bike lane). At times, the motor vehicles will be moving faster than the cyclist. But not always. Sometimes, the cyclist will be moving faster than the motorists. Now, according to the officer's interpretation of the law, it is legal for the drivers to pass the cyclist when they are moving faster, but it is illegal for the cyclist to pass when he is moving faster. Before we even look at what the law says, ask yourself "Does this make sense?" According to the officer's interpretation of the law, if traffic begins to back up, or even comes to a stop, the cyclist must also slow down, and even come to a stop, even though the lane is wide open for the cyclist. If the cyclist follows the officer's interpretation of the law, the result is a roadway on which cyclists are required by law to always fall back, and never pull ahead, to stand patiently waiting in the wide open bike lane for traffic to his left to begin moving again so s/he can begin riding again.

This does not make sense—and it is not the law. Instead, the law lets drivers and cyclists do the sensible thing. When motor vehicle traffic is moving faster, drivers pass the cyclist. And when the cyclist is moving faster, the cyclist passes the drivers. The proof is in the law itself. Under CVC Section 21754

> *The driver of a vehicle may overtake and pass to the right of another vehicle only…upon a highway with unobstructed pavement of sufficient width for two or more lines of moving vehicles in the direction of travel…*

Now, with that in mind, let's consider what the law says about operating a

bike on the road. Under CVC Section 21202:

> *Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or edge of the roadway…*

This section of the vehicle code expects that when cyclists ride to the right, they will be sharing the lane with motor vehicles. Alternatively, when a cyclist is riding in a bike lane, the cyclist has a separate lane. In either case, whether a cyclist is sharing a lane or has a separate lane, passing on the right is permitted under California law. The law isn't just referring to two *motor motor* vehicles traveling side by side. It is referring to two *vehicles*—and in California, a cyclist has all of the rights and applicable responsibilities of a vehicle operator. Among other things, this means that when a cyclist is sharing the lane with a motorist (or, alternatively, riding in a bike lane), the law allows the cyclist to pass the motorist on the right when the cyclist is traveling at a faster speed.

In other words, the officer is wrong on two counts. First, the cyclist did not violate the law by passing to the right of the motor vehicles he was lawfully sharing the lane with. In fact, the cyclist was doing exactly what the law expects and allows. And second, the driver did violate the law, by opening his door into moving traffic. This should have been the conclusion of the police report, Instead, the police report reached the opposite conclusion—and the cyclist will likely have an uphill battle with the driver's insurance company because the investigating officer got the law wrong.

For a cyclist, one of the immediate issues in the days following a crash would be to make sure the police report is accurate—and to take steps to amend the report if it is not accurate. For the rest of us, this incident highlights the continuing need for law enforcement officers who are adequately trained in and understand the law as it applies to bicycles. As bicycling becomes a more common part of everyday life on the roads, we are seeing progress in the education of law enforcement, but as this incident illustrates, we're not there yet.