

It Never Ends

Posted At : January 14, 2010 4:41 AM | Posted By : Rick Bernardi

Related Categories: Anti-cyclist bias: Police

Law enforcement officers—at least in California—just can't seem to be bothered with actually learning the laws they are charged with enforcing. Consider the Los Angeles Police Department, which has been [enforcing a non-existent law against perplexed USC students](#). Or the California Highway Patrol officer who [didn't see any problem with a driver who turned into a cyclist's path](#)—yes, the cyclist was riding on the sidewalk, contrary to local law, but the driver also violated the law by failing to look before turning. Then there's the Redondo Beach Police Department, which has been enforcing a law against riding two abreast. The only problem is, [there is no law against riding two abreast](#).

And now there's CHP Officer Al Perez, who has his own newspaper column, "Ask a Cop." The problem with asking this particular cop about the law is he just doesn't know what the law is. In his recent column, [Cyclists in crosswalks aren't pedestrians](#), Officer Perez recounts an incident he observed while off-duty:

A few days ago while driving in my personal car, I was in the No. 2 lane of a major street and approaching an intersection as the signal light in front of me was changing from green to yellow to red.

To my right, I noticed a car that was stopped in the right-turn only lane.

As I was slowly approaching the limit line, I noticed an adult male (I will call him "Dad") standing next to a child on a bicycle who was about 8 or 9 years old. Both were waiting for their signal to turn green so they could cross the street.

The signal light changed to green for them and the child began riding his bike from the sidewalk into the street in the crosswalk from my right to my left.

I then noticed Dad giving some gestures to the driver of the car waiting to make the right turn. Apparently, Dad felt that the driver had stopped too close to his child.

While Dad was preoccupied making gestures, the child continued riding his bike, becoming farther apart from Dad. The child passed in front of me, getting closer to the other side of the street and farther away from Dad.

I then noticed a black vehicle approaching from my left and preparing to make a right turn in front of the child. At first, it

appeared to me that driver had not seen the child riding his bike in the crosswalk, because he braked hard and made the tires of his car screech.

Again, Dad made some gestures to that driver, coupled with some yells.

I was so glad that the driver of the car was able to stop in time to avoid colliding with the child riding his bike in the crosswalk.

Officer Perez then informs us that if he had been on duty, he “would have spoken with Dad,” because as he observes in his title, “Cyclists aren’t pedestrians in crosswalks,” and therefore, “the child on the bicycle did not have the right of way.”

“As a matter of fact,” he says, “the child was in violation of the vehicle code, because he was riding against the normal flow of traffic.”

Unfortunately, Officer Perez is just plain wrong on the law. Generally, cyclists are treated as pedestrians while in the crosswalk, and therefore, the child would generally have the right of way. Furthermore, the child was not in violation of the vehicle code, because for pedestrians in a crosswalk, the directional flow of traffic is irrelevant. Let’s take a closer look to see why this is so.

Officer Perez begins with the observation that Section 21200(a) gives cyclists “upon the highway” all of the rights and all of the duties applicable to drivers of vehicles. This is correct. What is not correct is Officer Perez’ understanding of the word “highway.” For Officer Perez, “as soon as the child rode his bicycle off the sidewalk and into the crosswalk, he entered the highway and became subject to the rules of the road.” Under California law, the “highway” is well-defined:

360. "Highway" is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

This definition forms the basis of Officer Perez’ understanding of the law. However, there’s another part of the law that Officer Perez has not taken into consideration:

555. "Sidewalk" is that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

This definition means that “the highway” includes both the roadway and the sidewalk—and in fact, that analysis is supported by the definition of “roadway”:

530. A "roadway" is that portion of a highway improved, designed, or ordinarily used for vehicular travel.

Thus, the child didn't "enter the highway" when he rode off the sidewalk; because the sidewalk *is* part of the highway, he was *already* on the highway while he was on the sidewalk. And thus, the child was already subject to the vehicle code while he was on the sidewalk. However, a cyclist riding on the sidewalk is treated as a pedestrian, rather than a motorist (after all, motorists are prohibited from driving on the sidewalk), and thus, the laws that are applicable would generally be those that are applicable to a pedestrian.

But what about when the cyclist rides off the sidewalk, into the crosswalk? Is it true that, as Officer Perez claims, cyclists in crosswalks aren't pedestrians?

No, it's not true. Under California law, a crosswalk is either an extension of the sidewalk across the roadway, or that portion of the roadway marked for pedestrian crossing. Thus, when a pedestrian enters the crosswalk, it is as if the pedestrian is still on the sidewalk while crossing the road. Therefore, because a cyclist is treated as a pedestrian while on the sidewalk, when the cyclist enters the crosswalk, it is as if the cyclist is still on the sidewalk while crossing the road. And under California law, cyclists are neither prohibited from riding on the sidewalk, nor are they prohibited from riding in the crosswalk (note, however, that cyclists may be prohibited from riding on sidewalks or in crosswalks by local ordinance). Taken together, these laws mean that when a cyclist lawfully enters the crosswalk, the law treats the cyclist as a pedestrian, and thus, the cyclist has the right of way.

And thus, Officer Perez was mistaken in his assertions that the child did not have the right of way, and that the child was violating the law by riding "against the normal flow of traffic." More disturbing, however, than his ignorance of the traffic laws he is charged with enforcing was Officer Perez' outright bias for motorists. Not only did he see a cyclist (and a child cyclist at that) "violating" non-existent laws, he overlooked the very real violations of law displayed by the motorists who were endangering the life of a child in the crosswalk.

This ignorance of the real laws, enforcement of non-existent laws, and bias for motorists is a problem we're seeing repeated all too often in law enforcement agencies, and it's well past time for these agencies to address the problem.

For more on Officer Perez' column, see [Damien Newton's article in Streetsblog](#).