

# The Blind Eye of Injustice

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## “Cyclist At Fault In Crash With Car”

That was the headline of a [minor article](#) on the “Cops and Courts” page of the Santa Cruz Sentinel recently. It was also the conclusion, dutifully reported by the Sentinel, of the investigating officer from the California Highway Patrol.

It caught my attention, because [I have friends in Santa Cruz](#). And because I’ve seen the freewheeling ways of Santa Cruz cyclists, it didn’t seem improbable to me that the cyclist might actually be at fault.

Except as I read the newspaper’s account of the crash, I began to realize that the conclusion drawn by both law enforcement and the media was what an impartial person might call “one-sided.”

Here are the facts, as reported by the Sentinel:

*The woman was riding her bicycle eastbound on the sidewalk around noon Wednesday when a Toyota sedan that was leaving the shopping center struck her, witnesses told California Highway Patrol officer Rich Valdez, who investigated the crash.*

*Sue Miller and Tom Cardoza of Pleasure Point were traveling westbound on East Cliff Drive and about to make a right turn into the center when they stopped to let the cyclist pass. The cyclist had stopped at the shopping center’s driveway opposite the exiting Toyota, waiting for the right-of-way, they said.*

*The Toyota’s driver, who had been at the intersection waiting to turn right onto westbound East Cliff Drive, never saw the cyclist approach from his right side and he began to pull out of the driveway. But by then, the cyclist had begun to cross the driveway and into his path, they said.*

Initially, it seemed clear to me what had happened—and I will get to that in a moment—but before drawing any conclusions, I decided to check the Santa Cruz Municipal Code. And there it was, in black and white electrons:

*No person shall ride a bicycle or electric bicycle upon sidewalks fronting and adjacent to commercial establishments, stores, or buildings used for business or commercial purposes.*

Well, that seems to settle it—the cyclist was riding on the sidewalk in a location where sidewalk riding is prohibited. The cyclist is at fault, right?

Probably, yes. But stopping there, as law enforcement and the media did, doesn't quite tell the entire story. According to the driver, he never saw the cyclist approach from his right side, and he began to pull out of the driveway. That's a classic error drivers make—they're so intently watching traffic approaching from their left that they never even bother to look right, the direction they're turning in. Their car is lumbering to the right, but their eyes are focused over their shoulder, to the left. And while their eyes are focused left and their car is moving right, they hit the gas.

All without ever looking right.

I know drivers do this, because I've been in their path, as a pedestrian, while I've had the right of way in the crosswalk.

So how do I know the driver in Santa Cruz did this? Because the paper reports that he never saw the cyclist to his right as he began to pull out of the driveway. That is his own account of what happened, and it's clear from his own account that he turned right without looking where he was going.

So what does California law have to say about that?

*The driver of any motor vehicle, prior to driving over or upon any sidewalk, shall yield the right-of-way to any pedestrian approaching thereon.*

Now, under California law, the cyclist has all of the rights and duties of a pedestrian while on the sidewalk. But in this case, local law prohibits the cyclist from riding on the sidewalk in that location. Nevertheless, California law does not specify that the driver must only yield to pedestrians who are lawfully on the sidewalk. Whether the cyclist was riding legally or not, under California law, the driver had a duty to yield to the cyclist.

California law also requires that

*The driver of any vehicle about to enter or cross a highway from any public or private property, or from an alley, shall yield the right-of-way to all traffic, as defined in Section 620, approaching on the highway close enough to constitute an immediate hazard, and shall continue to yield the right-of-way to that traffic until he or she can proceed with reasonable safety.*

Again, California law requires the driver to yield to "all traffic," including cyclists and pedestrians, approaching on "the highway" close enough to constitute an immediate hazard—and under California law, "the highway" includes sidewalks. The fact is, the driver simply wasn't watching where he was going. His vehicle was proceeding right, but he was looking left.

And that raises another issue in California law—drivers must keep a proper lookout for other persons or vehicles, and must keep their vehicles under such control so as to be able to avoid a collision. Had the driver kept a proper lookout, as he is required to do under the law, he would never have collided

with the cyclist. Because the driver wasn't keeping a proper lookout, even if the woman had been walking, the driver would in all likelihood still have hit her, and he would be at fault in the eyes of the law. But because she was on a bicycle, and prohibited from riding in that location, the investigating officer turned a blind eye towards the driver's own violations of the law.

Now, just to be clear, this is not a defense of riding into the path of a turning car while on the sidewalk (and in violation of the law, at that). It's not a safe practice, whether legal or not. But that is beside the point. An impartial investigation would have found fault on both sides. Both parties violated the law, both parties share some blame for the collision. But instead of conducting an impartial investigation, law enforcement shifted all of the blame to the cyclist.

And that is the very essence of anti-cyclist bias in law enforcement.