



May 6, 2010

An Open Letter to Law Enforcement and Press Leaders in Oregon

Re: Reporting of Collisions Involving Vulnerable Road Users

On Tuesday, April 27, 2010, representatives of the Willamette Pedestrian Coalition (WPC) and the Bicycle Transportation Alliance (BTA) met and presented a collection of requests for consideration by law enforcement and media leaders.

These organizations represent Oregon non-motorized road users, folks who use Oregon's roads and sidewalks without the protection of a steel enclosure. And when a collision with a motor vehicle occurs, Oregon's vulnerable users almost always receive the most severe damage. It concerns us to see messages to the public containing details and accounts about these avoidable crashes without also providing important information to educate the public and reduce the likelihood of it happening again.

Please understand at the outset we are not asking that blame or fault be assessed before any legal determination has occurred; instead, we are frustrated that publicly disseminated accounts of collisions do not fulfill the potential of these teachable moments by including education about the law.

While we are pleased that Oregon has experienced tremendous growth in bicycling and walking over the last decade, as more people take to the streets without cars, inevitable user conflicts arise and it is important to educate not just drivers, but also vulnerable users about the operative rules for sharing Oregon's bridges, sidewalks, and multi-use paths.

The list of points on the following pages should be included when applicable to inform everyone about the Rules of the Road applying to collisions.

This list is not intended to be exhaustive, but instead to provide examples:

- When reporters or law enforcement release details about a crash, instead of saying “no citations were issued” (which suggests that the police made a determination that there was no violation of the Oregon Vehicle Code), it would be more accurate to state “no citations have been issued at this time, but citations could be issued at a later time”.
- Referring to collisions and crashes as “accidents” suggests that these incidents “come with the territory” or are part of the normal human experience. It is our view that even if the person walking or biking is mostly at fault, collisions are events that are avoidable and involve an unacceptable level of disruption to traffic safety.
- Current budgetary constraints cause an approximately two-month delay in the investigation of many serious collisions where a participant has a blood or urine sample that must be analyzed before the District Attorney can make the necessary determination about whether a crime will be charged. The April 29, 2010 Oregonian article describing the recent Tri-Met bus double-pedestrian fatality does a commendable, but all too rare, job of describing how the investigation has been delayed by the backlog of laboratory work already in the pipeline.

Unfortunately, crime lab delays give victims, drivers and the public an inaccurate picture that “nothing is being done” when in reality the funding for the criminal justice system is so far below what is necessary for prompt laboratory work up that the entire process must be placed on hold until results are available. Typically, this means that while the District Attorney’s office receives the police crash investigation and any reconstruction within a week of the collision, it must wait approximately two months until the lab results are complete before making the ultimate charging decision, and, if no crime is charged, referring the case back to the police for consideration of a non-criminal traffic violation charge.

During this two-month waiting period, community members who expect the police to “do something” are frustrated and police and prosecutors waste scarce resources having to explain why the process is taking so long. We all need to do a better job in letting the public know how the process works so that the community can place more pressure on the legislature and our elected leaders to provide sufficient funding for our crime lab so that these delays do not occur. When the public believes that the reason for the delay is because the “investigation is continuing”, it gives the wrong impression that it is somehow the DA’s office or the police who are delaying the process, when in fact everyone is waiting for the laboratory work-up. DA’s can’t release a case to the police for a traffic citation until they have the laboratory work to avoid a possible double

jeopardy problem in which a defendant pleads guilty to a traffic citation before the lab results show the defendant was impaired by some substance. If we do not publicize which part of the system is causing them, the entire system is blamed for the inexcusably long delays caused by the log jam at the crime lab.

- Blog postings, letters to the editors, and general interest in stories about commuting and traffic make it clear that Oregonians want to hear and read stories about traffic issues. Whether in the context of a story about a collision, complaints about other user groups or driver frustration with particular intersections, traffic stories are a popular area for folks who follow the news. BTA, WPC, the Department of Motor Vehicles, the Oregon Department of Transportation and the Oregon legislature all put substantial resources into websites and educational materials, including printed and on-line guides to Oregon traffic laws.

We believe informing the public about Oregon traffic laws is an important community service and suggest that news releases and new stories include the text of applicable laws. Citing and explaining the law, including providing graphic or real-world examples of safe practices, favors no particular road-user group but benefits all. The following provisions could easily be included in press releases and news stories to help people understand the operative rules:

(1) Non-bicyclists in bike lanes:

Drivers must yield to bicycle riders in bicycle lanes, but, as long as they do yield, may cross the bike lane as necessary to make a turn (ORS 811.440) or momentarily stop in it to load or unload passengers or property (ORS 811.560 (2)(3)).

Pedestrians in bike lanes are to bicyclists what bicyclists on sidewalks are to pedestrians. Pedestrians must yield to bicycle riders in bike lanes for the same reason pedestrians must yield the right of way to all vehicles in the roadway except in cross-walks or on sidewalks under ORS 814.400.

(2) Bicycle riders must yield to pedestrians on sidewalks and provide an audible signal when passing. ORS 814.410.

(3) Drivers must also always yield to bicycle riders and pedestrians on the sidewalk. ORS 811.055, ORS 811.025.

(4) If bicycle riders expect motor vehicles to yield to them on crosswalks and sidewalks, then riders must proceed at no faster than a walking speed. ORS 814.410.

(5) Drivers and bicycle riders (bicycles are also vehicles under Oregon law) may not pass another vehicle stopped at a crosswalk for pedestrians to cross. ORS 811.020.

(6) All vehicle operators (including bicycle riders) must stop and remain stopped to provide pedestrians safe passage in marked and unmarked crosswalks, providing two full lanes at a regular intersection, or one lane, plus six feet if there is a traffic control device regulating the crosswalk. ORS 811.028.

(7) While there are no signs to provide notice to Portlanders, Portland Ordinance 16.70.320 provides up to a maximum \$500.00 fine for riding a bicycle anytime on a sidewalk between SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue. Bicycle riders may ride on sidewalks any other place in the City.

(8) Bicycle riders and pedestrians have the right of way on crosswalks and sidewalks, but may not move suddenly from a place of safety into the path of an approaching vehicle that is so close as to constitute an immediate hazard. ORS 814.410 (1)(a). This important law modifies the pedestrian and bicycle rider right of way on crosswalks and sidewalks.

(9) It is against the law to open a vehicle door so as to interfere with the passage of pedestrians or bicycle riders. ORS 811.490.

(10) Bicycle riders may use a regular traffic lane and ride up to two abreast so long as they do not slow down the normal speed of traffic, at which point they must ride single file and as far to the right (or also to the left on a one-way street) as "practicable" or practical. ORS 814.430(2); (2)(e).

(11) When surface hazards or other conditions, including narrow roadways or the need to make a left turn arise, a bicycle rider has a right to take the entire lane even if it means drivers must slow down or stop, but only for so long as the hazard exists. Drivers and bicycle riders are allowed to legally share and cooperate in the use of regular traffic lanes and drivers must provide sufficient room when passing bicycle riders at speeds above 35 miles per hour so that if the rider fell into the roadway toward the vehicle, there would be sufficient room that the passing vehicle would not touch the bicycle rider. ORS 811.065, ORS 814.430.

It is our experience that Oregonians are interested in the Rules of the Road. The real world injuries to people who walk and bike offer law enforcement and reporters plenty of teachable moments to translate into news presentations that will ultimately make it safer and easier to share the by-ways of our state. We call upon Oregon's law enforcement and press leadership to make a commitment to better educate themselves and the public about traffic laws. Please consider the undersigned as your willing and enthusiastic partners in strengthening educational messages that make our roads safer for everyone.

Very Truly Yours,

Willamette Pedestrian
Coalition



Swanson, Thomas &
Coon



Bicycle Transportation
Alliance

