

Baltimore Spokes

Biking in Baltimore

<http://www.baltimorespokes.org/>

I am Barry Childress, from the Glen neighborhood in northwest Baltimore. For the last decade I have run the Baltimore Spokes website, the primary website focused on bicycling in Baltimore.

I would like to amplify an aspect of Carol Sildorf’s testimony: Police reports that blame cyclists for crashes with automobiles even though the cyclist followed the rules of the road but the driver did not.

Table 1 lists some examples of crashes where the police assigned fault to a cyclist who had the right of way, based on creative theories of how one should bike, which have no basis in either the law or safe cycling principals.

Police reports don’t establish the law the way a court opinion does, but there is little case law in Maryland on this issue. And negotiations with insurance companies are rarely public. Police reports are public documents, often cited in the news.

Table 1: Examples where police reports or public statement blamed cyclists who had the right of way						S o u r c e
Year	Location	Victim	Cause of crash	Fatal-ity?	Police theory	
2004	Cross Country and Green Spring, Baltimore	My daughter	Right hook	no	Should ride bike in crosswalk	1
2004	Green Spring	My daughter	Right hook	no	Should <i>not</i> ride in crosswalk	1
Aug. 2000	Great Seneca Hwy Montgomery County	Jonathan Balcombe	Driver made right turn at stop sign, struck bike in trail crossing.	no	Under “boulevard rule,” trails are inferior to roads even if road has a stop sign.	1
Oct. 2009	Clark’s Landing Rd, St. Mary’s Co	Curtis Leymeister	Driver with fogged windshield rear-ended cyclist	yes	Cyclist should ride farther right	2
Aug. 2009	Maryland Ave, Baltimore	John Yates	Right hook by a truck	yes	Maryland Ave, Baltimore	1
Missing	Missing	Missing record	Cyclist rear-ended in left lane, waiting to make a left turn	no	Cyclist should keep right through intersection, and then cross.	1
Dec. 2013	Jones Fall Trail X-ing Baltimore Street.	Henry Densmore	Truck made right turn on red, struck bike in trail crossing.	no	Cyclist should not ride bikes on Jones Falls bike trail	1
Source: 1. Police report 2. Police statements to media.						

Police reports and statements shed light about the law, in three ways.

First, they provide a starting point for insurance companies and crash victims, especially those without lawyers. If the police report says that the cyclist was at fault, insurance companies will usually deny claims; and many cyclists will simply give up at that point, especially when the stakes are small compared to legal fees.

Second: police reports are an indicator of the sentiment of the average person. If a police officer trained in traffic rules thinks that the cyclist is at fault for being struck when the driver violated her right of way, there is a fairly good chance that a jury would think so as well.

And third: Police statements to the public generally influence the thoughts of the overall jury pool about what a “reasonable person” will do. When a driver runs down a cyclist riding lawfully, the police are more likely to talk about ways that cyclists can avoid being struck by negligent drivers, than to encourage drivers to stop being negligent: We hear: “cyclists: wear bright colors” after crashes. We do not hear: “Don’t drive on the shoulder to pass a line of cars” or “Clear the frost off your windshield.”

The table includes an example involving a frosted windshield. In October 2009, shortly after, Curtis Leymeister was biking in St. Mary’s County about 4 feet to the left of the fog line on a road whose shoulder had debris and overhanging branches—biking where the law said he should be. He was run down and killed by a woman who had only cleared the frost from the left side of her windshield. After the crash, the police did not mention the frost; but they did announce that the cyclist was riding too far to the left. This kind of statement can influence perceptions of drivers, cyclists, insurance companies, and jurors about the fair outcome of any litigation. If Senate Bill 808 was law, the starting point would instead be that the cyclist was riding legally and the driver illegally.

My daughter has the first two entries in this table. We were riding bikes along Cross Country in Baltimore, and as we crossed the intersection with Green Spring, a driver made a right turn into her. The police said she should have been riding in the crosswalk. That did not seem right to me, but after that, my daughter would meander to the right at every intersection with a marked crosswalk. Six months later she was hit again, and this time the police said that she should **not** have been in the crosswalk.

Fortunately, both times the injuries were relatively minor. I now understand that we had valid claims against the first driver, and maybe the second one as well. But the police said it was her fault. And once the police say you are at fault, you have no chance with an insurance company. But if Senate Bill 808 was law, then the police report would have to say what law she violated for the insurance company to deny the claim based on her supposed negligence. That would be hard to do if she didn’t violate the law, so the law would do a better job of protecting people who follow the law, which is all that we ask.