

Memorandum

To: Jeff Wiggins, *City of Cheyenne* and Sreyoshi Chakraborty *Cheyenne Metropolitan Planning Organization*

From: Jessica Roberts, Rory Renfro, and Kim Voros, *Alta Planning + Design*

Date: August 17, 2011

Re: Law Enforcement Recommendations



The purpose of this memorandum is to provide the City of Cheyenne and the Cheyenne MPO with recommendations for building successful partnerships with law enforcement agencies for the purpose of improved bicycle and Greenway safety.

The memorandum includes:

- Recommendations for collaborating with law enforcement agencies
- Recommendations about potential enforcement actions
- Identification of topics related to successful enforcement that can be pursued by other agencies

These recommendations were developed by Alta staff based on previous work with law enforcement professionals from the Portland (OR) Police Bureau and from bicycle and pedestrian planning efforts around the country. Interviews were also conducted with Michelle Poyourow, former police liaison for the Bicycle Transportation Alliance in Oregon, and Officer Robert Pickett of the Portland Police Bureau. These interviewees were selected because they worked together over many years to successfully strengthen relationships between the police bureau and the bicycle community, and were able to undertake cooperative enforcement initiatives, including the co-production of a police training video, that are considered a best practice in the field.

Creating a Relationship

Transportation/public works departments and law enforcement agencies are both public agencies, yet there are some key differences between standard operating procedures that are important to consider even when both agencies share a common goal of increased road user safety.

Transportation and public works employees are expected to consider and respond to residents' complaints and recommendations and involve the public in decisionmaking. The success of a transportation project and its project manager's performance is often measured by a collaborative stakeholder involvement process that includes other agencies as well as the public, and that results in public support for (or lack of public opposition to) a project. Transportation professionals also deal with projects that are expected to stretch out for years between visioning and completion. Their work is typically policy or standards based.

By comparison, the work of law enforcement agencies is not primarily driven by public input or an expectation of a high level of citizen engagement. The work of law enforcement professionals is, on a day-to-day basis, primarily reacting to field incidents or unique complaints. Much of their day-to-day duties take place in the field, and not in an office where they are readily accessible by computers or phone, and their job

description generally does not include an expectation of working on long-term projects or involvement in cross-agency partnerships. The successful performance of law enforcement staff is often measured by quantitative enforcement targets and by the ability to prevent incidents from escalating. Their work is typically based upon successful interpretation of law as it relates to public safety.

For these reasons and others, creating a successful collaborative relationship between public agency transportation staff and law enforcement staff will require patience, time, empathy, and a sincere commitment to building understanding and creating shared goals.

However, there are also similarities between transportation agencies and law enforcement agencies. Both are committed to the goal of improving the health and safety of residents while they travel throughout the city. Both agencies set proactive priorities that can be changed on short notice by elected officials in response to a crisis that results in community outcry (such as a tragic road crash). And both transportation and law enforcement professionals have unique skills and knowledge that can serve the interest of improving road safety for all residents.

The key to working across professional disciplines to identify and solve bicycle related enforcement and safety issues is straightforward: you must identify the **correct partner** who can help you understand the agency's **priorities and decision-making structure**, and then work together to identify activities that **serve both organizations' needs and priorities** in order to successfully **execute cooperative enforcement and education campaigns**.

To that end, City of Cheyenne and Cheyenne MPO transportation staff should:

- Educate themselves about the roles and responsibilities of the Cheyenne Police Department and the Laramie County Sheriff's Department, particularly around traffic enforcement.
- Educate themselves about the organizational chart and chain of command for both the Cheyenne Police Department and the Laramie County Sheriff's Department in order to understand who makes decisions and who reports to whom.
- With respect to the traffic enforcement division, staff should also find out how officers are assigned to traffic enforcement (e.g., voluntary placement vs. involuntary transfer), if traffic enforcement is considered a desirable placement, and if officers are likely to stay with the traffic division for any length of time.
- Offer to hold briefings with patrol and traffic staff to inform them on speed limit setting, traffic control warranting and other basic traffic engineering topics.
- In addition to understanding the traffic division, identify other law enforcement divisions/teams/activities that are relevant to bicycle and greenway safety (such as community policing, school resource officers, or public information officers).
- Find out what the stated enforcement priorities are for the Cheyenne Police Department and the Laramie County Sheriff's Department. These may be identified by examining budgets, reading or hearing testimony during budget hearings, or through news releases. For example, in May 2010, incoming Cheyenne Police Chief Brian Kozak stated that alcohol and drug prevention for youth would be a priority for the Cheyenne Police Department.

- Upon understanding enforcement priorities, identify current agency efforts that already support bicycle safety, and thank them (privately and publicly). Make sure they understand how their work relates to bicycle safety. For example, DUI and speed enforcement directly tackle safety issues that endanger bicyclists, even though that is not likely to be a primary reason for making it an enforcement priority.
- Find small projects on which to collaborate (e.g., requesting law enforcement presence at International Walk-to-School Day events in October). Ideally, this initial partnership will be an event that is likely to generate positive community feedback. The experience gained, and the relationships formed, in working together on an initial small effort will form the basis for longer-term efforts that may require more intensive collaboration and tackling potentially controversial issues.
- Include law enforcement funds in appropriate grant applications to fund police overtime (with bureau cooperation). For example, Wyoming DOT Safe Routes to School grant requests may include enforcement staff time (provided it is overtime and not salaried staff time). It may also be effective to request that the Cheyenne Police Department/Laramie County Sheriff provide letters of support for grant applications. Ideally, ideas for grant requests will come out of shared issue identification and ideas for solutions.
- Staff should work to identify the best internal advocate (the likeliest candidate is a bicyclist) and work from there no matter what his/her official role is. Regularly ask the established contact(s) for advice and input on enforcement and public safety issues.
- The City and MPO should create a reserved seat on the Bicycle Advisory Committee (if a permanent committee is formed) or on the Greenway Committee for law enforcement and request agency participation on an ongoing basis. This request will be most effective if it is made from senior staff or elected officials and directed at peer management staff at the Cheyenne Police Department/Laramie County Sheriff's Department.
- Ask officers to note repeated locations for collisions and recommend operational changes appropriate to their understanding of the problem
- Establish regular meetings with traffic staff from both Public Works and Police to:
 - Discuss resident complaints and develop a comprehensive approach for evaluation and response
 - Discuss collision patterns and opportunities for increased enforcement or operational changes
 - Get to know each other and develop a shared understanding of each profession's performance measures, values, and practices

Potential Enforcement Activities

This section contains recommendations about enforcement activities that should be a high priority because of their impact on bicycling safety. It also includes information about enforcement actions that may be suggested, but that are not maximally effective at improving bicycle safety.

The following factors¹ should be considered when developing enforcement campaigns:

- In the US, youth (under the age of 15) and seniors (65 and over) are overrepresented in bicycle-vehicle crashes. Enforcement at sites where youth and/or seniors are expected to be may yield stronger safety benefits.
- Two-thirds of bicycle crashes occur during late afternoon or early evening. Enforcement actions during dusk may be more effective.
- Alcohol use (by the driver and/or the bicyclist) is a significant factor in bicycle/vehicle crashes.

High-Priority Enforcement Targets

Driver Behavior

The following driver behaviors are known to be particularly dangerous for bicyclists, and enforcement efforts on these fronts have led to improved road safety for bicycling in many communities.

- **Driving Under the Influence (DUI)** – DUI crashes are particularly problematic for nonmotorized road users because defensive riding cannot prevent them.
- **Distracted Driving** – Distracted driving is an increasing problem in the US and affects all road users, including bicyclists. Reducing distracted driving is a major priority for the USDOT under the current administration (see <http://www.focusdriven.org/>). Wyoming currently lacks a law making it illegal to use cell phones while driving, but in 2010 Governor Freudenthal enacted a law banning texting while driving. In 2010, the City of Cheyenne enacted a ban on hand-held cell phone use.
- **Speeding** – Speeding reduces the ability of drivers to stop and increases both the incidence and severity of crashes.
- **Red Light Running** – Drivers running red lights are usually traveling at a high rate of speed and will, by definition, confront cross traffic (such as bicyclists) that has a green light and the legal right-of-way.
- **Failure to Yield to Bicyclist** (e.g., in bike lane or while executing a left turn) – this can lead to right or left hook crashes, which are both common and often severe.
- **Dooring** – Dooring collisions occur when a person in a car suddenly opens the car door into the path of a cyclist. While dooring crashes are generally less severe than other crash types, they are more common in urban settings with on-street parking.

Bicyclist Behavior

- **No Lights at Night** – Lack of lights at night is a major causal factor in bicycle-car crashes.
- **Running Red Lights** – Just as with motorists, bicyclists running red lights will be in conflict with cross-traffic.

¹ Source: Federal Highways Administration Course on Bicycle and Safety Transportation:
http://safety.fhwa.dot.gov/ped_bike/univcourse/pdf/swless124.pdf

- **Riding against Traffic** – Riding against traffic, either on or off the sidewalk, contributes to the likelihood of a crash because motorists will not be accustomed to looking for cyclists approaching the wrong way in their lane.
- **Bicycling Under the Influence (BUI)** – Bicyclists who ride while intoxicated are more likely to be involved in a crash that injures themselves and others. They should be included in DUI enforcement actions.

Other Behavior Targets

The following behaviors also relate to bicycle traffic safety and may also be considered for enforcement actions.

- **Harassing Cyclists** – Unfortunately, motorists harassing cyclists can be common, especially before on-street bicycling facilities are installed. While it is difficult to undertake proactive enforcement to prevent this, reports from cyclists that they have been harassed should be taken seriously by law enforcement.
- **Close Passing** – A law proposing a minimum 3-foot passing distance was rejected in Wyoming in 2011, so this is not enforceable at this time. If such a law were to be enacted in the future, it may be a good enforcement target. However, as the bicyclist has all the rights of a driver in the state of Wyoming, rule 31-5-203 (governing overtaking on the left at a safe distance) applies and enforcement could be discussed with local law enforcement agencies.
- **Bicycle Theft** – Bicycle theft can be a major problem, especially for low-income residents who cannot afford to replace a stolen bicycle. Law enforcement can set up bike theft stings by leaving a valuable bicycle unlocked and setting up surveillance to catch bike thieves in the act.
- **Failure to Yield in Bike Lanes** – As Cheyenne installs more on-street facilities, motorists failing to yield to bicyclists in bike lanes may become a larger problem. The most common issue will be drivers traveling in the same direction as a cyclist in the bike lane, then executing a right turn into a driveway, into a parking space, or at an intersection across the bike lane without yielding the right of way. Again, it is possible for law enforcement to set up a sting operation in which a plainclothes police officer rides a bicycle in a bike lane and other officers issue moving violations to motorists who fail to yield.
- **Failure to Stop at Intersection** – Because Cheyenne does not install stop bars at stop-controlled intersections, many motorists only come to a stop once they have entered the intersection. Some do not even come to a full stop but rather roll into a right turn, contributing materially to the threat of right-hook crashes with bicyclists. Enforcement efforts to ticket this behavior will improve bicycle safety (as well as contributing to a safer pedestrian environment).
- **Parking in Bike Lanes** – Parking in bike lanes significantly reduces the safety and mobility benefits of bike lanes. Enforcement against parking in bike lanes is important and can be handled in response to complaints and/or as a proactive enforcement priority, but it should be noted that this function is handled by City of Cheyenne parking enforcement staff and not by the Cheyenne Police Department/Laramie County Sheriff's Department.

Red Herrings

The following enforcement actions may be proposed by community members or elected officials, though their effectiveness has been shown in other communities to be limited.

- **Helmets** – Wyoming does not presently have a mandatory helmet law, but if one were to pass, this should not be an enforcement priority because it is not a causal factor in crashes, and because enforcement resources spent on helmet ticketing actions would be more effectively applied elsewhere.
- **Running Stop Signs in Residential Neighborhoods** – Running stop signs is legally “failure to yield,” however running stop signs in residential neighborhoods is not generally associated with increased crash risk, and is not likely to result in major crash risk for either bicyclists or motorists. Chronic issues with cyclists running stop signs at a specific location may indicate that the traffic control patterns should be reassessed for potential engineering changes.
- **Bicycle Licensing** – Cheyenne city code requires mandatory bicycle licensing. This is a practice that is generally considered obsolete in the US, because licensing fees do not cover the cost of administering the program, because mandatory licensing requirements often punish lower-income riders, and because law enforcement professionals are generally unwilling to expend resources on enforcement.
- **Failure to Use Paths or Bike Lane** – A statute requiring bicyclists to use paths or bike lanes if they are available was repealed in 2007. This is good practice, as there are many circumstances where it is reasonable for a bicyclist to leave the bike lane, such as to avoid debris or obstacles, to avoid car doors opening, to pass another bicyclist, or to change lanes in order to execute a left turn. If law enforcement officials are not aware of the repeal of the mandatory bicycle facility law, they may inappropriately penalize skilled cyclists who are exercising good judgment to avoid hazards.
- **Failure to Ride Single File** – Wyoming’s Motor vehicle code (31.5.704) prohibits riding more than two abreast, except on bicycle facilities, and also prohibits those riding two abreast from impeding the normal flow of traffic. Motorists often object to recreational bicyclists riding side-by-side. Despite complaints, however, this behavior is not linked to significant crash risk, and as for bike lanes (above) may be a specific effort to address safety issues (e.g., by taking the lane through a road curve where passing would be unsafe).

Related issues

This section contains information about longer-term campaigns and potential actions that go beyond issuing moving violations to create a comprehensive enforcement culture that supports bicycle safety.

- a. **Diversion Class** – A diversion class allows motorists and/or bicyclists who receive moving violations to pay a fee and attend a safety class in lieu of a ticket. The class can reduce the cost of the infraction, both in the short term, and in the long term, as it relates to insurance

costs. The benefit of this approach is that many residents may never have learned about traffic laws related to cycling, and this class is one of the few ways of communicating that information. In order to create a diversion class, City/MPO staff will need to work closely with the Cheyenne Police Department and the Laramie County Sheriff's Department as well as with all court systems that process moving violations (including Laramie County Court and the Cheyenne District Court).

- b. **Crash Reporting** –the true nature of bicycle/vehicle crashes is often difficult to understand from the collision report. Best practices in crash reporting include: using a GPS location code that can be displayed on a map; recording bicycle crashes separately from motorcycle crashes; recording crashes on all facilities (e.g., not just city-owned facilities); recording single-vehicle bicycle crashes in addition to bicycle-vehicle crashes (coded differently); differentiating between crash types. It is also helpful to invite public works staff out to the scene of a bike-involved collision when the incident report is being made.
- c. **Law Enforcement Training** – Most law enforcement professionals do not receive training specific to bicycle laws, handling, or safety. Police education courses and/or training videos can help officers improve public safety and enforce existing laws more effectively by providing them with the training they need. This is particularly important after laws are changed or added that pertain to bicycle safety.

Two excellent sample police training videos can be viewed here:

- City of Chicago (IL):
http://www.chicagobikes.org/video/index.php?loadVideo=police_training_2009
- City of Portland (OR):
<http://www.portlandonline.com/police/index.cfm?a=266259&c=50412>

- d. **Changes in the Road Environment** – When a new bicycle facility is installed, or when a change to traffic control patterns is made, motorists may not be aware of their responsibilities and expected behavior. It is a good idea to consider publicizing new facilities through media outreach, and possibly through posters/signs/banners. If it is expected that many motorists will not comply with laws (e.g., yielding to bicyclists in a bike lane), an integrated enforcement campaign should be considered, and publicized as part of media outreach. Often this takes a phased approach, where media outreach is done just before the facility opens, followed by law enforcement issuing warnings for a set period of time, followed by ticketing actions.
- e. **Signal Detection** – If actuated signals are not optimized to work for bicycle detection, either because the actuation area is not marked or because the sensor calibration is not set properly, bicyclists may end up running red lights because they have no other way to get a green light. In this case, the appropriate response is to fix the signal actuation rather than ticket bicyclists. If law enforcement officers understand this issue they can raise the issue to transportation/public works staff when they encounter it.

- f. **Bicycle Theft and Resale** – Law enforcement can help combat bicycle theft in several ways. One way is to investigate reported bicycle thefts. Unfortunately, this is often seen as a low-priority activity, but if thieves know that reported thefts are routinely not investigated or prosecuted, they are likely to become bolder in their activities. Another important factor is how bicycle resale is handled at secondhand goods dealers and pawn shops. It is a good idea to require shops to view and record photo identification for resale bicycles, and to require them to hold secondhand bicycles for a mandated waiting period (e.g., two weeks) and require them during that time to check against stolen bicycle listings registered with law enforcement. These statutes should be developed with input of affected retailers to craft a statute that reduces the ability to sell stolen bikes without unduly burdening retailers.
- g. **Automated Enforcement** – Automated enforcement such as red light running cameras and photo speed radar enforcement have been shown to be very effective at reducing these dangerous driver behaviors. Unfortunately, many states do not allow the use of automated enforcement tools, and oftentimes the use of automated enforcement can be controversial. If Cheyenne area law enforcement agencies think it would be possible to work toward a long-term program that uses automated enforcement technologies, the City and MPO should support this effort.