

# Encouraging cycling while discouraging unlawful behaviour:

**Cycling is the fastest-growing method of transport in Vancouver. As cycling increases, instances of conflict between bike-riders and other road users is also rising. Are separated bike lanes forward-thinking or "elitist?" Should police focus on ticketing scofflaw cyclists or disrespectful drivers? Is it time to consider a license and insurance program for bikes?**



The recently-completed cycle path along 10th Avenue near Vancouver General Hospital. The City of Vancouver's Transportation Plan 2040 highlights the need for multi-modal transport options, and places emphasis on cycling as a sustainable means of moving around. However, separated bike lanes have attracted the ire of several politicians, including Wai Young of Coalition Vancouver, who referred to them as "elitist" and have promised to remove some of the lanes should she and her party be elected.

For many people, hopping on a bicycle and heading out for a ride on a sunny day is one of life's great pleasures. It's refreshing to be outdoors on two wheels, the wind in your hair and the sun on your face. Peddling a bicycle is good for your physical health, exercising your lungs and building muscle-strength. Cycling also has positive impacts on mental health, providing a new perspective and allowing time to think deeply. Better still, cycling improves our city's air quality, as the act of cycling releases exactly 0 emissions and pollutants into the atmosphere. Oh...and did I mention you can move yourself to somewhere new? All in all, a great form of transport.

Recognizing the positive benefits of cycling, Vancouver's city council has made an effort to encourage cycling as part of the city's overarching transportation plan. The city set ambitious targets of increasing trips made by transit, walking and cycling, and according to outgoing Mayor Gregor Robertson, the city has achieved its 50% target ahead of schedule.

As a municipal policy, encouraging cycling is admirable. Cyclists definitely have a role to play in enhancing our city's livability. So why is it that many people have a beef with cyclists in this city?

The answer may be found in the lived reality of many Vancouverites, many of whom have encountered cyclists who seem to feel the rules of the road do not apply to them. Nearly everyone can recount a story of a cyclist acting without any regard for anyone's safety — either theirs or other road users. On a recent cycle trip to and from downtown, around 10 different infractions committed by cyclists were witnessed: rolling through stop signs, cycling through crosswalks, failing to exercise due care and attention, crossing against red lights.

Recently, an opinion piece in the Vancouver courier by CBC presenter Grant Lawrence titled: "Vancouver's hyper-aggressive cyclists are ruining it for everyone" brought this issue into the spotlight. Lawrence, himself a cyclist for 25 years, calls out fellow bike-riders for a

myriad of offences against cars and pedestrians, recounting instances of helmet-less riders narrowly missing pedestrians in crosswalks and other dangerous behavior.

Here at the Voter's Voice, we agree that cycling can be a means to improve congestion, reduce pollution, support sustainability and improve people's health. But we recognize that the current system cannot continue. Not only is it unsafe and unfair to all road users, but it perpetuates the stereotype that cyclists consider themselves exempt from laws, as well as from criticism. This gives cyclists a bad name, and gives drivers additional ammunition to attack cycling as a policy, and an excuse to withhold respect from law-abiding bicyclists.

During the election campaign, the subject of law-breaking cyclists has been addressed by candidates such as Wai Young. While Young's platform would have the biggest impact on cycling, as she advocates for the removal of some separated bike lanes, other candidates have weighed in as well. Gauging the

public's mood on this issue, they have responded with platforms emphasizing the need for cyclists to follow the rules of the road.

To help clarify the laws surrounding cycling, especially surrounding liability in issues of potential conflict between cyclists and other road users, the Voter's Voice consulted lawyer David W. Hay of Richards, Buell and Sutton LLP. Hay is a litigation lawyer whose focus is on personal injury. He is also a cycling advocate and a member of the Road Safety Reform group, formed with the goal of updating and amending the Motor Vehicle Act to reflect the disparity between cyclists and other road users.

We began by asking Hay to clarify what would happen in the event of a collision between a cyclist and a vehicle, given that cyclists do not hold insurance similar to drivers through ICBC.

**We asked:** "I stop my car suddenly and a cyclist rear-ends me. If it were a car then ICBC would handle it. Do I have to take them to court?"

**Hay replied:** "You need to pursue the cyclist who may or may not have insurance and/or assets to satisfy the judgment."

**We asked:** "A cyclist hits a pedestrian and injures them. If the cyclist keeps going, is it legally a hit-and-run and therefore now a crime?"

**Hay replied:** "Yes it is a hit and run but differs from a car scenario for which there may be statutory coverage under the hit and run provisions of the Insurance (Vehicle) Act. If the pedestrian cannot identify the cyclist there is no financial recourse other than possibly recovering under the Crime Victim Assistance Program."

**We asked:** "If a cyclist is approaching an intersection intending to go through, yet a driver has slowed to turn right, the responsibility on the driver to assess the speed of a cyclist, then make the turn while yielding appropriately. In the case of a collision, how would ICBC assess this situation?"

**Hay replied:** "The resolution of the scenario you describe

# the delicate dance facing the next mayor and council

would depend on a number of common law considerations arises from a number of facts: for example, whether the cyclist was in a bike lane is important. If so, the motorist would have a higher duty of care based on foreseeability. If the motorist has passed the cyclist prior to the intersection then he/she knew, or ought to have known, the cyclist would be proximate to the vehicle when the vehicle began its turn. On the other hand, absent a bike lane and assuming the motorist never passed the cyclist, and the cyclist approached a right turning vehicle from behind, it is likely the cyclist would be found partly if not wholly liable for passing on the right."

Finally, we asked Hay whether the city could relegate cyclists to certain roads, perhaps non-arterial roads during rush hour. Hay replied that since the province has jurisdiction over road use under the Motor Vehicle Act, that "if the City were to pass legislation restricting road use it would be deemed ultra vires and unconstitutional."

**The Voter's Voice position:** we support separated bicycle lanes to protect cyclists. At the same time, we ask the mayor and council to encourage cycling along non-arterial routes during certain times (i.e. no bikes on Broadway; use 10th Ave or 7th Ave). We ask council to commit to enforcing cycling legislation,, and we ask council to explore the possibility of bicycle licensing and insurance.

The Voter's Voice encourages witnesses to cycling and or traffic violations to call the Vancouver Police Department's non-emergency line: (604) 717-3321.

We asked candidates:

"Vancouver has prioritized cycling in its transportation plan. Cycling has increased, but law-breaking and unsafe bicycling practices persist. What measures would you take to promote cycling while cracking down on illegal activities (running red lights/stop signs)? Would you support any sort of a licensing system for cyclists?"

**Constance Fogal (IDEA Vancouver):** Yes to licensing of



**A cyclist balances several bags while riding along Clarke Drive near 1st Avenue. Should cyclists without helmets or those operating their bicycle unsafely be the target of an educational campaign...or is it time for police to crack down on law-breaking bikers?**

cyclists. Direct the city police to enforce traffic laws strictly on cyclists.

**Raza Mirza (ProVancouver):** Policing is not the answer to bad road behaviour; we do it for cars and some drivers still do not stop at a Stop sign. The proper way to address this is education about safely sharing the road, which has to start at a young age. Vancouver has the highest per capita bike theft in Canada, yet most owners do not register their bike's serial number. Licensing will make sure they do and help with addressing bike theft.

**Wes Mussio (Coalition Vancouver):** Coalition Vancouver announced a "mutual respect" platform where by-law officers will be charged with ticketing 'flagrant' misconduct by cyclists. Everyone should have to follow the rules of the road, not just operators of motor vehicles. Licensing of bicycles should be considered to ensure accountability of the cyclist because they are "anonymous" right now, leading to more infractions. The licensing will also reduce bicycle theft by registering serial numbers to a particular owner.

**Penny Noble (independent):** I am a commuter cyclist but I also drive a car, and I have been

thinking a lot about licenses for bikes. I would like to explore this more. When I was growing up as a child we all had licenses for our bike with license plates. I know there is some opposition to this concept and it did not pass through City Council when there was a motion a few years ago. I would like to fully understand the reasons for the opposition and see if we can revisit this concept. Weigh up the pluses and minuses of such a system. I would also like to see some improved lighting for cycling at night. We need more education for both drivers and cyclists as to how to share the road safely, and what exactly the traffic laws are. It maybe we need to change some of our street rules - further to consultation such as the "gliding stop" at stop signs that are in place in some other cities. In terms of promoting cycling, I favour the "encouragement" approach, which is what we do through Bike to Work and School Weeks, as well as education and cycling safety training being made available through schools and workplaces.

**Kennedy Stewart (independent):** Cycling is an essential part of the transportation mix in our City and the few law-breaking cyclists out there run the risk of giving all cyclists a bad name. I support the Vancouver Police Department in cracking down on illegal and unsafe bicycling

practices. I do not support a licensing system for cyclists as it creates an unnecessary and expensive barrier to cycling.

**Shauna Sylvester (independent):** I support separated, safe protected bike lanes. We should be investing more in our cycling infrastructure. When people say: 'I saw a cyclist go through a stop sign!' Well, in the course of a block, I can't tell you how many infractions I see cars committing. Drivers roll through stop signs too. Having said that, we have to recognize that cyclists also have entitlement. I don't like anyone breaking the rules, either cyclists or drivers.

**Anne Roberts (COPE):** COPE supports increasing bike lanes, especially separated bike lanes, in the city as an important component in getting people out of cars and reducing carbon emissions. In the Netherlands, communities have found that increasing a mixed use of the roads is the best approach to creating a safe environment for cyclists and pedestrians and encouraging a more congenial attitude among car drivers. Some kind of version like Granville Island. Narrowing the roads, eliminating traffic controls and signage puts more onus on drivers to be more careful.