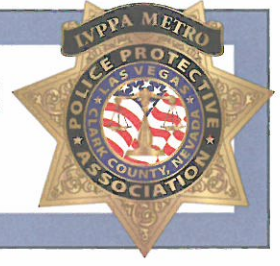




# Las Vegas Police Protective Association Metro, Inc.



To: Officer Kirk Guevara  
From: David Roger, General Counsel *DR*  
Re: Jurisdiction to Enforce Traffic Laws in Gated Communities  
Date: February 13, 2014

You have asked whether officers may enforce traffic laws in gated communities. This memo will focus on state traffic laws. First Amendment laws and cases dealing with public access to sidewalks are not applicable.

Nevada's traffic laws are set forth in NRS 484A through E. NRS 484A.400 (1) sets forth the jurisdictional parameters of the traffic laws, "The provisions of chapters 484A to 484E, inclusive, of NRS are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees."

NRS 484A.095 defines "Highway" as, "[T]he entire width between the boundary lines of every way dedicated to a public authority when any part of the way is open to the use of the public for purposes of vehicular traffic, whether or not the public authority is maintaining the way." All traffic laws apply to public highways. However, because gated community roads are not dedicated to public authority, traffic laws do not apply to its streets. Therefore, law enforcement does not have jurisdiction to write traffic citations to violators who they encounter in gated communities.

That said, Nevada's DWI statute NRS 484C.110 prohibits drivers from driving or being in physical control, "...of a vehicle on a highway or on premises to which the public has access." NRS 484.185 provides:

1. "Premises to which the public has access" means property in private or public ownership onto which members of the public regularly enter, are reasonably likely to enter, or are invited or permitted to enter as invitees or licensees, whether or not access to the property by some members of the public is restricted or controlled by a person or a device.

2. The term includes, but is not limited to:

(a) A parking deck, parking garage or other parking structure.

(b) A paved or unpaved parking lot or other paved or unpaved area where vehicles are parked or are reasonably likely to be parked.

(c) A way that provides access to or is appurtenant to:

(1) A place of business;

(2) A governmental building;

(3) An apartment building;

(4) A mobile home park;

(5) ***A residential area or residential community which is gated or enclosed or the access to which is restricted or controlled by a person or a device;*** or

(6) Any other similar area, community, building or structure.

3. The term does not include:

(a) A private way on a farm.

(b) The driveway of an individual dwelling.

Emphasis added.

The statute specifically allows officers to charge people who are DWI in gated communities. However, officers may not charge the individual with any other traffic violations as a gated community is not a highway.