

# Shifting The Blame, and Justice Denied, Again

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It's the issue that just won't go away—and cyclists are continuing to get stung by it. I'm talking about contraflow riding on the sidewalk—in plain English, riding on the sidewalk against the direction of vehicular traffic. Now, many [cycling safety advocates](#) strongly recommend against riding on the sidewalk. [Others](#) take a more nuanced approach. Personally, I occasionally ride on the sidewalk myself—even against the flow of traffic. So does [Bob](#). I'm aware of exactly what the danger areas are (for those who don't know, you need to be careful where driveways cross the sidewalk, because drivers **aren't** looking for you. You also need to be careful when leaving the sidewalk to enter a crosswalk), so I'm cautious when riding on the sidewalk (it is the domain of the pedestrian, after all, and it's only polite to be cautious when riding near pedestrians), and **extra** cautious when approaching driveways.

The point is, if you understand where the danger points are, and more importantly, how to avoid getting hit at those danger points, the sidewalk can be a safe place to ride (and let's face it, people often take to the sidewalk because it seems like a safer alternative than the traffic lanes next to them). And more to the point, it's typically legal to ride there—even if you're riding against the flow of traffic.

The problem is, law enforcement officers often just don't understand that it's legal. This was the case in 2009, when [a Los Angeles cyclist was killed while riding in the crosswalk](#). Although she had been hit by a driver who was making a right turn and never saw her in the crosswalk, the law enforcement officer charged with investigating the collision determined that the cyclist was the "primary cause" of the collision. The officer reached this conclusion based on his assertion that it is illegal for cyclists to ride on the sidewalk, and it is illegal for cyclists to ride against the direction of traffic. There's just one problem with that analysis—it's [completely wrong on the law](#). In California, it is perfectly legal for cyclists to ride on the sidewalk, unless prohibited by local law. And while cyclists are required to ride with the direction of traffic while on the road, it is perfectly legal to ride against the direction of traffic while on the sidewalk (and remember, a crosswalk is like an extension of the sidewalk across an intersection).

In other words, the Los Angeles cyclist had broken no laws. And yet, because the officer did not understand the laws regarding cyclists, the investigation was cut short, and the cyclist was declared to be at fault. Was the cyclist free of fault? Was the driver at fault? We will never know. The cyclist deserved a fair investigation, and did not receive it. Justice was not served.

She was not the only cyclist who suffered an injustice due to this mistaken understanding of the law. Four months later, the University of Southern California and the LAPD began ticketing students for several violations, including [riding in the crosswalk](#). Here's the thing—the traffic laws are intended to proactively promote safety by increasing certainty and reducing chaos. There's nothing wrong with a fair enforcement program, but citing cyclists for violations of [non-existent laws](#) is not a "fair enforcement program."

I was reminded of these incidents when I wrote about a [crosswalk collision](#) yesterday. And then, while responding to emails, I came across another story, this time involving a collision in Las Vegas, Nevada. In October of this year, a cyclist was riding on the sidewalk in Las Vegas, Nevada, as you might imagine, against the flow of traffic. As the cyclist approached a commercial driveway, a car was exiting. The driver did not see the cyclist (because drivers [don't look in the direction they are turning](#)) approaching from the driver's right, and there was a collision. The cyclist suffered non-life-threatening injuries. The driver explained to the investigating officer that she did not see the cyclist (cyclists take note, *this is exactly* why safety experts strongly recommend against sidewalk riding). After hearing the accounts of what happened, the officer ticketed the cyclist. As the cyclist understood it, the ticket was for riding against traffic on the sidewalk. This is where the incident really started to get interesting—and confusing.

The officer cited violations of state, county and city laws. Let's start with the state law violation. The officer alleged that the cyclist violated NRS 484.503; that statute has been replaced by NRS 484B.763, which specifies that the traffic laws applicable to motor vehicle operators also apply to cyclists—when the cyclist is operating upon the roadway. This means that when the cyclist is not operating on the roadway, the rules of the road for motor vehicle operators do not apply. Another way of saying this is when the cyclist is operating on the sidewalk, the rules of the highway apply. This means that on the sidewalk, cyclists are governed by the rules applicable to pedestrians. Thus, it is not against Nevada law to ride on the sidewalk, in any direction, so the cyclist didn't actually break any state traffic laws, regardless of the statute number.

OK, what about that county law violation? The officer cited the cyclist for violating County Code 14.052.010; this law states that traffic laws apply to cyclists. Yeah, but what traffic law did the cyclist violate? That non-existent law that prohibits riding on the sidewalk against traffic?

Well, what about that City Code violation? What was the cyclist charged with? A violation of 11.040.070, which requires cyclists to obey traffic control devices. Get it? The cyclist was riding on the sidewalk, and was struck in an intersecting driveway; there was no traffic control device on the sidewalk. Well, maybe the officer made another mistake, and meant to cite the cyclist for a violation of 11.40.060, which states that traffic laws apply to cyclists. Maybe. But again, it's not against the law for cyclists to ride against traffic on the sidewalk, so exactly what traffic law is the cyclist alleged to have broken?

What happened with this investigation is pretty clear. The officer figured that

because cyclists are required to ride in the same direction as traffic while on the road, they are also required to ride in the same direction as traffic while on the sidewalk. In fact, he may even have figured that it's against the law for cyclists to ride on the sidewalk, period. The only problem was, the officer couldn't find the exact law that specifies this (obviously, because [it doesn't exist](#)). So what did the officer do? He cited the cyclist for the vague violation of not obeying the traffic laws—only he was so unfamiliar with the applicable traffic laws that he even botched the statute numbers of the laws he was alleging the cyclist violated.

Look, it comes down to this: Nobody is arguing that cyclists don't need to be cautious when approaching a driveway while riding on the sidewalk, especially when riding against traffic. This collision illustrates the danger involved. Drivers are required by law to use caution when crossing a sidewalk, but they don't. Drivers are required by law to look in the direction they are turning, [but they don't](#). That is why cyclists are urged not to ride against traffic on the sidewalk. But let's be clear about this—it's not against the law. On the other hand, drivers who don't use caution when crossing sidewalks and making turns are violating the law. Inventing imaginary laws that were allegedly violated by the cyclist is just [blaming the victim](#), and once again, justice is not being served.

*By Rick Bernardi, J.D.*