

12.035 REPORTING POLICE VEHICULAR ACCIDENTS AND DAMAGE

Reference:

Procedure 12.225 - Vehicular Crash Reporting
 Procedure 12.435 - Reporting Conditions Affecting Other Departments - Form 318
 Procedure 12.535 - Emergency Operation of Police Vehicles and Pursuit Driving
 Traffic Crash Report Procedures - Ohio Department Highway Safety
 Administrative Regulation #52 - Substance Abuse Policy
 Ohio Revised Code - Chapter 2744: Political Subdivision Tort Liability

Definitions:

Police Motor Vehicle Accident - an occurrence that results in property damage and/or injury and meets the following conditions:

- It is an accident.
- It involves a motor vehicle that is owned or leased by the City of Cincinnati or the Police Department or is under the control of a Police Department member during the performance of official duties.

When a disabled vehicle is moved utilizing “push-bumpers” and damage occurs to either vehicle, the incident is not considered a vehicular accident.

Category 1 (negligent) – A Department member has committed a Category 1 violation when found at fault for a vehicular accident and the member has violated a minor misdemeanor provision of the Cincinnati Municipal Code (CMC), Ohio Revised Code (ORC), or applicable statute from another jurisdiction.

Category 2 – A Department member has committed a Category 2 violation when they:

- Are at fault for a vehicular accident and have violated any provision of Procedure 12.535, Emergency Operation of Police Vehicles and Pursuit Driving.
- Are at fault for a vehicular accident and have violated a provision of the CMC, ORC, or applicable statute from another jurisdiction that is a fourth-degree misdemeanor or higher.
- Operated a vehicle involved in an accident and failed to properly wear a seatbelt restraining device.

Original documents – Photographs, DVR disks, and any documents that are handwritten or contain an original signature.

Call to duty – Including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

Purpose:

Provide for the investigation and uniform reporting of police vehicular accidents and damage to police vehicles. Police vehicles include automobiles, motorcycles, bicycles, Segways and trailers.

Policy:

Department members are subject to corrective and/or disciplinary action for Category 1 and 2 motor vehicle accidents.

Procedure:**A. Documentation Needed for Accidents**

1. Form OH-1, Ohio Traffic Crash Report.
2. Form 90SP, Supervisors Review of Vehicle Crash. The following must be investigated at the scene by a supervisor:
 - a. When vehicle is in motion with a driver.
 - b. When vehicle is in motion without a driver.
 - c. When vehicle is parked on public or private property.
 - d. When a bike, Segway, etc., is struck by a motor vehicle.

B. Police Vehicles Involved in Auto Accidents

1. The operator of any police vehicle involved in any vehicular accident will:
 - a. Allow all involved vehicles to remain in the post-accident position if traffic conditions permit. With the exception of emergency circumstances, do not remove vehicles from the immediate vicinity.
 - b. Provide necessary aid and transportation for the injured.
 - c. Immediately request Emergency Communication Center (ECC) dispatch a district car and district/section/unit supervisor to investigate the accident.
 - 1) It is the responsibility of the district/section/unit supervisor to which the operator is assigned to conduct the supervisory portion of the investigation.
 - a) If the responsible district/section/unit supervisor is unavailable, the nearest available district supervisor will conduct the investigation and will forward the forms to the vehicle operator's unit of assignment for review and processing.
 - 2) If a serious accident involving a police vehicle occurs, the investigating supervisor will request Traffic Unit respond, including recall if necessary.

- 3) The investigating supervisor will also have ECC notify the Fleet Management supervisor at line 352-6365, while at the scene if any of the following apply:
 - a) A police vehicle has sustained substantial damage.
 - b) Traffic Unit conducts the investigation.
 - c) The accident results in serious injury to an officer or citizen.
 - d) A police vehicle requires immediate mechanical inspection or examination.
- 4) The investigating supervisor will ensure, if possible, photographs are taken of damage to all involved property.

2. Required reports

- a. When police equipment is involved in an auto accident, even if on private property, supervisors will ensure the following are completed:
 - 1) Form OH-1 completed by the investigating officer.
 - a) The police equipment operated by the on-duty police officer will be identified as a "Police Vehicle" on the OH-1 in the space provided for "Type of Unit." This applies to all marked and unmarked police vehicles including motorcycles and trucks.
 - 2) Form 90SP completed by the investigating supervisor.
 - a) The investigating supervisor shall note in the narrative the type of "call to duty" the officer was responding to when the accident occurred.
 - 3) Form BMV3303, Ohio Motor Vehicle Crash Report, is only required if a driver cannot show proof of insurance at the accident scene.
 - a) Fleet Management will forward the Form BMV3303 to the Ohio Bureau of Motor Vehicles when required.
 - b) Officers are required to sign the Form BMV3303 when the driver of an involved vehicle is uninsured. The Form BMV3303 is then forwarded to Fleet Management.
 - 4) The investigating supervisor will retrieve the Form OH-1 from RMS and scan the BMV3303, into the computer if applicable. Attach both files to the appropriate case folder.
- b. If the accident causes damage to other City property, e.g., fire hydrant, the investigating supervisor will prepare Form 318, Conditions Affecting Other Departments, in accordance with Procedure 12.435.

3. The vehicle operator's supervisor will make a blotter entry briefly describing the facts of the accident. Indicate the necessary reports have been completed.
4. The supervisor will make the appropriate entries in the police vehicle jacket.
5. The investigating supervisor will examine the damaged vehicle to determine if it is safe for use. Consider both mechanical defects and unsightliness. If unsure if the vehicle is safe to use, call the Fleet Management supervisor.
 - a. Tow or drive the vehicle to the Fleet Services body shop if the vehicle is removed from service.
 - b. During regular Fleet Services working hours (0800-1630), if the vehicle is safe for patrol duty, take it to Fleet Services for an estimate at the body shop.
 - c. After regular Fleet Services working hours, the first shift officer in charge (OIC) will send the vehicle to the Fleet Services body shop after 0800 hours on the next regular working day for an estimate.
 - d. The officer taking the vehicle to the body shop will take the BMV3303 only if it was completed due to the involvement of an uninsured motorist. Body shop personnel will fill out the BMV3303. The officer will then sign the BMV3303 and forward it to Fleet Management.
 - e. The supervisor will enter the estimate in the blotter and on the Form 90SP.

C. Documentation Needed for Non-Auto Accident Incidents

1. Immediately notify a supervisor in the district of occurrence of the incident.
2. Do not complete a Form 90SP. Supervisors will ensure the necessary forms are completed based on the cause of the damage.
 - a. Damage (scratches, dents, body damage, etc.) not the result of a criminal act is reported on a Form 317, General Conditions Report.
 - b. Damage (broken window, flattened tire, radio antenna broken, etc.) which is the result of a criminal act is reported on Form 301, Incident Report. An estimate will be completed by Fleet Services for possible restitution when criminal charges are filed. All forms will be sent through the chain of command and forwarded to Fleet Management.
 - c. Incidents occurring which result in personal injury or property damage by police equipment (collisions involving Department bikes, Segways, etc., with persons or property) are reported on a Form 301.

D. Progressive Corrective and/or Disciplinary Action

1. Progressive corrective and/or disciplinary action will be administered for Department members involved in Category 1 and Category 2 vehicular accidents.

- a. Department members will be subject to disciplinary action for auto accidents where they are found to have been negligent and any of the following apply:
- 1) The member has been found at fault in four or more Category 1 motor vehicle accidents within a 24-month period.
 - 2) The member has been found at fault in two or more Category 2 motor vehicle accidents within a 24-month period.
 - 3) The member has been found at fault in three Category 1 and one Category 2 motor vehicle accidents within a 24-month period.
 - 4) The member has been found at fault in a Category 1 or Category 2 motor vehicle accident that resulted in serious injury, as defined by ORC 2901.01(E), or death.

E. Uniform Corrective/Disciplinary Action Guidelines

1. Mitigating factors, such as injuries and property damage, will be considered to affix disciplinary penalties within the range indicated by this policy. Disciplinary action will be added to the vehicle crash case folder.
 - a. Category 1 Accidents (24-month period):
 - 1st Category 1 accident: ESL entry.
 - 2nd Category 1 accident: ESL entry and driver's training.
 - 3rd Category 1 accident: Written Reprimand and driver's training.
 - 4th Category 1 accident: Pre-disciplinary Hearing.
 - Sustained finding for 4th Category 1 accident: 8 hours suspension.
 - Sustained finding for 5th Category 1 accident: 8 - 24 hours suspension.
 - Sustained finding for 6th Category 1 accident: 24 - 40 hours suspension.
 - Sustained finding for 7th Category 1 accident: 40 hours suspension – dismissal.
 - b. Category 2 Accidents (24-month period)
 - 1st Category 2 accident: Written Reprimand and driver's training.
 - 2nd Category 2 accident: Pre-disciplinary Hearing.
 - Sustained finding for 2nd Category 2 accident: 8 - 24 hours suspension.
 - Sustained finding for 3rd Category 2 accident: 24 - 40 hours suspension.
 - Sustained finding for 4th Category 2 accident: 40 hours suspension – dismissal.

F. Responsibilities of District/Section/Unit Commanders

1. District/section/unit commanders will carefully analyze and evaluate all accidents involving personnel under their command. They will arrange appropriate corrective training and make disciplinary recommendations. The primary objective is to identify the accident prone and careless driver. The district/section/unit commander will:
 - a. Make recommendations/comments on Form 90SP.
 - b. Work-flow the completed Form 90SP and attached documents through the chain of command to Fleet Management. Route the hard copy of the BMV3303 through channels to Fleet Management, if applicable. Photographs are retained in the vehicle jacket at the district/section/unit.
2. All reports of police vehicle accidents will be reviewed by the affected district/section/unit commander and forwarded to the affected bureau commander for review. If the circumstances listed under Section E.1. apply, a pre-disciplinary hearing will be scheduled.
3. Fleet Management, upon receipt of Forms 90SP, OH-1, and BMV3303, will:
 - a. Examine the reports for completeness and accuracy and evaluate the facts of the accident.
 - 1) Forward copies of Forms 90SP, OH-1, and Fleet Services estimate to Fleet Services Subrogation Section when an outside party is at fault.
 - b. Send the signed original Form BMV3303 to the BMV when required.
 - c. Send a form letter to the BMV with pertinent information from the Form OH-1 to ensure sworn personnel do not receive points on their driver's license for on-duty accidents.
 - d. File a copy of the Form 90SP in the vehicle jacket:
 - e. Workflow the information to Police Training Section for additional training when recommended.
4. The District/Section/Unit Commander will finalize the case in AXON Standards.

G. Post-Accident Testing.

1. As soon as practical following a vehicular accident involving a Department member, while in the course and scope of duty and/or who was operating a city vehicle, the member shall be tested for drugs and alcohol if:
 - a. The accident involves the loss of human life, or,
 - b. The member receives a citation under state or local law for a moving violation arising from the accident.

2. A member who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured persons following an accident or prohibit a member from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or necessary medical care.
 - a. The results of blood or breath tests for alcohol detection, or urine tests for drug detection, conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of this section, provided such tests conform to applicable federal, state, or local requirements and the results are obtained by the City.
3. Members required to take a post-accident alcohol test shall not use alcohol for eight hours following the accident or until the member undergoes a post-accident test, whichever comes first.
 - a. If an alcohol test is not administered to the member within two hours following the accident, the supervisor will prepare a Form 17 stating the reasons the test was not administered.
 - b. If an alcohol test is not administered to the member within eight hours following the accident, attempts to administer an alcohol test shall cease and the supervisor will prepare a Form 17 stating the reasons the test was not administered.
4. If a drug test is not administered to the member within 32 hours following the accident, attempts to administer a drug test shall cease and the supervisor will prepare a Form 17 stating the reasons the test was not administered.
 - a. TriHealth Queensgate Medical Center, located at 1150 West 8th Street, Suite 120, Cincinnati, OH 45203 will administer drug tests Monday through Friday, 0800 hours to 1700 hours.
 - b. TriHealth Sharonville, located at 3801 Hauck Road, Cincinnati, OH 45241, has extended hours of operation Monday through Friday, **0700** hours to **1900** hours, **and Saturday, 0900 hours to 1300 hours**
 - c. Arrow Springs, located at 100 Arrow Springs Blvd., Suite 1200, Lebanon, OH 45036, Monday through Friday, 0900 hours to 1700 hours.
 - d. **After** regular business hours, contact TriHealth at (513) 236-2102 to arrange a drug and/or alcohol test.
 - 1) TriHealth staff member will meet the notifying supervisor and Department member at TriHealth Medical Center.
 - 2) If the Department member is being treated at a hospital and cannot respond to a TriHealth Medical Center, a TriHealth member will respond to the treating hospital.