

## TRAFFIC ACCIDENT INVESTIGATION

STANDARD NO(S):

NYSLEAP#: 47.7

DATE:

August 19, 2010

REVIEWED: 03/19/2017

REVISED: 10/29/2018

REFER TO:

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### I. OBJECTIVE:

To establish guidelines for the investigation of traffic accidents and to ensure that certain of these activities are thoroughly and accurately reported.

### II. POLICY:

It shall be the policy of the SCSO that its members fully understand their duty to investigate accidents promptly, fairly, and accurately, and to report the results in a clear, well written manner. All members having this responsibility shall be familiar with the laws of New York State requiring reporting by police officers. An accident scene is often a place of confusion and high excitement; nevertheless, the investigating officer must project a calm and professional manner if one is to accomplish the objective of determining the facts and returning the scene to normalcy.

### III. DETAILS:

A. Section 600 of the New York State Vehicle & Traffic Law requires that any person operating a motor vehicle who, knowing or having cause to know that he/she has caused personal injury to another person, shall stop and furnish identifying information to the injured person and to a police officer; or, that if damage has been caused to the real property or personal property of another, due to an incident involving the motor vehicle, the operator shall stop and furnish identifying data to the party sustaining the damage or, if that person is not present the operator shall report same as soon as he is physically able to the nearest police station.

1. Section 603 of the same law mandates that a police officer to whom a personal injury accident is reported shall immediately investigate and report the matter to the Commissioner forthwith, provided the report is made to the officer within five days after such accident.

**B. ACCIDENTS TO BE INVESTIGATED AND REPORTED** – Although the sections mentioned above form the basis for the investigation of motor vehicle accidents by members of the SCSO, it shall be the policy of the SCSO to respond to, investigate and prepare reports on the following:

1. Any accident involving a motor vehicle, including the all-terrain vehicle (ATV), which occurs on or off a roadway within the County of Seneca and which has resulted in a death or personal injury or damage to the property of another (if appropriate), or which results in a vehicle having to be towed from the accident scene. As noted under paragraph K below, a police accident report form shall be used in reporting these accidents.
2. Any hit-and-run accident reported to the SCSO will be investigated as a criminal complaint. A report will be filed and any follow-up activity will be included in the SJS narrative to be prepared by the investigating member. Consideration should be given to the prompt dissemination of information pertaining to the suspect vehicle by radio and/or teletype. Evidence at the scene shall be preserved in accordance with procedures outlined in this Manual.
3. Any reported accident which appears to involve a drug or alcohol impaired or intoxicated driver shall be investigated, regardless of any injury or the extent of property damage.
4. Any accident reported which involves a vehicle carrying or believed to be carrying a hazardous material, regardless of any injury or the extent of property damage. Refer to “**Hazardous Materials Incident**,” this Manual.
5. Any accident involving a publicly owned vehicle, such as one belonging to the SCSO, State, County, City, Town, Village government, police, fire, ambulance service, or school, regardless of any personal injury or the extent of property damage.
  - a. In these cases, it is also required that photographs be taken and, if a Seneca County vehicle or property is involved, that the Sheriff, Undersheriff, Chief Deputy, Road Patrol Lieutenant, County Attorney and County Risk Manager be notified.

**NOTE:** In the case of windshield damage caused by road stones being thrown up by another vehicle, it is not necessary to stop the operator to obtain insurance information, since an operator is not legally responsible in this circumstance. A Spillman entry should be filed to include a plate number and vehicle description, if available. An operator is responsible for damage caused by an object that falls off or out of the vehicle.

6. Any accident involving a railroad train, regardless of any personal injury or the extent of property damage. In these cases, it is required that photographs

be taken, diagrams prepared, and that the railroad police are notified. The train should not be delayed any longer than is necessary.

7. In the case of a motor vehicle accident in which a fatality or serious physical injury has occurred, other than one car with a single occupant, there is the possibility that criminal charges under the Penal Law sections concerning vehicular manslaughter or vehicular assault may be appropriate (See “**Traffic Administration, Enforcement & Control**”, ¶ H.14).
  - a. In these cases, any criminal action should be commenced by the filing of a felony complaint, the District Attorney’s Office should be contacted concerning the advisability of issuing a UTT, and, in either event, all the paper work such as accident reconstruction, chemical test results, etc. should be forwarded to the DA as soon as possible.
8. Any accident, regardless of any personal injury or the extent of property damage, which because of its location or complexity, has resulted in major traffic congestion or a disturbance between those involved, will be investigated to determine if services are needed and with a view toward returning the scene to its normal condition.

**C. MINOR ACCIDENTS** - All accidents will be reported utilizing the TraCS electronic system.

**D. DRIVER’S EXCHANGE SLIP** – Sections 600 (1)(b) and 600 (2)(b) require that a law enforcement officer at the scene of either a property damage or personal injury accident shall request and assist the operators involved in exchanging information pertaining to name, residence and insurance particulars in a reasonable and harmonious manner. The form to facilitate such exchange is the “Driver’s Exchange Slip” furnished by the SCSO using the TraCS program. This form may also be used in the case of a minor accident where reporting to the commissioner is not required.

**E. DELAYED REPORTING** – As noted above, the Vehicle & Traffic Law requires that a motorist who is involved in an accident which results in personal injury or damage to the property of another, report the accident to the “nearest police station, or judicial officer” as soon as he is physically able. Notwithstanding this requirement, the SCSO occasionally receives information concerning an accident after the vehicles have been removed from the scene, making an objective and thorough investigation all but impossible. In such cases, it shall be at the discretion of the Shift Sergeant whether an MV\_104A will be completed.

1. The alternative to an investigation, where receipt of the information has been delayed, is to accept the complainant’s version of the facts for the record, noting that it has not been corroborated by an investigation. The discretion referred to above shall not be construed to mean that there will be no response to information from one party that an accident has occurred.

2. In all cases, where at least one of the vehicles involved is located within Seneca County, a patrol officer will, consistent with any other duties, contact the operator and obtain and record whatever details of the accident are available.
3. Where there is not enough evidence to support the claims during an investigation, it is at the discretion of the investigating officer to suggest to the motorist who is reporting, to file a civilian accident report through D.M.V. (DMV form MV104)

**F. PROCEDURES** – Upon arrival at the scene of a motor vehicle accident of any severity, the member's first responsibility is to take any necessary steps to keep the situation from getting worse.

1. The patrol vehicle should be located in such a manner so that flashing emergency lights will warn traffic approaching from any direction that there is a hazard. To minimize glare to oncoming traffic, alternating headlights should not be used. If flares and/or traffic cones are necessary to avoid collisions into the scene, they should be set out.
2. Responding member shall immediately request whatever assistance is needed, such as ambulance, rescue or fire equipment, or additional patrol units.
3. Emergency medical assistance consistent with the responding member's first aid training or experience shall be rendered. Upon the arrival of an emergency medical service, victims shall be surrendered to their care, with the member assisting as requested. Under no circumstances will an injured person be transported for medical attention in a patrol car.
4. Once medical emergencies have been handled, member shall attend to the safe and expeditious movement of traffic around the accident scene by the use of additional personnel such as fire police, or by designating and indicating a rerouting of traffic.
5. Request assistance from the appropriate highway superintendent for the removal of snow, ice or debris on the roadway. Also report any damage to roads or signs which may constitute an immediate hazard.
6. Request assistance from appropriate utility company in the event accident has involved downed power lines, water or gas mains. Consider all wires as being dangerous and insure they are not approached until declared to be safe by competent officials.
7. Request tow truck or road service in accordance with the preference, if any, of the motorist involved. If the motorist states no preference, notify the E-911 Center so they may call the next rotational service in accordance with established procedure.

8. As the scene is stabilized, and the injured are attended to, the member on the scene must consider how to protect any fragile evidence such as broken glass, skid marks, blood spots, personal effects, auto parts, or other debris from the accident. Any of this material can be crucial to reconstruction of events and should be photographed, measured and positioned in a diagram of the scene. In the event short-lived evidence must be moved, its location should be preserved with chalk, if possible.
9. Locate and interview witnesses to accommodate any need for detailed statements. If necessary, a request should be made through the Shift Sergeant for an investigator to be called to the scene. Detailed depositions will always be taken in serious or fatal accidents.
10. It is the responsibility of the responding member to continue the investigation at the scene until all the information needed for the required reports has been obtained.
  - a. Once the scene has been secured and it is necessary to obtain additional information from victims who may be hospitalized, or from other witness who are no longer at the accident scene, the responding member is also responsible for this activity.
11. Except for serious accidents where the responding member will probably be occupied by considerations for the injured, the member is responsible to insure that the scene is cleared of broken glass and other debris which may impede safe travel. When tow trucks are called, the operator is required by law to perform any necessary clean-up. If vehicles are driven from the scene, the member should notify the highway superintendent or fire service if material needs to be removed from the roadway.

**G. VICTIMS' PROPERTY** – In the case of serious accidents, victims, injured or deceased, are often found to have been traveling with valuable personal property. It is the responsibility of the responding member to safeguard such property and, unless evidentiary, to handle it in accordance with the procedures set out in “**Collection, Preservation & Disposition of Evidence**,” this Manual.

**H. RESPONSIBLE MEMBER** – As noted above, the member who first arrives at the scene of an accident bears the responsibility for conducting any necessary investigation, preparing the required reports, and returning the scene to normalcy; however in the event a supervisor (Shift Sergeant or above) arrives, that officer will assume command and make whatever assignments are necessary. As a matter of policy, the Shift Sergeant will report to and assume command of the scene of any motor vehicle accident in which there as been a fatality, a serious injury, extensive property damage, or involvement of a public vehicle, public property, a railroad train, or a vehicle carrying any hazardous material. Having responded to any such accident, the Shift Sergeant will be responsible for:

1. Assessing the situation and relaying any significant information through the chain of command.
2. Notification of the District Attorney and or County Attorney will be handled in accordance with “**Administrative Notifications**”, this manual.
3. Notification of coroner, if appropriate.
4. Requesting additional personnel as necessary, such as:
  - a. A CID Investigator who will be responsible for:
    - 1) Photographs;
    - 2) Measurements, and the preparation of a diagram, if needed; (Use of the Total Station Equipment, can facilitate the taking of measurements that can be downloaded for a computer generated diagram).
    - 3) Securing physical evidence;
    - 4) Securing victims’ property; and
    - 5) Conducting the inventory or examination of any impounded vehicles.
  - b. A criminal investigator who will be responsible for:
    - 1) Detailed statements from witness;
    - 2) Investigation to support any criminal charges affecting the accident itself. In the case of an underage drinker, the source of the alcohol should be explored; and,
    - 3) Insuring that chain of command is kept advised of any unusual circumstance.
  - c. An accident reconstructionist who will be responsible for:
    - 1) Reconstruction of the accident to include positions of the vehicles prior to, during and after impact;
    - 2) Derivation of speed estimates based on skid marks, path of travel and extent of damage;
    - 3) Determination of occupants’ positions in the vehicles prior to impact;
    - 4) Inspection of the mechanical and electrical aspects of vehicles See “**Vehicles Seized, Impounded & Towing**”, this manual;

- 5) Interpretation of the significance of items of evidence and their locations including car parts, broken glass, vehicle fluids, victims' remains and their personal effects;
- 6) Preparation of field sketches and scaled diagrams for court presentation; and,
- 7) Requesting, with approval through the chain of command, the assistance of experts in the fields of mechanics, engineering, medical or other specialties, if necessary.
  - a) It is highly desirable that, when needed, the accident reconstructionist specialist be present at the scene of a serious accident; however if this is not possible, it will be incumbent on the Shift Sergeant to insure that all steps are taken to diagram the location of and preserve all evidence, including impoundment of vehicles for later reconstruction, if necessary.
- 8) Determining the effect the accident has had on the roadway and recording same in the event data indicates that some remedial action, either short or long term, should be recommended to the appropriate highway superintendent or county traffic engineers.

**I. FOLLOW-UP RESPONSIBILITY** – The member assigned to road patrol duties has primary responsibility to follow-up the case and to perform whatever work is necessary to bring it to an acceptable conclusion. In hit-and-run cases, evidence must be preserved, photographs taken, and all leads followed in an effort to identify and locate the suspect vehicle. SJS follow up narratives shall be prepared which will reflect pertinent activity keeping the case current. Where serious injury or a fatality has occurred as a result of a hit-and-run, assistance of the Criminal Investigation Division will be required.

**J. DELAYED FATAL REPORTS** – In the event that an injured person, removed from the scene and later succumbs, the SCSO receives notification of the fact from the Medical Examiner's Office, usually to either the E-911 Center or to Records. The ME's request may be only for a copy of the report, whereas it is actually the first indication that the case is now a fatal MVA. It is essential that the recipient of such a call either directs the call or immediately relays the information to the Duty Sergeant or higher authority, who will:

1. Obtain detailed information from the ME including cause, place and time of death as well as provide the ME with a copy of the MVA report.
2. Complete the Early Notification of Fatal MVA report and fax to Albany, retaining a copy for SCSO records.
3. Complete an updated press release and disseminate.

4. E-mail notification to SCSO Administration and other Sergeants/Investigator.
5. Notify the reporting officer and insure that the officer completes the needed reports, including updated accident report, state fatal report and incident report, all in a timely manner.
6. Notify the Seneca County District Attorney's Office.

**K. ENFORCEMENT ACTION** – It is the policy of the SCSO to take the appropriate enforcement action whenever a traffic offense is detected during the investigation of an accident. Some guidelines for such actions are:

1. Response to an accident is usually after-the-fact, consequently a traffic offense, which may or may not have been contributory, will have occurred out of the member's presence. If an offense is detected under these circumstances, it will be necessary for the member to rely on physical evidence or the statements of operators or witnesses for the facts on which to base the charge. In such cases, the available facts should go beyond mere suspicion that an offense has occurred. In other words, the member issuing the citation should be convinced there is sufficient evidence of an offense to sustain a successful prosecution of the person charged.
2. A member charging a person with a traffic offense shall cooperate with the District Attorney's Office in the preparation of the case for trial.
3. Roadways have varying degrees of traction, depending upon weather, density of travel, surface, or location, but it is important to be aware that traveling at an unsafe speed for the conditions of the roadway often contributes to an accident.
4. It is also important to be aware that an accident is sometimes just that – an accident, and no amount of speculation or second-guessing will support a contention that the law has been violated. The skilled officer uses all senses and resources, plus **good judgment**, in determining whether an operator involved in an accident has also committed an offense.

**L. REPORTS** – One or more of the appropriate forms MV-104A, MV-104D, and MV-104S are used by police agencies to report an accident. Another form, the MV-104, is for use by operators who are involved in accidents involving personal injury or damage exceeding \$1000, which must be reported to the Commissioner of Motor Vehicles within ten (10) days. Members responding to reportable accidents shall remind operators of the latter requirement and that the form may be obtained through an insurance carrier or online at [WWW.nysdmv.com](http://WWW.nysdmv.com).

1. Members investigating fatal accidents, as well as other serious accidents if so directed, shall prepare an MV-104A and a MV-104D (if fatal) in accordance with the instructions contained in the Police Accident Report Manual and



shall also prepare an SJS report, along with an arrest and/or DWI package, if appropriate.

2. SCSO MVA DURING EMERGENCY OPERATION - §605 (a) (4) of the V & T Law provides that the DMV will omit record of an accident from a police officer's external license abstract if, at the time of the accident, the officer was operating a police vehicle **during an emergency operation** and is not charged with a violation or found to be grossly negligent. In such case, the form MV-104L "Report of Motor Vehicle Accident – Police Line of Duty Accident" should be submitted as an amended report, being sure to check the boxes identifying the report and the officer driver.

**M. ACCIDENTS OTHER THAN TRAFFIC** – Although less frequent than traffic accidents, the following types of accidents may be encountered by the SCSO member within Seneca County:

1. Agricultural accident
2. Aircraft accident including overdue aircraft.
3. Boating accident
4. Car-deer accident
5. Hunting accident
6. Industrial accident.

**N. COOPERATION** – It is the policy of the SCSO to work closely with other services responding to an accident scene. These services include fire, rescue, medical emergency and any other agency which provides a service or renders aid to those in need. It should be remembered that many other agencies are equipped and trained in specialized fields and that the 911 Center has the means to effect their quick contact to aid the injured, prevent or control fire or to protect life and property in the event of the release of a hazardous material. Procedures for handling the latter are set out under "**Hazardous Materials Incidents**," this Manual.

**O. PRESS RELEASES** – Informing the general public through the media is an important part of the SCSO's public service mission (See "**Public information and Community Relations**," this Manual). When an accident is investigated, it is the policy to make a news release, thus informing the public of any enforcement action taken. Details will include the use or failure to use seat belts and any injuries sustained. Following are guidelines for such releases:

1. In fatal accidents, names of the deceased will be withheld until notification of the next-of-kin.

2. Details concerning personal injury accidents, regardless of severity, shall be provided in all cases.
3. Details concerning property damage accidents shall be provided when:
  - a. An arrest is made for driving while intoxicated or another misdemeanor charge,
  - b. There is a hazardous material involved,
  - c. There has been a resultant public inconvenience such as a blocked road or a power interruption from a downed electric cable.

**P. RESPONSE TO INQUIRIES** – Occasionally, a private investigator, working on behalf of a plaintiff, a defendant, or possibly an entity litigating civil damages, will ask to interview a deputy concerning his findings in an accident.

1. For the most part, these inquiries have occurred after the case has been concluded by the SCSO, and details obtained from the accident report may be disseminated without further authority except in the following circumstances:
  - a. Charges against a defendant are pending and the report contains references to matters of evidence such as skid marks, extent of damage, etc.
  - b. The accident is one that may embroil the county in litigation based on the involvement of a county employee, vehicle or some aspect of a county road.
2. Requests for copies of accident reports should be referred to the Records Division, who will handle any appropriate distribution in accordance with the procedures set forth in “**Records & Reports**,” this Manual.
3. Requests for accessing an impounded vehicle for the purpose of examination or photographing should be directed to the CID Lieutenant who is responsible for property while under SCSO’s control.