

# Traffic Collision Reports

What everybody ought to  
know about  
traffic accident reports

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## What Everybody Ought to Know About Traffic Accident Reports

Based on California law.

Written by a California licensed injury accident lawyer for Californians.

Provided for informational purposes only.

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# Traffic Collision Reports Are Generally Inadmissible

California Vehicle Code § 20013 reads:

“No such accident report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or failure to comply with the requirement that such a report be made to the department.”

Statements made in traffic collision reports are generally hearsay, that is they are out of court statements offered to prove the matter being asserted. Additionally, the officer's opinions and conclusions are inadmissible opinion evidence. As a society, we want juries to decide cases and not law enforcement officers. A law enforcement officer's opinion pervades the providence of the jury and no one person should have the power to decide liability for a case.

**So why is this important?** The traffic collision report is not what controls the outcome of your legal case. The traffic collision report is only the beginning of an investigation to determine liability for an accident. You need witnesses to provide testimony that supports your version of the facts. Do not rely on a traffic collision report to “prove” anything.

# Traffic Collision Reports Are Usually Wrong

As an injury lawyer, former insurance lawyer, and former claims adjuster, I can not recall reviewing a single traffic collision report that did not contain some error. Officers are human and they make mistakes. They do a good job 95% of the time. The other 5% they do a horrible job. Our California Highway Patrol officers are some of the very best report writers out there. Local law enforcement officers generally lack the time, special training, and skills that many CHP officers have as it relates to traffic collision report preparation.

In an auto accident case, errors in traffic collision reports, if relied upon, can severely impact the outcome of a civil case. A full investigation of the facts by independent investigators and lawyers should be performed to confirm or deny the accuracy of statements and evidence contained in a traffic collision report.

**So why does this matter?** If you rely on incorrect, unverified information in a traffic collision report you could bring a meritless case, or lose a case that should have been won. Verify all facts. Investigate and verify is what experienced auto accident lawyers do.

When you bring a claim for damages against another party you have to build your case one piece of evidence on top of another piece of evidence. It is work. Do not be lazy and just rely on a traffic collision report.

# Do Not Supplement the Traffic Collision Report

Time and time again, I have clients who come to me after they have reviewed a traffic collision report and after they have filed a supplement to correct erroneous information contained in the report. In my opinion that is a huge mistake 99% of the time.

Absent there being a criminal charges, fines, or other significant legal consequences, I see no basis whatsoever for filing a supplement to correct an erroneous traffic collision report.

As previously indicated, traffic collision reports are inadmissible to prove causation for an accident. You are are not going to win your civil case with a police officer. Instead, you must win your civil case before a judge and/or a jury.

Why cry to someone who already screwed up the facts? Why trust them to fix anything?

**Bottom Line:** Speak to a lawyer before you ever file a supplemental report to correct erroneous information in a traffic collision report. Your supplemental report may create more confusion of the issues that will only harm your auto accident civil case later.

# Traffic Collision Reports Are Used Improperly

Insurance companies will gladly point to a traffic collision report that favors their insured. However, the insurance policy that they wrote says that they have the discretion to pay claims against their insured. There is nothing in an insurance policy that says that the traffic collision report controls how the claim is handled or who has to pay the claim.

So if you are fighting against the other party's insurer, and they are pointing to the traffic collision report as their sole basis for denying your case (which they often do), then you should advise them that you know that the traffic collision report is not admissible in a court of law and that the law says that insurers have a duty to settle with claimants who have a reasonable probability of prevailing. You should remind them that their insurance policy gives them the discretion to do the right thing even when their insured disagrees.

**Bottom Line:** Do not let an insurer use a traffic collision report against you when you know the facts and the law are on your side. If you have any doubts you should seek the advice of an experienced auto accident lawyer.

# Interested Parties Can Acquire the Traffic Collision Report

Traffic collision reports can be acquired by interested parties only. This is usually the driver, vehicle owner, legal guardians, property owners (damaged property), parent of minors, coroner, Caltrans, lawyers and insurance companies.

Witnesses can not acquire copies of traffic collision reports.

**Bottom Line:** Not everybody should have right to the personal information contained in traffic collision reports. The parties have a right to privacy when balanced with the need for society to document accidents that occur on public thoroughfares. Makes sense.

# Traffic Collision Report Data Is Incomplete Data

In today's busy world, witnesses may see an accident, call 911, and then drive away. That witness is not listed on the traffic collision report because the officers do not usually take the time to review the computer aided dispatch (CAD) report.

Experienced auto accident lawyers acquire 911 tapes/audio on every accident case they have and request a copy of the CAD report to determine what witnesses called in. In many cases, investigators or the accident attorney goes to the scene of an accident and canvases for witnesses in nearby homes or businesses.

**Bottom Line:** Trusting a traffic collision report to have all witness names and information is a huge mistake. You need 911 audio and CAD reports plus on-scene investigations to get complete witness accounts. An experienced auto accident lawyer does this for his or her clients.



# Traffic Collision Reports and SWITRS

Traffic collision reports feed into a database known as SWITRS (Statewide Integrated Traffic Records System). Reports from this database can be accessed to determine the number and type of collisions that occurred at or near the same accident location. So for example, if you were involved in an auto accident and the intersection of Arlington Avenue and Van Buren Blvd in the city of Riverside, California on January 1, 2015, you could request a SWITRS report for that accident site that goes back 10 years or so. You will get a complete listing of reports and type of accidents that occurred at that same intersection.

**Bottom Line:** SWITRS reports can be valuable in determining whether a given roadway or accident site has a history of similar accidents. Sometimes the roads are dangerous and a claim against the government may need to be considered. You may learn certain things about how people drive a given stretch of roadway. That may provide some helpful information for your accident case.

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