

MPD INVESTIGATION AND REPORTING OF MINOR TRAFFIC ACCIDENTS



REPORT AND RECOMMENDATIONS OF THE POLICE COMPLAINTS BOARD

TO

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THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND
CHIEF OF POLICE CATHY L. LANIER**

August 16, 2011

POLICE COMPLAINTS BOARD

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I. INTRODUCTION AND OVERVIEW

At least nine individuals have contacted the Office of Police Complaints (OPC) complaining about the Metropolitan Police Department's (MPD) alleged failure to issue accident reports to motorists involved in minor traffic accidents. These complaints prompted the Police Complaints Board (PCB), the governing body of OPC, to assess MPD's policies and procedures regarding the creation and distribution of accident reports.¹

MPD General Order 401.03 governs the procedures to be followed when an MPD officer responds to any traffic accident. Under that directive, officers must prepare a "Traffic Crash Report," or PD Form 10, when a traffic accident results in death or injury to a motorist or passenger, or renders inoperable one of the motor vehicles involved in the accident. If there is no death or injury involved, and all of the vehicles are still operable, MPD officers are required to provide a PD Form 10-C to motorists. The PD Form 10-C collects basic information about the officer on the scene, the accident location, the motorists and vehicles involved in the accident, the drivers' insurance carriers, and the names and addresses of any witnesses.

Through its review, PCB discovered that MPD officers were not providing PD Form 10-C's to motorists involved in "fender benders," or minor traffic accidents (i.e., incidents where there were no deaths or injuries, and the vehicles remained operable). During these minor traffic accidents, it appears that MPD officers also failed to follow other procedures required by MPD General Order 401.03, such as informing the parties involved that a Traffic Crash Report is not required, conducting a Washington Area Law Enforcement System (WALEs) check,² and ensuring the parties exchange accurate personal, vehicle, and insurance information for those accidents involving less than \$250 in property damage. MPD personnel informed OPC staff that the current PD Form 10-C is rarely distributed by MPD officers and that MPD and the District Department of Transportation (DDOT) are collaborating to launch a revised PD Form 10-C in the upcoming months.

To address these issues, PCB recommends that MPD officers receive thorough refresher training on how to respond to a minor traffic accident. Specifically, pursuant to General Order 401.03, when responding to drivers involved in minor traffic accidents, MPD officers must conduct a WALEs check, notify the motorists that a Traffic Crash Report is not required, ensure the accurate exchange of motorist information for certain accidents, and disseminate PD Form 10-Cs to the drivers involved. The refresher training should also include information about the PD Form 10-C's purpose and the circumstances under which the form is issued. Because MPD's current policy inexplicably seems to require officers to ensure that drivers exchange accurate information only if one of the vehicles involved incurs less than \$250 in damages, PCB also

¹ PCB is making these recommendations pursuant to D.C. Code § 5-1104(d) (2011), which authorizes the Board to recommend to the District of Columbia Mayor, Council, and the Chiefs of Police of the MPD and the D.C. Housing Authority's Office of Public Safety reforms that have the potential to reduce the incidence of police misconduct. PCB is grateful to the following staff persons who assisted in preparing this report and the accompanying recommendations: OPC's executive director, Philip K. Eure, who supervised the project; special assistant, Nicole Porter; summer 2010 law clerk Sheila Mahadevan (Howard University School of Law); and fall 2010 law clerk Dan Burbott (California Western School of Law).

² WALEs is an MPD computer database used by officers to search for arrest warrants and driver's license and registration information.

recommends that MPD revise General Order 401.03 to require that officers responding to the scene of minor traffic accidents ensure that accurate information is exchanged, regardless of the estimated damage. This will aid motorists in filing insurance claims. Finally, as a public education and outreach component, PCB recommends that MPD and DDOT consider creating a webpage outlining MPD's and DDOT's policies regarding the completion of traffic reports, and continue to work together to revise the PD Form 10-C and make it more accessible to those involved in minor traffic accidents.

II. PROVISIONS AT ISSUE

Pursuant to MPD General Order 401.03 (effective Sept. 23, 2009), MPD officers must investigate traffic accidents occurring on District streets and issue an accident report, also known as a "Traffic Crash Report" or PD Form 10, when an individual is killed or injured or "[a]n involved motor vehicle sustains body or mechanical damage that renders it inoperable, and the damage requires the vehicle be towed from the scene."³

According to the general order, "[m]inor damage that renders a motor vehicle temporarily inoperable does not meet the criteria for requiring a report on a PD Form 10."⁴ Examples of such damage include broken or cracked windshields, flat tires on a vehicle, broken vehicle lights, or damage to the body of the car "that can be temporarily realigned to permit safe operation of the vehicle."⁵

General Order 401.03 further states that when a Traffic Crash Report is *not* warranted, "and the permit and registration of each operator has cleared through WALES (Washington Area Law Enforcement System)," the investigating officer must:

- (a) Inform each operator that the MPD is not required to prepare a traffic crash report;
- (b) Give each operator a PD Form 10-C (Notice to Motorist);
- (c) Refrain from making any comments about the crash (e.g., regarding who appears to be at fault or the appropriateness of the issuance of an NOI);
- (d) Ensure the involved parties exchange accurate information when involved in an accident with property damage estimated at less than two hundred fifty dollars (\$250) . . .⁶

³ MPD General Order 401.03 V.A.

⁴ *Id.*

⁵ *Id.* Even if there is only minor damage, a Traffic Crash Report is nonetheless required when either: 1) damage to a vehicle or property occurs and the operator or owner of the vehicle or property is not at the scene; 2) District, Federal government, or public transportation vehicles or properties are involved; 3) the vehicle is involved in a crime or serious traffic violation; the motor vehicle operator is arrested, issued an NOI or is a diplomat; or 4) a report is required to ensure that "no involved party evades responsibility." The complaints filed with OPC do not involve these types of accidents.

⁶ MPD General Order 401.03 V.C.3(a)-(d).

It is the apparent inability of some MPD officers to follow these provisions, particularly subsection (b) requiring the officer to give each motorist a PD Form 10-C, that has led to confusion and complaints from the public.

III. COMPLAINTS FILED WITH OPC

Within the last two years approximately nine individuals have contacted OPC regarding MPD officer conduct when responding to minor traffic accidents. In each complaint, the driver involved either asked for and was denied a report, or felt a report should have automatically been prepared. While the motorist's request may have led the officer to believe that he or she was unnecessarily asking the officer to prepare a Traffic Crash Report, no officer otherwise followed correct procedure and provided the citizen with a PD Form 10-C.

Additionally, information contained in seven of the nine complaints suggests that the officer did not conduct a WALES check of the parties involved, as required. For example, in one of these complaints, the complainant stated that he called 311 to report a traffic accident. The complainant alleged that two officers drove by, told the complainant that it was not their priority to make a Traffic Crash Report because no one had been injured, and left the scene.

There are also lingering concerns about whether police officers are ensuring that correct information has been exchanged between drivers. Although three of the nine citizen complainants in the OPC cases assert that the officer made sure the motorists accurately exchanged information, one complainant alleged that the information exchanged was not accurate, and the remaining five complaints did not clearly state whether the officer left the scene without confirming an accurate exchange of information. In the complaint alleging that the officer failed to ensure the information exchanged was accurate, the complainant asserted that the officer told the other motorist to contact the complainant. The complainant alleges that the information she was given by the motorist was not accurate, and that the driver never contacted her. Although not raised by any of the complainants, in reviewing General Order 401.03, OPC could find no reason why officers were only required to ensure the exchange of accurate information for accidents where the damage was less than \$250.

OPC referred all nine complaints to MPD because they related to matters outside of OPC's jurisdiction.⁷ However, because the complaints all voiced concerns about officers not issuing accident reports, PCB decided to review the Department's policies and practices governing traffic accident reporting requirements.

⁷ See D.C. Code § 5-1107(a)-(b) ("the [OPC] shall have the authority to receive and to dismiss, conciliate, mediate, or adjudicate a citizen complaint against a member or members of the MPD . . . that alleges abuse or misuse of police powers by such member or members If a complaint alleges misconduct that is not within the authority of the [OPC] to review, the Executive Director shall refer the allegation to the Police Chief for further processing by the MPD, as appropriate.").

IV. MPD COMPLIANCE WITH GENERAL ORDER 401.03

From OPC's review of its complaints and discussions with MPD personnel, it appears that MPD officers are not in the practice of providing PD Form 10-C's to drivers involved in minor accidents. Additionally, it is questionable whether MPD officers remain on the scene of those minor traffic accidents where the damage is less than \$250 to ensure that the parties involved exchange accurate information with one another.

According to General Order 401.03, it is "[t]he policy of the Metropolitan Police Department . . . to properly investigate traffic crashes and collect the data and information that will assist in developing and guiding traffic enforcement activities and preventing vehicular crashes that result in property damage, injury and/or death."⁸ While MPD has stated its commitment to thorough accident investigation and data collection pursuant to the directive, officers are not collecting information for those minor traffic accidents in which a Traffic Crash Report is not issued. As a result, DDOT does not have complete information regarding the entire universe of traffic crashes and collisions occurring in the District, which likely skews any of DDOT's analysis, reports, recommendations, or attempts to improve traffic safety.

As we understand it, in 2008, DDOT and MPD began a joint study of MPD's traffic reporting forms in an attempt to capture more accurate information regarding minor accidents occurring in the District. As a result of that review, DDOT has significantly revised the PD Form 10-C and hopes to begin making the form available to the public in the summer of 2011. With the distribution and use of the revised PD Form 10-C, DDOT hopes to create a system that will contain accurate information regarding all reported traffic crashes and collisions, not just those accidents for which MPD officers are required to complete a PD Form 10. By collecting this particular information, DDOT hopes to be able to fulfill its mission of improving street and travel safety within the District. The form will also assist drivers in recording information regarding minor accidents in which they are involved and may facilitate reporting that information to insurance companies. DDOT plans on making the PD Form 10-C accessible from the DDOT website, and MPD will place a link to the PD Form 10-C on its website. DDOT hopes to make the revised form available at police stations, District Department of Motor Vehicles (DMV) service centers, and car rental agencies. Additionally, DDOT hopes that MPD officers will carry copies of the revised forms in their police cruisers, handing them to motorists as needed. Drivers will be asked to return the completed forms to DDOT either by mail or online within a specified period of time.

OPC staff reviewed the revised PD Form 10-C. The form more effectively documents information regarding traffic accidents. The revised PD Form 10-C provides motorists with a description about the form's use, as well as space to document the location of the crash, driving and road conditions, vehicle descriptions, insurance information, driver details, officer information, and a brief narrative explaining what happened.⁹ OPC commends MPD and DDOT for taking steps to improve traffic accident reporting in the District.

⁸ MPD General Order 401.03.II.

⁹ Draft PD Form 10-C, "Motor Vehicle Crash Report—Property Damage Only Crashes."

V. OTHER PRACTICES

Although MPD's practices regarding traffic crash and accident reporting may seem unusual to the general public, police departments around the country have adopted similar measures.

A. Philadelphia, PA

The Philadelphia Police Department (PPD) has a webpage on its website explaining that PPD officers are not required to respond to accidents with no injuries and "minimal [property] damage."¹⁰ According to the webpage, motorists can instead file an accident report with the police department over the phone or in person.¹¹ PPD cited the large amount of response time devoted to handling these calls as a reason for the change, stating that approximately 40,000 to 50,000 accidents responded to by PPD officers in 2009 were "minor in nature with no injury."¹²

B. San Francisco, CA

Pursuant to its policy, the San Francisco Police Department (SFPD) does not investigate or report vehicle accidents where there is only property damage.¹³ If a motorist insists that a report be completed, the officer must stay on the scene and ensure that proper information regarding the collision is exchanged between the motorists.¹⁴ Although SFPD officers do not investigate or file reports regarding property damage, California law requires motorists to complete a "Report of Traffic Accident Occurring in California," or "SR 1," within ten days of the accident if there is over \$750 worth of property damage to the vehicle or if anyone involved in the accident dies or sustains injuries.¹⁵ Pursuant to SFPD policy, officers are tasked with informing motorists of this responsibility.¹⁶ Copies of the form are available online, at the state's DMV offices, and at the offices of the California Highway Patrol.¹⁷

C. Phoenix, AZ

The Phoenix Police Department responds to motor vehicle accidents involving death, injury, or property damage that requires the vehicle to be towed.¹⁸ However, in responding to those accidents, an officer completes an "Arizona Crash Report," or "ACR," only if there is resulting death, injury, or property damage exceeding \$1,000.¹⁹ If there is a doubt by the officer as to the

¹⁰ Philadelphia Police Department, *Change in How to Report Auto Accidents to Police*, <http://www.phillypolice.com/news/change-in-how-to-report-auto-accidents-to-police>.

¹¹ *Id.*

¹² Alex Gross, *Philadelphia Police Announce New Accident Report Policy*, Philadelphia in Pictures Examiner, April 27, 2010, <http://www.examiner.com/in-pictures-in-philadelphia/philadelphia-police-announce-new-accident-report-policy?render=print>.

¹³ SFPD General Order 9.02, "Vehicle Accidents," (effective Aug. 10, 1994).

¹⁴ *Id.* at II.H.1.

¹⁵ California Department of Motor Vehicles, *Vehicle Collisions! What to Do?*, http://www.dmv.ca.gov/pubs/brochures/fast_facts/ffd116.htm.

¹⁶ SFPD General Order 9.02 at II.J.1.

¹⁷ SFPD, *San Francisco Police Department: FAQ*, <http://sf-police.org/index.aspx?page=1606>.

¹⁸ Phoenix Police Department Operations Order 6.5.2, "Traffic Accident Investigation," (revised Feb. 2009).

¹⁹ *Id.* at 4.A.1.

amount of damage, the officer must complete the ACR.²⁰ For accidents that do not involve death or injury, and the damage is less than \$1,000, the officer will evaluate the accident to confirm that it does not require an ACR, and note the motorist's names, addresses, and telephone numbers in the officer's daily worksheet.²¹

Like MPD, the Philadelphia, San Francisco, and Phoenix police departments all require reporting—by either the officer or the motorist—of those accidents resulting in death, injury, or property damage. However, the police in Philadelphia and Phoenix do not investigate traffic accidents resulting in minor property damage and no injuries while the San Francisco Police Department does not investigate any traffic accidents solely involving property damage, regardless of the amount. MPD and DDOT plan to go a step further than these law enforcement agencies by providing motorists with a dedicated, formalized process for reporting traffic accidents resulting in minor property damage. Not only will this process minimize officer involvement in handling minor traffic collisions, but it will also make it easier and more convenient for motorists to file reports with their insurance companies. PCB commends these efforts, and believes that MPD and DDOT's traffic crash and collision reporting measures, once perfected and finalized, could potentially be a model for other law enforcement agencies throughout the country.

VI. RECOMMENDATIONS

In order to ensure public awareness of the revised PD Form 10-C and MPD officer responsibilities under the traffic directive, PCB makes the following recommendations:

- A. **MPD should retrain officers on General Order 401.03 so that officers are familiar with its requirements.** The training should reinforce the general order's requirements, namely, that officers must notify motorists involved in a minor traffic accident that a Traffic Crash Report is not required, disseminate the PD Form 10-Cs, conduct WALES checks for the motorists, and ensure that accurate information is exchanged for those traffic accidents where the damage is less than \$250. It is important that officers understand that their responsibilities regarding minor traffic accidents are *not discretionary*. Because officers have not consistently followed the general order's provisions, drivers involved in minor traffic accidents are left empty-handed and puzzled. PCB understands that the PD Form 10-C is currently being revised. However, until the form is issued, officers should distribute the current form so that drivers have a written record of the accident.²²
- B. **MPD should revise General Order 401.03 to require MPD officers to ensure the exchange of accurate information for all traffic accidents.** Under current MPD policy, officers must ensure that drivers exchange information only if the damage is less than \$250. This leaves a loophole whereby motorists who have property damage of \$250 or

²⁰ *Id.* at 4.A.2.

²¹ *Id.* at 5.A.

²² MPD has informed us that it would like to finalize the PD Form 10-C first before reviewing General Order 401.03 for possible revisions. According to the Department, if any changes to the general order are deemed necessary as a result of MPD's review and PCB's recommendations, the directive will be revised and training will occur.

above, but do not otherwise meet the requirements needed for a Traffic Crash Report, have no way of ensuring that they are receiving proper information from the other motorist, thus making it challenging for them to file an insurance claim if they have received inaccurate information. In addition, it may be difficult for officers to accurately and consistently approximate vehicle or property damage. This may result in officers prematurely leaving the scene before ensuring that proper information is exchanged. Accordingly, MPD should revise its directive to close this loophole.

- C. MPD and DDOT should consider creating a webpage outlining MPD and DDOT's policies regarding the completion of traffic reports.** Widespread public knowledge and understanding among the driving public will foster greater compliance and make more certain that DDOT is receiving the critical information that it is currently lacking. PCB recommends that the two agencies use all available channels to raise awareness of MPD's and DDOT's policies regarding the completion of traffic reports. The two agencies should consider creating a webpage outlining their policies and possibly include a "Frequently Asked Questions" segment on the webpage. This webpage should be accessible from both the MPD and DDOT websites. Printed copies of the webpage should also be made available in police stations and DMV service centers. If the creation of such a webpage proves to be too costly, as an alternative measure, the two agencies could also place information pertaining to accident reporting on existing agency webpages.
- D. MPD and DDOT should issue the revised PD Form 10-C and make it accessible to motorists involved in traffic accidents.** Again, PCB commends MPD and DDOT for its efforts in revising the PD Form 10-C to make it much more useful to motorists and the District. To date, however, the revised PD Form 10-C has not been issued. Because the revised form would be helpful to DDOT in assessing traffic crashes and collisions in the District and would allow for motorists to provide more detailed information to insurance companies, PCB urges the two agencies to complete any changes and issue the form promptly, posting the form online on MPD's and DDOT's websites and making printed copies of the form available in police departments, DMV service centers, and car rental agencies.