Good and Poor Police Reports

Just as there are good, best-selling books and poor, just-sit-there books, there are good and poor police reports. Good ones are written by officers who have realized early on that the path to promotion starts with good people skills and with better-than-most report-writing skills. Furthermore, these officers have also discovered, possibly through hard experience, that good police reports can prevent nasty civil suits. In an era in which armed robbers can successfully sue officers for injuries they received during gun battles, this is no small factor.

The majority of officers in this country can produce an adequate police report, but few are willing to go the extra mile necessary to complete a truly sterling piece of work. Time deadlines, other cases, and pressures from peers or supervisors can prevent an otherwise good officer from writing the best police report he or she can.

Here is a somewhat alarming paradox: mediocre police reports that leave out the facts and expose law enforcement agencies and their municipalities to civil suits can become your "trump card" in a traffic accident or criminal defense case. Since many police reports are merely adequate, i.e., "I came, I saw, I wrote, I left," you can learn to read reports involving your clients with a more practiced, if not jaundiced, eye.

Finding errors, exploiting omissions, or attacking the officer's experience or training may not sound too friendly nor make you popular with the police, but it does offer one time-honored way for attorneys to win cases for their clients. The more you know about how certain police officers write their reports, the better chance you have to exploit a possible weakness to your advantage.

With few exceptions, the two kinds of police reports that would most affect the general practice, personal injury, or criminal defense law firm where you work are those involving traffic collisions and those involving arrests.

It's not safe or accurate to generalize about what police reports actually say or look like because each police agency (local, state, military, or federal) uses its own forms. What works for one won't work for the other. Police reports may be standardized statewide, county wide, or not at all. An agency may copy an adjoining department's report forms or use something completely different. But while each agency may use different forms, we can make certain assumptions based on the fact that, in the end, all reports will cover the same topics.

Most police activities fall into two categories: reactive and proactive. In reactive situations, officers come across incidents of crime or criminals and deal with them accordingly. This includes their response to radio calls, to citizens who flag them down while driving through their beat, and finally, to things they themselves notice as they patrol.
In car accident cases, the officers may be sent to the site at the request of the dispatcher; they may be told of the crash by a passerby; or they may in fact witness or drive past the accident themselves. As a side note, if your client was involved in an accident witnessed by the police and he or she is at fault, don’t expect the report to be much help for your cause.

Arrest cases are similar to car accidents. Officers may get a radio call which leads them to arrest someone; they may be told of some criminal activity going on, e.g., a burglary, a fight, car tampering, etc.; or they may come across someone they see committing a crime. They may even spot a known fugitive.

While these reactive instances cause officers to take action when they learn of problems, proactive police work is entirely different. Reactive police activities make up the bulk of police work. Proactive policing, though not as common, often leads to more spectacular results. In these cases, officers will go to high-crime areas and wait for things to happen. Narcotics, robbery, and burglary stakeouts are examples; undercover, wiretapping, and infiltration operations are others. Here, the police are ready and willing to take on criminals by setting traps for them. Most proactive police work that doesn’t involve special uniformed street patrols is conducted by experienced detectives and other veteran police investigators.

Another example of proactive policing involving traffic matters is the use of radar guns and so-called speed traps in certain heavily-traveled and high-accident areas. Here, the police are attempting to solve a problem using a proactive approach.

What does all this mean to you as a report reader? It should help you understand the hows and whys of your client’s involvement with the police, as an accident victim, as an arrestee, and as a citizen of the community.

Many personal injury attorneys focus their practice on traffic-related matters-minor or major injury car accidents, hit-and-run cases with injury, wrongful deaths, or fatal accidents. If you work for a personal injury attorney, you can expect to spend much of your time reviewing the police reports that correspond to these events. And since criminal defense attorneys focus their efforts on clients involved in Driving Under the Influence cases, narcotics arrests, and felony or certain misdemeanor cases, you, as a paralegal to a criminal defense attorney, will tend to read many police arrest reports related to these matters.

Have no fear—report reading experience comes with time. You may know nothing about police reports and the associated jargon and terminology, or you may be an old pro, with enough knowledge to teach an Academy class on the subject of police reports. Either way, you should realize that the forms for police reports are in a constant state of flux. Department administrators are often invertebrate tinkerers, and they don’t feel satisfied unless they’re changing police reports to meet new or supposedly new needs. One southern California police department changed its arrestee information sheet three times in six months. Police officers had to learn to fill out each one, and paralegals had to learn to read them.

This should warn you to be alert for new versions and new lay outs of the same old reports. The forms may change colors or the number of little boxes to be checked may grow from five to fifty, but one thing will not change—the language.

In any client case, traffic or arrest, the key to understanding the police report lies in the narrative, or what the officer writes as an explanation for his or her actions and the actions of the other case participants at the scene. Depending on the police agency, the report you read could be chock-full of jargon and inside terminology that only other police officers (or somewhat confused prosecutors) could understand, or it could be written in plain English, with a minimum of police-related terminology.

Many police departments go to great lengths to train and retrain their officers to write in plain English. Their goal is to avoid written statements like, “The violator’s vehicle faced in a westerly direction after it struck the parked vehicle” or “The suspect was searched and a gun was removed.” The first statement sounds as if it were written by a computer and not a human, and the second, passive voice exam-pie doesn’t say who exactly searched the suspect or where exactly the gun was found.

A clearer way to make the first statement might be: "After hitting the parked car, the vehicle came to rest facing west." And for the second example, the sentence "Officer Davis searched the suspect and removed a gun from his right front jacket pocket" might tell the story better.

As you review traffic accident reports, focus your attention on three specific areas: the client, defendant, and witness information; the primary cause; and the facts surrounding the accident. You’ll use the first part to complete the client’s case file (names, addresses, phone numbers, insurance policy information, etc.) and the second and third to look for statements, evidence, or errors in your client’s favor.
The most important piece of information on a traffic collision report (besides the other party's insurance policy number) is the determination of fault or the Primary Cause Factor (PCF). If the defendant was at fault, you have a good chance of winning the case based solely on the validity of the report, the credibility of the client, and the availability of any witnesses.

If the client appears at fault, you have to ask yourself if this determination could be subject to a legitimate argument that might change this outcome. If the report is in error or if you can find a witness who tells a completely different story, then you might have a chance with the case.

Why only a chance? Because to many insurance adjusters, judges, or arbitrators, police reports are worth their weight in gold. Many of these people will admit, "If that's the way the officer says it happened, then I tend to believe the officer."

Do police officers make mistakes when they complete traffic collision reports? Yes, occasionally they do. So why do these reports get such a high regard? Because the people who settle car accident cases tend to think that the officer is primarily an impartial observer, paid to weigh the facts, statements, and evidence fairly, and render a decision about the fault without regard to any biases. For the most part this is true. Police officers are trained in traffic matters to analyze the skid marks, vehicle damage, and other physical evidence, weigh it with the statements made by the drivers and any witnesses, and add in their training, experience, and knowledge of the area to make their decisions.

With your knowledge of how adjusters and judges weigh police reports, does this mean that you should suggest to your attorney that he or she drop the case because the report favors the other side? Sometimes the answer should be a firm and confident “yes.” There is little sense clinging to false hopes with a case that is clearly a loser for your firm.

Still, before you suggest this drastic alternative, do a little digging and look below the surface of the report. Police officers are just as human as everyone else. They are subject to the same biases, prejudices, and preconceived opinions as the rest of us. Consider the following scenarios before you decide that a traffic case is a certain "dumper":

1. The client speaks broken English, has a very shy personality (especially toward uniformed authority figures), and did not get the opportunity to explain his version of the events to the officer. Here, the other driver's stronger (English) voice and more dominant personality may have influenced the officer into believing only one side of the story.

2. The client was severely injured at the scene, knocked unconscious, and taken away in an ambulance. With no witnesses and no passengers to offer another version, the officer spoke only to the other driver to get the story.

3. The client is an anti-police person. His or her demeanor with the officers at the scene was clearly hostile, argumentative, and maybe even combative. The other driver, on the other hand, is a nice sweet old lady who reminded the reporting officer of his kindly grandmother.

See the biases and preconceived opinions in each case? While it's still possible that your client may indeed be at fault in each scenario, the chances are good that certain outside factors may have influenced the officer's opinions and caused him or her to believe the other party.

Without the benefit of having witnessed the accident, or inter viewed an independent eyewitness who saw it, the officer is forced to rely on other considerations such as the physical evidence. If there is little evidence or the officer is untrained in recognizing its importance, your client may bear the brunt of his or her own circumstances, like the inability to speak clear English, severe injuries, or a hostile demeanor.

Since the first step in any case is to talk with the client, try to get a complete picture of the events that took place. Some of the circumstances surrounding the accident may bring other issues like those above to light.

Traffic Collision Reports: Understanding the Jargon

Some career fields tend to be a bit heavy on jargon—computer science, engineering, insurance, and banking come to mind. Police work is no exception; it clearly ranks among the jargon-rich professions, behind only, perhaps, the military and the federal government. Police traffic collision reports attempt to tell the readers, and in most cases there are many of them, who was driving where and who crashed into whom. This sounds simple on the surface, but with acres of jargon filling the pages, it can be a challenge to discover this information without a qualified "police-speak" interpreter.
Keep in mind that, in most instances, the only agency that uses the same traffic collision report for all its officers is the State Highway Patrol. At least you have some clarity here because officers from all over the state use the same form. To complicate things even more, some police and sheriffs agencies use the State Highway Patrol form for their reports, while others use their own (usually a conglomeration of the Highway Patrol version mixed in with regional information).

In nearly all traffic collision reports, the officers will refer to the participants in one of three ways:

1. P-1, P-2, etc. for Party One or Participant One, etc.
2. D-1, D-2, etc. for Driver One, Driver Two, etc.
3. V-1, V-2, etc. for Vehicle One, Vehicle Two, etc.

If this isn't complicated enough, keep in mind that in some reports, P-1 (or D-1 or V-1) is always listed at fault, and in others, P-2 (or D-2 or V-2) is always listed as the at-fault driver. How do you know from agency to agency and report to report? You must read the narrative to see who did what to whom and how the officer refers to the party at fault.

Other common abbreviations include:

1. ICP—Initial Contact Point; refers to the actual physical street measurement (usually in feet or tenths of a mile) where one car collided with another.
2. POI—Point of Impact; another way to refer to the ICP.
3. POR—Point of Rest; indicates how far a vehicle or a body (in fatal accidents) traveled after the initial ICP/POI. A long distance may indicate a vehicle’s high rate of speed.
4. PCF—The Primary Collision Factor; tells you why the accident happened (in the opinion of the investigating officer), e.g. Following Too Close, Speed Unsafe For Conditions, Unsafe Movement to the Left or Right, Violation of Right of Way, Illegal U-Turn, etc.
5. C.O.P.—Complaint of Pain; tells you who was injured and how severely.
6. W-1, E-1, S-1, N-1, etc.; shorthand for the first Westbound, Eastbound, Southbound, or Northbound lane (as you count left to right from the center divider). The lane to the right of the "one" lane would be the "two" lane, etc. Freeways would count from the one or "fast" lane all the way left to right to the "four" or "slow" lane.
7. wb, eb, sb, nb; another way to abbreviate westbound, east-bound, etc.
8. wcl, ecl, sol, ncl; west curbline, east curbline, south curbline, and north curbline.

Traffic investigators use feet and specific curblines to pinpoint the exact location of the accident. An accident in an intersection may have occurred “25 feet north of the south curbline of Maple Street and 18 feet east of the west curbline of Ash Street.” This allows other reviewing parties like traffic investigators, insurance adjusters, city claims personnel, etc., to pinpoint the location of the crash.

Most traffic collisions will also have a diagram, and these vary in quality from excellent to dismal depending on the drawing skills of the reporting officer. The size, complexity, and accuracy of the diagram may be determined by the severity of the injuries in the case. In most midsize to large cities, serious injury and fatal traffic accidents are handled by specially trained uniformed traffic accident investigators. These officers will have gone through a special 40-hour "Skid School" to learn about skid patterns, braking distances, collision damage, and how to investigate and document serious collisions.

If your client was involved in any part of a serious or fatal accident, the report will be much more detailed than a simple rear-end crash or a similar minor injury accident. The diagram will be of full-page size and will include specific measurements and the location of all evidence, including vehicles, obstructions, pedestrians, witnesses, etc.
Since these serious accident reports are usually completed by well-trained accident investigators with many years of police traffic service, they are more difficult to dispute than other less complex reports. However, many law firms handling serious injury (and big-money) cases will hire private traffic accident reconstructionists to review the report and compare it with their own interpretation of the crash scene. If the police report and the private consultant’s report differ greatly, the matter will probably end up in court.

Many of these expert traffic reconstructionists are also ex-police officers with a significant background in traffic accident reporting.

As you look at a typical traffic collision report, keep a few other important factors and questions in mind:

1. Most traffic diagrams are written so that the North position points up on the page.

2. Does the report contain an accurate diagram? Do the lane measurements appear correct or do they look like rough guesses? Most officers pace off the lane widths and other numbers like the POI and POR. These figures can vary widely in their accuracy and may have a significant impact upon the outcome of the case.

3. Are there any street conditions that bear noting? This may include the presence (or lack) of city barricades to cover a huge hole or ongoing construction; flag personnel who should have controlled a dangerous intersection; any unusual road problems like spilled gasoline, oil, water, sand, or gravel that may have caused drivers to react in other than normal ways.

4. Were the electronic traffic control signals working correctly at the time of the collision? Were city or state construction crews present, and did they see or cause the crash? Is there a chance to prove city or state liability?

5. Are there any discrepancies about who owns or insures the car? Is there any question of negligent entrustment with the defendant’s car?

6. Are the ambulance and hospital personnel properly listed? Does the report indicate the police, fire, ambulance, and other medical personnel who may have responded? You may need to subpoena these people later.

7. Have you or your client remembered to notify the State Department of Motor Vehicles about the accident? Failure to do so could bring the client a nasty license suspension notice.

If you work for a law firm that does any personal injury work at all, police traffic collision reports should be your bread and butter. Thorough reports can help you win most car accident cases. If the reports are good and in your client’s favor, use them to your advantage. If the reports are poor, filled with errors, or not in your client’s favor, exploit the errors to your benefit or work to get them changed.

While traffic collision reports tend to contain mostly factual data, police arrest reports tend to rely more on the officer’s observations, opinions, and his or her interpretation of the events leading up to the arrest. As such, there is obviously much more room for discussion and impeachment. True, some cases are clearly open and shut, or "slam dunks" as cops like to call them. Here, the best any defense attorney can hope for is for some fair treatment at the plea bargain conference. But many cases do offer some ambiguity. These cases demand careful scrutiny of the arrest reports so that the attorney can prepare an effective defense.

Arrest reports vary in detail and length from agency to agency. As a reviewer, you should focus your attention on the narrative since this represents the “meat and potatoes” of any arrest report. Here’s how a typical arrest report will break down into narrative sections:

Charges: This section will tell you what the client was charged with, including the specific code section and enabling code book, e.g., the Penal Code, the Vehicle Code, the Health and Safety Code, etc.

Origin/probable cause: This section gives you two important sets of facts: how the officer came to notice the arrestee (radio call, routine observations, a tip) and what led the officer to stop and detain the person (weaving while driving, bizarre behavior, running from a ringing alarm while carrying a VCR). This is the most delicate part of the report because much of the rest of the case (searches, arrest, etc.) hinges on good and legal probable cause. Read very carefully here, highlighting with a pen the areas that may be inconsistent with case law.

Officer actions: This section explains what actions the officer took to apprehend the person and why he or she took those actions. It includes things the officer may have seen or heard that led him or her to make an
arrest.

Victim/witness statements: These are descriptive statements based on comments the officer has solicited from crime victims and nearby witnesses. These statements are typically written in a looser, paraphrased style: "The witness told me in essence that he was sitting on the bus bench when he saw the suspect run up and knock the victim to the ground. ..."

Suspect statements: These are almost always verbatim, quoted statements made by the arrestee, either after the Miranda admonition or spontaneously before Miranda warnings. Officers will usually document these statements as quoted passages (Officer: "Then what did you do?" Suspect: "I put the gun in my jacket pocket. . . ."). Remember, police officers have been taught to interview victims and witnesses and to interrogate suspects. The report should reflect a professional approach to taking statements.

Evidence: This section consists of an inventory of any evidence recovered at the scene or taken from the suspect and the information as to the disposition of the evidence: "One small plastic baggie of marijuana, removed from the suspect's right front pants pocket. Impounded at the station on Tag #1234."

Injuries/damage: This section includes any description of injuries that the victim or suspect may have sustained or any damage to property caused by the crime.

With any criminal defense matter, keep the client’s own statement of the facts in mind. What did he or she tell you or the attorney handling the case at the initial meeting? How does this compare with the officer’s version? What discrepancies do you see in either story? Are there any obvious mistakes in the report in terms of case law, illegal detention, or unlawful search and seizure?

Rock-solid arrest reports are hard to beat. Good officers know from training and long years of experience just what to put in the report to "sell" the report to their supervisors and to the prosecuting city and district attorneys who will read it later. But even the best officers will take shortcuts, leave out pertinent information, or fail to explain their actions sufficiently to get a conviction. In a traffic collision or criminal defense case, the police report, the information you get from the client, and witness statements may be all you have to go on. If it's possible to win the case, you'll find the ammunition you need to help you right there in the report.