



South Carolina Department of Public Safety
S.C. Highway Patrol

MEMORANDUM

TO: Troop Captains
FROM: Major C.J. Madden
Support Operations
DATE: March 23, 2010
RE: Victim Advocate Protocol

Attached is the South Carolina Highway Patrol Victim Advocate Protocol that has been approved by Colonel Lancaster. Also attached is the DPS form which will need to be included with the paperwork that will be sent to the Victim Advocate (Emma Lilley), should her services be needed.

Each Troop will be required to adhere to the following:

1. Each Troop Executive Officer will be the point of contact for the Victim Advocate. A back-up delegate will need to be chosen in the event that the main point of contact is not available. The names of these points of contacts and back-up points of contacts are to be sent to me no later than April 1, 2010.
2. The point of contact will be responsible for forwarding the appropriate forms to the Victim Advocate at SCHP Headquarters in Blythewood. It is important that a consistent protocol be established to ensure that each point of contact as well as the Victim Advocate, herself, is in compliance with the Victim Services policies and procedures.
3. Two important forms - the TR-310 and the DPS-LEO 25 (information sheet) - must be sent to the Victim Advocate within 72 hours of the collision. Initial information outlined on page 6 (D) of the attached protocol will be sent to the Victim Advocate within 24 hours of the collision. Any amended TR-310 reports will be submitted within 14 days of the completed investigation. Please keep in mind that turning in these forms on time is crucial.

As you all should be aware, Ms. Emma Lilley was hired in November 2009 to serve as the statewide Victim Advocate. Ms. Lilley will serve traditional victims in crime in all seven Troops. It is imperative that each Troop Captain and each point of contact and back-up point of contact become very familiar with the Victim Advocate Protocol as well as develop a cooperative working relationship with Ms. Lilley, as she will be the vital link between the Highway Patrol and the victims' families. Please give me a call with any questions concerning this protocol.

CJM/cls

Courtesy - Efficiency - Service

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South Carolina Highway Patrol Victim Services Protocol

Overview:

Every year, on South Carolina highways 1,000 or more people die in motor vehicle related collisions. A large percentage of those collisions involve criminal situations that create a legal definition of a "victim." The victim will require assistance in understanding how to navigate the legal and judicial hurdles ahead. There are two types of victims who fit the legal definition: the "victim" who survives the collision with injury; or the family members left behind who will represent the deceased victim.

The South Carolina Highway Patrol is mandated by law to provide certain baseline services to victims of crime. It is our goal to not only meet those baseline standards but to exceed those standards. We hope to create a program that best serves the victims' needs and is understood and followed uniformly among the seven Troops.

Accomplishing this goal will involve a tiered system of implementation. This document constitutes an initial – and vitally important -- step in that process. We must first implement a clearly defined and consistent process for handling traditional victims of crime cases across the seven Highway Patrol Troops.

History:

In past years, the Patrol has addressed traditional victims through the TAVA program (Traffic Accident Victims Assistance) model. However, the procedures and personnel have changed over the years creating inconsistency among the Troops in handling victims' cases. The primary dilemma has been defining the appropriate personnel responsible within the Troop for managing the caseload. TAVA coordinators have included the following over the years:

- One corporal in each county; one lieutenant in each District as the district coordinator; one trooper in headquarters;
- Two troopers for each county; one lieutenant in each District as the district coordinator; one trooper in headquarters;
- One public information officer later known as Community Relations' Officer in each Troop; one trooper in headquarters as coordinator;
- Removed from CROs but not clearly defined elsewhere; trooper in headquarters;
- Victim Advocate hired.

In the past several years, the Highway Patrol has made significant strides toward developing and expanding its services to victims of crime resulting from motor vehicle collisions. A Victim Advocate was hired in 2006 and worked to create a model for addressing the needs of both the traditional victim (defined below) and the nontraditional victim.

She was stationed in Troop One, primarily serving Troop One victims. However, she did assist on cases in other Troops upon request of the Troop Commander.

In 2009, the Highway Patrol was awarded a Victims of Crime Act (VOCA) grant to hire a victim advocate. In November, Ms. Emma Lilley was hired to serve in the role of a statewide Victim Advocate. Ms. Lilley will serve traditional victims of crime in all seven troops.

The purpose of this document is to better define the parameters of the current victim advocate's responsibilities and to expand statewide a model similar to the one tested in Troop One. This model will be geared almost exclusively toward meeting and exceeding the statutory requirements for traditional victims of crime.

Victims of Crime: Definition/Requirements:

Law enforcement agencies are bound by statute to provide basic services to traditional victims of crime as defined in Act 141, Article 15, Title 16-3-1510.

Victim: an individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense, as defined in this section. "Victim" also includes any individual's spouse, parent, child, or lawful representative of a victim who is:

- (a) *deceased*
- (b) *a minor;*
- (c) *incompetent; or*
- (d) *physically or psychologically incapacitated*

For crime victim purposes a "victim" does not include any individual who is the subject of an investigation or, who is charged with, or who has been convicted of or pled guilty or nolle contende to the offense in question. "Victim" also does not include any individual, including a spouse, parent, child, or lawful representative, who is acting on behalf of the suspect, juvenile offender or defendant unless his actions are required by law. "Victim" also does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense.

Based on the laws established a Crime Victim is the only type of "Victim" that can receive compensatory funds as it regards medical, funeral, and personal expenses from the networking agencies, such as, the State Office of Victim's Assistance (SOVA) and the South Carolina Victims Assistance Network (SCVAN).

Victims of Crime: Requirements:

This is a summary of law enforcement's legal obligations to the victims of motor vehicle collisions:

- Must provide a free copy of the initial incident report.

- Must provide a document which describes a victim's constitutional rights and statutory responsibilities as well as local victim assistance and social service providers and the victims' compensation program.
- Must assist eligible victims in applying for compensation benefits as requested.
- Must intervene with creditors or employers of a victim.
- Must inform a victim of the status and progress of the case from incident to disposition in summary court, or referral to the Department of Juvenile Justice or referral to a prosecuting agency.
- Must notify of arrest, bond hearings, pretrial releases, and of the right to attend summary court bond hearings and make recommendations to the judge; this includes any type of juvenile hearing or release.
- Forward victim contact information to the summary court or the prosecuting agency before a bond or release hearing.
- Must provide any measures necessary to protect victims, including to and from court.
- Must make reasonable efforts to provide separate waiting areas for victims from defendants for proceedings in circuit and family courts.
- Return personal property as quickly as possibly.

Creating a smooth system whereby we track these cases statewide will be critical.

Role of Victim Advocate

The Victim Advocate will fall under the Support Operations and she will work closely with the Community Relations and MAIT Unit, Troop Nine.

Her role is primarily to provide services to victims and surviving family members of motor vehicle crashes resulting in a crime. The South Carolina Highway Patrol recognizes the special needs and concerns of victims and survivors of motor vehicle collisions, and will treat victims, witnesses and/or survivors with compassion, fairness, dignity, and respect.

The Victim Advocate will be responsible for the following duties:

- Responding to scenes, hospitals, etc. as needed to provide crisis intervention to victims or survivors.
- Providing follow-up services to assist the well being of victims or survivors.
- Providing referral information to victims or survivors of available resources.
- Providing information to victims and/or families regarding the status of the investigation and information regarding to "at-fault" driver.
- Assisting victims and/or families in filing for Crime Victim Compensation
- Notifying victims of their rights as stated under South Carolina law.
- Accompanying victims and/or family members to court and other legal proceedings, as needed.

- Other needs that arise that can be handled by the Victim Advocate on a case-by-case basis.

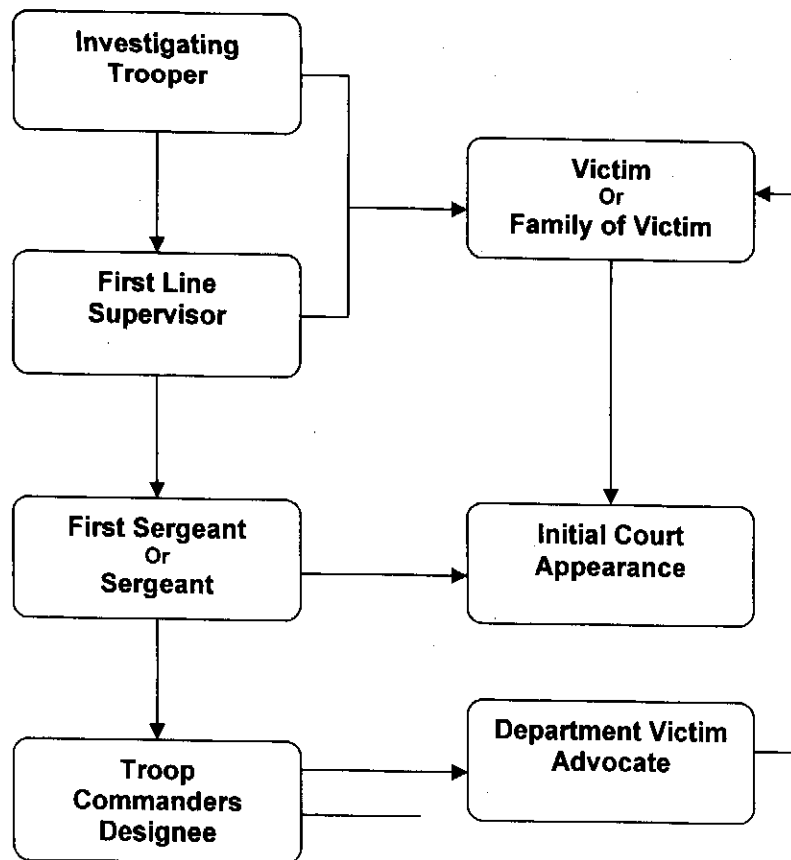
Establishing consistent protocol:

The model proposed in this document will demand close communication among the Post/Troop, the MAIT team, and the Victim Advocate.

A database will be created to chart the progress of each case. The database will be accessible by all involved – in read only format - from the investigating trooper to the victim advocate.

The following is the suggested flow of a case (flowchart below):

- **Investigating trooper works a collision that meets the TAVA criteria.**
- **The trooper must complete and provide the checklist (DPS-LE-025) as well as the Victim's Information Sheet (DPS-LE-025A) to the victim or victim's family as soon as practical. This will include information on the initial court appearance for the defendant.**
- **The Investigating Trooper will also provide the jail and courts with their copy of the checklist where applicable.**
- **The trooper informs the first-line supervisor that a victim of crime case has been opened. The checklist is then forwarded through the Highway Patrol's proper chain of command: Investigating Trooper → Corporal → First Sergeant → Troop Lieutenant (designated by Troop Commander). *** If an incident appears to warrant an immediate callout of the victim advocate, the MAIT commander will work with the victim advocate to make the appropriate professional decision in consultation with her. Geographic location will be a factor in a callout decision since the victim advocate is based in Columbia.***
- **The Post Commander will determine whether the Patrol attends the bond hearing and also be responsible for forwarding a copy of the completed Victim's Advocate Checklist (DPS-LE-025) to the Troop Headquarters as soon as practical. The Troop lieutenant will forward the completed checklist and the TR 3-10 form to the Victim Advocate in Blythewood Headquarters.**



Victim Advocate for Follow-Up:

The Troop Executive Officer (or captain's designee) will review the checklist and the facts surrounding the incident and choose the next course of action based on the following.

- If the incident involves great bodily injury or meets certain criteria, it will automatically be sent to the Victim Advocate. Some of those criteria may include:
 - **Felony DUI (Death);**
 - **Felony DUI (Great Bodily Injury);**
 - **Leaving the Scene (Death);**
 - **Leaving the scene (Great Bodily Injury)**
 - **Reckless homicide;**
 - **Reckless driving with Great Bodily Injury**
 - **Chargeable cases with multiple fatalities (as circumstances warrant) or incident involving children where extra care will be needed;**
 - **Incident deemed necessary by Troop Commander in consultation with field major.**

The Victim Advocate would then follow her outlined protocol to assist the victim throughout the legal process (see below).

For cases not meeting the above criteria (such as DUI with injury not deemed Great Bodily Injury), the Victim Advocate would mail a form letter to the victim and would act as a liaison between the Highway Patrol and the victim on minor issues most likely to involve paperwork.

Victim Advocate Protocol:

If a case is referred to the victim advocate, it will either be as an immediate notification – (in very rare instances such as multiple deaths, those involving children etc.) or deferred notification (next business day).

Immediate Notification:

- A. The trooper responding to the scene of a collision will determine the victim/witness/survivor's need for services, and whether or not his/her needs may require the immediate response of the Victim Advocate.**
- B. The MAIT commander will be contacted if the Troop decides there is a need for the on-scene presence of the Victim Advocate.**
- C. The immediate information given to the victim advocate will come from the MAIT commander.**
- D. Information needed:**
 - time of collision
 - location
 - type of injury
 - victim name/next of kin (if applicable)
 - telephone number of next of kin
 - county of collision
 - name of trooper currently working the case
 - location of callout needed (accident scene, hospital, etc.)

If the victim advocate did not respond to the scene, she will be responsible for follow-up the next business day. The follow-up may include contact with the victim and/or victim's family verbally or in person.

If an immediate callout is not warranted, the trooper or supervisor who responds to the scene must contact the Victim Advocate via email within 24 hours. Basic information listed above (part D) will be conveyed. The trooper who responded to the scene will forward a copy of the TR 3-10 form and Victim Advocate checklist within 72 hours of the collision (via email PDF file, fax, or mail). The notification of the collision and the proper paperwork may be submitted at the same time.

In the days/weeks to come, the VA will follow the procedures outlined on page three of this report that documents our responsibility to the victim. These needs can vary from victim to victim. The VA will work directly with Troop Command or designee as the case progresses.

There are four minimum contacts that the VA will make with the victim or surviving family member:

- (1) Initial contact – contact that is either in person, over the phone, or via form letter, as the case may warrant;
- (2) Follow-up – usually made within 20 days after the initial contact; in cases of death, this follow-up contact will be made within 10 days;
- (3) Six month contact – a letter will be sent that will include an evaluative survey that victims/surviving families will complete and send back to express their experience with the Victim Services program;
- (4) One year contact – a letter will be sent one year after the case was referred, to remind them of our services if any further referrals are needed.

Victim Services' Training:

Transition to this model would require immediate orientation for Troop Command Staff. It is absolutely critical that troopers and command staff have a sound understanding of victims' rights and our responsibilities by law to deliver these services in a fair and expeditious manner.

A training program would need to be formally developed, as collaboration between the Victim Advocate and HP Training that would focus on a review of state law regarding victims' rights, Victim's Bill of Rights, Victim Services materials and guidelines. Once the curriculum is established, it is recommended that it be included in the 2010 in-service program, Basic Classes, and First-Line Supervisory School.

Implementation:

As of January 21, 2010 all victim forms should be sent to VA (Emma Lilley) via e-mail. Miss Lilley will actively start working victim cases at or around April 1, 2010.