

THE WARREN REPORT

434-972-9090 • www.warren-law.com • 516 Locust Avenue, Charlottesville, VA

August 2021

If a Police Officer Causes a Wreck, Are They Held Responsible?

Some government employees are protected from civil liability for accidents. Under sovereign immunity, they may not be financially responsible for the harm they cause.

Sovereign immunity refers to the fact that the government cannot be sued without its consent. You may, however, sue a state actor (someone acting on behalf of the state, county, city, etc.) individually, depending on the circumstances. Sovereign immunity applies to cases of “simple” negligence, not “gross” negligence. Gross negligence shows a complete indifference to the safety of others and an utter disregard for caution, and would not be covered under sovereign immunity.

How immunity is determined

There is a four-factor test used to figure out whether sovereign immunity applies. The factors are:

1. The nature and function performed by the employer;
2. The extent of the state’s interest and involvement in the function;
3. The degree of control and direction exercised by the state over the employee; and
4. Whether the act complained of involved the use of judgment and discretion which are necessary to the performance of the governmental function itself.

What it means for you

If you’re injured in a car accident involving a vehicle from a government entity (police car, fire truck, school bus, government agency, etc.), even if the other party is deemed at-fault or negligent, there are instances where government employees may be protected from lawsuits through sovereign immunity!

Since officers and other emergency personnel are asked to make split-second decisions balancing serious personal risks, public safety concerns, and the need to achieve government duties, their decisions may lead to negligent acts which can result in serious death or injury. But at the same time, the failure to make those decisions could also lead to death or



serious injury. Sovereign immunity protects them from being fearful to act in their role.

In the context of driving a vehicle, sovereign immunity depends on whether an act embraces “special risks” in order to accomplish a governmental purpose. For example, under this standard, sovereign immunity WOULD apply to an officer engaged in a vehicular pursuit, or to a firefighter responding to a fire. It would NOT apply to ordinary driving situations. For example, if the officer or firefighter caused an accident while responding to a non-emergency call in routine traffic.

Timeline for lawsuits

If you are injured by a city, county, township, or other municipal employee in Virginia, you have just six months to submit a written notice of your claim to the relevant government entity. If your claim is against the Commonwealth of Virginia, you have one year to file a notice. You must then bring the claim within 2 years of the incident.

Sovereign immunity was derived from British common law doctrine based on the idea that the king could do no wrong.



FUN FACT!



Above: My daughter, a proud graduate of Western Albemarle High School.

Left: She's at the podium, introducing a speaker at her graduation ceremony.

A New Chapter Begins

Well, it happened — my oldest has graduated high school and is heading to college. I never quite believed people when they told me how fast time would fly, but they were right. Absolutely right. She will be attending the University of Virginia School of Engineering this Fall and we couldn't be prouder of what she's accomplishing.



Glove Compartment Cut-Out

After a crash, it can be almost impossible to think clearly. We wanted to create something you could use as a guide after an accident. Simply cut this out and keep it in your glove box, in case it's ever needed. These are just

suggestions. Remember, the most important thing you can do after an accident is to assess yourself, then passengers, then the other parties involved for injuries. Calling 911 and/or rendering aid should take top priority.

SIX THINGS TO DO AFTER A CAR ACCIDENT

1. Stay calm and assess yourself and passengers for injuries. If you are injured, call 911 immediately.
2. If you're not injured, check on the other driver(s) involved and render help if necessary.
3. If possible, turn hazard lights on and move out of traffic.
4. Call police, stay until they arrive, don't admit to any fault.
5. Take pictures, exchange info: name, address, phone, license plate, driver's license, and auto insurance.
6. Ask witnesses for names and phone numbers — don't assume the police will record that information.



www.warren-law.com

434-972-9090

SHOULD I CALL AN ATTORNEY?

If you're seriously injured in an accident that was not your fault, and you get the run-around from an insurance company (rushing, stalling, assigning blame to you), or if they are trying to coerce you into giving a recorded statement, you may want to talk to a local personal injury attorney first. Professional insurance adjusters negotiate cases all day long on behalf of insurance companies — their goal is to give you as little money as possible. A car accident lawyer can give you advice, tell you whether or not you have a viable case to file suit, and handle communications with insurance while you focus on recovering.

IS THIS A CASE?

From our Marketing Coordinator, Brooke

I was recently hiking in North Carolina and one of the trailheads started with a paved path. Part of this path was torn up, exposing an edge large enough for someone to potentially trip on. To warn hikers, they spray painted yellow and black lines along it. I'm still learning a lot about personal injury law, so I snapped a picture curious about what Vaden's thoughts would be on the chances of a premise liability case holding up if someone were to actually injure themselves tripping on the edge.

Premises liability refers to the responsibility of property owners for injuries that occur while a visitor is on their land. Here's what I learned:

The plaintiff would have to prove (to a jury if it's going to trial):

1. A dangerous condition exists.
2. The responsible party knew or should have known about it.



3. The responsible party did not adequately warn of the danger.

The defense must prove:

1. The danger was "open and obvious."
2. The injured party was negligent (for example, they weren't watching where they were going).

So, what do you think — is it open and obvious?

NEWS FROM THE FIRM



Happy Anniversary!

Valerie Martinez, The Warren Firm's paralegal, celebrated her 15th year with the firm! Valerie is such an integral part of the team and we are so happy to be celebrating this milestone with her.



Boxed In?

We've been busy at the office compiling these boxes for prospective and current clients! They are full of helpful information including Vaden's book, giveaways, and more. We're excited to have these and know they'll be a great resource for our clients.

**We focus our practice on
cases involving:
Personal Injury
Wrongful Death
Children's Injuries
Bicycle Accidents
Auto Accidents**



Vaden
Warren



Please recycle!

After you are done with this newsletter,
don't throw it away – give it to a friend.

We value your privacy.

If you no longer want to receive this
newsletter, please let us know.

Call 434-972-9090
or visit us online at

www.warren-law.com

**The Warren Firm
516 Locust Avenue
Charlottesville VA 22902**

PRSRT STD
US POSTAGE
PAID
CARLE PLACE, NY
PERMIT NO 35

Inside this Issue

**What Happens When a
Police Officer Causes an
Accident?**

Glove Box Cut-Out

**A Case or Not:
You be the Judge**

