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Director, Maintenance and Operations Programs 47350	FHWA 40943

Publication Title Public Information Release of Collision Data Policy Statement	Publication Number P 2021.00
Originating Organization Chief of Staff Transportation Data Office	

Remarks and Instructions

New Policy Statement

The attached new Policy Statement, Public Information Release of Collision Data, states the departments policy on release of collision data to the public. It includes rules and procedures to carry out the policy.

Inform Employees

Within your organization, please e-mail the new Policy Statement to your employees. Please provide alternative distribution to employees who do not have access to e-mail or the Intranet. WSDOT publications are available on line at <http://wwwi.wsdot.wa.gov/docs>.

For More Information

For more information, please contact Brian Limotti in the Transportation Data Office by e-mail: limottb@wsdot.wa.gov, or telephone: (360) 570-2493 (PBX for internal use: 2493)

Distributed By Lynn Hicks, Manager, Administrative and Engineering Publications	Phone Number (360) 705-7433	Signature
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/s/ Paula J. Hammond
Chief of Staff

Effective: November 15, 2004

Public Information Release of Collision Data

I. Statement of Policy

It is the policy of the Washington State Department of Transportation (WSDOT) to make collision data available to any member of the public who completes the appropriate request and satisfies federal laws governing access to the data.

Included with this policy are rules and procedures, a request form, and a sample cover letter. These are to be used by all WSDOT employees to ensure this policy is carried out in a consistent manner. In the future, these rules and procedures will be published in a manual format.

II. Background

A. Federal Law

Federal law 23 USC § 409 prohibits the discovery or admission into evidence of “reports, surveys, schedules, lists, or data” compiled or collected for the purpose of highway safety improvement projects that might qualify for federal safety improvement funding.

B. United States Supreme Court Decision

In *Pierce County v. Guillen*, the United States Supreme Court determined that the purpose of this federal law is to protect states and local governments from having damage lawsuits filed against them based on data that they are required to collect to obtain safety improvement funds from the federal government.

C. Federal Highway Administration

According to program memorandum HSA-1, issued by the Associate Administrator for Safety, Federal Highway Administration, on March 28, 2003: “Section 409 is a grant condition that the State agrees to when it participates in the Hazard Elimination Program, and it must therefore abide by this condition”.

III. Information To Carry Out This Policy Statement

A. Definition and Scope of “Public Information Release of Collision Data”

Collision data are public information, with some restrictions about how they are provided to the public. In this Policy Statement, the term “collision data” includes:

1. WSDOT electronic files containing data derived from Police Traffic Collision Reports, Vehicle Collision Reports, and supporting documents. These files may reside in mainframe or server computer systems.
2. Computer printouts derived from these WSDOT electronic files. These printouts may contain information about individual collisions, including location, date, time, severity, and collision type; or they may contain summary totals for collisions occurring within a specific jurisdiction, such as a city or county.

B. Responsibilities

1. Chief of Staff

Sets the policy for release of collision data.

2. Strategic Planning and Programming Director

Assigns management responsibility to the Transportation Data Office.

3. Transportation Data Office General Manager

Reviews and approves the rules and procedures used to carry out this Policy Statement.

4. Collision Data and Analysis Branch Manager, Transportation Data Office

a) Processes suggestions to update these procedures.

Analyzes any proposed changes to these procedures, and obtains necessary approvals to implement changes.

b) Denies requests for collision data.

Processes all denials to requestors for the department.

5. Each Manager and Supervisor

Ensures these rules and procedures are followed within his or her organization for collision data requests from the public.

C. Rules and Procedures

These rules and procedures apply when the public asks WSDOT employees for collision data.

1. Use the Request Form

Each requestor must complete the *Request for Collision Data* DOT Form 780-032, Appendix A.

a) Ensure the form contains sufficient information.

Ask the requestor for the information needed to provide them with the collision data.

b) Ensure the requestor checks the box.

Ask the requestor to check the box on the request form that indicates they will comply with the 23 USC § 409 restrictions on the use of the data when requested collision data includes information about specific locations on a state highway, county road, city street or other public traffic-way.

Exception: When the requestor represents a government agency, the check box is not required.

2. Log all Collision Data Requests

Each office that provides collision data to the public must keep a log that includes:

- Requestor's name
- Date of request
- Nature of the requested collision data
- Status of the request

3. Reasons for not providing the requested data

a) Insufficient information.

If there is insufficient information provided on the *Request for Collision Data* DOT Form 780-032 to be able to fulfill the data request, then ask the requesting party for clarification. If they do not provide this clarification, then inform them that it is not possible to fulfill their request.

b) Collision data is not available.

When the requested collision data is not available in WSDOT's collision database, tell the requestor. Refer the requestor to the local jurisdiction(s) that may have the collision data they are seeking.

c) Requestor won't check the box.

Send the request to the Collision Data and Analysis Branch Manager for processing if either of the following conditions exists:

- The requesting party (other than a government agency) submits a *Request for Collision Data* DOT Form 780-032, but refuses to check the box on the request form that indicates they will comply with the 23 USC § 409 restrictions on the use of the data.

OR

- The requesting party (other than a government agency) refuses to affirm, either verbally or in writing, that they are not requesting the collision data for use in any current, pending or anticipated litigation against state, tribal or local government involving a collision at the location(s) mentioned in the data.

If either of the above conditions exists, forward all information about the request to:

Collision Data and Analysis Branch Manager
Transportation Data Office
Mail Stop 4-7381
300 Desmond Ave SE
Lacey, WA 98504-7381
(360) 570-2452

The Collision Data and Analysis Branch Manager will then review the request and prepare the written denial letter.

4. Approved requests for collision data.

Tell the requestor how long it will take to provide them with the collision data.

a) Include a cover letter.

Include a cover letter that details the restrictions on the collision data's use as provided in federal law 23 USC § 409 with all collision data provided by the department. Please see the sample cover letter in Appendix B.

b) Collect fees for non-government requests.

The requestor is subject to a charge sufficient to reimburse the department for staff time needed to prepare the requested collision data when both of the following conditions exist:

- Requested collision data is for the sole use of a person, firm, company or corporation engaged in a for-profit enterprise.

AND

- Staff time needed to prepare the requested information exceeds **one hour**.

Exception: When the requested collision data is for preparation of reports, studies, or other analyses for a government agency, the fees are waived.

c) Notify jurisdiction(s) of request.

When the requested collision data includes information about specific locations on a state highway, county road, city street, or other public traffic-way, inform the affected jurisdiction(s) of the request.

Indicate to the jurisdiction(s) that the information will not be released unless the requesting party agrees to comply with the 23 USC § 409 restrictions on the use of the data.

d) Provide jurisdiction(s) with a copy.

When the requested collision data includes information about specific locations on a state highway, county road, city street, or other public traffic-way, send the affected jurisdiction(s) a copy of any materials provided to the requestor.

IV. Appendices

A. Request for Collision Data DOT Form 780-032

On the Internet at:

<http://www.wsdot.wa.gov/mapsdata/tdo/collisiondatarequest.htm>

B. Sample Cover Letter



Request Alternate Formats:

- **Deaf or hard of hearing call 7-1-1 and ask for (360) 705-7095**
- **All others call WSDOT at (360) 705-7097**

Appendix A Request for Collision Data DOT Form 780-032

<http://www.wsdot.wa.gov/mapsdata/tdo/collisiondatarequest.htm>



Request for Collision Data



Please complete this request form and mail or fax to the address shown below. In order to ensure efficient service, please provide as much information as you can in your request. If we require additional information to complete your request, we will contact you.

The Washington State Department of Transportation maintains a statewide database for all reported traffic collisions, beginning with collisions occurring in 2002. In addition, collision data for interstate and state highways only is available for collisions occurring from 1993 to the present. This data includes such items as collision location, date, time, severity, weather and light conditions, as well as information on drivers, pedestrians, bicyclists and property owners involved in collisions.

Federal highway safety laws require the state to create this collision database for use in obtaining federal safety improvement funds. Under Section 409 of Title 23 of the United States Code, collision data is prohibited from use in any litigation against state, tribal or local government that involves the location(s) mentioned in the collision data. By checking the box below, you agree to comply with these terms - failure to do so will be grounds for denying your request.

I hereby affirm that I am not requesting this collision data for use in any current, pending or anticipated litigation against state, tribal or local government involving a collision at the location(s) mentioned in the data.

Requestor Information

Last Name		First Name		MI
Company/Agency Name				
Address				
City			State	Zip Code
Phone No.	Fax No.		Email	

Description of Collision Data Requested

Use the space below to describe your request. If applicable, please include the following:

- Beginning and ending dates for the desired data.
- Names of locations or individual highways, roads or streets desired.
- In what format you would like the data, e.g., a history report that gives information about each collision; a summary report by year or by month; or a summary for specific data elements, such as light conditions, that were experienced during the collisions.

Mail or Fax your completed request form to:
COLLISION DATA & ANALYSIS BRANCH
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
P.O. BOX 47381
OLYMPIA WA 98504-47381
Fax: 360-570-2500

If you have any questions, please call (360) 570-2450

DOT Form 780-032 EF
5/2003

Appendix B Sample Cover Letter

Provide the requestor with a cover letter that includes the following language:

Federal law 23 United States Code Section 409 governs use of the data you requested. Under this law, data maintained for purposes of evaluating potential highway safety enhancements:

“ . . . shall not be subject to discovery or admitted into evidence in a federal or state court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.” [Emphasis added.]

The Washington State Department of Transportation (WSDOT) is releasing this data to you with the understanding that you will not use this data contrary to the restrictions in Section 409, which means you will not use this data in discovery or as evidence at trial in any action for damages against the WSDOT, the State of Washington, or any other jurisdiction involved in the locations mentioned in the data. If you should attempt to use this data in an action for damages against WSDOT, the State of Washington, or any other jurisdiction involved in the locations mentioned in the data, these entities expressly reserve the right, under Section 409, to object to the use of the data, including any opinions drawn from the data.