

You will also know that you are making a statement to be used against you in court where your words are recorded. The recording can happen formally on a written statement form that is dated and contains all the written questions and answers asked by the officer and responded to by you. You will be asked to read and sign this statement.

The recording of the statement can also be informally where the officer simply records excerpts of your narrative in his/her notebook. You may or may not be asked to sign this record.

The statement can also be taken electronically where the whole statement is captured by audio recording. The officer is obliged to disclose that you are being recorded, and the recording would be required to reveal that you were aware of the recording.

If the officer is questioning you for the purpose of gathering information to complete the accident report you will not be asked to read your statement and sign your name on the statement form.



Burness Paralegal Services
Professional Corporation

232 Dundas Street, P.O. Box 190
Thamesford, Ontario N0M 2M0

Phone 519-285-5438

Fax 519-285-5388

www.burnessparalegal.com

THE INFORMATION CONTAINED IN THIS
PAMPHLET IS INTENDED FOR GENERAL REFERENCE
PURPOSES ONLY. FOR SPECIFIC LEGAL ADVICE
PLEASE CONTACT A LEGAL PROFESSIONAL.

THIS PAMPHLET IS NOT TO BE REPRODUCED OR
EDITED WITHOUT THE EXPRESS WRITTEN
PERMISSION OF BURNESS PARALEGAL SERVICES
PROFESSIONAL CORPORATION.

**I've been in a motor
vehicle accident...**



**Do I have to make a
statement to the
Police?**

Burness Paralegal Services
Professional Corporation

www.burnessparalegal.com

What is the law? _____

Section 199 (1) of the Highway Traffic Act provides that:

199. (1) *Every person in charge of a motor vehicle or street car who is directly or indirectly involved in an accident shall, if the accident results in personal injuries or in damage to property apparently exceeding an amount prescribed by regulation, report the accident forthwith to the nearest police officer and furnish him or her with the information concerning the accident as may be required by the officer under subsection (3).*

This means that where you have been a party to an accident and the property damage apparently exceeds \$1,000 or there is personal injury of any kind you must report the accident to the police.

Section 200 (1) of the Highway Traffic Act provides that:

200. (1) *Where an accident occurs on a highway, every person in charge of a vehicle or street car that is directly or indirectly involved in the accident shall,*

(a) remain at or immediately return to the scene of the accident;

(b) render all possible assistance; and

(c) upon request, give in writing to anyone sustaining loss or injury or to any police officer or to any witness his or her name, address, driver's licence number and jurisdiction of issuance, motor vehicle liability insurance policy insurer and policy number, name and address of the registered owner of the vehicle and the vehicle permit number.

This means that where you have been involved in an accident on a highway, this excludes personal property such as a parking lot, you must remain at the scene of the accident or return to the scene if you have left it for any reason. You must provide your name, address and insurance information along with your driver's licence number and vehicle ownership information to either the other driver, a witness, a party to the accident who has been hurt or had their property damaged or to a police officer – but only if they request it from you.

Do I have to make a statement? _____

The simple answer is no, you do not have to make a statement.

When a police officer questions you at the scene of an accident he/she is doing 2 jobs at once. The officer is gathering information to complete the required accident report and he/she is also investigating a potential offence or crime.

When an officer attends at the accident scene he/she will likely want to talk to you. The very first thing you should say to the officer is "I want to exercise my right to silence. I will provide whatever information is necessary to complete the required accident report, but for the purposes of making a statement to be used in court I will remain silent."

The officer should stop questioning you at this point. However, some officers ignore your plea to remain silent and continue questioning you. Unless the officer is absolutely clear with you that he/she is simply gathering information for the accident report do not answer any questions. Politely state again that you are exercising your right to silence.

You have the right to know what the officer intends to do with any answers you give him/her. Therefore, do not hesitate to ask the officer for clarification before answering any questions. Feel free to simply ask the officer "why are you asking me these questions?" or "what do you plan on doing with any answers that I give you?" If the officer says I am recording your answers to complete the accident report, feel free to provide whatever information is necessary.

If there are other witnesses to the accident the officer will likely stop asking you questions altogether and turn to the other witnesses for the information required to complete the accident report.

How will I know I'm making a statement to be used against me in court? _____

You will know that you are making a statement to be used for court purposes if you are cautioned by the officer. A caution is where the officer informs you of your right to silence usually they will say something like; "you have the right to remain silent. You are not obliged to say anything, but whatever you do say will be recorded and can be used as evidence in court against you." The officer does not necessarily have to use these words, but the message should be the same.

But, it happens regularly where the officer omits the caution and simply asks you to tell him/her what happened. This is still a statement. A statement can be used against you in court where a Judge or Justice of the Peace deems your statement voluntary. This is why you must clearly state that you are exercising your right to silence and do not want to give a statement before the officer begins questioning you.