

# Criminal Vehicular Operation

MAC webinar  
Presenter: Kelly Nicholson

---

---

---

---

---

---

---

## Session Goals

- Recognize special issues that VSP should be aware of when working CVO cases.
- Know how and why to utilize community resources.

---

---

---

---

---

---

---

## Criminal Vehicular Operation (CVO) Homicide

■ §609.2112

### ■ Subdivision 1. Criminal Vehicular Homicide

A person is guilty of criminal vehicular homicide and may be sentenced to imprisonment for not more than 10 yrs and/or a fine of \$20,000, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

---

---

---

---

---

---

---

### CVO Statute cont.

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
  - (i) alcohol;
  - (ii) a controlled substance; or
  - (iii) any combination of those elements;
- (7) where the driver who causes the collision leaves the scene of the collision in violation of section 169.09, subdivision 1 or 6; or

---

---

---

---

---

---

---

---

### CVO Statutes cont.

- (8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury or death was caused by the defective maintenance.
- (b) If a person has been sentenced for a qualifying prior driving offense within 10 years, the statutory maximum sentence of imprisonment is 15 years.

---

---

---

---

---

---

---

---

### Gross Negligence

- Failure to use even the slightest amount of care in a way that shows recklessness or willful disregard for the safety of others

---

---

---

---

---

---

---

---

### CVO operation, bodily harm §609.2113

- Subdivision 1. Great Bodily Harm Max. 5 yrs/\$10,000 fine  
Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- Subdivision 2. Substantial Bodily Harm Max. 3 yrs/\$10,000 fine  
Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member
- Subdivision 3. Bodily Harm (gross misd) Max. 1 yr/\$3,000 fine  
Means physical pain or injury, illness, or any impairment of physical condition.

---

---

---

---

---

---

---

---

### Reckless Driving

- §169.13
  - Subd.1 – Reckless Driving
    - (a) a person who drives a motor vehicle or light rail transit vehicle while aware of and consciously disregarding a substantial and unjustifiable risk that the driving may result in harm to another or another's property. The risk must be of such a nature and degree that disregard of it constitutes a significant deviation from the standard of conduct that a reasonable person would observe in that situation.
    - (b) a person shall not race any vehicle upon any street or highway of this state. Any person who willfully compares or contests relative speeds by operating one or more vehicles is guilty of racing, which constitutes reckless driving...

---

---

---

---

---

---

---

---

### Reckless Driving cont.

- (c) A person who violates paragraph (a) or (b) is guilty of a misdemeanor. A person who violates those and causes great bodily harm or death to another is guilty of a gross misdemeanor.

---

---

---

---

---

---

---

---

## Careless Driving

### – Subd. 2 – Careless Driving

(a) Any person who operates or halts any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any property or any person, including the driver or passengers of the vehicle, is guilty of a misdemeanor

(b) Any person who operates or halts a light rail transit vehicle....misdemeanor

---

---

---

---

---

---

---

---

## §169.475 Use of Wireless communications device

- Signed April 12, 2019
- Effective August 1, 2019, and applies to acts committed on or after that date.
- Definitions of:
  - Wireless communications device
  - Electronic message
  - Voice activated hands-free mode
  - Motor vehicle
- Exceptions

---

---

---

---

---

---

---

---

## Hands-free

- Prohibitions: when a motor vehicle is in motion or part of traffic, the person operating the motor vehicle upon a street or highway is prohibited from using a wireless communication device to:
  - (1) initiate, compose, send, retrieve, or read an electronic message
  - (2) Engage in a cellular phone call, including initiating a call, talking or listening, and participating in a video call, and

---

---

---

---

---

---

---

---

### Hands-free prohibitions cont.

(3) Access the following types of content stored on the device: video content, audio content, images, games, or software applications

1<sup>st</sup> offense \$50 + court fees

2<sup>nd</sup> offense \$275 fine  
(this is without injuries)

---

---

---

---

---

---

---

---

Why CVO cases are different than other death/injury cases & Dynamics a VSP should be familiar with

---

---

---

---

---

---

---

---

### Defendant-related

- Most eligible citizens drive.
- Car accidents happen.
- Defendant's actions or lack of
- Juror and victim attitude towards defendant
- Distracted driving

---

---

---

---

---

---

---

---

### System-related

- Length of investigation/accident reconstruction
- Cause of death
- Grand jury
- Driver's license privileges
- Jury sympathy
- Reparations considerations
- Sentencing options (departures)
- Media

---

---

---

---

---

---

---

---

### Victim-related

- Unexpected
- Totally preventable
- "True" victims
- Victims want an apology
- Crime scene
- Civil lawsuits

---

---

---

---

---

---

---

---

### State Resources

#### ■ Mother's Against Drunk Driving (MADD)

State Office  
 155 South Wabasha St., Suite 104  
 St. Paul, MN 55107  
 651-523-0802 Toll Free: 800-ITS-MADD

- Legislative work
- Assist with writing VIS
- Advocacy and support services
- Sentencing conditions: MADD panels
- Court escorts
- Resources
- Support groups

---

---

---

---

---

---

---

---

### State Resources

#### ■ Minnesotans For Safe Driving

8700 West 36<sup>th</sup> Street, Suite 1E  
St. Louis Park, MN 55426  
952-238-0970  
Email: [info@mnsafedriving.com](mailto:info@mnsafedriving.com)

- Advocacy and support services
- Legislative work
- Assist with writing VIS
- Sentencing conditions: public speaking
- Court escorts
- Resources

---

---

---

---

---

---

---

### Towards Zero Deaths (TZD)

- [www.minnesotatzd.org](http://www.minnesotatzd.org)

---

---

---

---

---

---

---

### Kelly Nicholson

Dakota County Attorney's Office  
Victim Witness Program  
1560 Highway 55, Hastings

651-438-4471

[Kelly.nicholson@co.dakota.mn.us](mailto:Kelly.nicholson@co.dakota.mn.us)

---

---

---

---

---

---

---