

POLICE, INDIANA STATE: Arrest—reckless driving; intoxicating liquor, driving under the influence of.

June 25, 1937.

Mr. Don F. Stiver,
Superintendent of State Police,
State House,
Indianapolis, Indiana.

Dear Sir:

You submitted in your communication of June 25 the question as to when a state policeman may make an arrest. You set out in your letter a couple of factual situations. In the main, the substance and material portions of your hypothetical instances were that a state policeman comes upon the scene of an accident and finds two cars in collision on a public highway. In one of the situations you presented you spoke of one or both of the drivers of such cars being intoxicated. In the other situation of which you spoke you left out the intoxication of the drivers, but pointed out that from conversation with the witnesses and from other circumstances such as tire marks and the positions of the cars, etc., that the drivers were, or one of them was guilty of a violation of the law. The inquiry which you submitted growing out of these factual situations was whether or not a state policeman would be justified in making an arrest.

In the first place, I want to call your attention to a long standing provision of the law which provides that an officer making an arrest must at the time be wearing a distinctive uniform. However, if the officer making the arrest is at the time in the presence of a uniformed officer who himself is within his jurisdiction, then an arrest made by an officer not in uniform is legal.

It is also the rule that an officer can arrest for a misdemeanor (under which category your hypothetical situations belong) only when such misdemeanor is committed within his view. However, in the case where the officer comes upon a scene after the accident and finds one or the other of the drivers, or for that matter any of the occupants intoxicated, he may arrest them for public intoxication and then after having arrested them for the offense of public intoxication, if he can support by testimony of the witness or from circum-

stantial, evidence that the drivers or either of them had been guilty of driving while under the influence of liquor, then he would be justified in so charging them and a conviction on such charge would relieve him from any danger of an action for an illegal arrest or false imprisonment.

In the other situation given where there was no evidence of intoxication, an arrest could be made under section 47-520, Burns Indiana Statutes Annotated, 1933, for reckless driving. This section reads:

“It shall be unlawful for any person to drive or operate a motor vehicle or motor-bicycle on any of the public highways of this state in a reckless or dangerous manner and so as to endanger the life, limb or property of any person. For the purpose of this Act, the term “reckless driving” shall be construed to mean driving on that side of the highway which is to the left of the operator; driving in and out of a line of traffic, except as provided for elsewhere in this Act; driving from side to side of the highway; driving at such an unreasonably slow rate of speed as to endanger traffic; refusing to give one-half of the highway to a driver or operator approaching from the rear at a greater speed and desiring to pass, passing or attempting to pass another vehicle from the rear while on the brow of a hill or on a curve, where vision is obstructed for a distance of less than five hundred (500) feet ahead of any vehicle desiring to pass another, or in any other manner that is not safe and prudent. (Acts 1925, Ch. 213, Sec. 43, p. 570; 1927, Ch. 230, Sec. 2, p. 662; 1929, Ch. 190, Sec. 3, p. 616).”

You can see from a reading of the above section that an accident would be strong presumptive evidence that one driver or the other or both were guilty of reckless driving. The fact that this section provides that it shall be unlawful to operate a motor vehicle on a public highway in this state in a manner so as to endanger the life, limb or property of any person opens a wide avenue for an arrest when a person is injured or killed as a consequence of an accident or when there is any property damage flowing from a motor vehicle collision. Thus then an officer coming on the scene and seeing injury or property damage could easily make a case on

the basis of what is within his view under the above quoted section.

In addition to this, there is a section, the same being 10-2601, which prohibits the obstructing of a highway. If one or more cars do so obstruct a public highway such is a violation of the law for which an officer may make an arrest.

Under the circumstances as I have recited them, it is my opinion that by using reasonable judgment and by exercising diligence in the procuring of evidence from witnesses and the taking of photographs, etc., that your officers will have little difficulty in curbing those who drive while intoxicated and/or those who drive recklessly, without such officers making themselves liable under the law for an illegal arrest or false imprisonment.

PRINTING, BOARD OF PUBLIC: Public printing, contract for. Offset method as without State contract.

June 25, 1937.

Parke Beadle, Clerk of the
Board of Public Printing,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of June 21 requesting an opinion relative to class 2 of public printing has been received.

You set out in your letter a quotation from a letter which you received from the Haywood Publishing Company of Lafayette, Indiana, who are the contractors for class 2 of public printing. In their letter to you, they object to having printing done by others than themselves when the method used for such printing is the offset, planograph, or the photographic method. That is to say, they object to having printing done by others than themselves when such printing is done by a method other than the letterpress printing method.

Part of the contract which the printing board has with the Haywood Publishing Company reads as follows:

“If in the opinion of the Board of Public Printing it is deemed advisable to use the offset, planograph, photographic and other than letterpress methods of