

The Vehicle Autopsy

by John Kwasnoski and Patricia Gould

Two previous articles discussed the benefits of conducting a complete mechanical inspection of a defendant's vehicle after a crash to eliminate erroneous claims that, "It was the car's fault." When working on a case, make a checklist for yourself, and be sure that the "vehicle autopsy" includes the following:

General description and photography of damage: Can be used by a reconstructionist to estimate speed by crush energy analysis, and to determine vehicle motions during engagement and separation.

Condition of brakes, brake lines, fluid reservoir(s): Can eliminate sudden brake failure as a defense, and provide more exact breaking efficiency information used to estimate speed from skid marks.

On/Off condition of lamps: Assists in determining whether turn signals were used or brakes were applied prior to impact, and whether the person was operating without headlights causing limited operator visibility.

Condition of seat belts, air bags, safety systems, and damage to windshield, side windows, interior damage: Particularly helpful in defeating operator identification defense when matched to occupant injuries.

Type of transmission, gear used at time of the crash: Assists in proving the vehicle failed to stop before entering an intersection, and in motorcycle cases can lead to direct estimate of speed when correlated to tachometer (measures engine revolutions per minute) information.

Damage to undercarriage, suspension: Relates to locating point of impact when undercarriage damage is matched to gouges on roadway and can eliminate the defense that the operator suddenly lost control because of a steering failure.

Missing parts of the vehicle: When related to debris pattern at the scene, this information can assist in reconstructing the crash, and may be useful in hit-and-run cases.

Just as with other aspects of the crash investigation, a vehicle autopsy may reveal pivotal evidence that verifies other parts of the investigation or reconstruction. Developing a policy for inspecting the vehicle sends a message to defense counsel that the investigation is complete, and tells the jury that every effort was made to uncover potentially exculpatory evidence.

John Kwasnoski, co-author of Investigation and Prosecution of DWI and Vehicular Homicide, Lexis Law Publishing, is a crash reconstruction consultant. Patricia Gould, Director, National Traffic Law Center.

Senior Attorney Position Available

The National Traffic Law Center is seeking to hire an experienced prosecutor with extensive knowledge and work in the criminal investigation and prosecution of impaired driving and vehicular homicide cases. Responsibilities will include developing curricula, conducting multi-disciplinary training, providing legal and technical assistance to criminal justice practitioners, contributing to legal publications, coordinating national trial advocacy training programs, and identifying and maintaining contact with a national network of prosecutors. Candidates should have well developed communication skills, both verbal and written. Travel required. Salary mid 50s with excellent benefits. Qualified applicants should submit a resume and writing sample to Personnel, 99 Canal Center Plaza, Suite 510, Alexandria, VA 22314. Fax 703-836-3195.

ASK DOCTOR TOX

A follow-up question was submitted from one of our readers regarding whether it is better to obtain a blood or urine test from a person suspected of driving under the influence of a drug other than alcohol.

Q: Wouldn't it be better in many cases, to obtain a urine sample in so far as urine provides a drug history and confirms there is a drug in the person's system? Many drugs do not stay in the blood for any extended period of time. Therefore, the chances of detecting drugs are not as good. However, in the DUI drug setting, aren't there advantages to urine?

A: While you are correct in thinking that drugs can be detected for longer periods of time in urine than in blood, a positive urine result does not answer the important question of whether the drug ingested caused impairment. Drugs circulate to their site of action through the bloodstream. In order to be affecting an individual's behavior, the drug must be in the blood. A positive urine result does not give the necessary information regarding a blood concentration and therefore whether the individual was impaired.

Dr. Teri Stockham will answer questions submitted by our readers. Dr. Stockham, formerly the Chief Toxicologist for the Broward County Medical Examiners Lab in Fort Lauderdale, Florida, is now a full-time consultant. Please submit questions in writing to NTLC, 99 Canal Center Plaza, Suite 510, Alexandria, VA 22314 or fax: 703-836-3195.

Register Now! Lethal Weapon: DUI Homicide

Oct. 26-30, 1998

Lethal Weapon: DUI Homicide is designed for experienced prosecutors who handle impaired driving and vehicular fatality cases. A substantial portion of the course involves presentations on crash reconstruction, technical investigation at the scene and toxicology. The course also provides an advanced trial advocacy component in which participants receive a case file and participate in mock trial sessions where each prosecutor conducts every stage of the trial. Particular emphasis is given to direct and cross examination of both a crash reconstructionist and a toxicologist.

Course Information: The four and a half day course is at the Xerox Document University located in the Washington, DC metropolitan area. The course has limited enrollment and is on a "first come, first served" basis. Registration is \$475. Registration and payment is due August 28, 1998. After this date registration will be accepted on a space available basis.

Accommodations: Room rates include all meals. Rooms are \$139 per night for a standard room and \$169 per night for a suite plus 9.5% tax. Payment for lodging will be made directly to Xerox upon your arrival. If you do not choose to stay at Xerox, the cost is \$45 per day which includes all meals. Further information regarding accommodations will be forwarded upon receipt of registration and payment. Mail your registration and your check for \$475 to:

Cathy Yates, APRI
Conference Registrar
99 Canal Center Plaza, #510
Alexandria, VA 22314

Arresting Developments

Wanaque, New Jersey - Mark Masciulli was charged with six separate DWIs, three in the same week. In a recent court appearance, Judge Harold Cook set Mr. Masciulli's bail at \$50,000, which was posted. When Mr. Masciulli showed up again the next night on a new DWI charge, the judge raised the bail to \$1 million.

Fairfax, Virginia - A state trooper observed a woman driving in heavy traffic applying mascara using her rear view mirror. After following her for over a mile and a half and continually observing her applying the make-up, the trooper pulled her over and charged her with reckless driving. The judge found the woman guilty of the lesser

offense of improper driving and fined her \$25. She appealed. The conviction was upheld but the fine was raised to \$35.

Durham, North Carolina - After eight previous DWI convictions, Timothy Blackwell crossed the center line and struck a van killing a four-year-old girl. His blood alcohol level was .13 percent. Mr. Blackwell was convicted of first degree murder and sentenced to life in prison. District Attorney Jim Hardin, Jr. relied on the state's felony murder rule to secure the conviction.

Between the Lines is published quarterly by the **American Prosecutors Research Institute's National Traffic Law Center**. Items may be reprinted if attributed to **APRI's National Traffic Law Center**. Please provide copies to *Between the Lines*. Direct inquiries and news article suggestions to Patricia Gould at 703-549-4253.