2009-2010 Arizona High School Mock Trial

State of Arizona
vs.
Parker Plunkett

Original Case Written By:

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Tiffany & Bosco, PA

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INTRODUCTION

This year's case, *State of Arizona v. Parker Plunkett*, is a criminal action stemming from a fatal light rail versus automobile accident.

The defendant is Parker Plunkett, a Metro Light Rail train operator. On July 14, 2009, Plunkett was on duty operating a light rail train travelling east to west to downtown Phoenix from Tempe. A collision occurred between the light rail train operated by Plunkett and a vehicle driven by Billie Jean Dugan. A passenger in Dugan's vehicle, Tara Gordon, was ejected and fatally injured.

Approximately 10 minutes prior to the accident, Officer Andy Redding attempted to perform a traffic stop on Dugan for having an expired license tag. Dugan refused to pull over. A high-speed pursuit ensued through downtown Phoenix. During the pursuit, Gordon was observed leaning out of the passenger window throwing what appeared to be small plastic bags out of the vehicle.

At the scene, Dugan was arrested and later charged with possession of narcotics with intent to distribute, unlawful flight, and negligent homicide. Dugan pleaded not guilty. During a break in Dugan's testimony at his criminal trial, a plea deal was reached between Dugan and the State. Dugan pled guilty to the possession and flight charges. The State withdrew the negligent homicide charge. Under the plea deal, the State has requested that Dugan receive 2 years in prison. Dugan will be sentenced the week following Plunkett's trial. Dugan agreed to cooperate with the State in its prosecution of Plunkett.

During the investigation conducted by Detective Amari Lassard, it was discovered that Plunkett had received two prior warnings for text-messaging while operating a light rail train. One warning resulted after a passenger riding the light rail reported Plunkett's text-messaging to the Phoenix police. That passenger was told that there was nothing the police could do. The passenger then filed a report with the Metro Light Rail.

Detective Lassard discovered that Plunkett had been text-messaging regularly on the evening of the accident and that Plunkett's last text was sent at precisely the same time that the accident occurred. Plunkett was arrested and charged with negligent homicide. The State's expert will testify consistent with the report on driver distraction prepared by Virginia Polytechnic Institute and State University, which concludes that the risk of an accident or near accident event is 23.2 times higher when a driver is texting.

The 2010 mock trial case is an original case written by Lance Broberg (Tiffany & Bosco, PA) and Tiffany Broberg (Ridenour Hienton & Lewis, PLLC). We hope you find these materials interesting and educational, and we wish you the best of luck at competition.

WITNESS AND EXHIBIT LIST

The following witnesses shall be called by the parties.	
FOR THE STATE	**FOR THE DEFENSE**
Billie Jean Dugan	Officer Andy Redding
Det. Amari Lassard	P.T. Gonzalez
T.J. Hollenbeck, PhD	Jules Hoffman, PhD
The following exhibits may be used by teams in competition. They are pre-marked and are to be referred to by number as follows:	
EXHIBIT NUMBER	**EXHIBIT DESCRIPTION**
1	Photograph
2	Photograph
3	Photograph
4	Photograph
5	Virginia Tech Transportation Institute Study
6	Pew Research Center Report
7	Letter from BT Wireless and Texting Log

PANJIT PATEL
County Attorney

TANYA BEAUX
DEPUTY COUNTY ATTORNEY
STATE BAR NO. 035407
121 EAST BLOSSOM BLVD.
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Attorneys for Plaintiff

SUPERIOR COURT OF ARIZONA

COUNTY OF MARICOPA

STATE OF ARIZONA, Plaintiff, vs. PARKER PLUNKETT, Defendant.	Case No. CR2009-2010MT **INDICTMENT** **CHARGING VIOLATIONS OF** **Count I: Manslaughter**, Class 2 Felony, in violation of A.R.S. § 13-1103; **Count II: Negligent Homicide**, Class 4 Felony, in violation of A.R.S. § 13-1102; **Count III: Aggravated Assault**, Class 3 Felony, in violation of A.R.S. § 13-1204; and **Count IV: Endangerment**, Class 6 Felony, in violation of A.R.S. § 13-1201.

The Maricopa County Grand Jury accuses **Parker Plunkett**, charging on this 27th day of November, 2009, that in or from Maricopa County, Arizona:

COUNT I

Manslaughter

On or about July 8, 2009, defendant Parker Plunkett recklessly caused the death of another person, to wit: Tara Gordon, in violation of A.R.S. § 1103.

COUNT II

Negligent Homicide

On or about July 8, 2009, defendant Parker Plunkett, with criminal negligence, caused the death of another person, to wit: Tara Gordon, in violation of A.R.S. § 1102.

COUNT III

Aggravated Assault

On or about July 8, 2009, defendant Parker Plunkett, using a deadly or dangerous instrument, did assault another person, to wit: Billie Jean Dugan, in violation of A.R.S. § 1204.

COUNT IV

Endangerment

On or about July 8, 2009, defendant Parker Plunkett recklessly endangered a person creating substantial risk of imminent death, to wit: Billie Jean Dugan, in violation of A.R.S. § 1201.

Pursuant to A.R.S. § 22-101 et seq., the County Grand Jurors find that the offenses described above were committed, in whole or in part, in Maricopa County, Arizona.

A "True Bill"

Dated: November 27, 2009

PANJIT PATEL
County Attorney
Maricopa County, Arizona

/s/ Tanya Beaux
Tanya Beaux
Deputy County Attorney

/s/ DWIGHT SCOTT
Foreperson of the County Grand Jury

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA
THE HONORABLE STELLA B. BARKER, PRESIDING JUDGE

IN CHAMBERS ( )

IN OPEN COURT (X)
JANICE HALL, CLERK
By: B. Butler, Deputy

STATE OF ARIZONA
v.
PARKER PLUNKETT

DATE: October 6, 2009
TIME: 9:30 a.m.

Case No. CR2009-2010MT

MINUTE ENTRY

This is the date and time set for a Not Guilty Arraignment.
Court Reporter Susan Williams is present.

APPEARANCES

State's Attorney:	Tanya Beaux
Defendant's Attorney:	Mark Rogers
Defendant:	Present

NOT GUILTY ARRAIGNMENT

The defendant is advised of the charges in the Indictment.

Let the record reflect that the defendant enters a plea of not guilty on all charges.

IT IS ORDERED that an Initial Pretrial Conference at which the defendant shall personally appear will be held in this Division at 9:30 a.m. on December 22, 2009.

NOTICE TO DEFENDANT:

Failure to comply with the above orders may result in revocation of the defendant's release from custody and/or the imposition of other sanctions.

The defendant may be tried in his/her absence if he/she fails to appear for trial.

IT IS FURTHER ORDERED affirming all prior bond and custody orders.

STATEMENT OF BILLIE JEAN DUGAN

I am Billie Jean Dugan. I am 24 years old. For the last couple months I have been living with my parents, but I will soon be moving in with the State if you know what I mean. I started high school in Yuma, Arizona, but dropped out after my sophomore year when I found my true passion--bass guitar. I started my own band, the Hammerheads. We played local gigs in Yuma, Lake Havasu, and western Arizona towns. The guys in my band were alright, but they were small-timers. None of them had any real plans beyond working for their parents or going to college. When they finished high school, I figured it was time for me to take off on my own. That's when I moved to Phoenix. That must have been around 5-6 years ago.

When I got to Phoenix I rented a little one-room apartment downtown. I got a job as a server at a pizza joint, The Pie Guy, and started looking for a new band. Strange thing was, it took me a while. I figured with my skills on the bass, bands would eat me up. It didn't turn out that way. After 8 months in Phoenix I had nothing to show for it. No band, not even many try-outs. I started getting a little down on myself and looking at my options. I figured I could at least get my GED. So I did. I signed up for classes and 6 months later took the test. Passed it with flying colors!

While I was studying for my GED, I met Tara Gordon. Tara was in one of my prep classes, writing skills I think. Tara was not one of the sharpest tools in the shed, but man could she sing. She was a late-night kind of person, like me. So after one of our night classes we headed to this coffee shop to do a little extra studying. They had an open mic. That place filled up pretty quickly with people singing, rapping, reading poetry, and even doing some of that spoken word stuff. Before I knew it, Tara took the stage, or the elevated stand I guess. She sang some old Aretha Franklin song, I think, not my kind of music, but she nailed it. We spent the rest of the night talking music. Turned out, she liked rock and roll too.

We started hanging out and jammin' together after studying. We took the GED test together. Tara didn't pass. But that didn't matter much to us anymore because we both knew we were meant to rock. With Tara up front, offers started coming out of the woodwork. We had our pick of local guitarists and drummers. Soon enough, Foxgate was rockin'. We were booking clubs, good ones. My job at the Pie Guy was getting in the way, so I quit. Tara was catching a lot of flack from her parents for staying out late, so she got her own place. We were playing pretty much every night of the week. Problem was, even though we were booked up pretty much every week, I always seemed low on cash. I guess I didn't expect the costs of equipment, putting together our own CDs to pass out at shows, flyers and other stuff.

Before long, I started getting some pretty angry letters from my landlord. Tara, on the other hand, was spending money like it was going out of style. We split the money we got from performing evenly, 25% for each band member. I knew she was not on the best terms with her folks, and I knew she didn't have another job, she partied way too much for that. Finally I asked her where the money came from. Turns out, she had a side-business going. She was selling cocaine after Foxgate shows. And, she was selling a lot of it. When she first told me, honestly, I was upset that she hadn't told me before. Here she was living the high life while I am packing all my stuff in my car just in case my landlord changes the locks to my apartment when I'm out.

One thing led to another, and we were selling cocaine pretty much any time we weren't on stage. We were making a killing. I moved out of my crummy apartment and into a nice house in Scottsdale. When I first started selling, I really just wanted to subsidize the band and put a little extra spending money in my pocket. But after awhile it was just so easy. The only time I was even close to busted was in 2007. I was pulled over for running a red light. I had a little stash in

my glove box, my personal stash, but the cop never got suspicious. Heck, I didn't even get a ticket for running the red light, just a warning. In any event, I figured I was busting my butt playing shows every night and deserved to live like a rock star. I even bought a yellow Porsche 308, old school, same as Magnum P.I., with the license plate "ROXTR". Life was good.

It all came crashing to a halt on July 8, 2009, literally. It all started around 6:00 p.m. Maybe 7. I can't really remember. Tara and I picked up our product from our supplier, I'm not going to give you his name. We each tried a little, just to make sure things were on the up-and-up. Then we hopped in my car and headed downtown for some food and a couple drinks before our show. As I was driving I saw this cop car pull out and behind me. I know I wasn't speeding, not a chance. I drive extra carefully when I have "stuff" in my car. I drove a couple blocks and the cop stayed behind me. I changed lanes and the cop was still behind me. Finally, I saw the cop's lights go on. Tara started to freak out a bit. I told her/him to chill. I was driving and it was my car. If anyone was going to freak out it should have been me.

I pulled to the right side of the road. I think we were around Camelback Road and 7th Street by that time. Tara was beet red and pretty much hysterical. She started screaming "run", "drive", "get me out of here"! I looked up in my rear view and saw the cop was already out of the cop car and was walking towards my window. Everything went into slow motion. I didn't hear Tara any more. I just slammed my right foot down. We were off. I don't remember thinking about it, it just happened. I was flying down the street, between cars, through red lights, I was off. I didn't even look in my rear view mirror to see if the cop was behind me for the first mile or two. It was just me and the road.

Somehow I ended up in downtown Phoenix. I don't know why. I don't remember trying to get anywhere in particular, I was just driving. As I was going, I

saw the light rail tracks. I saw a train down the ways and I got an idea. This part I know I was clear on. Just like in the movies, I thought if I could catch up to the light rail train on a parallel street, I could cut back and across the tracks right in front of the train. The train would then block the cops, yeah, there were a bunch of police cars by that point, from following me.

It took me a couple of streets to catch up to and then get ahead of the train. Then I turned towards the tracks. The train was moving at a pretty good clip so I gunned it. As I got closer, I realized it was going to be close. I didn't have a choice. I kept going. I was staring right at the train operator, conductor, whatever you call them. All I saw was the top of the guy's head. I have no idea what he was doing, but he didn't look up once. Then everything went black.

The next thing I remember was waking up on the sidewalk. There were paramedics and police and firefighters all over the place. I saw my car down the tracks a little ways. The train hit me square in the driver's side door. I couldn't see Tara. I asked about her. No one told me anything. After a couple minutes the fog in my brain cleared enough for me to figure things out. I had a few cuts and scrapes, but otherwise seemed okay. I tried to stand up and this police officer put a hand on my shoulder. It was the cop that originally pulled me over, just my luck. The cop whispered something back and forth with one of the paramedics and then they told me they wanted me to go to the hospital just to get checked out. I agreed. As soon as I sat down on the gurney the cop threw a handcuff on my left wrist and clasped it to a rail on the gurney. The cop gave me this creepy smile and started reading me my rights. I swear the cop even chuckled.

When I was at the hospital I saw a couple doctors, they ran some tests, and then a detective came in and started asking questions. Detective Lassard, I think, with homicide. I actually didn't put the homicide thing together for a couple minutes. I thought something bad had happened to Tara, but I didn't know she was

dead. Anyway, as soon as Detective Lassard sat down I asked the question that had been on my mind since the sidewalk: "Why wasn't the train operator looking?" The Detective did not seem to care about my question and just started asking me questions about the chase and the drugs. After about an hour, I asked the Detective again, "Why didn't the train operator stop the train?" "Doesn't he have a button or brakes or something?" "This whole thing could have been avoided if that guy was paying attention." "This is all his fault." I don't think the Detective even heard me, just kept writing things in this black notebook.

When the Detective was done asking me questions, I was told that I was under arrest for a whole bunch of things. Drugs, intent to distribute, reckless driving, those all made sense. But, then the Detective said homicide. "What did you say?" I asked. "Homicide?" Detective Lassard closed the black notebook and looked at me and said "yes, homicide." "Your passenger, Tara, died in the accident and I am going to charge you with her death." At that point I knew I was totally screwed.

The next several months were awful. I hired the best attorney I could afford, Felipe Hernandez. He was good. Right out of the gate, after my first meeting with Felipe, he focused on the train operator, Parker Plunkett. We filed a bunch of motions, but didn't seem to get any traction. They caused the prosecutor to try to talk me into pleading guilty though. Each time the prosecutor offered something, we rejected it. Felipe felt pretty confident that the homicide charge should be dropped, but was concerned about the other charges. We agreed that if the prosecutor offered to dismiss the homicide charge, I would plead guilty to the "lessers", that's what Felipe called them.

We didn't get the offer before trial. Trial was supposed to last a couple of weeks. Felipe told me he wanted me to testify. He said the state's case was going pretty well and he wanted me to testify against it. I agreed. I took the stand about 20 minutes before lunch that day. I remember, because I felt like I had just started

testifying when we broke for a recess. After the jury left, I walked over to Felipe and the prosecutor walked over to both of us. The prosecutor offered to dismiss the homicide charge if I would plead to the lesser charges and if I would cooperate with another investigation they were doing. I didn't even wait to hear what the other investigation was. I said "deal."

Felipe and the prosecutor told the judge at the end of lunch that they had reached an agreement. The judge let the jury go. Good thing too, I got a couple glares from them when they left the courtroom that made me think I wasn't doing as well as I had thought. After that, Felipe told me that I would have to meet with a Detective in a couple days to see how I could help with the other investigation. Felipe told me that it looked like I would get 2 years total, but my sentencing won't happen until after I testify in the other matter, if I had anything that helped that is. I guess they want to make sure I don't get a light sentence and then not cooperate.

A couple days after the plea deal, I sat down with Detective Lassard again. I was actually pretty interested in what other investigation they wanted me to help with. I thought I might have to do some undercover stuff. Turns out, Detective Lassard was now chasing after the operator of the light rail train. Finally! I told the Detective everything I saw, and I saw it all. I told the Detective that I had no idea who Plunkett was and probably could not pick Plunkett out of a line up. But, I told the Detective I do know what the top of Plunkett's head looks like. "Plunkett has a gray patch right smack in the middle of his head on top." Detective Lassard looked at me like I was a high. "How do you know that?" "Have you seen pictures in the paper?" I asked "What paper?" I don't get or read a newspaper in jail and that's where I've been since I was arrested all the way through trial. Detective Lassard asked if I had seen Plunkett at the accident scene. "Right before he hit me with the train, I even laid on the horn because I knew he wasn't paying attention and didn't see me" I said. That's it. Detective Lassard still seemed confused so I explained that

when I was approaching I was staring right at Plunkett. I figured I could make eye contact or something. And, right before the accident, there was a reflection, or sparkle, or glint, whatever you want to call it that came from that gray patch. Detective Lassard liked it, I could tell. Detective Lassard asked me to make this statement, so I did. Tara was an awesome person. Tara had all the talent in the world and could have been rich and famous. Now she's dead because Plunkett wasn't paying attention. That's it, that's my story.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

Billie Jean Dugan
BILLIE JEAN DUGAN

SIGNED AND SWORN to before me on this 28th day of August, 2009.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

STATEMENT OF T.J. HOLLENBECK, PH.D.

I am T.J. Hollenbeck, Ph.D. I am the director and founder of the National Transportation Safety Group of America, a Washington D.C. based think tank. Our mission statement is to provide local, state, and national governments with cold hard facts regarding real transportation safety concerns. I founded the NTSGA in 1998 after my daughter was killed by a drunk driver.

Prior to founding the NTSGA, I was a professor of socio-political sciences at Drake University in Iowa. My formal education is in sociology. I received dual Bachelor of Arts degrees from Duke University in sociology and economics. I earned my Masters in sociology from the University of Arizona. I earned my Ph.D. from George Washington University. My Ph.D. dissertation was titled "*Cold War In A Hot Political Environment: Political Advantage Achieved Through Us-v-Them Behavioral Positioning*". The conclusion of the Cold-War during my final year provided the perfect back drop of a study on the significance of semantics for politicians seeking to guide the populace. My conclusion was essentially that the person who frames the issue generally wins the issue. This concept is well accepted nowadays.

After receiving my Ph.D. I stayed in Washington D.C. and began working for a well known political polling and tracking group. At that point in my life, I found politics fascinating and my background and education in sociology was keenly useful. For most of the next decade I created, supervised, monitored and otherwise conducted scientific polling and studies for use by politicians, lobbyists, pundits, and general media outfits. In fact, you may recognize me from appearances on evening news broadcasts. I became a bit of a regular during the 1996 presidential elections. I have provided all parties with a copy of my curriculum *vitae*.

My career took a significant turn in 1998 when my only daughter, Chelsea, was killed by a drunk driver. I was a single parent at that time. I picked my daughter up from school, she was 11, just after 3 p.m., like any other day. She was

sitting in the backseat. We pulled out of the school parking lot and up to a stoplight. We were sitting there probably 10 seconds when out of nowhere, this guy in a big SUV plowed into the back of my car. Chelsea, was not wearing her seatbelt and she died. The driver apparently had too much to drink during a business meeting. He was unhurt, of course, and was ultimately sentenced to 8 years for vehicular manslaughter.

I still hold myself responsible. I was told by accident investigators that if Chelsea had been wearing a seatbelt she probably would have survived. In any event, from that day forward my focus changed. I was approached by organizations and groups to speak on the consequences of drunk driving. I did not accept any of the offers; it was too painful. But the contacts provided me with some interesting information. I quickly realized that when it comes to traffic and transportation safety, everyone has an understanding of what is and what isn't dangerous, but not many people know the numbers. For example, most people are aware that seatbelts save lives. Heck, there have been campaigns using that very slogan. Most people do not know, however, in the past 26 years, safety belts prevented 135,000 fatalities and 3.8 million injuries, saving $585 billion in medical and other costs. If all vehicle occupants had used safety belts during that period, nearly 315,000 deaths and 5.2 million injuries could have been prevented and $913 billion in costs saved. [NHTSA, Economic Impact of Crashes, 2002].

In my days in politics I learned just how important numbers are. I discovered that it is one thing to make a generalized statement. Those tend to go in one ear and out the other, on a social level that is. But when the generalized statements are supported by scientifically calculated data, numbers preferably, then there is additional resonance. Simply put, and this is how I explain it to students that I speak to these days, when I say seatbelts save lives everyone nods their head numbly in agreement. When I say seatbelts could have saved 315,000 lives, the reaction is

more along the lines of "holy cow!" The latter reaction is what one looks for when trying to change behavior or implement new public policies.

This led to my decision to form the NTSGA. At the NTSGA we use science to provide raw data on traffic safety. We do not provide or attempt to provide solutions, only raw data. I operate the NTSGA like a pyramid scheme. If I tried to make changes myself, I am one voice among hundreds of millions. If I provide legitimate, significant data, then others will be able to use that data in adopting and implementing public policies. I guess you can say we try to provide the spark that ignites a broader fire.

The NTSGA employs a variety of scientists and professionals. We have a strong mechanical engineering department that focuses on the effectiveness of safety equipment, traffic equipment, and vehicle and road construction and maintenance. We also have a strong sociology department that focuses on driver behavior. 95% of all accidents are at least in part caused by driver error after all. I spend the vast majority of my time leading this department. Our goal is to try to understand what makes drivers do what they do. We try to determine the why and how regarding these driver failures.

A significant part of my day is spent reviewing compilations of numbers. States and other entities are constantly compiling information regarding the number of accidents, in all forms of transportation, the cause, the fatalities, the injuries, the time, the location, the ages of the individuals involved, the time of day, etcetera. The most important compilations in recent years, in my opinion, are those related to driver distractions. Chief among those are cellular telephones and personal digital assistants ("PDAs").

I simply cannot wrap my head around the idea that people can think reading email, making telephone calls, texting, or playing with music programs while they are driving is safe and/or appropriate. I similarly cannot wrap my head around the

fact that few states have taken any steps to prohibit such conduct. And, those states that have taken action have only recently done so with a relative slap-on-the-wrist. I digress. The purpose of the NTSGA is to provide data, so I decided to try to produce data on the impact of cell phones and PDAs in vehicles.

The NTSGA collaborated with the Virginia Tech Transportation Institute ("VTTI") in a scientific study of the effects of cell phone and PDA use on drivers. I participated in the study personally along with a number of distinguished faculty members from Virginia Tech. We used large-scale, naturalistic driving studies to monitor drivers using their cell phones and PDAs to dial, talk, listen, and even text. The results were disturbing. I have provided counsel for the state and counsel for the defendant with a copy of our results published July 27, 2009. Much like with my seatbelt analogy, every one would probably nod in agreement if I said that dialing a cell phone increased the risk of having a crash or near crash event. We found the risk of a crash or near crash event actually increased 2.8 times when a person is dialing a cell phone. That's 280%. Most disturbing is the increase in risk of a crash or near crash event when a driver is texting. Texting alone increases the likelihood of a crash by 23.2 times! That's 2,320%!

To put this in perspective, compared with drivers who have not consumed alcohol, the risk of a single-vehicle fatal crash for drivers with BAC's between 0.02 and 0.04 percent is estimated to be 1.4 times higher; for those with BAC's between 0.05 and 0.09 percent, 11.1 times higher; for drivers with BAC's between 0.10 and 0.14 percent, 48 times higher; and for those with BAC's at or above 0.15 percent, the risk is estimated to be 380 times higher.[1] Texting is the equivalent to having a blood alcohol content of higher than 0.09. Holy cow indeed!

[1] Zador, P.L. Alcohol-related relative risk of fatal driver injuries in relation to driver age and sex. *Journal of Studies on Alcohol* 52(4):302-310, 1991.

I am pleased to say that our VTTI study was cited in a very recent report entitled "Teens and Distracted Driving: Texting, Talking and Other Uses of the Cell Phone Behind the Wheel", which was prepared by Mary Madden and Amanda Lenhart of the renowned Pew Research Center. The data contained in this report is the type of information on which I rely for my work with NTSGA. It certainly generates that "holy cow!" response that I'm after. I provided a copy of the Pew report to counsel for the State and the defendant.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

T.J. Hollenback
T.J. Hollenback, Ph.D.

SIGNED AND SWORN to before me on this 13th day of December, 2009.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

STATEMENT OF SERGEANT AMARI LASSARD

My name is Sergeant Amari Lassard. I am currently assigned to the Phoenix Police Department's Homicide Unit. I have been working homicide for the last five years. Before that, I worked robbery and vice. Before that, I was a beat cop just like every officer out of the academy. Since joining the Homicide Unit I have investigated 23 homicides or suspected homicides with 23 arrests and, if everything goes as planned, 23 convictions. Yes, I keep track of numbers. They're critical, if you ever want to be promoted.

My involvement in this case started July 8, 2009. I was on call and enjoying dinner with my family. My phone rang at 8:05 p.m. I answered and was given a brief description of the incident – car versus light rail, drug dealers, fleeing police, dead body, and the location. I hung up and grabbed an ice cream sandwich for the road. On my way to the location, I received a brief update by cell phone from another officer who was on scene.

I arrived on scene at approximately 8:29 p.m. I met the first officer on scene, Andy Redding. Interesting character, seemed a little green when it came to dead bodies. I don't mean green as in sick, I mean green as in a little overly excited. Spoke fast, walked fast, even blinked fast. In any event, Officer Redding gave me a bullet-point summary of the events leading up to the accident. Redding advised that he/she attempted a routine traffic stop for an expired tag. The vehicle took off at a high rate of speed. The vehicle drove erratically. The passenger was observed throwing objects that appeared to be narcotics from the passenger window and, at times, even appeared to be hanging outside of the car to throw the objects. Unfortunately, Officer Redding did not see the actual accident. Apparently the suspect vehicle had gained some distance on Officer Redding and turned. Officer Redding lost sight of the suspect vehicle until he/she reached the intersection. By that time, the accident had already occurred. The rest was pretty much laid out in

front of me. Officer Redding advised that the vehicle was traveling approximately 65 miles per hour prior to the turn.

I surveyed the scene. But for the light rail train, this was not an unusual scene. I have investigated three vehicular homicides caused by drunk drivers. And, as a beat cop, I saw my share of fatal and non-fatal accidents. I was pointed to the victim, who had been identified at that time as Tara Gordon, 24-year-old s/w/f, with a local address and a prior for disorderly conduct. I could tell immediately by where she was located that she hadn't been wearing a seat belt. Tragic. When I approached it was clear that she had sustained massive head trauma. The autopsy later confirmed that the cause of death was blunt force trauma to the head.

I then approached the suspect vehicle. It was sitting just off and to the right of the light rail tracks a couple of feet. Nice car, or at least it was. There was damage to the driver-side beginning with the door and continuing up through the front left quarter panel. I asked about the driver and discovered the driver, one Billie Jean Dugan, was pretty much unharmed but was in route to the hospital. I made a note to swing by and have a chat with Billie Jean when I was done on scene.

Turns out, Dugan is not exactly a model citizen. Isn't that always the case--the good folks die and the scum walk away scot-free? In any event, my conversation with Dugan at the hospital led to formal charges. I arrested Dugan for resisting arrest under A.R.S. § 13-2508 (a class 6 felony), possession of narcotic for sale under A.R.S. § 13-3408 (a Class 2 felony), and negligent homicide under A.R.S. § 13-1102 (a class 4 felony).

Even though this case was relatively straightforward, I never take anything for granted. Based on the statements of Dugan, I looked into the operator of the light rail, Parker Plunkett. I found that he had received two prior warnings for text-messaging while operating the light rail. One came from a passenger that alleged his stop was skipped because Plunkett was not paying attention. That passenger

actually called the police and made a report. The police did not take any action, however, because the relevant Phoenix City Ordinance concerning text messaging exempts transit personnel. The second warning came during Plunkett's first week on the job when a metro rail supervisor, riding the rail under cover to observe Plunkett, observed Plunkett text messaging on multiple occasions. I have provided counsel with those write-ups.

The write-ups were intriguing to me because during my discussion with Dugan at the hospital, Dugan suggested that Plunkett was text messaging at the time of the accident. I decided to check out whether Plunkett was text messaging at the time of the accident. By this time, I figured there was no use asking Plunkett for his cell phone. Most phones only store a certain number of texts and then automatically delete them. It looked like Plunkett was a heavy texter, so I decided to go to his service provider and get a record.

When I received the report for Plunkett's text messaging on July 8, 2009, I was stunned. Plunkett sent or received over 100 texts that day alone. That's a ton of texting, especially for a workday. I scanned down the sheet to the 7 o'clock hour. I found 12 sent text-messages and 13 received. Officer Redding reported the accident over the radio at 7:39 p.m. The record showed that Plunkett sent a text at 7:37 p.m. Plunkett received a text at 7:38 p.m. And, Plunkett received another text, from the same individual at 7:40 p.m. In other words, Plunkett was text messaging when the accident occurred. With Dugan's statement to me, the prior warnings, and the text log, I had enough for a warrant. I contacted Plunkett the following day, July 30th if I recall, and placed him under arrest. When I arrested him, I read him his Miranda rights and when we returned to the station had him sign a document confirming that he had been read his rights. I asked if he had anything to say. Plunkett asked if his arrest was because he didn't see the Porsche until it was too late. I said yes. He then asked for a lawyer. I did not ask any further questions.

During my investigation I saw that Officer Redding had contacted a youngster named P.T. Gonzalez. Good kid. Redding got P.T.'s contact information so I decided to check it out. Turns out, P.T. was riding the light rail and seated right behind the operator's compartment in the seats that face the rear of the train. P.T. confirmed that Plunkett had been texting a lot while operating the train that evening. P.T. also confirmed that the texting caused the accident.

I am fairly upset with the deal that Dugan got. Dugan is a punk, recidivist, and is going to cause more problems if not locked up. I have done this long enough to know. That's not an opinion, it's a fact. But our county attorney has been harping on us to clamp down on text messaging related accidents. I agree, this text messaging while driving is serious business and causes a lot of harm, injuries, and deaths. But, if it were up to me, I would not let a real bad guy off the hook to chase after a texter. I understand that there were some other problems with the Dugan case. Apparently there were some mix-ups with the drugs collected and Redding's initial stop was apparently unusual, which caused the prosecutors handling Dugan's case some heartburn.

Oh yeah, I took some pictures of the crime scene. Our CSI folks took pictures at the scene on July 8, 2009. There was a problem with the film though. I don't know why we are still using film, this is obviously a digital world. In any event, we lost those pictures. I went out a couple weeks later with my camera phone and snapped a couple pictures of the intersection (Exhibits 1 and 2). In full disclosure, I was there a little earlier in the day than when the accident occurred. That said, the intersection looked exactly the same as the night of the accident, except for the absence of the wrecked vehicles.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

Amari Lassard
Sgt. Amari Lassard.

SIGNED AND SWORN to before me on this 17th day of January, 2010.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

STATEMENT OF P.T. GONZALEZ

I am P.T. Gonzalez and am almost 16 years old. I go to, well, my parents' house. I'm home-schooled. My dad is my teacher. That can be rough. Mostly, I like our arrangement though. Not to brag, but I just got my SAT scores back – I took the SAT early – and scored pretty well. My dad and I get along great. He's an author, novels mostly. During the summers, yes I get summer vacation, I have been working as a law clerk for my mom's law firm in Tempe. I want to be a lawyer like her someday. Seems exiting. Every day you help people and every day is new and different from the last with new issues, new facts, and new problems that need to be solved. That seems pretty cool to me.

We live in Phoenix, Arizona, down the central corridor, so I usually take the light rail to and from work. That's my best option, otherwise I am stuck waiting for my mom so I can hitch a ride. Besides, I like the light rail. It is clean, quick, and gives me a chance to read or listen to music and just relax. I usually sit up front, right by the conductor facing the rear of the train. Actually, I don't know if you call the light rail guys conductors or if that term just refers to people who drive trains. Anyway, sometimes I chat with whoever the "conductor" is--if the conductor will open the door to the compartment. Some don't mind me, others are pretty clear that they think I am just an annoying kid in their eyes. Those people keep the door shut. Whatever. That's how I knew Parker Plunkett.

Parker was hit or miss on the chats--but mostly a miss. I probably spoke with Parker 5 or 6 times total, usually very briefly. Parker's a nice guy, really friendly, polite, and really smart too. Turns out, Parker has a Ph.D. in sociology. He worked as a sociologist doing all kinds of studies for a long time, 10 years maybe, I don't remember. Anyway, he apparently had his own business in New Mexico, but after a while started having some financial trouble--coupled with some research problems. I think he said something about grants, or not getting a grant or something. His wife

left him right around that same time. Tough break. Parker said all the stress was just not good for him, so he up and left sociology, left New Mexico and moved to Arizona. He took the first job that presented itself and that was as a light rail conductor.

I was sitting right behind Parker on Wednesday, July 8, 2009. I had put in a pretty good day and didn't get out of work until around 7 o'clock, later than my mom if you can believe it. And my day wasn't even done yet – I had to take the light rail up to the Phoenix Public Library to return some schoolbooks that were going to be overdue, before getting back on the train to head the rest of the way home. So, I got on the rail going West, later than usual for me. When I got on the light rail I was pretty tired and I had my ear buds in. It wasn't a "chatting evening", if you know what I mean. Parker didn't seem to notice me when I got on, so no big deal. I was actually surprised to see him on that night train, because he's usually my conductor in the mornings.

I wasn't really paying attention to anything for the first several stops. But I remember at some point glancing over my shoulder at Parker. Parker's head was down. I thought Parker had fallen asleep. I wasn't worried because I assumed the light rail was pretty much self-operated, auto pilot or something like that. The conductor was just there in case there was a problem or an emergency. Besides we were at a stop. Then I saw Parker's head pop up and look around. I watched and maybe 30-40 seconds later Parker's head dropped down again. I leaned to the side to look around and saw Parker had a phone in his hands. It was one of those PDAs that had three letters per key. I never liked those, they slow me down. I mean, I text a lot. I have to; I am home-schooled so the only way I really talk to my friends during the day is through text-messages. Anyway, it looked like Parker was text-messaging. Looked like he was pretty fast too. I would say Parker was about as fast as me.

I watched quietly for a few stops and Parker dropped his head to text message probably 8 times, maybe more, maybe less. Never more than a few seconds. After a while, when we were getting close to downtown Phoenix, I noticed something out of the window to the North and a little ways behind us. I saw a flashing light, then another and another, coming straight down one of the streets, right towards us. It was at least one police car, and it was moving pretty quickly. I kept my eyes on it, because there was nothing else to look at. I pulled out my ear-buds and looked over to Parker to see if he was seeing this all go down. His head was down. He was texting. I thought about asking Parker if he knew what was going on. I thought he might have one of those CB radios or a police scanner or something. But he was busy, so I just kept quiet and watched. Then it happened.

As we were approaching the next intersection, I saw the yellow blur of a fancy sports car zooming right up next to us. No question in my mind that was the car the police were after. It was moving fast. As I focused, I saw someone hanging out the passenger window. It was a lady. What the heck was she doing hanging out of the window in the middle of a police chase! Then I thought, maybe she was kidnapped. I looked forward and saw that we were starting to cross the road. The light rail cuts across the road from the left side to the right side, or vice versa, several times on its route. I'm not really sure why. I turned to Parker just in time to see him reach out with both hands and slam what appeared to be the emergency brake button. The light rail didn't stop in time and neither did the car. We hit the car in its front left corner; or I guess the car hit us. It happened at the same time so I don't really know how to say it.

The collision knocked me forward and out of my seat. We skidded for a second and then stopped. There was nothing Parker could have done to miss that car. That driver had a death wish. Before I got up, Parker opened the door and came out from his little compartment and asked if I was okay. I said yes. Parker ran

out the passenger door to check on the people in the car. When the door opened, all I heard was sirens. They were loud and there were a ton of them. The flashing lights were almost blinding. Then I heard a small chirp. I looked around and saw Parker's phone in one of those suction-cup dash mounting things. The screen was lit up, "New Text Message". I got up and stepped out of the train. I saw the driver of the car being pulled out by a bunch of police officers. They put the driver on the sidewalk. Then I noticed the passenger wasn't in the car. I thought maybe she ran away. But then I saw another group of people a little ways away from the car. Between their legs I saw the lady. I knew it wasn't good, and so did everyone standing around her. I almost threw up. At that point, a police officer put a hand on my shoulder and asked if I was okay and suggested that I take a seat. I did.

The rest of the evening was like a slow-motion movie. I watched as a police officer talked to the driver of the car. I watched as another police officer put yellow tape up around the scene. It even seemed like slow motion when I was talking with an officer about what I said. Honestly, I don't remember what I really said or what I was asked. Some paramedics checked me out. They asked if I wanted to go to the hospital for as a precaution. I said no and called my mom.

I remember how bad Parker seemed to handle things. He seemed pretty upset. He had tears in his eyes and just seemed really distraught. I felt bad for him. He is such a great guy, such a nice guy, and it seemed like bad things just kept happening to him.

My mom and dad arrived probably 25 minutes later. We went home and I told them all about the night. I saw a story on the local news that night. The news said the driver was a drug-dealer and that the passenger was too. I was relieved, at least a little relieved. At least she wasn't the victim of a kidnapping or anything. That was the last I heard about the incident until a while later. I got a call from

Officer Lassard. Officer Lassard asked me some questions, I gave some answers, and now here I am.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

P.T. Gonzalez
P.T. Gonzalez

SIGNED AND SWORN to before me on this 11th day of August, 2009.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

STATEMENT OF JULES HOFFMAN, Ph.D

My name is Jules Hoffman, Ph.D. I am forty-three years old, and I currently own an accident reconstruction consulting firm, Jules Hoffman, PhD, LLC. I graduated from Northern Arizona University with a joint bachelor's degree in criminal justice and engineering. I finished my master's degree at Arizona State University and earned a doctorate in forensic science engineering at University of Arizona.

After completing my doctorate program, I became employed doing contract work for the Yuma police department for three years, consulting on traffic flow and visibility issues. Then I moved to Show Low, where I worked for the Navajo County Sheriff's office for two years, performing accident reconstructions for the dozens of highway accidents each year involving elk and other large wildlife in the area. My work with the Navajo County Sheriff's office and the conclusions I drew with respect to the control of wildlife, speed limits, human reaction times and lighting conditions led to me being hired as an independent consultant for Navajo County. In this capacity, I helped develop new traffic regulations and a system of elk-crossings designed to funnel the wildlife into well-lit areas with high visibility to drivers, so that when the elk cross the freeway, the drivers have enough time to react and avoid dangerous situations. I have been published twelve times in several prominent publications – you may recognize some of them – Arizona Wildlife Weekly, The High Country Traffic Times, and The Desert Policy Daily, to name a few. I am widely regarded as the preeminent authority on human reaction time and reconstruction in unusually hazardous traffic situations in at least five counties.

Currently, I do most of my work reconstructing single-car road hazard accidents for insurance companies and attorneys in litigation or pre-litigation. I've been retained on the side of both plaintiffs and defendants, and have testified in seven trials and a dozen or so depositions. If I had to give a percentage, I'd estimate

that 75% of my clients are on the defense, but I have no preference either way and can remain neutral and professional for all of my clients. What I do is science, after all.

I was contacted by the attorney for Parker Plunkett in late July 2009, and retained to consult and perform a reconstruction of the July 8, 2009 accident between a Metro Light Rail train car and a Porsche. I didn't think it was possible to find something more ungainly than an elk in a road hazard situation, but the Metro Light Rail is just that. Add in a speeding sports car, and you have one heck of a dangerous situation.

Prior to beginning my reconstruction, I reviewed the written statements of Phoenix Police Officer Andy Redding, Phoenix Police Detective Amari Lassard, and witnesses PT Gonzalez and Billie Jean Dugan. I also reviewed the photographs taken at the scene by the officers, and most of the police file. They withheld part of the file because of some pending drug investigation. I also visited the site of the accident in downtown Phoenix, and drove the paths of Billie Jean Dugan and the light rail car, as they were described in the police reports.

I later determined that this was more like an elk crossing than I originally thought. Not only was visibility limited by the time of day and the geometric positioning of the vehicles involved, but there were driver reaction time issues on the part of both Dugan, the Porsche driver, and Plunkett, the light rail car driver. Plunkett is accused of text messaging while operating the light rail, and one issue is whether his text messaging distracted him from being able to avoid the accident. Also, clearly there was a seatbelt problem with the deceased, Tara Gordon. My analysis, then, was three-pronged: (1) Given the position of Plunkett as operator of the light rail car, was Plunkett able to see the Porsche as it approached in enough time to stop the car before the accident? (2) If Plunkett could see the Porsche, did he have enough time to stop the rail car, or was he distracted by the text messaging?

(3) If Tara Gordon was wearing a seatbelt, would she have been thrown from the Porsche and killed?

Visibility and Positioning

On July 8, 2009, the sun set to the West at approximately 7:41 p.m., local time. Civil twilight ended at 8:10 p.m. The accident occurred at around 7:39 p.m. in downtown Phoenix. The sunlight was approximately 30% of full daylight. The sun was low to the West, at about 8 degrees above the horizon, which normally would have caused a severe glare for any driver in the westbound direction. However, the buildings in downtown Phoenix mostly block the late evening sun, casting a shadow to the East with some slits of light from between the buildings. In addition, most of the buildings downtown have mirrored windows. This causes a situation in which the street area is relatively dark, with extremely bright reflections off of the buildings, and some bright slits between the buildings. As any driver has experienced, these glares can be distracting and at times, blinding. From my research and experience in this area, I can determine with a reasonable degree of certainty that along the light rail car's track, Plunkett traveled through an area of bright light shining between the buildings, and/or glare from windows in the buildings. However, the front windows of the rail car are tinted along the top of the window, such that the degree of light was less than an average driver might experience. For instance, the driver of the Porsche almost certainly experienced a glare as there was no window tint on the car's windshield and the Porsche was traveling in the the same direction at the time of impact. In my professional opinion, the lighting conditions may have been a contributing factor to the accident.

According to the trajectory map I created from the police reports, both the light rail and Dugan's Porsche were traveling westbound immediately prior to the Porsche crossing over the light rail track. For at least five seconds, the Porsche was traveling parallel to the light rail car. During that time, the Porsche would have been

within the range of view of the light rail operator. While sitting in the light rail operator's seat, which is positioned in the center of the front window of the rail car, Pluckett would have had a 270 degree range of view from the windows around him to the left and right, so ostensibly Pluckett could have seen the Porsche for up to five seconds prior to the impact. However, some of this range likely would have been affected by the glare of the setting sun. I have not been asked, nor do I care to deliberate, whether Pluckett in his position as operator of the rail car is required to utilize that entire range of view while operating the car, but in my professional opinion, if Pluckett was using the entire range of view during the time of the accident, it is likely that he would have seen the Porsche prior to the accident. My estimate is that the Porsche would have been visible from the operator's seat for at least four seconds prior to impact. In fact, Pluckett told me that he did see the Porsche immediately prior to impact, but could not expand on that fact or elaborate as to when and where he first saw it.

Reaction Time

Human reaction time is determined by several components. The first is mental processing time, which is the time it takes for a responder to perceive that a signal has occurred and to decide upon a response. Mental processing time is a compilation of four events: (1) sensation (the time it takes Plunkett to detect the Porsche in view); (2) perception or recognition (the time needed for Plunkett to recognize the meaning of the Porsche); (3) situational awareness (the time needed for Plunkett to recognize and interpret the scene, determine what it means and what might happen in the future), and (4) response selection and programming (the time necessary for Plunkett to decide which if any response to make and to mentally program the movement). After the mental processing is complete, the second component is movement time, which is the time it takes to cause muscle movement. In this case, it would be the time it takes Plunkett to hit the brakes. The third

component is device response time, the time it takes the brakes to work to actually stop the light rail car. I will discuss the stop time more later.

Reaction time is affected by many other factors. For instance, if a driver anticipates that braking will be necessary, the reaction time is the shortest, and can be as low as 0.7 seconds. If a driver is completely surprised by the need to brake, extra time is needed to interpret the event and to decide upon a response. The reaction time could be longer if the surprise event is approaching from the side and is first seen in peripheral vision, in which case reaction time can be as long as 1.5 seconds. The increased reaction time is due to several factors, including the need to interpret the novel situation and possibly to decide whether there is time to brake or whether steering to avert a collision is a better response. Moreover, drivers encountering another vehicle or pedestrian that violates traffic regulations tend to hesitate, expecting the vehicle/pedestrian to eventually halt. This is seen quite often in elk crossings, where the drivers expect the elk to continue moving across the road, but in fact the elk will stop in the road and the driver does not have enough time to stop or swerve to avoid the accident.

Brake time becomes longer when drivers are distracted by non-driving events. For example, in-car displays and cell phones cause delays in reaction times, with estimates ranging from 0.3 to as high as 1 second or more, depending on the circumstances. In addition, reaction time increases in poor visibility. Low contrast, peripheral viewing, bad weather, among other things, lead to slow responses. However, at night in urban areas, existing data suggests that reaction time sharply increases. There are some situations in which response is faster in low light. For example, rail-highway crossing signals and brake lights produce better reaction times at night, because there is no sun or skylight to reflect off of the fixture and, with a darker background, the signal has higher contrast and is more visible. For the most part, age and gender have no discernable affect on reaction times.

Because of the visibility issues, Plunkett's reaction time was probably on the slow end, around 1.5 seconds. If Plunkett was text messaging during or immediately prior to the accident, the reaction time would have only been up to a second more. Therefore, reaction time was in my opinion no more than 2.5 seconds.

According to officials, the lLight rail vehicle is 90 feet long and weighs more than 100,000 pounds. That's more than fifty elk! Prior to the collision, the rail was likely travelling between 10-25 miles per hour. Even if Plunkett's reaction time was a normal 0.7 or so seconds, the train would have travelled as much as sixty feet before the brakes were applied, which in my opinion would not have prevented the accident.

Seatbelt Use

According to witness statements, Tara Gordon was hanging out of the window of the Porsche prior to the collision. The accident report suggests that the seatbelt on the front passenger side of the Porsche did not show any sign of distress or wear, and was not connected to the belt clip. We can infer from this evidence that the deceased was not wearing a seatbelt at the time of the accident. If the deceased was properly wearing a seat belt, clearly she would not have been able to lean out of the window of the Porsche.

According to the medical examiner's report, the cause of death was blunt force trauma to the head, most likely a result of hitting the pavement or curb after being thrown from the automobile upon impact with the light rail. In determining whether a seatbelt was material to the accident, I visited a Porsche dealership and sat in the passenger seat to get a feel for the situation. It became clear to me, without any matematical reconstruction necessary, that with or without a seatbelt, Gordon would not have been thrown from the car at the time of the accident. The seat is too low to the ground, so any force to the front driver's side of the car would

have only forced the passenger into the door, not through the window. In my opinion, if Gordon was not hanging out of the window, she would be alive today.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

Jules Hoffman
Jules Hoffman, PhD

SIGNED AND SWORN to before me on this 13th day of February, 2010.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

STATEMENT OF OFFICER ANDY REDDING

I am Andy Redding, a City of Phoenix Police Officer. I have served in this capacity for over three years, and am currently assigned to single-officer traffic patrol duty in the downtown Phoenix area. Prior to being assigned to the moving traffic division, I worked in the parking violations division for two years.

I was on duty the night of July 8, 2009. Around 1930 hours, I was driving eastbound on Camelback Road in my marked patrol car. As I approached the 7th Avenue intersection, I came to a red light behind a yellow Porsche convertible. The license plate read "ROXTR." As I sat behind the Porsche, I noticed that the registration on the plate expired in March 2009. I called in the plate to my dispatch officer and followed the Porsche eastbound on Camelback Road while awaiting word from dispatch whether the tags were actually expired and if the car was reported as stolen. This is standard operating procedure.

As the Porsche and my patrol car approached the intersection at 3rd Avenue, the light turned red. I proceeded to a stop behind the Porsche. I then received a communication from dispatch confirming that the registration on the yellow Porsche with license plate "ROXTR" was expired, and that the Porsche was owned by one Billie Jean Dugan.

The light turned green, and the Porsche began to proceed through the intersection when I turned on my lights. The Porsche almost immediately pulled from the middle lane, where we had been, to the right lane. I expected the Porsche to stop on the shoulder of the street or pull into a local business parking lot or a side street. The Porsche did come to a full stop on the shoulder of Camelback Road, and I pulled directly behind it, with my lights still flashing. I made a call into dispatch regarding the stop, and the time was then 1936 hours.

As I called in the stop to dispatch, I noticed some movement in the front passenger seat of the Porsche. When I finished my call, I stepped out of the patrol

car and began to walk the car-length of distance between my patrol car and the Porsche. About three steps away from the door of my car, I heard the Porsche engine begin to rev up, and a woman's voice say "Let's Go Billie." At that time, the Porsche peeled away from the curb and proceeded across Central Avenue.

I began pursuit of the Porsche at that time for evading a traffic stop. Although I was about ten to fifteen car lengths behind the Porsche, I witnessed the Porsche make a sharp right turn on 16th Street, and my pursuit proceeded Southbound on 16th Street.

I called for backup on a high-speed pursuit at 1938 hours. My speed of travel down 16th Street was approximately 65 miles per hour, and at that time I estimated the Porsche to be traveling at 65-70 miles per hour. I witnessed that the Porsche was swerving across the lanes, in an erratic and reckless manner. Fortunately the traffic was light for that time of night, so the Porsche did not hit any cars or pedestrians on 16th Street.

After a couple of turns, the Porsche proceeded southbound on 12th Street toward Washington. As we approached Washington, which was about a quarter to half of a mile away, I witnessed the passenger in the front seat open the window, and lean out of the window. I noticed that this passenger was a female, approximately 20 years old, and of slight build. She leaned out of the window head-first, out to about the bottom of her rib cage. At that time, I witnessed the passenger throw what looked to me like a badminton birdie into a parking lot as the Porsche drove by. It was obviously drugs.

The Porsche then skidded across a couple of lanes and made an abrupt right turn onto Washington, right in front of a light rail train travelling westbound. It cornered like it was on rails. I was surprised that the girl hanging out the window held on like she did through the first part of the turn – the part that I saw. At that point, I was approximately ten car lengths behind the Porsche.

As I came around the corner onto Washington Street several seconds after the Porsche, I saw that the Porsche had collided with the Metro Light Rail, and the Metro Light Rail was still moving slowly pushing the Porsche down the rail going westbound. There was a screeching sound from the grinding metal along the rail. Apparently the rail car had collided into the driver's side door of the Porsche. It looked to me as if the Porsche drove into the rail car, maybe while trying to cross in front of it to evade my pursuit. About five seconds later, the rail car came to a full stop.

By the time the rail car came to a stop, I had pulled my car up to the scene of the accident and proceeded on foot toward the slowing train and Porsche. I immediately called in to dispatch about the accident. The time was 1939.

I quickly surveyed the scene for any imminent threat, with my sidearm drawn. As I approached the front driver's side of the Porsche I noticed that it was completely crushed. The driver's side window was missing pieces, and shards of the high-quality tempered and tinted glass were all over the inside and outside of the car. Some of the glass might have been from the Metro Light Rail front car, which didn't look too pretty itself.

I witnessed that the driver of the Porsche was unconscious, showing signs of trauma. The passenger was not in the car. At that point, I looked around the area and observed the passenger on the side of the street about ten yards behind us to the north. She was not moving, and seemed very badly injured. As I approached her, I called for an ambulance. But I knew it was too late, because she was not breathing. Her head looked crushed, and a puddle of blood was forming on the pavement. She must have been thrown from the Porsche, and you just don't survive an accident like that.

I went back to the Porsche to check on the driver, and by that time my backup had arrived - Officers Smith and Curry were getting out of their patrol cars. At that

time, I holstered my sidearm. Since I was first on the scene, and neither of the officers who responded were senior to me, it was my job to call the shots until a senior officer arrived. I directed Smith to board the light rail car to check for injuries of any passengers, which I hadn't had a chance to do yet. At that point I did not know if there were any passengers aboard the rail, but I could see the rail operator through the cracked window. Then I told Curry about the bag of drugs that the passenger had thrown out of the window of the Porsche into that parking lot and directed him to find it, because it was important evidence for my traffic stop case. Curry informed me that he would canvass the parking lot for evidence, and left the scene.

The fire trucks and ambulances began to arrive then, at 1942. One set of paramedics went to the deceased girl on the street, identified by her crystal-encrusted dog tag necklace as Tara Gordon, and pronounced her dead at the scene. I confiscated the dog tag as evidence and bagged it.

I went back to the Porsche. Two paramedics and three fire fighters were going to try to pry the car door open and get the driver of the Porsche out, but the car was too mangled and wrapped around the train. They ended up pulling the driver out through the passenger side door. They got the driver laid down on the sidewalk and the paramedics started to administer medical care. The driver was identified by the paramedics as Billie Jean Dugan.

I moved away while the paramedics worked on Dugan, because I didn't want to crowd them. I then went over to see if Officer Smith had spoken with any witnesses or taken any statements. There weren't many people on the light rail, five not including the operator. None of the five passengers saw the Porsche or any of the events preceding the accident. Fortunately, none of the passengers was hurt, either. But, none of the passengers had information relevant to the accident, so I told Officer Smith not to take any statements.

Right after Officer Smith finished briefing me on the passengers, I was called over by a paramedic who was attending to Dugan. Dugan was awake. The paramedic told me that Dugan suffered from some lacerations and that there was a possibility of trauma to the head and internal bleeding, but wanted to give me a chance to interrogate Dugan before they transported him/her to the hospital.

Dugan was obviously upset, and was muttering about Tara when I arrived. I whispered to the paramedic that Tara was dead, and informed the paramedic that I was going to arrest Dugan for fleeing the traffic stop. The paramedic said that he would get Dugan on a gurney first, then we could have our moment of privacy.

When we got Dugan on the gurney, I put my hand on his/her shoulder, and said I was truly sorry but that Tara was dead. Dugan started to cry, at which time I placed Dugan under arrest for fleeing the traffic stop and for the homicide of Tara Gordon. I read Dugan's *Miranda* rights. That got the tears going even more.

Officer Curry got back from the drug search about that time, and had collected two small bags of a white powder substance, obviously drugs, from the parking lot. We bagged them as evidence.

Around 2030 hours, Sergeant Amari Lassard arrived at the scene, and relieved me of my command. Lassard questioned me, and I told Lassard all about the traffic stop, the chase, and the scene of the accident when I arrived there. Lassard told me to go back to the precinct and write a report.

I left the scene and booked the evidence. Not bad for my first chase, or my first homicide investigation.

WITNESS ADDENDUM

I have reviewed this statement, and I have nothing of significance to add. The material facts are true and correct.

Signed,

Andy Redding
Off. Andy Redding

SIGNED AND SWORN to before me on this 13th day of January, 2010.

Molly Johnson Giger
Molly Johnson Giger, Notary Public
State of Arizona

My Commission Expires: November, 1, 2011

PHOENIX \ 303926.1

Exhibit 1

Exhibit 2

Exhibit 3


Exhibit 4

VirginiaTech
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New Data from VTTI Provides Insight into Cell Phone Use and Driving Distraction

Blacksburg, Va., July 27, 2009 – Several large-scale, naturalistic driving studies (using sophisticated cameras and instrumentation in participants' personal vehicles) conducted by the Virginia Tech Transportation Institute (VTTI), provide a clear picture of driver distraction and cell phone use under real-world driving conditions. Combined, these studies continuously observed drivers for more than 6 million miles of driving. A snapshot of risk estimates from these studies is shown in the table below.

"Given recent catastrophic crash events and disturbing trends, there is an alarming amount of misinformation and confusion regarding cell phone and texting use while behind the wheel of a vehicle. The findings from our research at VTTI can help begin to clear up these misconceptions as it is based on real-world driving data. We conduct transportation safety research in an effort to equip the public with information that can save lives," says Dr. Tom Dingus, director of the Virginia Tech Transportation Institute.

In VTTI's studies that included light vehicle drivers and truck drivers, manual manipulation of phones such as dialing and texting of the cell phone lead to a substantial increase in the risk of being involved in a safety-critical event (e.g., crash or near crash). However, talking or listening increased risk much less for light vehicles and not at all for trucks. Text messaging on a cell phone was associated with the highest risk of all cell phone related tasks.

CELL PHONE TASK	*Risk of Crash or Near Crash event*
Light Vehicle/Cars	
Dialing Cell Phone	2.8 times as high as non-distracted driving
Talking/Listening to Cell Phone	1.3 times as high as non-distracted driving
Reaching for object (i.e. electronic device and other)	1.4 times as high as non-distracted driving
Heavy Vehicles/Trucks	
Dialing Cell phone	5.9 times as high as non-distracted driving
Talking/Listening to Cell Phone	1.0 times as high as non-distracted driving
Use/Reach for electronic device	6.7 times as high as non-distracted driving
Text messaging	23.2 times as high as non-distracted driving

Explanation of Findings

Eye glance analyses were conducted to assess where drivers were looking while involved in a safety-critical event and performing cell phone tasks. The tasks that draw the driver's eyes away from the forward roadway were those with the highest risk.

Several recent high visibility trucking and transit crashes have been directly linked to texting from a cell phone. VTTI's research showed that text messaging, which had the highest risk of over 20 times worse than driving while not using a phone, also had the longest duration of eyes off road time (4.6 s over a 6-s interval). This equates to a driver traveling the length of a football field at 55 mph without looking at the roadway. Talking/listening to a cell phone allowed drivers to maintain eyes on the road and were not associated with an increased safety risk to nearly the same degree.

Recent results from other researchers using driving simulators suggest that talking and listening is as dangerous as visually distracting cell phone tasks. The results from VTTI's naturalistic driving studies clearly indicate that this is not the case. For example, talking and listening to a cell phone is not nearly as risky as driving while drunk at the legal limit of alcohol. Recent comparisons made in the literature greatly exaggerate the cell phone risk relative to the very serious effects of alcohol use, which increases the risk of a fatal crash approximately seven times that of sober driving. Using simple fatal crash and phone use statistics, if talking on cell phones was as risky as driving while drunk, the number of fatal crashes would have increased roughly 50% in the last decade instead of remaining largely unchanged.

These results show conclusively that a real key to significantly improving safety is **keeping your eyes on the road**. In contrast, "cognitively intense" tasks (e.g., emotional conversations, "books-on-tape", etc.) can have a measurable effect in the laboratory, but the actual driving risks are much lower in comparison.

VTTI's recommendations (based on findings from research studies)

- Driving is a visual task and non-driving activities that draw the driver's eyes away from the roadway, such as texting and dialing, should always be avoided.

- Texting should be banned in moving vehicles for all drivers. As shown in the table, this cell phone task has the potential to create a true crash epidemic if texting-type tasks continue to grow in popularity and the generation of frequent text message senders reach driving age in large numbers.

- "Headset" cell phone use is not substantially safer than "hand-held" use because the primary risk is associated with both tasks is answering, dialing, and other tasks that require your eyes to be off the road. In contrast, "true hands-free" phone use, such as voice activated systems, are less risky if they are designed well enough so the driver does not have to take their eyes off the road often or for long periods.

- All cell phone use should be banned for newly licensed teen drivers. Our research has shown that teens tend to engage in cell phone tasks much more frequently, and in much more risky situations, than adults. Thus, our studies indicate that teens are four times more likely to get into a related crash or near crash event than their adult counterparts.

The Disconnect Between Naturalistic and Simulator Research

It is important to keep in mind that a driving simulator is ***not*** actual driving. Driving simulators engage participants in tracking tasks in a laboratory. As such, researchers that conduct simulator studies must be cautious when suggesting that conclusions based on simulator studies are applicable to actual driving. With the introduction of naturalistic driving studies that record drivers (through continuous

video and kinematic sensors) in actual driving situations, we now have a scientific method to study driver behavior in real-world driving conditions in the presence of real-world daily pressures. As such, if the point of transportation safety research is to understand driver behavior in the real-world (e.g., increase crash risk due to cell phone use), and when conflicting findings occur between naturalistic studies and simulator studies, findings from the real-world, and not the simulator-world, must be considered the gold standard.

It is also critical to note that some results of recent naturalistic driving studies, including those highlighted here as well as others (e.g., Sayer, Devonshire and Flanagan, 2007) are at odds with results obtained from simulator studies. Future research is necessary to explore the reasons why simulator studies sometimes do not reflect studies conducted in actual driving conditions (i.e., the full context of the driving environment). It may be, as Sayer, Devonshire and Flanagan (2007) note, that controlled investigations cannot account for driver choice behavior and risk perception as it actually occurs in real-world driving. If this assessment is accurate, the generalizability of simulator findings, at least in some cases, may be greatly limited outside of the simulated environment.

NOTE: Dr. Rich Hanowski, Director of the Center for Truck and Bus Safety at VTTI, will be presenting the results of his study directed at Driver Distraction in Commercial Motor Vehicle Operations, at the First International Conference on Driver Distraction and Inattention in Gothenburg, Sweden, September 28-29, 2009.

References

Blanco, M., Bocanegra, J.L., Morgan, J.F., Fitch, G.M., Medina, Olson, R.L., Hanowski, R.J., Daily, B., & Zimmermann, R.P. (April, 2009). *Assessment of a Drowsy Driver Warning System for Heavy Vehicle Drivers: Final Report.* Report No. DOT HS 811 117. Washington, DC: National Highway Traffic Safety Administration. http://www.trb.org/news/blurb_detail.asp?id=10451&utm_medium=etmail&utm_source=Transportation%20Research%20Board&utm_campaign=TRB+E-Newsletter+-+05-27-2009&utm_content=Customer&utm_term

Blanco, M., Hickman, J.S. Olson, R.L., Bocanegra, J.L., Hanowski, R.J., Nakata, A., Greening, M., Madison, P., Holbrook, G.T., and Bowman, D. (in press). *Investigating Critical Incidents, Driver Restart Period, Sleep Quantity, and Crash Countermeasures in Commercial Operations Using Naturalistic Data Collection: Final Report* (Contract No. DTFH61-01-C-00049, Task Order # 23). Washington, DC: Federal Motor Carrier Safety Administration.

Dingus, T. A., Klauer, S. G., Neale, V. L., Petersen, A., Lee, S. E., Sudweeks, J., Perez, M. A., Hankey, J., Ramsey, D., Gupta, S., Bucher, C., Doerzaph, Z. R., Jermeland, J., and Knipling, R.R. (2006). *The 100-Car Naturalistic Driving Study: Phase II – Results of the 100-Car Field Experiment.* (Interim Project Report for DTNH22-00-C-07007, Task Order 6; Report No. DOT HS 810 593). Washington, D.C.: National Highway Traffic Safety Administration. http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/Driver%20Distraction/100CarMain.pdf

http://www.fmcsa.dot.gov/facts-research/art-webinars-desc.asp?webID=32

Federal Motor Carrier Safety Administration Driving Tips Website: http://www.fmcsa.dot.gov/about/outreach/education/driverTips/index.htm

Hanowski, R.J., Blanco, M., Nakata, A., Hickman, J.S., Schaudt, W.A., Fumero, M.C., Olson, R.L., Jermeland, J., Greening, M., Holbrook, G.T., Knipling, R.R., & Madison, P. (September, 2008). *The drowsy driver warning system field operational test, data collection methods final report*. Report No. DOT HS 810 035. Washington, DC: National Highway Traffic Safety Administration. URL:http://nhtsa.com/staticfiles/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/2008/810035.pdf

Hanowski, R.J., Olson, R.L., Hickman, J.S., and Bocanegra, J. (in press). Driver distraction in commercial vehicle operations. Paper to be presented at the First International Conference on Driver Distraction and Inattention in Gothenburg, Sweden, September 28-29, 2009 (http://www.chalmers.se/safer/driverdistraction-en) .

Klauer, S. G., Dingus, T. A., Neale, V. L., Sudweeks, J.D., and Ramsey, D. J. (2006). The Impact on Driver Inattention on Near Crash/Crash Risk: An Analysis Using the 100 Car Naturalistic Driving Study Data (Report No. DOT HS 810 594). Washington, DC: National Highway Traffic Safety Administration. http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/Driver%20Distraction/810594.pdf

Sayer, J. R, Devonshire, J. M., and Flanagan, C. A. (2007). Naturalistic driving performance during secondary tasks. Proceedings of the Fourth International Driving Symposium on Human Factors in Driver Assessment, Training and Vehicle Design. http://ppc.uiowa.edu/driving-assessment/2007/proceedings/papers/039_SayerDevonshire.pdf

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PewResearchCenter

Teens and Distracted Driving

Texting, talking and other uses of the cell phone behind the wheel

November 16, 2009

Mary Madden, Senior Research Specialist
Amanda Lenhart, Senior Research Specialist

View Online:
http://pewinternet.org/Reports/2009/Teens-and-Distracted-Driving.aspx

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Exhibit 6

Overview

- 75% of all American teens ages 12-17 own a cell phone, and 66% use their phones to send or receive text messages.
- Older teens are more likely than younger teens to have cell phones and use text messaging; 82% of teens ages 16-17 have a cell phone and 76% of that cohort are cell texters.
- One in three (34%) texting teens ages 16-17 say they have texted while driving. That translates into 26% of all American teens ages 16-17.
- Half (52%) of cell-owning teens ages 16-17 say they have talked on a cell phone while driving. That translates into 43% of all American teens ages 16-17.
- 48% of all teens ages 12-17 say they have been in a car when the driver was texting.
- 40% say they have been in a car when the driver used a cell phone in a way that put themselves or others in danger.

Introduction

As early as 2006, and well before texting had become mainstream in the U.S., the Pew Research Center's Internet & American Life Project reported that more than a quarter of adult cell phone owners felt their cell phone had at some point compromised their driving ability. In the survey, 28% admitted they sometimes did not drive as safely as they should while using their mobile devices.[1]

Over time, cell phones have become increasingly important fixtures in Americans' lives and public concern over their use while driving has grown.[2] At the time of the 2006 survey, just 35% of adult cell phone owners said they used the text messaging feature on their phones. By April 2009, the use of text messaging by cell phone owners had nearly doubled to 65%.[3]

Several states including California, Connecticut and Oregon have already passed laws to ban all texting or talking with a handheld phone while driving, and the Senate is now considering a bill

1 Lee Rainie and Scott Keeter, "Americans and their cell phones," Pew Internet & American Life Project, April 3, 2006. Available at: http://www.pewinternet.org/Reports/2006/Americans-and-their-cell-phones.aspx

2 Marjorie Connelly, "Many in U.S. Want Texting at the Wheel to Be Illegal," *The New York Times*, November 1, 2009. Available at: http://www.nytimes.com/2009/11/02/technology/02textingside.html

3 John Horrigan, "Wireless Internet Use," Pew Internet & American Life Project, July 22, 2009. Available at: http://www.pewinternet.org/Reports/2009/12-Wireless-Internet-Use.aspx Additional note: Both the 2006 and 2009 surveys were dual frame, interviewing respondents via landlines and cell phones.

that would provide federal funding to states that enact similar laws.[4] In September 2009 U.S. Transportation Secretary Ray LaHood convened policy makers, safety advocates, law enforcement representatives and academics to address the risk of text-messaging and other "distracted driving" behavior. At the conclusion of the summit, Secretary LaHood announced an executive order from President Obama that forbids federal workers from texting while driving government vehicles or their own vehicles while on the job.[5]

The highest incidence of distracted driving occurs in the under-20 age group

According to the latest research from the National Highway Traffic Safety Administration, in 2008 alone, there were 5,870 fatalities and an estimated 515,000 people were injured in police-reported crashes in which at least one form of driver distraction was reported. Distractions among young drivers are of particular concern, as the highest incidence of distracted driving occurs in the under-20 age group.[6]

New research released in July 2009 by the Virginia Tech Transportation Institute (VTTI) examines a variety of tasks that draw drivers' eyes away from the roadway and suggests that text messaging on a cell phone is associated with the highest risk among all cell phone-related tasks observed among drivers.[7] The VTTI has also noted that teen drivers are generally at a much higher crash risk when compared to other drivers, but there is a gap in understanding to what extent specific behaviors and relative lack of driving experience may contribute to this elevated risk. An 18-month study of newly-licensed teen drivers is currently underway to further examine these factors.[8]

Research conducted at the University of Utah's Applied Cognition Laboratory over the past decade further problematizes cell phone use in the car and suggests that talking on a cell phone while driving impairs driving ability in ways that conversing with a person in the car does not.[9] For more information on the body of research around distracted driving, please see the Resources section at the end of this report.

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4 Kim Geiger, "Support in Senate for cellphone driving ban," *Los Angeles Times*, October 14, 2009. Available at: http://www.latimes.com/news/nationworld/nation/la-na-distracted-driving14-2009oct14,0,4546212.story

5 Michael Dresser, "Don't text while driving, Obama orders U.S. workers," *The Baltimore Sun*, October 2, 2009. Available at: http://www.baltimoresun.com/features/commuting/bal-md.cm.text02oct02,0,6244619.story

6 Debra Ascone, Tonja Lindsey, and Cherian Varghese, "An Examination of Driver Distraction as Recorded in NHTSA Databases," Data Reporting and Information Division, National Center for Statistics and Analysis, NHTSA, September 2009. Available at: http://www.nhtsa.dot.gov/

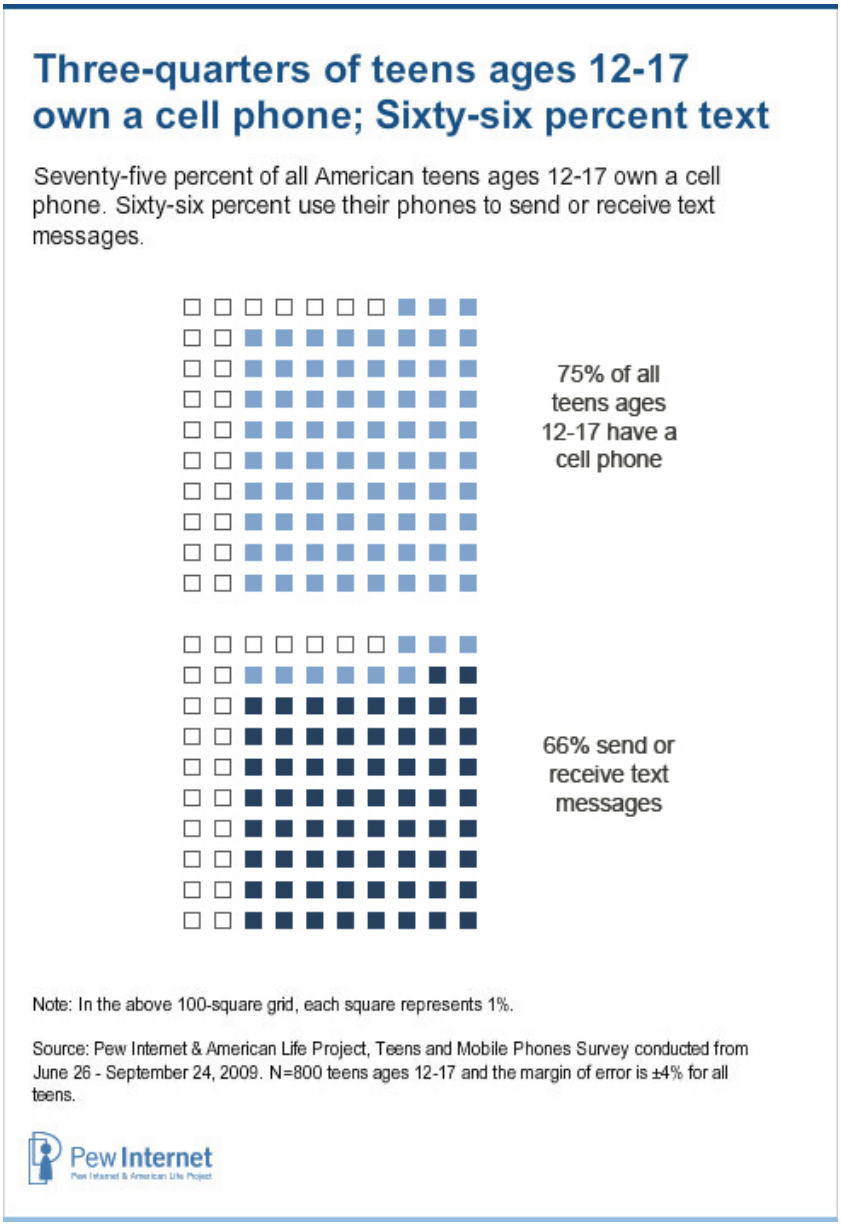
7 Sherri Box, "New data from Virginia Tech Transportation Institute provides insight into cell phone use and driving distraction," VTTI, July 29, 2009. Available at: http://www.vtnews.vt.edu/story.php?relyear=2009&itemno=571

8 VTTI In the News: http://www.vtti.vt.edu/news.html

9 See Strayer, D.L. and Johnston, W.A., (2001), Strayer, D.L. Drews, F.A., and Crouch, D.J. (2003) and Drews, F.A., Pasupathi, M. and Strayer, D.L. (2008) The findings from these studies assert that talking on a cell phone while driving results in "inattention blindness," slower reaction times and other impairments of driving skills that are similar to driving while intoxicated. For these papers and others, see http://www.psych.utah.edu/AppliedCognitionLab/

Teens who text and talk while driving

Over the summer of 2009, the Pew Research Center's Internet & American Life Project conducted a survey of 800 teens ages 12-17 asking about their experiences with cell phone use in cars. All of the teens in our survey were asked about their experiences as passengers, and if they were 16 or older and have a cell phone, they were also asked about their own actions behind the wheel. Additionally, the Project and the University of Michigan conducted 9 focus groups with teens ages 12-18 between June and October 2009 where the topic of driving and mobile phones was addressed.



Fully 75% of all American teens ages 12-17 now own a cell phone, and 66% use their phones to send or receive text messages. Older teens are more likely than younger teens to have cell phones and use text messaging; 82% of teens ages 16-17 have a cell phone and 76% text.

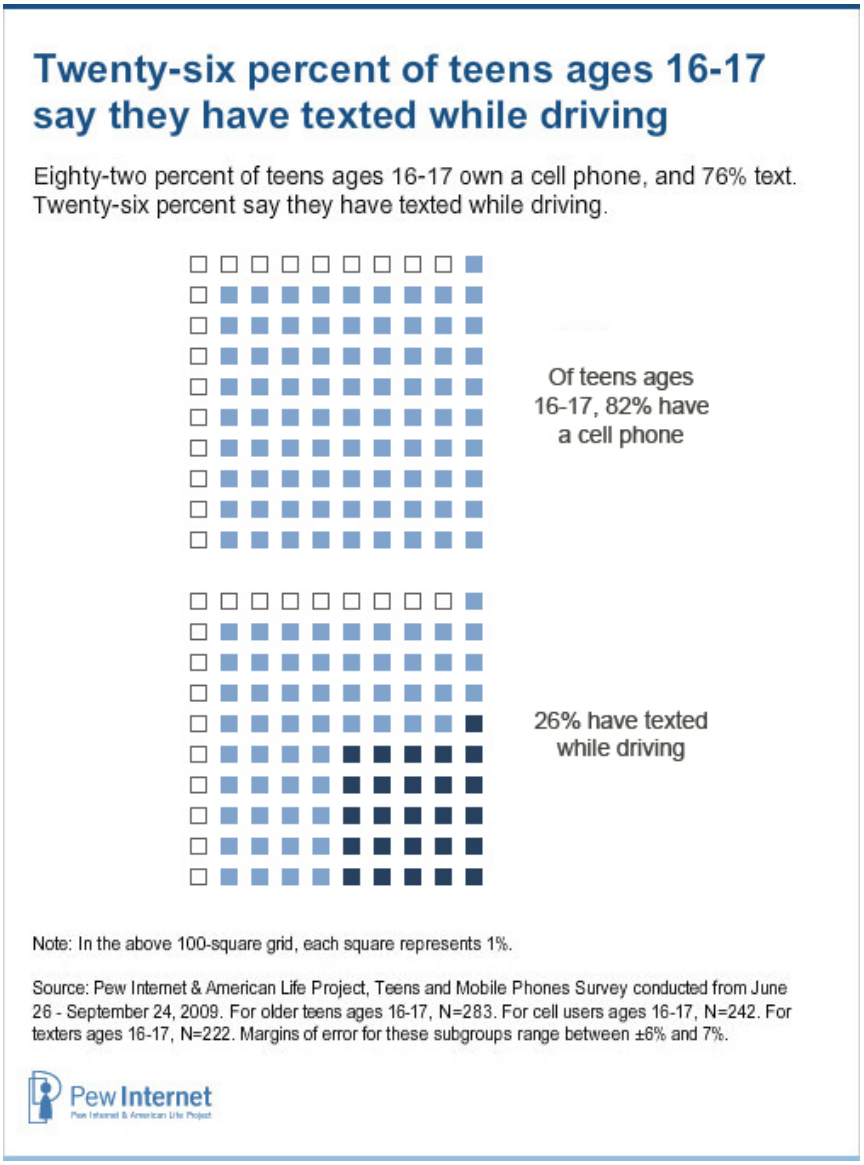
Overall, 34% of teen texters ages 16-17 say they have texted while driving. That translates into 26% of all American teens ages 16-17.

Boys and girls are equally likely to report texting behind the wheel; 34% of each group say they have used text messaging while driving. At the same time, texting at the wheel is less common than having a conversation on the phone while driving. Looking at teens ages 16-17 who have a cell phone, 52% say they have talked on a cell phone while driving. That translates into 43% of all American teens ages 16-17.

However, it is important to note that some of these teens may use hands-free devices or a speakerphone function with their cell phones. This survey did not include questions to differentiate between conversations with handheld phones and those that took place with the assistance of a hands-free device or phone feature.

Indeed, in focus groups and written surveys conducted in partnership with the University of Michigan, some teens told us that they draw a line between conversations and texting, while others expressed concern over any activity that takes the driver's eyes off the road. One middle school-aged girl wrote: "I'm very concerned because to me it's not too safe to drive and text or talk (…) because you're looking down in order to read it or text back."

Likewise, one middle school-aged boy wrote: "I do worry about it because what if you're driving and not paying attention to the road you can hit someone or make them hit you."



One 9th-10th grade boy said, "People texting worries me more than people calling people, because texting is more distracting than talking on the phone because you can pay more attention to the road when talking than texting."

The teens in our focus groups who said they texted while driving reported a variety of motivations for their behavior, including the need to report their whereabouts to friends and parents, getting directions and flirting with significant others. Teens also told of a variety of practices they use to try to increase safety while still maintaining the ability to text in the car. Some felt as though they could safely manage a quick exchange of texts while the car was stopped. One high school-aged boy shared that he would text "only at

a stop sign or light but if it's a call they have to wait or I'll hand it to my brother or whoever is next to me."

Others told of holding the phone up to keep their eyes simultaneously on the road and the phone. "I try not to, but at a red light, it's a lot easier" said one high school boy. "And if I do text while I'm driving, I usually try to keep the phone up near the windshield, so if someone is braking in front of me or stops short, I'm not going to be looking down and hit them."

Some teens explained other methods for handling calls or texts while on the road "Most of my friends give me their phones to text for them and read their texts, so the driver doesn't do it themselves," wrote one older high school girl.

One high-school aged boy said he thinks texting while driving is "fine," adding, "I wear sunglasses so the cops don't see [my eyes looking down]."

Other teens were more blasé about texting in the car. Said one high-school aged boy: "I think it's fine…And I wear sunglasses so the cops don't see [my eyes looking down]." Likewise, another high school-aged girl wrote that she texts "all the time," and that "everybody texts while they drive (…) like when I'm driving by myself I'll call people or text them 'cause I get bored." One older high school-aged boy explained that he limits his texting while driving only if his parents are around: "I'm fine with it, just not with my mom and dad in the car. Like when I'm with my brother, I do it."

Teens did make a distinction between reading text messages and sending them. "There's a difference, I think," said one older high school boy. "Because just reading a text isn't that bad, it's just reading and then moving on. If you're texting, it's going to take more time when you're supposed to be driving, and that's when most people get in accidents."

They also made a distinction between placing and answering calls on the phone in the car and sending and receiving text messages. "It's different because texting you mostly have to look down," said one middle school boy. "[While] calling you're still mostly focused but you could get into conversations and not be aware of what's going on and stuff." Another high school boy wrote: "It depends on what the driver is doing -texting or calling. If he's texting, to me that's a dangerous thing. If the driver is using the phone to chat with people, I am worried, but if he or she uses the phone [in] an emergency, I'm not worried as much."

Distracted drivers with teens as passengers

Among all teens ages 12-17, 48% say they have been in a car when the driver was texting. The older teens in our sample reported a higher incidence of this experience; while 32% of teens ages 12-13 say they have been passengers in a car while the driver was texting at the wheel, 55% of those ages 14-17 report this. Looking only at those who are of driving age—16 and 17 year-olds—the rate jumps to 64%.

In a separate question, teens ages 12-17 were asked if they had been in a car when the driver used the cell phone in a way that put themselves or others in danger. Four in ten teens (40%) said they had been in a risky situation like this. Younger teens ages 12-13 are generally less likely to say they have been in a car with a driver who used a cell phone in a dangerous way; 34% report this, compared with 42% of those ages 14-17. Teens of driving age (16-17) are the most likely to report this experience; 48% have been a passenger in a car with a driver who used a cell phone in a risky way.

However, it is important to note that the survey question wording does not identify the age of the distracted driver. The teens who were interviewed in the phone survey could be reporting experiences as passengers with adult drivers or other teen drivers. Indeed, as noted above, in the focus group setting, many teens relayed accounts of their parents or other adult relatives texting and talking while driving. While this was cause for concern for some, others felt that their parents and others were "good drivers" who could manage their phones safely.

"[My dad] drives like he's drunk. His phone is just like sitting right in front of his face, and he puts his knees on the bottom of the steering wheel and tries to text."

When asked whether he had any concerns about safety when a driver uses the phone, one middle school-aged boy wrote: "I am concerned because when my mom drives she talks on the phone a lot so she is still alert but she can get kind of dangerous." Another 9th/10th grade boy said "Yeah [my dad] he drives like he's drunk. His phone is just like sitting right in front of his face, and he puts his knees on the bottom of the steering wheel and tries to text."

The frequency of teens reporting parent cell phone use behind the wheel in our focus groups was striking, and suggested that, in many cases, texting while driving is a family affair. When one middle school-aged boy was asked how often he was in a moving vehicle when the driver sends a text message, he replied: "All the time. My mom, sister or brother will sit behind the wheel the whole time and just text away." Similarly, a middle school girl told us: "My uncle will drive and text while he is driving – he will text no matter where he is."

"I don't really get worried because everyone does it," one middle school-aged girl wrote. "And when my mother is texting and driving I don't really make a big deal because we joke around with her about it"

Other teen respondents referred to their parents' use of the phone while driving as part of a larger societal norm. One middle school-aged girl wrote: "I don't really get worried because everyone does it. And when my mother is texting and driving I don't really make a big deal because we joke around with her about it (cuz she's a crazy driver) but we don't take it so serious."

Texting was not the only cause for concern among the teens who participated in our focus groups. We also heard about the distractions of drivers trying to access Global Positioning Sys-

Teens and Distracted Driving

Have you ever experienced or done any of the following?

	All Teens 12-17	Older teens 16-17	Cell users ages 16-17	Texters ages 16-17
Been in a car when the driver was texting	48	64	70	73
Been in a car when the driver used a cell phone in a way that put themselves or others in danger	40	48	51	52
Talked on a cell phone while driving	n/a	43	52	54
Texted while driving	n/a	26	32	34

Pew Internet & American Life Project, Teens and Mobile Phones Survey conducted from June 26 - September 24, 2009. N=800 teens ages 12-17 and the margin of error is ±4% for all teens. For older teens ages 16-17, N=283. For cell users ages 16-17, N=242. For texters ages 16-17, N=222. Margins of error for these subgroups range between ±6% and 7%.

Pew Internet

tem (GPS) information while cars were in motion. And some teens cited other applications available on smartphones that take the driver's eyes off the road. "My dad, he wasn't really texting, but when he drives, he has a GPS on his Blackberry, so when he's driving, he looks down at his phone" said one middle school boy, "…so it's like the same [as] being distracted from the road. My mom always gets on him about how it's unsafe and stuff."

However, many of the teens we spoke with relayed experiences as passengers being driven by other young drivers. One young high school girl wrote about how often she's a passenger with drivers who text: "Every time I leave to go somewhere with my brother or sister and my friends. Every time!" Another high school age girl wrote: "My sister does it despite my mother's warnings, so does my brother and my friends despite my warnings."

Teen texters are more likely than non-texters to be a passenger of a distracted driver.

Teens ages 12-17 who use text messaging report a higher incidence of being passengers when the driver is texting or otherwise using the cell phone in a dangerous way. Among all teen texters, 58% say they have been in a car while the driver was texting. That compares with just 28% of non-texting teens. Similarly, 44% of texting teens say they have been in a car when the driver was using a cell phone in a way that put themselves or others in danger, while 31% of non-texting teens have had this experience.

Older texting teens ages 16-17 are even more likely to be in the company of drivers who use their cell phones while at the wheel. Fully 73% of texting teens ages 16-17 have been in a car when the driver was texting. Half (52%) say they have been in a car when the driver used a cell phone in a dangerous way.

"I'll snatch the phone out of your hands – don't be driving in the car with me and doing that," one high school boy said. "I want to live until the end of this car ride."

Teens in our focus groups had a variety of responses to these situations – some were adamant and angry about being endangered. One high school boy was asked about riding with drivers who text: "Not if they know what's good for them. I'll snatch the phone out of your hands – don't be driving in the car with me and doing that…I want to live until the end of this car ride."

Others were less concerned: "It doesn't really bother me," wrote one high school boy, "I've made and received calls almost every time I've driven." Another high school boy wrote: "I worry about if they can do it. If they know what they're doing and looking up every second. I usually watch the road when it happens and tell them if they're going off the road or something. I don't really care though."

Resources for further information

Below are links to research groups cited in this document as well as other sites that present more exhaustive looks at relevant research and resources on distracted driving.

- The National Safety Council has produced a recent list of relevant research at http://www.nsc.org/safety_road/Distracted_Driving/Pages/KeyResearch.aspx#cognitive.
- University of Utah's Applied Cognition Laboratory's website lists all their relevant research since 2001. http://www.psych.utah.edu/AppliedCognitionLab/
- Virginia Tech Transportation Institute's Center for Automotive Safety Research is conducting a safety study of newly licensed teen drivers. http://www.vtti.vt.edu/casr.html
- A listing of resources, rants and research around distracted driving from NPR and Car Talk: http://www.cartalk.com/content/features/Distraction/
- Clearinghouse for state-based laws around distracted driving as well as education and awareness raising materials around texting and driving: http://txtresponsibly.org/

Acknowledgements

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About the Pew Research Center's Internet & American Life Project

The Pew Research Center's Internet & American Life Project is one of seven projects that make up the Pew Research Center, a nonpartisan, nonprofit "fact tank" that provides information on the issues, attitudes and trends shaping America and the world. The Project produces reports exploring the impact of the internet on families, communities, work and home, daily life, education, health care, and civic and political life. The Project aims to be an authoritative source on the evolution of the internet through surveys that examine how Americans use the internet and how their activities affect their lives.

The Pew Internet Project takes no positions on policy issues related to the internet or other communications technologies. It does not endorse technologies, industry sectors, companies, nonprofit organizations, or individuals.

Methodology

This report is based on the findings of a telephone survey on teens' and parents' use of mobile phones and 9 focus groups conducted in 4 U.S. cities between June and October 2009 with teens between the ages of 12 and 18. The quantitative results in this report are based on data from telephone interviews conducted by Princeton Survey Research International between June 26 and September 24, 2009, among a sample of 800 teens ages 12-17 and a parent or guardian. For results based on the total sample, one can say with 95% confidence that the error attributable to sampling and other random effects is plus or minus 3.8 percentage points for the complete set of weighted data. In addition to sampling error, question wording and practical difficulties in conducting telephone surveys may introduce some error or bias into the findings of opinion polls.

A combination of landline and cellular random digit dial (RDD) samples was used to represent all teens and their parents in the continental United States who have access to either a landline

or cellular telephone. Both samples were provided by Survey Sampling International, LLC (SSI) according to PSRAI specifications.

Numbers for the landline sample were selected with probabilities in proportion to their share of listed telephone households from active blocks (area code + exchange + two-digit block number) that contained three or more residential directory listings. The cellular sample was not list-assisted, but was drawn through a systematic sampling from dedicated wireless 100-blocks and shared service 100-blocks with no directory-listed landline numbers.

Interviews were conducted from June 26 to September 24, 2009. As many as 7 attempts were made to contact and interview a parent at every sampled telephone number. After the parent interview, an additional 7 calls were made to interview an eligible teen. Sample was released for interviewing in replicates, which are representative subsamples of the larger sample. Using replicates to control the release of sample ensures that complete call procedures are followed for the entire sample. Calls were staggered over times of day and days of the week to maximize the chance of making contact with potential respondents. Each telephone number received at least one daytime call in an attempt to find someone at home.

Contact procedures were slightly different for the landline and cell samples. For the landline sample, interviewers first determined if the household had any 12 to 17 year-old residents. Households with no teens were screened-out as ineligible. In eligible households, interviewers first conducted a short parent interview with either the father/male guardian or mother/female guardian. The short parent interview asked some basic household demographic questions as well as questions about a particular teen in the household (selected at random if more than one teen lived in the house.)

For the cell phone sample, interviews first made sure that respondents were in a safe place to talk and that they were speaking with an adult. Calls made to minors were screened-out as ineligible. If the person was not in a safe place to talk a callback was scheduled. Interviewers then asked if any 12 to 17 year olds lived in their household. Cases where no teens lived in the household were screened-out as ineligible. If there was an age-eligible teen in the household, the interviewers asked if the person on the cell phone was a parent of the child. Those who were parents went on to complete the parent interview. Thos who were not parents were screened-out as ineligible.

For both samples, after the parent interview was complete an interview was completed with the target child. Data was kept only if the child interview was completed.

Weighting is generally used in survey analysis to compensate for patterns of nonresponse that might bias results. The interviewed sample was weighted to match national parameters for both parent and child demographics. The parent demographics used for weighting were: sex; age; education; race; Hispanic origin; and region (U.S. Census definitions). The child demographics used for weighting were gender and age. These parameters came from a special analysis of the Census Bureau's 2008 Annual Social and Economic Supplement (ASEC) that included all households in the continental United States.

Weighting was accomplished using Sample Balancing, a special iterative sample weighting program that simultaneously balances the distributions of all variables using a statistical technique called the Deming Algorithm. Weights were trimmed to prevent individual interviews from having too much influence on the final results. The use of these weights in statistical analysis ensures that the demographic characteristics of the sample closely approximate the demographic characteristics of the national population. Table 1 compares weighted and unweighted sample distributions to population parameters.

Table 1: Sample Disposition

	Parameter	Unweighted	Weighted
Census Region			
Northeast	17.8	15.4	17.4
Midwest	21.8	24.6	22.1
South	36.7	36.8	36.9
West	23.7	23.3	23.6
Parent's Sex			
Male	43.7	36.3	42.4
Female	56.3	63.8	57.6
Parent's Age			
LT 35	10.0	11.8	10.2
35-39	19.2	16.6	18.8
40-44	26.4	21.3	25.6
45-49	24.8	26.2	25.2
50-54	13.1	16.0	13.5
55+	6.4	8.1	6.6
Parent's Education			
Less than HS grad.	13.1	7.5	11.6
HS grad.	34.9	27.6	35.1
Some college	23.2	25.0	23.6
College grad.	28.8	39.9	29.8

continued on the next page

Parent's Race/Ethnicity			
White, not Hispanic	63.6	69.5	65.2
Black, not Hispanic	11.9	14.8	12.3
Hispanic	18.1	10.0	16.1
Other, not Hispanic	6.3	5.8	6.4
Kid's Sex			
Male	50.9	53.6	51.3
Female	49.1	46.4	48.7
Kid's Age			
12	16.7	14.3	16.1
13	16.7	17.0	16.8
14	16.7	15.6	16.6
15	16.7	17.8	16.8
16	16.7	16.3	16.7
17	16.7	19.1	17.0

Table 2 on the following page reports the disposition of all sampled callback telephone numbers ever dialed. The response rate estimates the fraction of all eligible respondents in the sample that were ultimately interviewed. At PSRAI it is calculated by taking the product of three component rates:[10]

- Contact rate – the proportion of working numbers where a request for interview was made[11]
- Cooperation rate – the proportion of contacted numbers where a consent for interview was at least initially obtained, versus those refused
- Completion rate – the proportion of initially cooperating and eligible interviews that agreed to the child interview and were completed

Thus the response rate for landline sample was 14 percent and the response rate for the cell sample was 11 percent.

10 PSRAI's disposition codes and reporting are consistent with the American Association for Public Opinion Research standards.

11 PSRAI assumes that 75 percent of cases that result in a constant disposition of "No answer" or "Busy" are actually not working numbers.

Table 2: Sample Disposition

Landline	Cell	
95863	39997	T Total Numbers Dialed
5185	619	OF Non-residential
4147	29	OF Computer/Fax
59	0	OF Cell phone
39588	14290	OF Other not working
6206	1145	UH Additional projected not working
40679	23915	Working numbers
42.4%	59.8%	Working Rate
2069	382	UH No Answer / Busy
7575	5176	UO_{NC} Voice Mail
79	11	UO_{NC} Other Non-Contact
30956	18346	Contacted numbers
76.1%	76.7%	Contact Rate
2611	3092	UO_{R} Callback
17958	8644	UO_{R} Refusal
10387	6610	Cooperating numbers
33.6%	36.0%	Cooperation Rate
1232	837	IN1 Language Barrier
	1717	IN1 Child's cell phone
8142	3426	IN2 No teen in household
1013	630	Eligible numbers
9.8%	9.5%	Eligibility Rate
260	212	R Parent refused child interview
209	162	R Break-off child or parent
544	256	I Completes
53.7%	40.6%	Completion Rate
13.7%	11.2%	Response Rate

The qualitative data comes from focus groups conducted by the University of Michigan and the Pew Internet & American Life Project. A total of 9 focus groups conducted in 4 cities between June and October 2009 with teens between the ages of 12 and 18. Three of the groups were co-ed and 6 were single sex – 3 groups with each sex. Three of the groups were with middle schoolers and 6 were with high school-aged students. Every effort was made to secure a diverse group of participants, with a balance of teens from different racial and ethnic backgrounds and socio-economic levels. All teens who participated in the focus groups had a cellular phone. Participants were offered a cash incentive for participation.

Each focus group lasted approximately 90 minutes, and included an individually administered paper questionnaire with additional questions that was completed during the 90 minute session. Recruitment for the focus groups was done by Resolution Research LLC of Denver, Colorado. Focus groups were moderated by Amanda Lenhart of Pew Internet and Scott Campbell of the University of Michigan, usually in teams of two, with one lead moderator and one secondary moderator. University of Michigan graduate students also attended the focus groups.

Data for June 26 – September 24, 2009

Princeton Survey Research Associates International for the Pew Internet & American Life Project

Sample: n= 800 parents of 12-17 year olds (555 parent landline interviews and 245 parent cell phone interviews)

800 teens ages 12-17

Interviewing dates: 06.26.09 – 09.24.09

Margin of error is plus or minus 4 percentage points for results based on total parents [n=800]
Margin of error is plus or minus 4 percentage points for results based on total teens [n=800]
Margin of error is plus or minus 4 percentage points for results based on teen internet users [n=746]
Margin of error is plus or minus 4 percentage points for results based on teen cell phone users [n=625]
Margin of error is plus or minus 5 percentage points for results based on teens who text [n=552]

K45 Have you ever experienced or done any of the following? (First,) have you ever [INSERT IN ORDER]?

	YES	NO	DON'T KNOW	REFUSED
a. Been in a car when the driver was texting	48	52	*	*
b. Been in a car when the driver used a cell phone in a way that put themselves or others in danger	40	60	*	*
Item C: Based on teens ages 16-17 who use their cell phone to text [N=222]				
c. Texted while driving	34	66	0	0
Item D: Based on teen cell users ages 16-17 [N=242]				
d. Talked on a cell phone while driving	52	48	0	0

BT Wireless Phones, Inc.
400 W. Cell Drive
Lincoln, Nebraska 68502

July 29, 2009

Sent Via E-Mail Only
Sergeant Amari Lassard
Phoenix Police Department

RE: Account: BT00941567239
Customer: P. Plunkett

Dear Sergeant Lassard,

It was a pleasure speaking with you the other day. It has been a while and we certainly will have to plan some time to catch up on our days at the University of Nebraska. In any event, pursuant to your request, enclosed herewith is a copy of the text-message log for Mr. Plunkett from 7pm – 8pm, July 8, 2009. Please contact me if you have any questions.

Sincerely,

/s/ Cody Sullivan
Vice President, Customer Relations
BT Wireless Phones, Inc.

Enclosure

Exhibit 7

Account: BT00941567239 Rep. Cody Sullivan
Customer: P. Plunkett
Customer #: 6025553428
Date: 7/8/09
Time: 19:00 – 20:00
DATA: Text and MMS messages only

TIME	FROM	TO	MESSAGE
19:01	6025553428	3135552890	Kudos! ttyl
19:03	3135552890	6025553428	Thx ☺
19:04	6025553428	4805552558	Need to trade shifts nxt fri to sat, interested?
19:05	4805552558	6025553428	Early/day/night?
19:05	6025553428	4805552558	Early
19:07	4805552558	6025553428	Sure, will tell mgr
19:09	6025553428	4805552558	Gracias!
19:11	6025559991	6025553428	What do u mean?
19:13	6025553428	6025559991	Game last night, cubbies rule!
19:15	4805552558	6025553428	Frgot to ask, did you get into any trble last week?
19:16	6025553428	4805552558	Nah, warning. Hope no one's watching now. j/k.
19:18	4805552558	6025553428	Nice, I won't tell ;)
19:19	6025559991	6025553428	Please, sox = way better.
19:21	6025553428	5205554876	What do you call santa's helpers?
19:24	5205554876	6025553428	What?
19:26	6025553428	5205554876	Subordinate clauses
19:27	5205554876	6025553428	Terrible, just terrible
19:32	5205554876	6025553428	Going to my book signing?
19:33	6025553428	5205554876	Yup, next sat, right?
19:33	6235551918	6025553428	Dude, got xtra tix to movie tonight, 8:30, interested?
19:34	6025553428	6235551918	U bet
19:36	6235551918	6025553428	Where u at?
19:37	6025553428	6235551918	Still at wrok.
19:38	6235551918	6025553428	Sure u can make it? Can give to someone else if not.
19:40	6235551918	6025553428	Whts ur ansr? Eta?