

# Daily Journal

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## ACCOUNTABILITY FOR DISTRACTED DRIVING

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In 2013, the L.A. Sheriff's Department issued a press release for Distracted Driving Month that read, "[S]tudies show that texting while driving can delay a driver's reaction time just as severely as having a blood alcohol content of a legally drunk driver."

Think about that. The scourge of distracted driving is so profound that there is a nationwide Distracted Driving Month. The science keeps saying the same thing: driving while distracted is just as bad as driving drunk.

According to the United States National Highway Traffic Safety Administration, in 2018 over 400,000 Americans were injured in distraction affected crashes. Over eight percent of fatal crashes in 2018 involved a distracted driver. Since many traffic officers do not have the time, resources, and/or expertise to conduct a distracted driving investigation, these numbers are conservative. Many investigations on this subject start and end with one question - "Were you on your phone at the time of the crash?"

So why is distraction as bad as drunk driving?

To safely operate a vehicle, drivers must do more than "keep their eyes on the road." Drivers must pay enough attention that they can perceive a potential danger in time

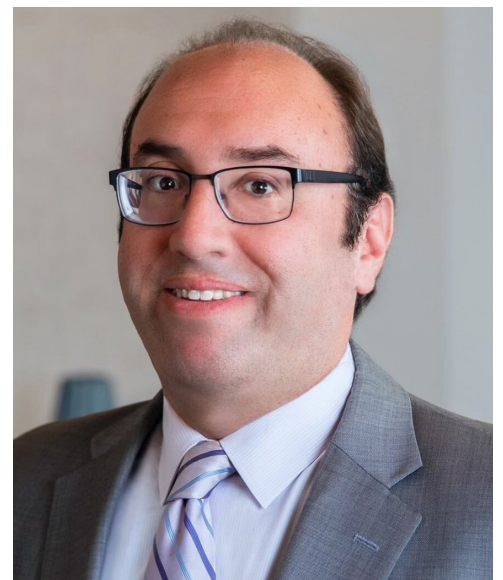
to decide how to respond to that danger and then to respond.

The kind of distraction we are talking about is not a momentary glance at the air conditioner control. We are talking about a driver that intentionally engages in a level of distraction that interferes with their ability to timely perceive, react, and avoid striking other vehicles, cyclists, pedestrians, etc.

Mobile devices distract in at least three distinct ways. First, looking at the device takes the driver's eyes off the road. Second, the device becomes the center of the driver's attention, thought processes, and concerns. Third, the device engages the driver physically in the act of manipulating the device - holding, typing, reading, composing, and so on. Each of these three is a separate form of distraction - visual, mental, physical - and any one of them individually and separately can cause distracted driving.

These three forms of distraction are not solved by an occasional glance at the road. Typically, the glance is brief. And, regardless of the length of the glance, the driver's mind/attention is still primarily focused on the device. As a result, the driver is not paying enough attention to perceive/react to what might happen on the road.

The "brief glance" is also inade-



quate because of the nature of human vision. The fovea is a structure in the retina. The fovea is responsible for sharp central vision (foveal vision), which is necessary for activities in

which visual detail is important, such as reading and driving. Peripheral vision, on the other hand, occurs outside the fovea and is significantly weaker. When a distracted driver briefly glances up at the road from their device, the driver often will not fix their foveal vision onto the road. They have neither enough time nor sufficient inclination to do so because their mind is tugging them back to the device which is demanding their attention. Instead, they rely on their peripheral vision for the “brief glance” information. While peripheral vision can help a distracted driver keep the vehicle in the lane, it is not sharp enough to allow drivers to timely/reliably/safely spot dangers on the road ahead.

Another principle possibly at play in a particular incident is rapid optical expansion (REO). REO occurs when an object appears to increase in size suddenly and dramatically. The human brain is wired to automatically interpret an apparent sudden increase in size of the object as a signal of an imminent collision. The brain will automatically respond with an action to avoid the collision. But the driver must be paying attention to trigger this automatic response.

Consider the following example. You are driving behind a car. Because of the car’s speed and distance,

the car appears to be about the size of a dime. The car suddenly slows and stops. As you approach, REO will cause the size of the stopped car to rapidly grow in your vision from the size of a dime to a quarter and then a half dollar. REO occurs very quickly and will cause your brain to automatically register the sudden/dramatic increase in the apparent size of the stopped car. REO will trigger an automatic evasive reaction from you, and you will avoid the collision. When the evidence shows that a driver did not respond to a rapid optical expansion, the driver was likely distracted.

There is much about a vehicle collision that can also tell us whether distracted driving was in play. Accident reconstruction allows you to work out how long and how much distance the driver had to perceive, react, and safely avoid the collision. The more time/distance available to the driver, the more likely distraction was a factor. The vehicle’s event data recorder can also provide information about vehicle speed and if/when the driver attempted some kind of evasive maneuver. The less time between the attempted avoidance maneuver and the crash, the more likely distraction could be involved. A cell phone bill can also provide helpful information such as the time/length

of a call or the time a text message was sent or received. However, the bill typically does not reveal what apps were in use. Moreover, as to text messages, the bill may provide information about when the message was sent but does not show the time spent reading the text and drafting a response before sending. A forensic download can shed additional light. It can also reveal efforts to destroy evidence.

Driving distracted is as bad as, if not worse than, driving while intoxicated. When drivers make a conscious choice to drive distracted, they gamble with public safety every time they do it. They are deciding to drive under the influence of their mobile device. For that, they should be held accountable for the harm they cause.

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