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June 18, 2012

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Reference

EA-12-005

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To: Mr. David L. Strickland *
NHTSA Headquarters
West Building
1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Date: 15 June 2012

VIA FEDEX 8007-9341-5837

From: Mr. Paul V. Sheridan
DDM Consultants
22357 Columbia Street
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Subject : Correct Statistical Approach to NHTSA Defect Investigation EA-12-005 – File Update

Courtesy Copy List **

Mr. Clarence Ditlow, Director
Center for Auto Safety - Suite 330
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Washington, DC 20009-5708
(202) 328-7700

Senator John Rockefeller IV
Commerce, Science and Transportation Committee
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Washington, DC 20510
(202) 224-6472

Mr. Sergio Marchionne, Chairman
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Mr. Courtney E. Morgan, Jr.
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Mr. Larry Hershman
Office of Defects Investigation, NVS-212
National Highway Traffic Safety Administration
Washington, DC 20590
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* Available with hyperlinks: <http://links.veronicachapman.com/Sheridan2Strickland-4-Links.pdf>

** By email or USPS

DDM Consultants
22357 Columbia Street
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15 June 2012

VIA FEDEX AIRBILL # 8006-9341-5837

Mr. David L. Strickland, Administrator
NHTSA Headquarters
1200 New Jersey Avenue, SE
Washington, DC 20590
202-366-4000

Subject : Correct Statistical Approach to NHTSA Defect Investigation EA-12-005 – File Update

Dear Mr. Strickland:

Notoriously, Chrysler and its defense counsel have promoted various probabilities associated with the fire death or injury outcomes which result from rear-end collisions to the Jeep Grand Cherokee (ZJ-Body and WJ-Body). Unfortunately, NHTSA sometimes also promotes incorrectly formulated statistics as its criteria for analyzing automotive defects, frequently using the ludicrous phrase “defect trends.” The underlying incompetence in the approach of both organizations is use of the entire Jeep population as the denominator. This approach is not remotely competent or responsible.

The denominator that is relevant is derived from the real-world rear-end collision events involving the Jeep (and later use of the fire/injury outcome frequencies WITHIN that event population for various numerators). Using a denominator which includes the larger portion of “lucky” Jeep owners, the datum that have never experienced a rear-end collision, has no meaning; no statistically significant information. The fortunate portion of the Jeep population has never been tested in the real-world and offers no subject-relevant insight. By-definition, this portion contains no collision event outcome data. By-definition the lucky portion tells us nothing about the crashworthiness of the Jeep fuel tank system.

And yet this is the historical approach that insidiously underpins everything from defense lawyer/expert court room ruses, to the ongoing PR rhetoric from Chrysler.

The formulation of the correct denominator for NHTSA EA-12-005 involves the exercise of singling-out ONLY those Jeep vehicles that suffered a rear-end collision event, and then WITHIN THAT population determining the various event outcomes to arrive at meaningful probabilities. This approach by-definition contains statistically significant information which is focused on and provides insight regarding the true crashworthiness of the rear-mounted Jeep fuel tank system.

This correct statistical approach portends very bad news for the Jeep Grand Cherokee owners. When the correct denominator is used, when the tested, unlucky population is the focus of statistical analysis, the results are horrifically poor (i.e. too high). Alternatively, Chrysler makes the claim that the probability of a rear-end collision in the Jeep Grand Cherokee that results in a fire-caused death is very low. In the narrow, carefully coached legal and semantic sense, Chrysler is not guilty of lying. But in terms of ethics or competence, the Chrysler rhetoric is diversionary at-best, outright deception for-sure. Indeed the real-world reality is the opposite of the [Chrysler rhetoric](#):

If you are involved in a rear-end collision in a Jeep Grand Cherokee, the probability that you are horribly burned or die from fire is so high that only the unethical would feign no concern, and take no action. *

This latter point needs elaboration. In my letter to you of [9 February 2011](#), I stated:

“As chairman of the Chrysler Safety Leadership Team (SLT), my priority involved Failure Mode Effects Analysis (FMEA) as the basis of preliminary and ongoing examination of a safety concern. In my role it did not matter that only one person may be affected during vehicle service life. What mattered was that a failure mode existed, and when provoked would cause serious harm. Hypothetically, the fact that a vehicle service life was statistically “lucky,” and a failure mode was provoked “only once,” was not gala. Such an approach would merely confirm incompetence as a safety manager.

For perspective, I have testified in litigation wherein defense counsel has deployed two themes: 1) “compliance with all government safety standards” and 2) various NHTSA statistics. However, when the jury in [Jimenez v Chrysler](#) learned of the latter’s foreknowledge that FMVSS-206 failed to address the failure mode that was responsible for the death of an 8-year-old boy, that standard and related NHTSA statistics were rendered legally and morally worthless. Similarly, when the jury in [Flax v Chrysler](#) learned that FMVSS-207 did not address the failure mode that was responsible for the death of an infant, that standard and related statistics were deemed irrelevant.” †

In NHTSA EA-12-005 there are indications that #2 may be deployed as the underlying criteria by which dismissal could be executed. This is seen, by some, as insinuated by inclusion of the Jeep Liberty and the Jeep Cherokee. Therefore to avert such misinterpretation, I request that the same correct approach, as detailed above for the Jeep Grand Cherokee, be used for your additional investigation of the Jeep Liberty and the [Jeep Cherokee](#) vehicle lines.

Relating to probabilities, I conclude with [in-person insight](#): In all Center for Auto Safety (CAS) crash tests, conducted to simulate the real-world crashworthiness of the Jeep Grand Cherokee fuel tank system, the probability that the Jeep fuel tank system would fail was determined to be 100%. ‡ §

Please do not hesitate to contact me at any time.

Respectfully,

Paul V. Sheridan

Endnotes

* President Barack Obama and his family [are datum of the lucky Jeep Grand Cherokee population](#).

† To the best on my knowledge, as a former employee of the Chrysler Jeep and Dodge Truck Engineering (JTE) organization, no FMEAs were ever conducted on the rear-mounted fuel tank systems of ZJ-Body or WJ-Body vehicle lines, these were only subjected to the Ford Pinto based FMVSS-301 compliance regimen.

‡ As you are aware, a similar test conducted on the Ford Explorer, which has a similar chassis layout/fuel tank system to the WK-Body, had no breach of the fuel tank system. As you are also aware, the WK-Body, since introduction in September 2004 as a 2005 model year Jeep Grand Cherokee, [has no subject-relevant FARS data entries](#).

§ In the 15 June 2012 New York Times article, [Investigation of Jeep Grand Cherokee Portends a Recall, Safety Advocate Says](#), CAS Director Mr. Clarence Ditlow is quoted, “*We want NHTSA to move faster, but the only way it would move faster is if it had more resources and authority. NHTSA’s band of defect investigators is going up against trillion-dollar companies.*” After our introduction on 19 May 2010 in Room 253 of the Russell Senate Office Building, I had a meeting with Senator Jay Rockefeller (D-WV). During this latter conversation I alluded to the relationship between NHTSA’s very important role to that of the ongoing debate on national health care costs. Briefly, I essentially remarked to Senator Rockefeller that Congress and the Administration needed to review or reestablish the cost-benefit analysis between “*the nickels and dimes spent on NHTSA to the effect that increased funding will have on reducing the hospital bed population of highway accident victims*” (my words). In the context of the instant NHTSA investigation (EA-12-005), one can deduce with confidence that the cost avoidance related to a Jeep Grand Cherokee burn victim (that survives for three weeks on life-support, and then perishes) is comparatively miniscule. When one objectively relates these facts to the general issue of furthering a connected, interrelated and competent national policy on health care, the detractor and advocate alike are hard-pressed to establish a proverbial downside to “*more resources and authority*” to NHTSA.

The New York Times

Wheels

The Nuts and Bolts of Whatever Moves You

June 15, 2012, 11:17 am

Investigation of Jeep Grand Cherokee Portends a Recall, Safety Advocate Says

By [CHRISTOPHER JENSEN](#)

Chrysler Group 1998 Jeep Grand Cherokee, one of the models included an upgraded federal investigation relating to the S.U.V.'s safety performance in rear-impact collisions.

With the [National Highway Traffic Safety Administration](#) having decided to upgrade its investigation of rear-impact fires involving Jeep Grand Cherokees, a recall of millions of those vehicles is “certain,” said Clarence Ditlow, the executive director of the [Center for Auto Safety](#), the organization whose work prompted the federal inquiry.

Chrysler produced about three million Grand Cherokees belonging to the affected model years, 1993-2004, of which about 2.2 million were still registered in 2011, according to Experian Automotive.

Mr. Ditlow and his organization have insisted there was a heightened risk of fire in the vehicles since at least 2009.

Eric Mayne, a spokesman for Chrysler, said in an interview that there was no safety problem with the vehicles and that a recall was “absolutely not” certain.

In an e-mail, Karen Aldana, a spokeswoman for N.H.T.S.A., wrote that it was agency policy to refrain from commenting on possible outcomes of ongoing investigations.

In its filing on Thursday, the agency said “rear-impact-related tank failures and vehicle fires are more prevalent in the J.G.C. than in non-Jeep peer vehicles.” This marked the first time the agency made such a strong condemnation in the case, directly refuting thousands of pages of documentation provided by Chrysler to the agency.

The agency said it would expand the investigation beyond the Jeep Grand Cherokees to include the 1993-2001 Cherokee S.U.V. and 2002-7 Liberty compact crossover.

Combined with the three million Grand Cherokees, the investigation consists of 5.1 million vehicles — though the agency noted old age might have reduced the number of vehicles in use.

Mr. Ditlow **has argued** that the Grand Cherokees were far more likely to experience fast-spreading and deadly rear-impact fires for two reasons.

One is that the gas tank is positioned behind the rear axle, so it lacks the protection of that structure and is in a location engineers often refer to as a “crush zone.” The other reason relates to the fuel filler pipe, which can rip away in a rear impact, leaking gasoline.

In its redesign of the Grand Cherokee for the 2005 model year, Chrysler positioned the gas tank in front of the rear axle, but said the change was not undertaken for safety reasons.

Mr. Ditlow estimated the cost of repairing the Grand Cherokees would be \$100 per vehicle. The vehicles would need a steel shield under the fuel tank and a check valve to keep gasoline from leaking if the fuel-filler pipe were ripped off, he said.

Based on the estimate provided by Experian of 2.2 million affected Grand Cherokees on the road, such a recall would cost Chrysler about \$220 million, irrespective of any recall action for the Cherokee or Liberty.

Mr. Mayne, the Chrysler spokesman, declined to comment on the possible cost of any repair.

“The reality is there is no defect, so we are not contemplating costs,” he said.

Research and advocacy by Mr. Ditlow and the Center for Auto Safety prompted the federal investigation. Late in 2009, Mr. Ditlow filed a formal request, known as a defect petition ([PDF](#)), which argued that the agency failed to notice an important safety issue: that Grand Cherokees from the 1993 to 2004 model years were more likely to burst into flame when struck from behind than other S.U.V.’s in their peer group

Federal regulations dictate that the agency must at least consider whether a defect

petition merits an investigation. In August 2010, the agency **granted the request** and began what was called a Preliminary Evaluation.

During that evaluation, the agency determined there was enough cause for concern to merit an upgrade of the inquiry to an Engineering Analysis, which it announced Thursday.

Allan Kam, a Maryland **safety consultant** who spent much of his career at the safety agency and retired as its senior enforcement attorney, said in an interview there was “frequently” a recall after the agency upgraded an investigation to an Engineering Analysis. In a review by Wheels of 26 engineering analyses by the agency over roughly the last two years, 18 were found to have resulted in recalls. The other eight ended without action.

Mr. Ditlow lamented what he said was the slow pace of the investigation, but said the agency had its hands full. “We want N.H.T.S.A. to move faster, but the only way it would move faster is if it had more resources and authority,” he said. “N.H.T.S.A.’s band of defect investigators is going up against trillion-dollar companies.”

This post has been revised to reflect the following correction:

Correction: June 15, 2012

An earlier version of this post misidentified the author as Jonathan Schultz.