

# INTRODUCTION

*(Or what is an accident anyway, and why bother with investigation and analysis?)*

By definition, an accident is an unintended event involving at least one moving motor vehicle (or its load in motion) that results in injury and/or property damage.

Experienced investigators dislike the term “accident,” in that few collisions are purely accidental. Certainly, crash events may be unintended, but most wrecks are the result of negligence on the part of one or all of the involved drivers. In many cases, the negligence is criminal in nature, so the resulting collision cannot logically be deemed an “accident.”

Perhaps because so many individuals have personal experience with traffic collisions during the course of their lifetimes, many members of society tend to downplay the importance of determining negligence in traffic wrecks. This attitude seems to be common with most persons – until such time that those very persons become victims of another person’s negligence. Of course when this happens, litigation and fixing blame then become the orders of the day!

The resulting need for anyone associated with a traffic collision is investigation. Only by competent investigation can sufficient information be gathered to properly determine who should pay the freight on the load of damage and suffering linked to the “accident” in question. But a proper, competent investigation is much harder to come by than most people realize. The author of this book has reconstructed thousands of collisions, and rarely does he encounter a crash event that has been properly investigated and documented in such a way as to capture and preserve all the important facts associated with accident causation and analysis. For the legal professionals and claims personnel attempting to sort out the negligence associated with the collision, this lack of competent investigation presents genuine hurdles for realistic and just settlement of collision-related litigation.

In analysis of this issue, it is important to recognize the societal hurdles entrenched against competent accident investigation. Police agencies all over America are increasingly backing away from routine traffic collision investigation, claiming that police should not waste their precious time or resources doing what is thought of as “the insurance company’s job.” Prosecutors commonly refuse to file criminal charges even in traffic accidents resulting in death or serious injury, all because juries have a history of disbelieving the possibility that criminal responsibility might go hand in hand with bad driving. And meanwhile, more Americans die on the highways each year than are killed by any amount of “real crime.” (Consider the fact that a purse-snatcher who runs away and accidentally kills someone by pushing him/her into a glass window while escaping will get prosecuted for murder without hesitation. But a driver, who intentionally mashes his gas pedal to the floor, intentionally keeping his vehicle’s speed at three times the posted speed limit, will rarely get prosecuted for anything more serious than negligent homicide if he kills someone in the process. ) Fortunately, the vast majority of traffic collisions do not involve death. But the toll in personal injuries and property damage is staggering none-the-less. And not only do the police in America fail to address the problem with sufficient resources, but many modern insurance companies also fail to accomplish competent investigation of their own collision claims. In the ongoing quest for

business efficiency, many large insurance companies have adopted telephone-based claim investigation models, almost eliminating face-to-face contact between claims representatives and accident claimants. Decisions are made on less-than-complete collections of facts. And as a result, insurance fraud runs rampant. At the same time, though, many legitimate claimants fail to recover damages to which they should be entitled under the terms and conditions of insurance policies and tort law, simply because of sloppy or incomplete initial investigations of their respective collision events.

If you are a legal or claims professional reading this book, you have the burden of gathering enough good information to make reasonable decisions about important issues like causation, contributory negligence, and reasonable extent of injuries associated with a given crash event. This book is for you. As the second edition of a popular text educating attorneys and claims professionals since 2001, it will provide you with a basic overview of the investigative process involved in competent collision analysis, and it will give you the tools needed to make intelligent, informed decisions about problem crash events. This book will address several issues critical to the investigation and analysis process for legal and claims professionals. You will learn not only the basics of gathering needed information for subsequent investigation and analysis, but you will also learn how to recognize, identify, interpret, and document the physical evidence you will need to successfully manage your collision cases. In addition, you will also become familiar with the accident reconstruction methodology used by expert witnesses on both plaintiff and defense sides of the collision claims industry. Added case studies illustrating typical and “problem” scenarios will hopefully resonate with your memories of similar situations. New material added to this 2<sup>nd</sup> Edition such as frank discussions of new technology and controversial aspects of collision reconstruction methodology will add to your personal knowledge base. This knowledge will prove to be extremely valuable to you in determining if your case needs the services of a qualified accident reconstruction expert, and also in evaluating and cross-examining the accident reconstruction work of opposing experts.

Getting started, of course, requires a beginning. To help put all the information this book has to offer into a proper perspective, it is best to conclude this introduction by asking the question that provides the framework for all that is to follow:

### **WHAT REALLY CAN I EXPECT TO GAIN FROM A THOROUGH ACCIDENT INVESTIGATION ANALYSIS?**

In a very real sense, competent accident investigation will make certain you can answer the age-old requirements of sound reporting: Who? What? Where? When? Why? How? Broken down into the issues, a thorough collision investigation will provide answers to many of the following important questions:

**WHO?** Who were the drivers in each vehicle involved in the collision? Who were the passengers? Who were the witnesses? Who were the vehicle owners or persons suffering property damage? Who caused the accident?

**WHAT?** What happened? What kind of wreck was it? What kinds of injuries were involved? What kind of damage was observed in or on the vehicles? What physical evidence was noted at the accident scene? What statements did people at the scene make about the collision? What factors contributed to the collision’s cause? What police response was noted? What reports, documents, or photographs have already

been generated in association with the collision?

**WHERE?** Where did the collision actually take place? Where did the first harmful event occur? Where on the vehicles did the damage concentrate? Where on the roadway were the skid marks measured? Where were the vehicles when the drivers first noticed impending danger? Where were the witnesses located? Where were the visibility obstructions observed? Where did the vehicles end up after collision? Where did the victims go for treatment? Where were the occupants seated within the vehicles?

**WHEN?** When did the collision occur? When did each driver leave on his trip immediately prior to the accident? When did the drivers take evasive action? When did each driver see the other prior to taking evasive action? When was the accident reported? When was medical treatment sought? When were the vehicles repaired?

**WHY?** Why did this collision take place? Why was there injury to only one of the vehicle occupants, or why were any persons injured at all? Why did specific parts in one of the vehicles fail to function properly? Why did someone change his/her story about the collision? Why were there no skid marks? Why was this collision not reported to the police or DMV?

**HOW?** How did this wreck happen? How did the vehicles collide with each other? How did the occupants get injured? How did the occupants move during collision? How did the vehicles move away from collision engagement? How fast were the vehicles going at collision? How could the accident have been avoided? How does the accident look from a time and distance perspective?

As you can see, competent investigation means asking and answering many important questions. Ideally, a good investigation and/or accident reconstruction will make it possible to assemble a picture of the accident event much like a jig saw puzzle. The more pieces located, the more complete a likeness possible. Care must be taken, though, to place the pieces in their proper locations, and to avoid speculation about the blank spaces that cannot logically be inferred by the substance of the surrounding pieces.

As legal or claims professionals, you will often look at an accident investigation with only a few questions in mind, such as:

- Who was at fault in this collision? Was there contributory negligence also?
- How badly should this person really have been injured in the crash?
- Was this accident really “covered” by an insurance policy, and if so, what limitations were in place for the policy? Who else may have financial responsibility?
- Who should pay for the damages?
- Can our position be documented and supported in litigation, if necessary?

It is imperative to remember that the above questions, basic to legal and insurance decisions, can only be answered if a competent investigation is first conducted to determine the basic Who, What, Where, When, Why and How of the collision.



This is a fairly typical highway accident scene. In addition to the crushed and mangled cars, there are dead bodies, injured persons, and all kinds of physical evidence crying for the investigator's attention. Just looking at the photograph makes one want to ask questions galore in hopes of understanding all that took place in the collision event.

**WHO, WHAT, WHERE, WHEN, WHY & HOW? ANSWER THESE  
QUESTIONS AND YOU'LL UNDERSTAND THIS COLLISION.**