

## Investigating The 'Faked Left' Syndrome

### A Classic Accident Situation

by Joseph E. Badger

Driving instructors customarily stress such things as "maintain a safe and proper interval between you and the car ahead" and "drive according to road and weather conditions."

Good driving instructors also advise their students to "plan avenues of escape." That is a defensive driving strategy that all drivers should always have in mind - a way out should some unforeseen event take place.

Although most are not cognizant of it, good defensive drivers are constantly on the lookout for "escape routes."

However, what people should do and what they actually do in certain predicaments are often quite different.

Consider this scenario: You are cruising along a two-lane, rural highway. The speed limit is 55 mph, and naturally you're doing no more than that. You are traveling about 80 feet per second. Suddenly, just yards ahead, an approaching car veers into your lane.

Where do you go? Do you take the ditch on your right? That doubtlessly guarantees an accident. You might strike a utility pole, a fence, a concrete abutment, or at best sink your car axle-deep in a muddy field. The myriad perils that could scratch and dent your new car boggles the mind.

But that evasive tactic is exactly what you should do. However, something different and unfortunate usually happens.

Let's assume the person driving the on-coming car has a blood/alcohol level of .27% - which you don't know at the time. In an instant, as you realize your lane, your space, has been invaded by the other car, and you reject the option of taking the precipitous ditch, you choose instead to head for the space the

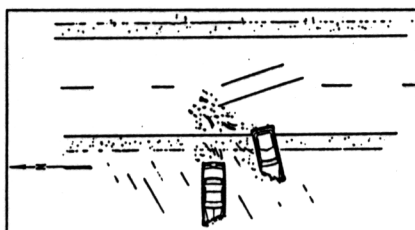


Figure 1.

other driver has just vacated. You have just been "faked-left."

The problem is, the on-coming driver somehow at last realizes he is not where he is supposed to be, and returns to his lane. But there YOU are.

Suddenly, not only are there scratches and dents all over your new car, but very likely you have no new car at all. And the chances are good that someone will die or be seriously injured. As an after-thought, that ditch looks pretty good.

Let's remove you from the accident scenario and place you in the role of the officer dispatched to the scene. When you arrive, the area resembles Figure 1. You go about your investigation; take

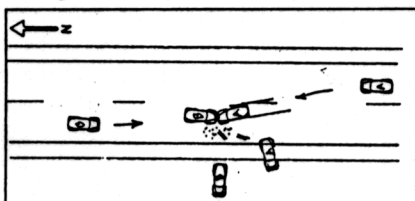


Figure 2A.

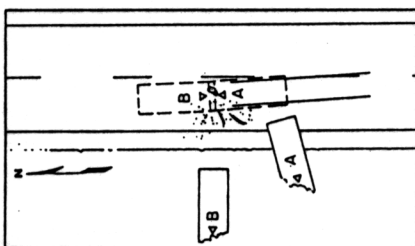


Figure 2B.

pictures, make a few measurements, and since there are no witnesses, the only person you interview is one available driver. The other is dead.

The subject conveniently remembers nothing, or perhaps indeed cannot recall the events leading up to - and during - the accident. After all, he is .27%. What is the cause of this accident? Who is at fault?

### Not Speed

Speed certainly is not a primary cause. Both cars could have been going 90 mph, but if neither crossed the center line there is no accident. Speed does nonetheless increase the severity. Since speed is not a primary contributor in this case, we'll ignore it.

To complete your investigation, you prepare a report with an accident diagram. Depending on how busy you were and how much time you spent and the accuracy of your measurements, a hurriedly drawn diagram might resemble Figure 2a. If you try to be a little fancy and get closer to scale, your finished product may be more like Figure 2b.

All the gouges and debris are in the south lane, so you conclude north bound Vehicle A went left of center. That's the end of it.

But before you submit your report, let's examine the physical evidence obtainable from the road and the two cars, each with massive damage. Did you actually measure where the skid marks were on the road - or did you merely measure how long they were? Did you simply estimate their position from memory or do a quick field sketch once you returned to the station? You do recall they went from one lane into the other - that's good enough.

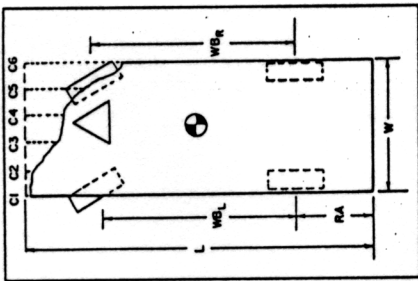


Figure 3.

Make a vehicle damage analysis of each vehicle (see Law & Order, Jan. '87, pp. 17-18). Figure 3 is a sample analysis indicating a penetration profile (helpful in determining speed later), length, width and the wheel base on each side

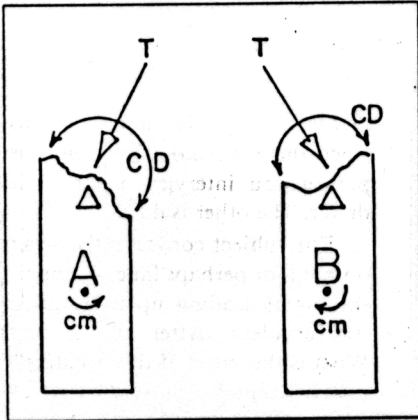


Figure 4.

(RA is the distance from the rear axle to the rear of the car so the wheel base will be in the correct location). This figure also indicates center of mass.

In Figure 4, there is a vehicle outline of each car. These outlines denote contact damage (CD), direction of thrust (T), center of mass (cm) and rotation. The investigator should prepare a scale outline of each vehicle - and if one is drawn on onion skin paper it will be a simple matter to superimpose one over the other so the damage and lines of thrust (force) can be aligned. (Figure 5).

The pre-collision path of Vehicle A should be obvious owing to the skidmark

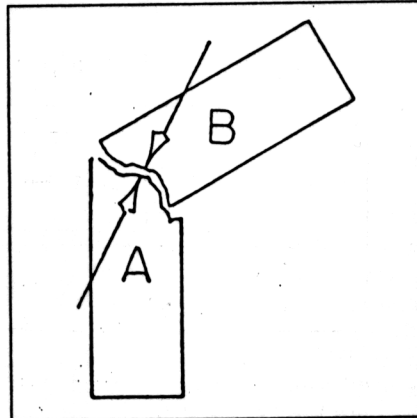


Figure 5.

location. But it is critically important that proper measurements were made and an accurate scale diagram of the site shows exactly where the skid marks are placed.

The position of the vehicles at maximum engagement is also known because that configuration was verified when the outlines were put together. The next step is to place an overlay of the vehicles on the roadway (Figure 6).

### Pre-Collision Path

What can be established about the pre-collision paths of each car? We know where Vehicle A has to have been because we have placed it at the end of its mark. So if the investigator simply thought there was extensive front-end damage to each vehicle, then he easily could have come to the wrong conclusion as indicated in Figure 2. But after the damage analysis was done and the vehicles put together as pieces in a jigsaw puzzle where would Vehicle B have to have been?

This type of accident is all too common. Occasionally, witnesses will confirm what the two cars did before and after impact. This time, we have no such witnesses.

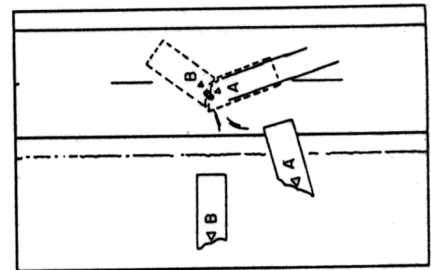


Figure 6.

By referring to Figure 6, some conclusions can be drawn. Yes, Vehicle A did go left-of-center, but why? Prior to collision it can be graphically illustrated Vehicle A was in its proper lane to begin with and is leaving that lane. On the other hand, we know, based on the configuration of the cars at maximum engagement, Vehicle B had been in the wrong lane and is headed back. So it can be reasoned Vehicle B was left-of-center before Driver A was "Faked-Left."

Regardless of the cause of the initial driver crossing lanes; preoccupation with a tape deck or a fallen cigarette butt, drowsiness, or a child grabbing the steering wheel, it does happen. We can harp and preach: DON'T GO LEFT TO AVOID AN ACCIDENT, but many will continue to do so.

### Courts Decide

Judges, juries, prosecutors and grand juries ultimately decide the issues and try the facts. Obviously, there will be no criminal charges preferred against Driver A (he is dead), but what of Driver B?

Some prosecutors, for whatever reason, treat cases like this differently. A charge of "left-of-center" is, in some states, merely an infraction, not even worthy of misdemeanor status. Many states have Negligent or Careless Driving statutes, others might opt for Reckless Driving or Involuntary Manslaughter. Some will choose Driving Under the Influence Resulting in Death.

Deciding the appropriate charges is beyond the scope of this article. Hopefully, the traffic accident investigator has been alerted to the formidable task of being mindful of a phenomenon where a culpable driver might avoid both criminal and civil penalties because the investigator failed to recognize the symptoms of the "Faked-Left Syndrome."

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