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THE ECONOMIC AND  
SOCIAL COSTS OF

# **DISTRACTED DRIVING**

TELEMATICS & SAFETY

INSIDE GOILL WINNING IDEAS

DOWN THE ROAD –  
A LOOK AT THE DRIVER ALCOHOL  
DETECTION SYSTEM FOR SAFETY PROGRAM

# All It Takes Is

# on





## The Economic And Social Costs Of Driving While Distracted

By Donald W. Dunphy

**DISTRACTED DRIVING IS NOT** a malady exclusive to the usual suspects – the multi-tasking businessman, the high school student with too many involvements and not enough focus on the road, or even the normally safe driver having an abnormally frantic day. Figures estimate that ten percent of U.S. drivers, or one out of every ten cars on open roads at any given time, are not devoting sufficient attention to the task. Those figures cut across all demographics.

Todd Clement, a plaintiff's personal injury attorney located in Dallas, Texas, believes that there is a disconnect between what people want from society and what they are willing to personally sacrifice. "Cell phone use is one activity that everyone wants to do themselves, but wants no one else to do."

The situation is dire enough to prompt the U.S. Department of Transportation to launch an entire website dedicated to distracted driving. Since its launch in 2009, [Distraction.gov](http://Distraction.gov) has been the bullhorn for this alarming trend. In addition, official communications from the DOT has been repurposed, arriving with this digital post-script:

"A message from Secretary of Transportation Ray LaHood: Every single time someone takes their eyes, or their focus, off the road – even for just a few seconds – they put their lives, and the lives of others, in danger. Distracted driving



is unsafe, irresponsible, and in a split-second, its consequences can be devastating."

All it takes is one. One distracted person at the wheel, crossing the path of a fleet driver, can alter a life forever. One fleet driver, focusing on everything but what is in front of the vehicle, can ruin a business.

### Driving Through Distraction

Technology has created an integrated, fully-connected world where communication is no longer bound by landlines or time constraints. A person in a car, without a map or a clue where they are, need not stay lost for very long. And yet, the same advances that have moved society forward have taken a toll on human interactions. ▶

In a 2010 Driving While Distracted (DWD) study sponsored by Nationwide Insurance Company, drivers were polled by phone to gauge the varying degrees of technology usage among the participants. To ensure accuracy, quotas were established to poll equal numbers of male and female respondents, eighteen years of age or older. As per Nationwide, "The data itself was further weighted in tabulation to replicate actual population distribution by age, gender, education, ethnicity, household size, number of telephone lines, and region according to the March 2007 U.S. Current Population Survey."

Thirty-eight percent of respondents claimed they were hit, or nearly hit, by a distracted driver – this equates to 4 out of 10 Americans polled. Thirty-two percent said they use GPS systems or GPS applications in smartphones while driving. Twenty-one percent admit to texting, while 18 percent read their email, and 10 percent write email. Social networking with Twitter and Facebook follow close behind.

Beyond that, the "common-place" distractions of playing music, changing channels on the radio, eating while driving, and holding conversations with passengers are all in play, as are more extreme situations regarding personal maintenance and pets.

According to the Governors Highway Safety Association as of July 2011, nine states (including California, Nevada, Connecticut, Delaware, Maryland, New Jersey, New York, Oregon, and Washington, as well as Washington D.C. and the Virgin Islands) prohibit all drivers from using handheld devices while driving. An officer may cite a driver for using a handheld cell phone without any other traffic offense taking place, excepting Maryland which requires a "just cause" instance before taking action. Thirty-four states, D.C. and Guam ban text messaging for all drivers. Thirty-one states, D.C., and Guam have primary enforcement; the others, secondary.

Many see the way forward being education on several fronts, not only about the risks and costs of driving while

distracted, but also defensive driving where the perils of unfocused motorists are factored in more than ever before.

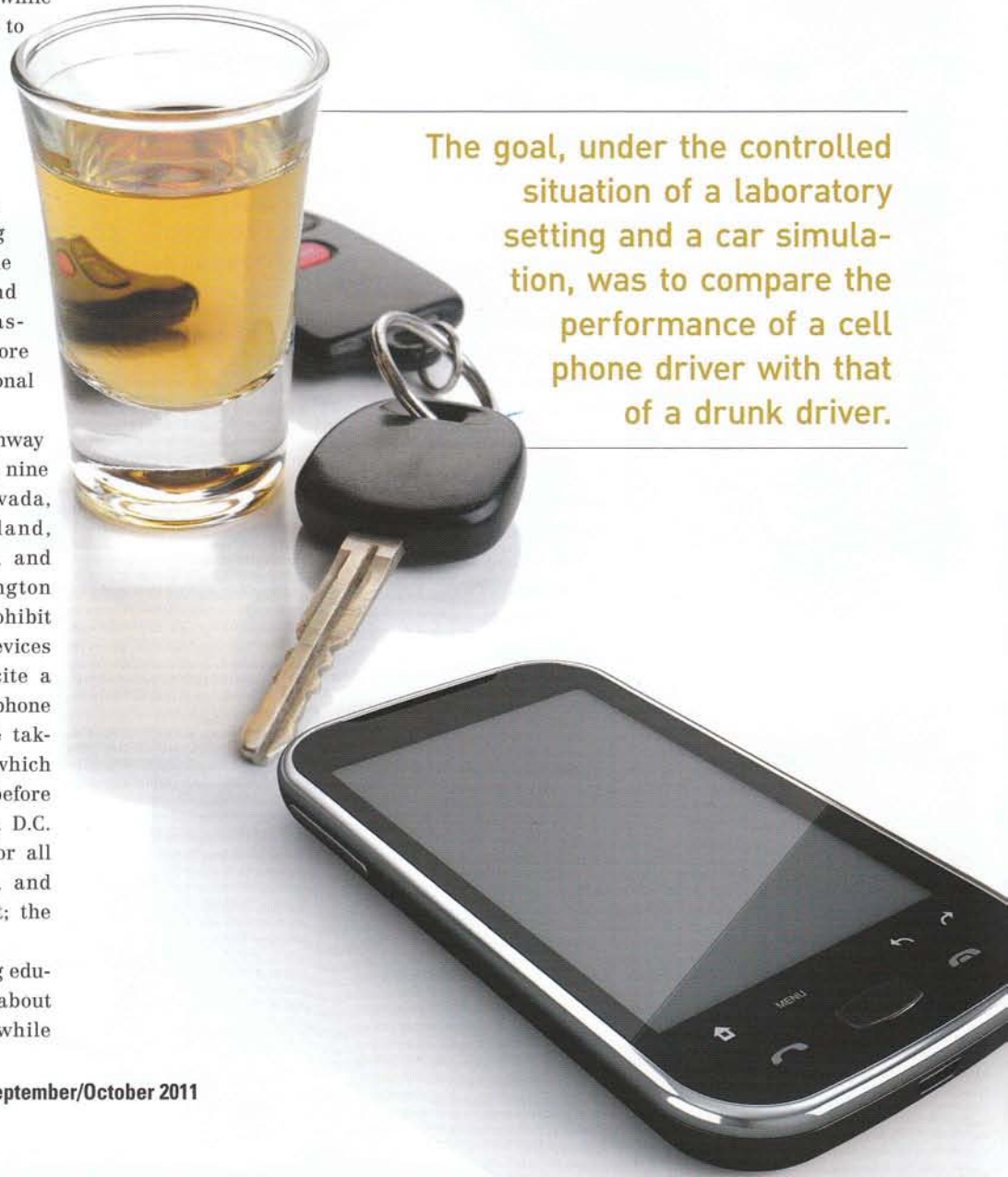
### **The Physiology Of Distraction**

In the summer of 2006, the journal *Human Factors* published a research study comparing the driving capacities of two groups with impairment – drivers using cell phones and drunk drivers. The study was conducted by David L. Strayer, Frank A. Drews, and Dennis J. Crouch, of the University of Utah.

The goal, under the controlled situation of a laboratory setting and a car simulation, was to compare the performance of a cell phone driver with that of a drunk driver. The intoxicated participants were brought up to a blood-alcohol percentage of 0.08. The cell phone users,

utilizing both handheld and hands-free models, had no alcohol-related handicaps. Study results revealed their performance was equally dangerous, even with the often-assumed safer, hands-free phones. The experiment revealed that it was the mental engagement with the conversation, not the delivery system of that conversation, that made all the difference.

Drivers using both types of cell phones tended to show delayed braking reactions, which caused more accidents than when they were tested without talking on a cell phone. Meanwhile, the drunk driver had more of an aggressive tendency, were prone to tailgate, and would hit the brake harder than was necessary. The study concluded that the impairment results found with cell



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phone driving were significantly similar to driving under the influence.

Yet there is another wrinkle in the story, the University of Utah study was published in 2006. The iPhone, with its Internet connectivity and a multitude of attention-grabbing applications, debuted in June 2007 followed closely by the competing Android model, and an entirely new layer of complexity was added to the argument.

**Managing Distraction**

How do fleet managers deal with accidents caused by distracted drivers their employees might encounter, and how do they deal with accidents caused by their own drivers "under the influence?" An educational component is required not only for the public-at-large, but also for fleet drivers.

The overriding question is, "How much work can a single employee provide?" In

the midst of a recovery finding its footing, the temptation to maximize worker productivity while minimizing staffing is greater than ever, but it can come with an unforeseen cost.

NAFA Affiliate Michael Baker, Director of Sales and Marketing, Smith & Solomon Commercial Driver Training, understands the reach of the problem. "The feedback we get from our corporate partners is the same worry. They are concerned about their drivers getting home. They are worried about liability. They are worried about the economic and social cost. Almost everyone we speak to now has a no-cell phone/no texting policy, but strict enforcement is often the largest hurdle."

"There needs to be a strong commitment from management all the way down through the company," Baker said. "And even if they do have a great policy in place with everyone following it, the general driving public still remains a huge hazard, as too many people around company drivers are on their phones."

As the teaching component, driving schools have the ability to alter long-held philosophies before they're put

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into action on company time. "We've worked with various companies trying to address the problem, presenting our classroom material, and even doing anonymous driver evaluations of a fleet to try and capture the true nature of their drivers' habits behind the wheel," Baker said. "Our goal is to shatter the beliefs of drivers that, 'it's only one minute,' 'just this one call,' 'let me just check my voicemail,' 'driving is my downtime when I can catch up on phone calls,' or 'it's not me, I'm a good driver, and can do two things at once. It's the other people.'"

Fellow NAFA Affiliate Art Liggiio, Executive Vice President of Driving Dynamics, is in agreement. As of January 2011, every course offered by the company comes with a Driver Responsibility module, which reinforces the need for clear decision-making once the driver takes the vehicle onto the street. "Even though it is an instructor-based lesson plan, (the instructor) is more of a facilitator," he said.

Michael Baker recognizes that teaching others can only be as effective as the message being promoted within one's own organization. "First and foremost, we implemented our own company policy of 'no cell phones,' and strongly encourage every company we meet to do the same immediately, if they haven't done so already," said Baker.

"The driver has the decision to make," said Liggiio. "Will it be the convenience of technology, or responsibility for (one's own) actions to postpone that cell phone call until in safe surroundings?"

Part of the mindset Liggiio feels needs to be changed is that which believes technology and instinct is enough. "Driving has become such an automated process – It gets to where there's no more thought to what we're doing. (Our instruction is) trying to make the drivers conscious of their surroundings."

Liggiio believes clients earnestly want solutions to the problem of distracted driving, and that desire has made it imperative for education providers to respond. "We're starting to see the beginning of acceptance of zero tolerance policies," Liggiio added. "We don't have to tell them anymore that it's a compromised position. They get it."

### **The Financial Costs Of Distraction**

The consequences of distracted driving are easily intellectualized, and just as easily dismissed. "Accidents happen. People may die," tends to be the rationalization.

For David Teater, Senior Director of Transportation Initiatives for the National Safety Council, the result cannot be so easily set aside. "Traffic crashes are the leading cause of accidental death in the world," Teater said. "There are a hundred deaths daily due to traffic crashes, mostly caused by driver error, and distracted driving is the leading cause of driver error."

While admitting that all manner of dangerous behavior occurs behind the steering wheel, Teater said the primary culprit, far and away, is the almost commonplace usage of cell phones. "Eighty-to-ninety percent (of drivers) admit to driving while using cell phones. Of that, 10 percent are on the road at any given time of day. That is the biggest single threat on our roads – 1 out of every 10 people, at any time, is talking on a cell phone while driving."

Todd Clement has built his practice as a Plaintiff's Personal injury attorney handling cases regarding transportation law, and his intentions have little to do with financial gain. "Honestly, I'm sick of going all over the country, putting the pieces back together. My motivation in encouraging positive corporate change is pure. I make no money from trying to persuade transportation companies to enforce safer policy."

The "pieces" Clement, an attorney of 25 years, refers to are the lives that have been irrevocably changed in the instant where a driver has ceded duty to any number of distractions. "Driving while distracted is the new D.W.I., and it is a more fertile field for plaintiff litigation than D.W.I. because it happens more often."

"You've got an initial negligent situation – running a red light, disobeying traffic signs, driving too close to others, falling asleep behind the wheel – then you add cell phone usage to that. You're putting gasoline on a fire.

"I always search for the root causes of negligence," Clement continued. "Trucking (and transport) cases often have a root cause such as driver fatigue, or speeding





to make more money (by adding more productivity into a normal schedule), that invokes a jury's emotion. Any time you have a root cause, like cell phone use, that creates a premium-value case because it angers jurors."

Clement has no animosity for the industry as it stands; simply for those that run it in dangerous ways. "The transportation industry is vital to our country, and there are a lot of good (drivers), but a few bad ones cause terrible harm."

To illustrate why he feels a company has inherent culpability, Clement uses a D.W.I. analogy. "If a company knew a driver had a .08 blood alcohol level and profited from (his being on the road), should they not be held responsible? Well, driving while distracted is as bad as driving while drunk." And to the question of whether a driver is using a personal cell phone versus a company-required phone, Clement sees no appreciable distinction, feeling that the company's policies should have made such an insubordination crystal clear. "Frankly, if you know the driver has a phone, it doesn't make a difference. It's on you."

An immediate thought with regard to obtaining evidence might be that, aside from the people engaged in that phone conversation is how is anyone else to know? More importantly, how can it be proven that a cell phone call occurred during the time period of an accident, and wouldn't such a case collapse into speculation? Clement said that proof is not difficult to procure.

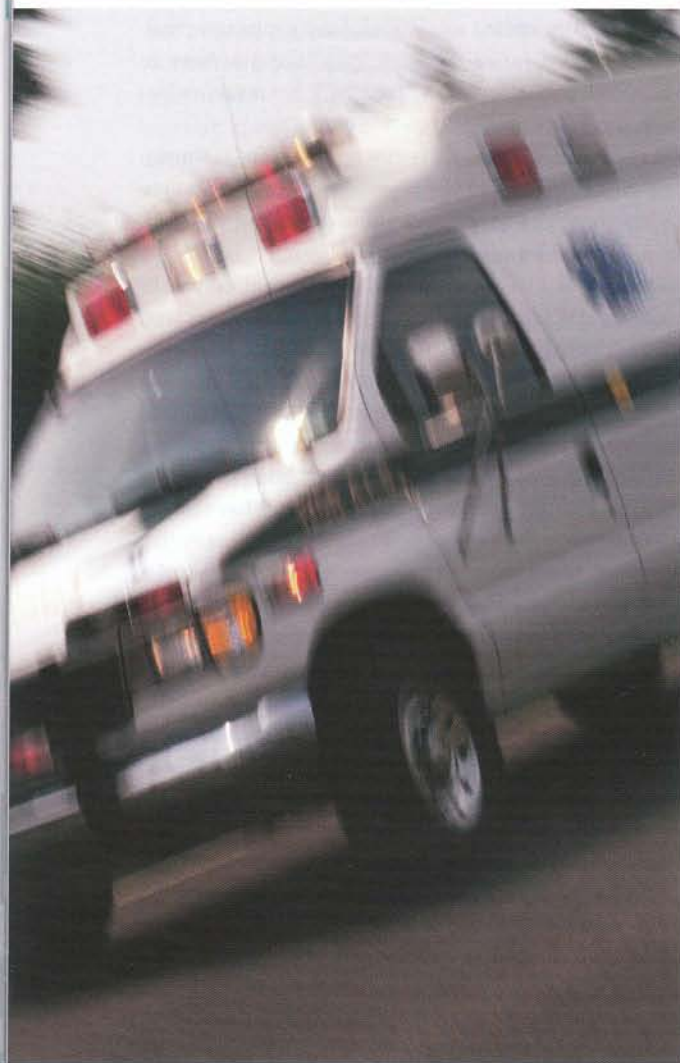
"One of the first things I do in the fact-finding discovery phase, at the inception of a case, is to send out a deposition of written questions to the opposing driver's cell provider. The call list can prove the driver was on the phone (at the time of an accident). I can get cell phone logs, cell tower history to prove a pattern of driving while using cell phones, text logs, and sometimes actual text content."

Another thing companies might try is a roll of the dice, literally chancing fate, while hoping the insurance safety nets will fix the rest. "You may decide to take the calculated risk of looking the other way on this issue and think, if that choice bites you, your insurance will bail you out," Clement said. "I have three responses to that position. First, your company may not be able to buy or afford enough insurance to protect it from the size of the jury verdict that may be spawned by this conduct.

"Second, in many states, punitive damages are not insurable, so your company may not be covered for the punitive portion of the verdict. And third, insurance is the one product we buy that if -- heaven forbid we actually use it -- costs us astronomically more in the future. If a major loss arises, get ready. Your rates will likely go through the roof and stay there for a long time."

The goal is to make certain the verdict influences companies to keep unsafe drivers off the road. That is achieved through punitive (for the purpose of punishment) and exemplary (for the purpose of making an example of the guilty party) damages, in the hope that the negative consequences of bad internal policy will serve as a potent warning to other companies. "Most jurors believe that cell phone distraction is the number one danger they face on the road. They believe that, by returning a large verdict, they can send a message that will make themselves, and their families, safer.

"I've become an activist on this issue because I would rather prevent a tragedy than deal with the aftermath, picking up the



pieces of broken lives," Clement said. "To know good, and not to do good, is worse than ignorance."

### **More Than Distractions**

Shelley Forney and her family have been on several television shows, have been interviewed by many publications, and each time they've had to recount possibly the worst moment of their lives – the moment when their 9-year-old daughter Erica, was taken off life support on Thanksgiving Day 2008, ultimately lost to the effects of severe head trauma due to a distracted driver.

Riding home from school on her bike (while in the bike lane), Erica was hit by a Ford Explorer driven by a neighbor just a few blocks from home. The driver had just completed a phone call and placed the phone in her lap. With eyes cast down, the vehicle had drifted out of the lane into the

bike's path; the driver had no idea that she had struck the child on the bike. The only clue was that her vehicle was no longer moving.

Forney reiterated what all the science and tragic statistics reveal: it is the conversation, not the means by which the conversation is had, that is the diversion, and whether it is carried out by text, hand-held, or hands-free phone makes no appreciable difference. "Say you turn on a television show, and you're following it pretty closely, then the phone rings and a friend wants to chat. Can you follow both at the same time? Chances are, no. If you're driving while on the phone, can you fully recollect every detail about that ride afterward, how many red lights, how many turns, or do you just kind of arrive?"

What Forney described is the phenomena of "toggle-tasking," where the mind does not actually multi-task (holding two attentions simultaneously with equal intent), but snaps back and forth, from one to the other. Thirty-five

percent of cognitive thinking is lost to a task as the brain flips the toggle between competing attentions.

"It's not that (the woman who hit my daughter) was a bad driver. She was a 36-year-old mom with two kids herself," added Forney. The fundamental point that Forney and FocusDriven, the cell-free driving advocacy organization she represents, have chosen to make clear, is that distraction turns good drivers into bad ones. "Adults want to say (distracted driving) is only a problem with kids. I realized that anyone could do this. At one time, it could have been me or my husband. We had used phones in the car (as well)," she said.

Tragedy can occur at any time. Jacy Good, also a representative for FocusDriven, found her future of advocacy when a distracted driver changed a planned celebration into a tragic memory

"My parents and I were driving home from my college graduation, between two towns in Pennsylvania in May 2008. It was a routine 90-minute drive we'd done countless times without incident," Good said.

"A young man was driving on a road intersecting the road we were on and was simply talking on his cell phone. He never saw the red light he ran, likely suffering from inattention blindness. As he entered the intersection, a tractor trailer swerved to miss the young man, and hit our family car head on. This crash left both my 58-year-old parents dead on the scene and me barely clinging to life. Had it not been for a paramedic who lived near the scene and ran toward the awful crash he heard, I would have died at the scene too."

The incident inspired Good to work with FocusDriven to turn the tragedy into something positive.

"Starting in May 2010, my fiancé and I began telling our story to thousands of high school students across the country, concentrating in the local New York, New Jersey, and Pennsylvania areas. The main point we make in every presentation is that the students probably won't find themselves in my shoes exactly, but rather that the ripple effects of these tragedies are far-reaching. I've made lists of individuals who were directly affected by the crash, from colleagues, friends and family members to the people who care about all those people, and my incident alone severely impacted over a thousand people."

The fleet industry is in the unique position of needing to constantly think about risk management and safety issues. The professionals within it do business in an arena that may not value the same concerns, but Shelley Forney concluded that those who share the roads had better start.

"We lost our amazing 9-year-old to a phone conversation," said Forney. "That call was not worth our daughter's life. My message to others is this: Is that phone call or text message worth taking a 9-year old girl's life away? Our lives are forever changed and so is the driver that hit and killed Erica. It's not worth the risk to take that call or text message." ■