

Bruce on Bikers' Rights

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OPEN LETTER TO J. RICHARD CAPKA

"The Issue Here is That Helmets Are Not The Issue Here."



5 October 2007

J. Richard Capka (rick.capka@fhwa.dot.gov)

Administrator

Federal Highway Administration

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Re: Motorcycle Travel Symposium, NTSB Conference Facility - L'Enfant Plaza, 10-12 October 2007

Mr. Capka:

The tentative agenda for next week's Motorcycle Travel Symposium clearly states that "better estimates of motorcycle travel are needed"...

<http://tinyurl.com/ywlqa7>

...and for that concession by its sponsors, I applaud the Federal Highway Administration ("FHWA") and the National Highway Traffic Safety Administration ("NHTSA"). And unless and until we have more reliable reporting of statistics such as motorcycle registrations, motorcycle vehicle miles traveled ("VMT"), injuries and fatalities from motorcycle crashes and the actual causes thereof, I ask you and your symposium participants to join me in demanding that NHTSA and its lobbying ally, the National Transportation Safety Board ("NTSB"), cease and desist from spinning statistics that they know are flawed in support of misguided, Haddonistic safety agendas:

<http://tinyurl.com/2ttq9v>

For evidence of same, Mr. Capka, we need look no further than your 30 January 2007 joint memorandum with NHTSA Administrator Nicole Nason...

<http://tinyurl.com/2ysogq>

...wherein you state *"Since fatality rates based on VMT are the best measure of exposure risk for motor vehicle crashes, it is critical that FHWA receive accurate, complete, and timely VMT data*

to determine accurate crash rates and to monitor trends..." only to follow up a few lines later with the blatant admission that "...the reporting of motorcycle VMT data in HPMS is optional and consequently, many States choose not to report it." Despite that knowledge, in their meeting of 11 September 2007--nine months later--the NTSB used VMT-based measures to support their "band-aid on a bullet wound" motorcycle safety recommendations...

<http://tinyurl.com/ytxee7>

...specifically quoting NHTSA statistics suggesting that in 2006 motorcycles accounted for over 10% of all traffic fatalities but less than [0.4%|0.34%|0.034% ... they couldn't seem to decide] of total vehicle miles traveled (VMT). Obviously, any computation based on a meaningless statistic is itself a meaningless statistic. The NTSB knew this ... their Dr. Sweeney even warned them about it ... but Chairman Mark Rosenker ignored her comments.

In that same session, the NTSB quoted NHTSA statistics claiming that in 2006 motorcycles represented only 2% of all registered vehicles but over 10% of all fatalities. And again, they knew or should have known that statement may be false. As Dr. Sweeney acknowledged, the registered motorcycle statistics upon which that comparison is based may be seriously understated. In other words, for all we know at this point, the number of motorcyclist fatalities as a percentage of the number of motorcycles on the road may have actually DECREASED over the past ten years!

DESPITE THAT KNOWLEDGE, and as part of what I suspect may be collusion between the NTSB and NHTSA to circumvent the state lobbying restrictions imposed on the latter by TEA-21 (the Transportation Equity Act for the 21st Century)...

<http://tinyurl.com/214evp>

...on 3 October 2007 the NTSB included the following paragraph in a series of lobbying letters released to our state governments:

"The Safety Board is concerned about motorcycle safety and the growing number of riders who have been killed or injured in motorcycle crashes. Since 1997, the number of motorcycle fatalities has increased 127 percent, an increase that far exceeds that of any other form of transportation. In addition, the number of motorcycle fatalities in any recent year has been more than double the number of deaths that same year from accidents in aviation, rail, marine, and pipeline combined. In 2006, for example, 4,810 motorcyclists died in crashes, and motorcycle fatalities accounted for more than 10 percent of all motor vehicle crash fatalities.[1] The following figure clearly shows the rising numbers. Although rising motorcycle use may partly explain this trend, increases in fatalities have outpaced increases in activity measures such as motorcycle registrations and vehicle miles traveled."

<http://tinyurl.com/25h3cq>

THIS PARAGRAPH IS A MASTERPIECE OF POLITICAL SPIN. They say the best lies are half truth, Mr. Capka, and that certainly applies here:

1. Yes, motorcycle fatalities may have increased 127 percent since their historic low of 2,116 in 1997...

<http://tinyurl.com/2fdhjv>

...but why not compare them to their historic high of 5,144 in 1980? That is an equally rational comparison which reflects a DECREASE in motorcycle fatalities.

2. So what if "...the number of motorcycle fatalities in any recent year has been more than double the number of deaths that same year from accidents in aviation, rail, marine, and pipeline combined"? According to HospitalInfection.org, "Every year in this country, two million patients contract infections in hospitals, and an estimated 103,000 die as a result, as many deaths as from AIDS, breast cancer, and auto accidents combined."

<http://tinyurl.com/36bzok>

In other words, last year 21.4 times as many people died from going to the hospital as died from riding a motorcycle. And how relevant is that? At least as relevant as the NTSB planes, tranes and pipelines comparison. Even more relevant is this comparison:

"...as NTSB Chairman, you either knew or should have known that (a) we have 236 million cellphone subscribers on our roadways, (b) 73% of them are talking while they are driving, (c) cellphone conversations impair their driving skills as much if they were intoxicated with alcohol, consequently (d) they are four times more likely to cause or be involved in an accident than motorists who responsibly shut up and steer, and resultantly (e) assuming reports of the Oklahoma Highway Safety Office are a reliable measure, roughly ONE IN FOUR ACCIDENTS in 2006 occurred when a driver was talking on the phone. So barring evidence to the contrary, as NTSB Chairman you either knew or should have known that it would be reasonable to assume that cellphone conversation-impaired motorists could have been responsible for 25 percent (or more) of the 2,575,000 traffic injuries and 42,642 traffic fatalities reported by NHTSA for 2006.... And rather than using the taxpayer-provided resources of your bureaucratic office to pursue restrictions on the use of cell phones while driving, which might have saved 10,660 lives (25% of 42,642 fatalities) last year, you chose instead to go on what the press calls a mandatory helmet law "crusade", which in comparison might have saved at best only [747] lives. Had you made the responsible choice, Mr. Rosenker, our nation could be saving almost 15 TIMES AS MANY LIVES by restricting the use of cellphones by drivers rather than requiring helmets for riders."

<http://tinyurl.com/ytxee7>

3. Yes, last year there may have been 4,810 motorcycle fatalities that accounted for more than ten percent of all traffic deaths, but that in no way supports the NHTSA/NTSB lobbying assertion that helmet laws will solve the problem. By NHTSA's own numbers...

<http://tinyurl.com/ynsrms>

...of the 4,810 motorcycle fatalities in 2006, 2,792 (58%) were helmeted, and 2,018 (42%) were not helmeted. 58% (2,792) were wearing helmets and DIED ANYWAY. For the remaining 2,018, apply the 37% factor supplied by the NTSB here...

<http://tinyurl.com/2xjqc6>

...and the actual number of lives that might have been saved if ALL riders had been helmeted in ALL 50 states ALL year is only 747. This is not to say that 747 deaths--16% of the total--are not important. Rather it is to emphasize that the NHTSA/NTSB helmet law lobby does nothing at all to address 84% of motorcycle fatalities!

4. Their paragraph concludes with "...increases in fatalities have outpaced increases in activity measures such as motorcycle registrations and vehicle miles traveled." And as I explained above, that is a specious claim.

AND THE SPIN DOESN'T STOP THERE, MR. CAPKA. Let's take a look at this recent NHTSA report:

DOT HS 810 834 September 2007 (Fatal Two-Vehicle Motorcycle Crashes)
<http://tinyurl.com/273y2f>

One of the more obvious findings of this report was that *"the role of the motorcycle was recorded as the striking vehicle"* in most cases. Of course! That is what happens when a negligent, care-less, distracted or cellphone conversation-impaired motorist turns left or pulls out in front of a motorcyclist. And of course, *"more than 90 percent of the two-vehicle motorcycle crashes involving passenger vehicles occurred on non-interstate roadways"*. Roads without median barriers make it easier for irresponsible drivers to violate a motorcyclist's right-of-way!

What wasn't so obvious was the implication of this conclusion: *"For the passenger vehicle drivers involved in [fatal] two-vehicle motorcycle crashes, 35 percent of the driver-related factor was failure to yield right-of-way compared to only 4 percent for motorcycle operators."*

One might easily interpret that to mean that the automobile driver was at fault in these accidents only 35 percent of the time, which would conversely mean that "it was the biker's fault" 65 percent of the time. But that is not the truth.

The truth can be found, well obfuscated, in Table 22. The obfuscation begins with the selection of a data presentation format in which the *"...sums of the numbers and percents are greater than the total drivers as each driver may be coded with more than one factor."* The obfuscation is perfected by using a doubletalk category breakdown in which driver offenses like making improper turns, failure to keep in proper lane, failure to obey traffic signs or signals, and even driving on the wrong side of road are reported separately and thereby partially or entirely EXCLUDED FROM THE 35 PERCENT RIGHT-OF-WAY VIOLATION STATISTIC. The truth can be found by applying this formula: $1 - ((711 + 26) / 1792) = 0.588727679$ ". Logic precludes any double counting in the "None reported" or "Unknown" categories, and for all other categories, the automobile driver either caused or contributed to the death of the motorcyclist. So, the sad but undeniable truth is this:

AUTOMOBILE DRIVERS WERE RESPONSIBLE FOR EITHER CAUSING OR CONTRIBUTING TO THE DEATHS OF AT LEAST 58.87% OF ALL MOTORCYCLISTS KILLED IN TWO-VEHICLE CRASHES IN 2005.

Sadder still is what can be gleaned by combining this discovery with the not-so-obvious revelation from Table 21 that although motorists were at fault almost 60% of the time, over 70%

of the time they walked away with no punishment, no penalty, no fine, and not even so much as a traffic ticket. And saddest of all is the extent to which NHTSA went to effectively bury these smoking guns in the framework of this presentation.

MY POINT HERE, MR. CAPKA, is essentially the same point I tried to convey to NTSB Member Deborah Hersman over a year ago, in my position paper of 2 September 2006:

<http://tinyurl.com/2x88so>

My point here is to try to get you, the FHWA, NHTSA, the NTSB, your symposium participants, the media, all motorcyclists and the public to realize that the issue here is that helmets are not the issue here. As does the American Motorcyclist Association ("AMA"), I support the voluntary use of helmets:

<http://tinyurl.com/4heqs>

Legally requiring their use by motorcyclists only, however, is both absolutely discriminatory and relatively ineffective. Focusing on crash survival instead of crash prevention punishes victims for the crime, and makes no more sense than trying to reduce the murder rate by mandating Kevlar vests for the innocent rather than prison or worse for the guilty. As I wrote last year, "Helmets and other defensive measures CANNOT prevent or lower the probability of motorcycle accidents. Proactive abatement of negligent, distracted, impaired and inattentive motorists CAN."

THE ISSUE HERE IS THAT HELMETS ARE NOT THE ISSUE HERE, MR. CAPKA. And if NHTSA and the NTSB do not stop using bad numbers to promote bad public policy through illegal lobbying efforts, be on notice that there are many concerned and dedicated American motorcyclists who will not rest until the heads of those agencies are dethroned, and the taxpayer funding for those agencies is diminished.

Speaking strictly for myself and no other individuals or organizations,

Bruce Arnold

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P.S. Please distribute a copy of this letter to all of your Motorcycle Travel Symposium participants. Thank you.