

Securing & Preserving the Impaired Driving Crash Crime Scene

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Create a Response Ahead of Time

- Where is the worst place for a homicide scene?
- When is the worst time?
- What is happening with our most valuable evidence?
- In what other case do we ask our eye witnesses to “move along”?
- In what other homicide is the investigation finished when the bodies are removed?



Team Approach



- **Get help.**
 - Every Officer You Can Get
 - Every Agency that will Respond
 - You know the same folks that will come if there is a chase.
- **Create a plan with:**
 - Fire Department
 - EMS
 - Hospital
 - Wrecker Companies
 - TABC
 - Your Prosecutors



Every Impaired Crash has at least Four “Scenes”

The Road



The Cars



The Suspect



The Witnesses



Tips for Interviewing Witnesses

- Photo License Plates
- Gather DLs
- Interview on in-car video
- Always nail down potential hostile witnesses
- Get Help!



Starting the interview of witnesses

- Where they were coming from and who they were with.
- The witness that you don't talk to will often be the better witness.
- Did they see or hear something first.
- Have them show you where they were when they saw it.
- Did they call 911.
 - Need to preserve 911 calls and identify callers.

Investigating, Documenting and Presenting the Road & Vehicle Scenes

The Outside Border of Your Crime Scene Is:

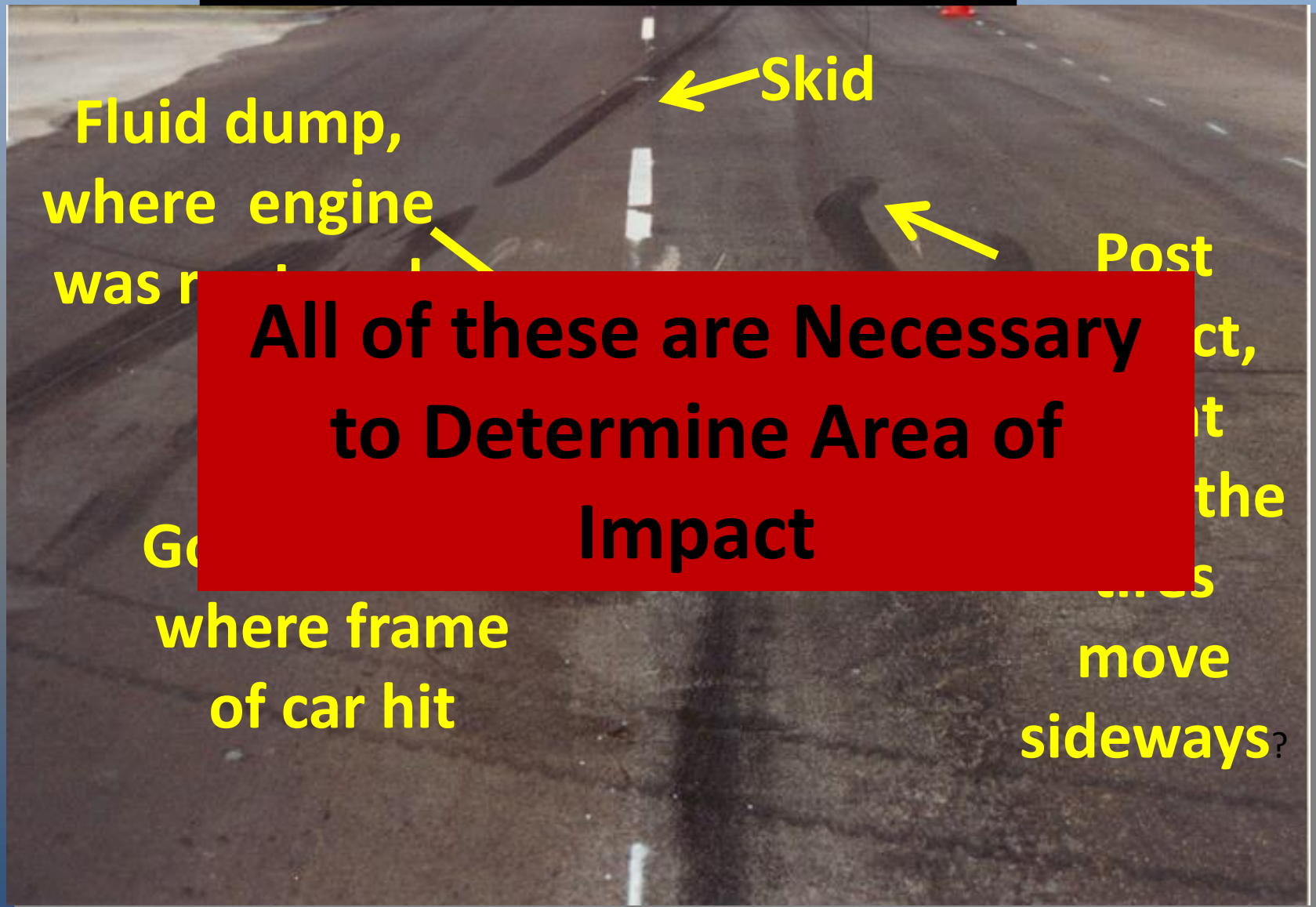
- 0% **1. All the cars or pedestrians.**
- 0% **2. Everything that comes from the cars and the point of impact.**
- 0% **3. The entire area before the point of impact where there may be skid marks.**
- 0% **4. The area inside the last point to react before the crash.**

3 Keys to Scene Work

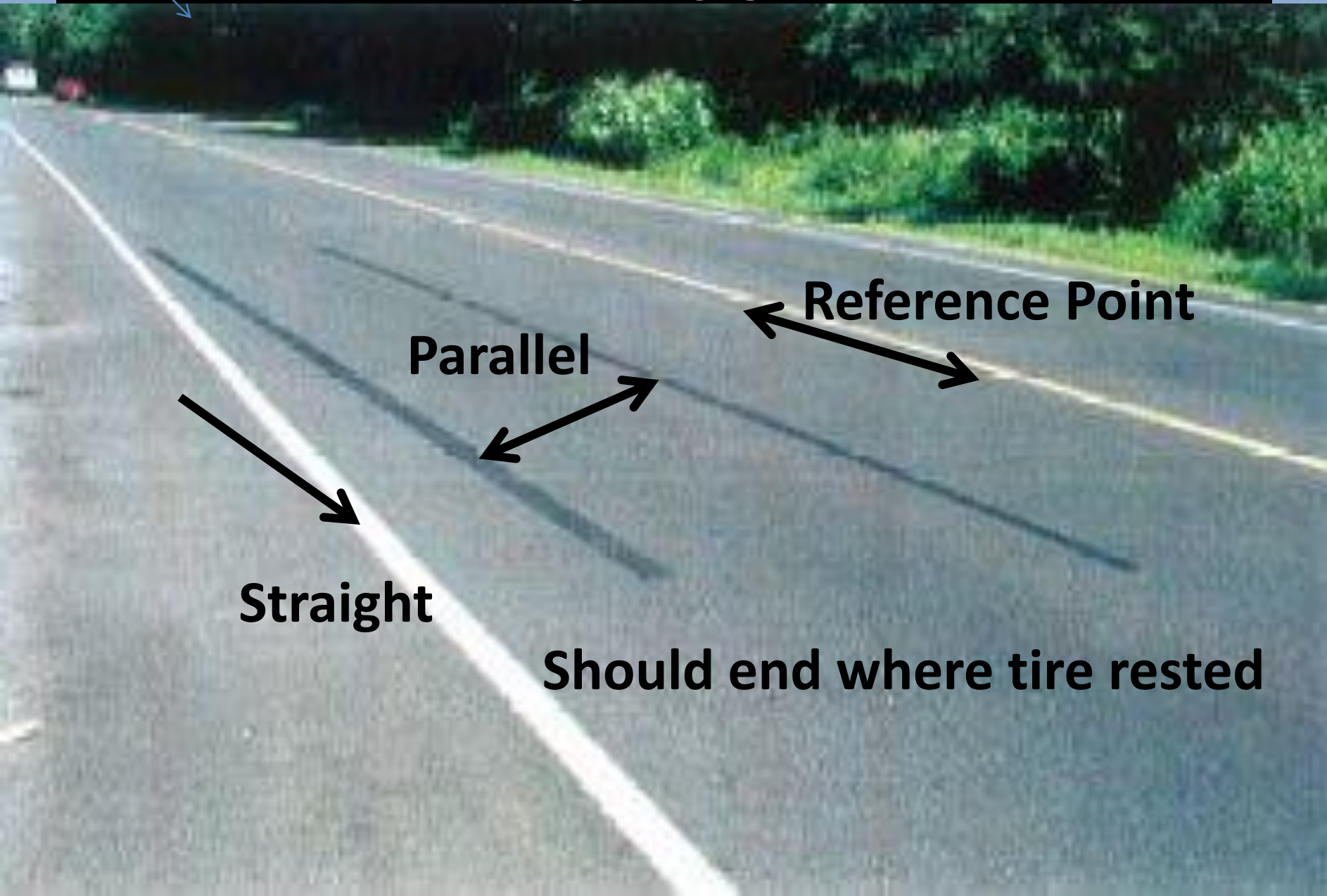
- **Photograph**
 - Still
 - Video
 - Day after daylight
- **Mark**
- **Document**



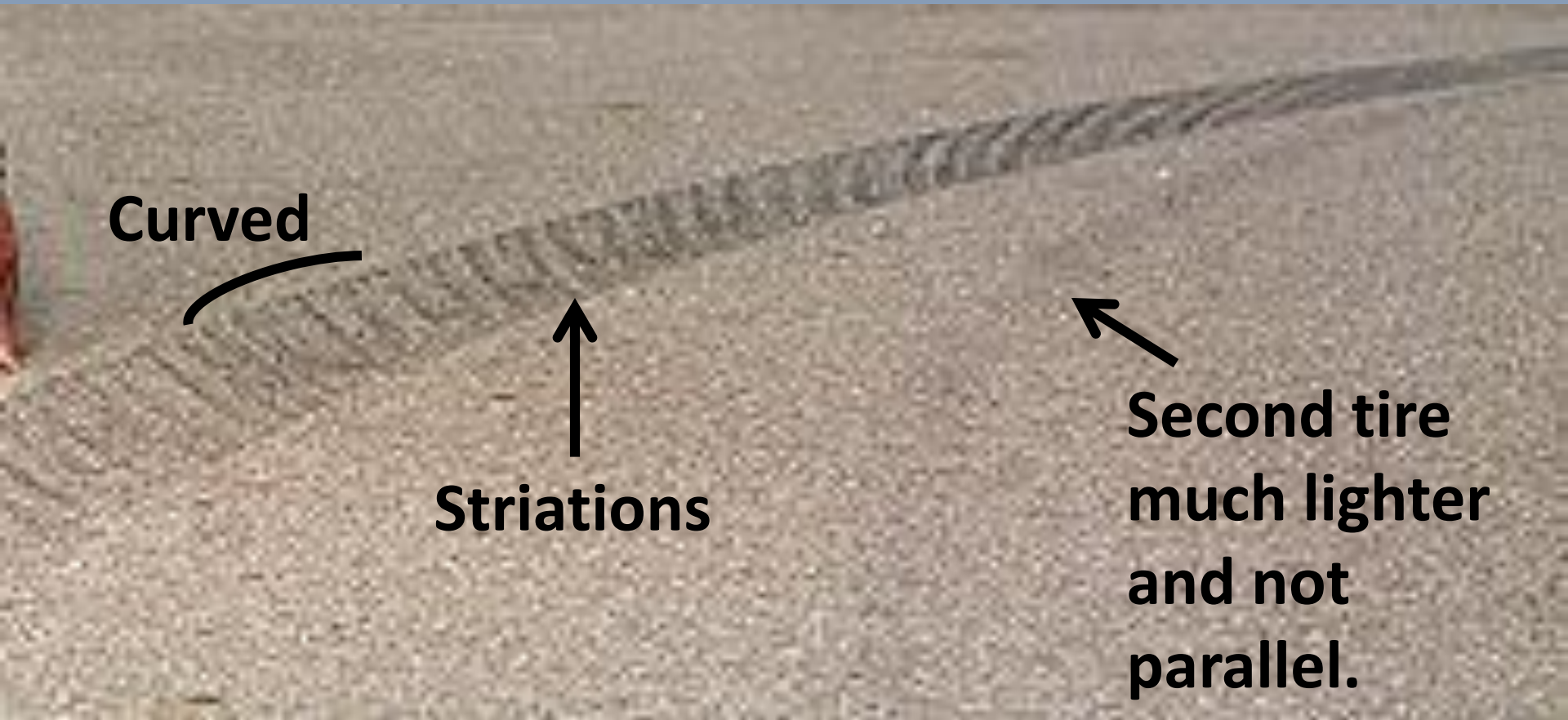
Roadway Surface



Skids



Yaw Marks



Photograph of Traffic Signals



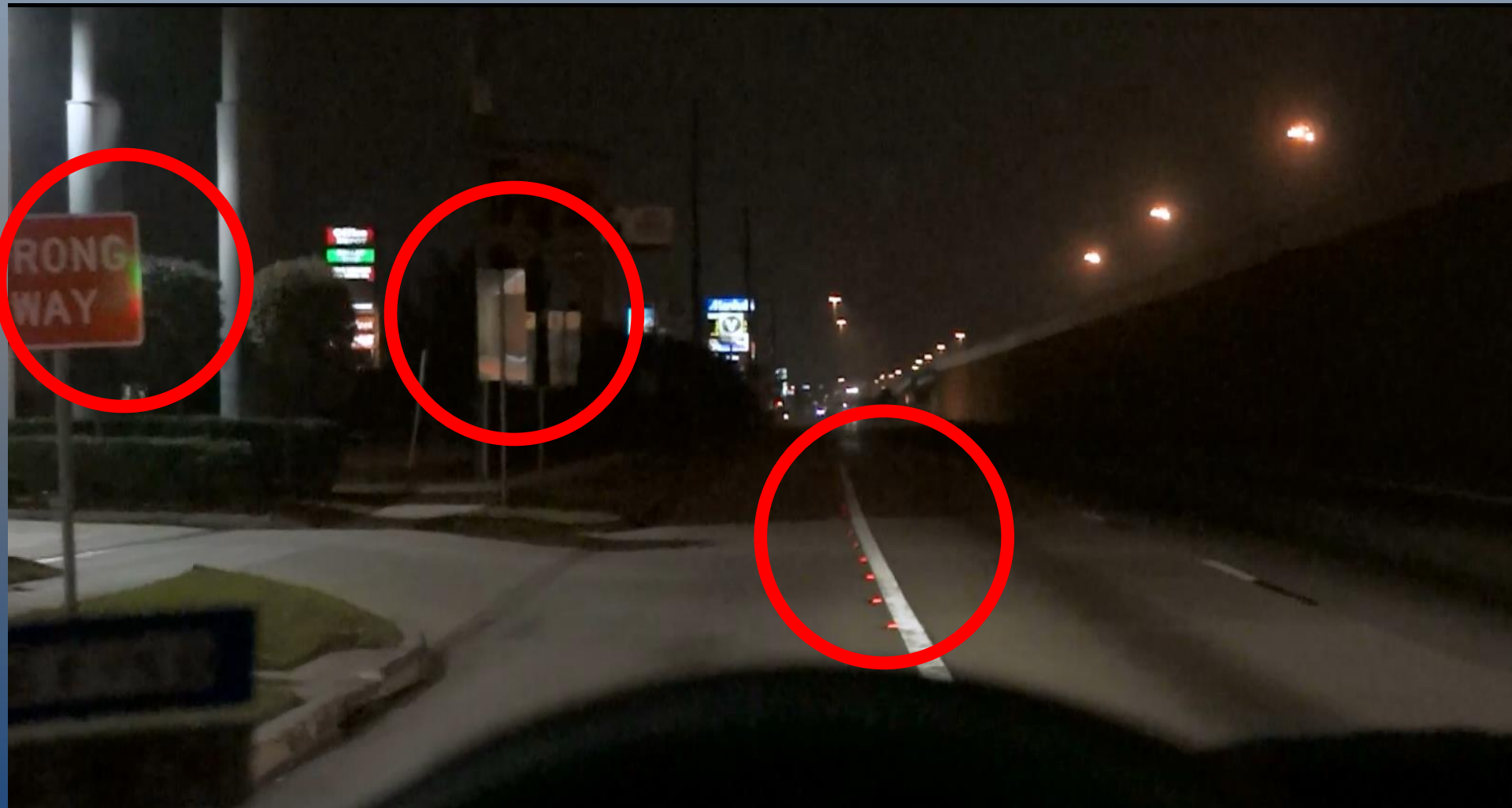
Close up of this
sign →

↑
Lights are
Working

← Take this
one too

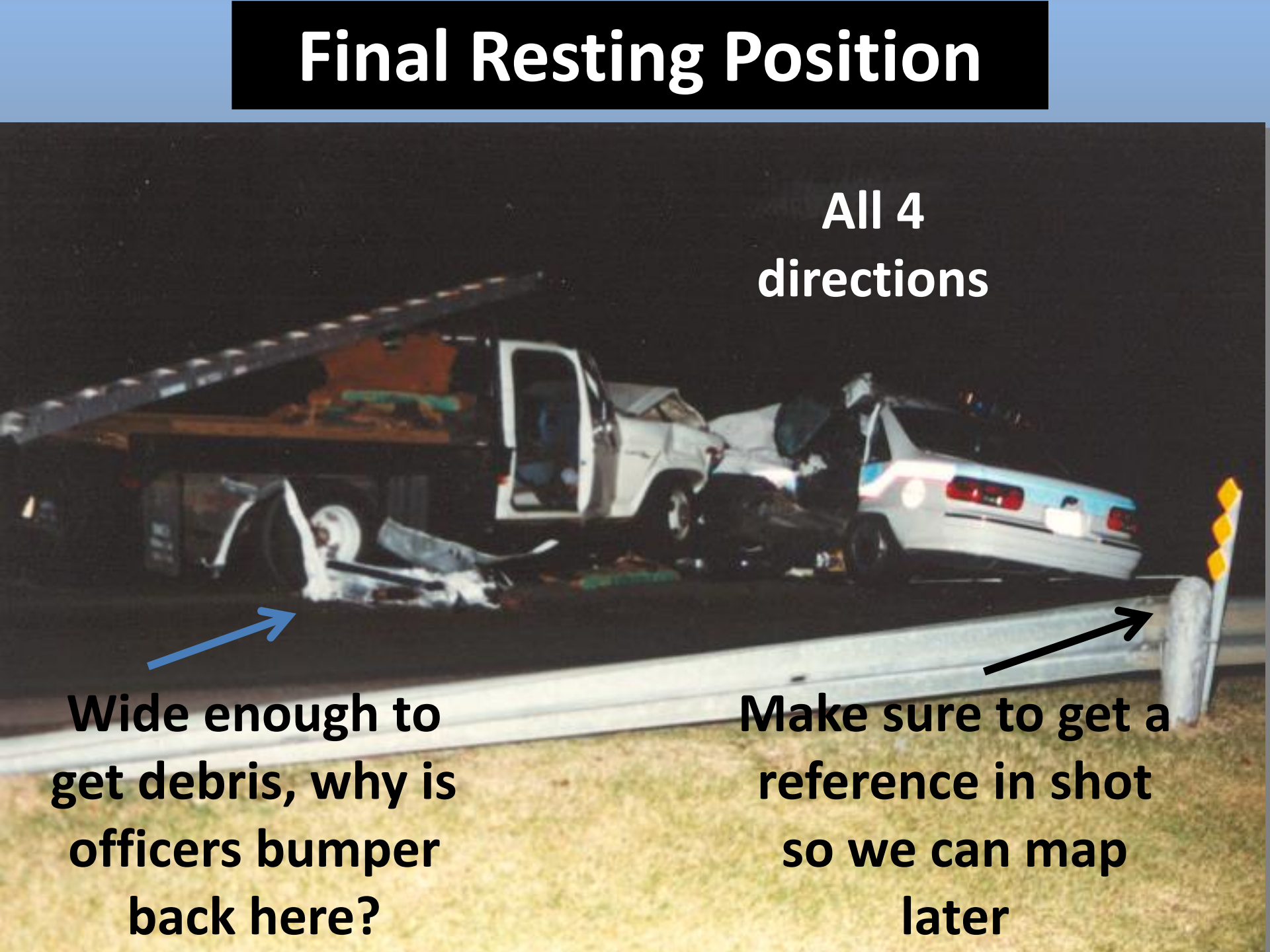
'99 6 17

Important Clues Driver Was Going Wrong Way



Final Resting Position

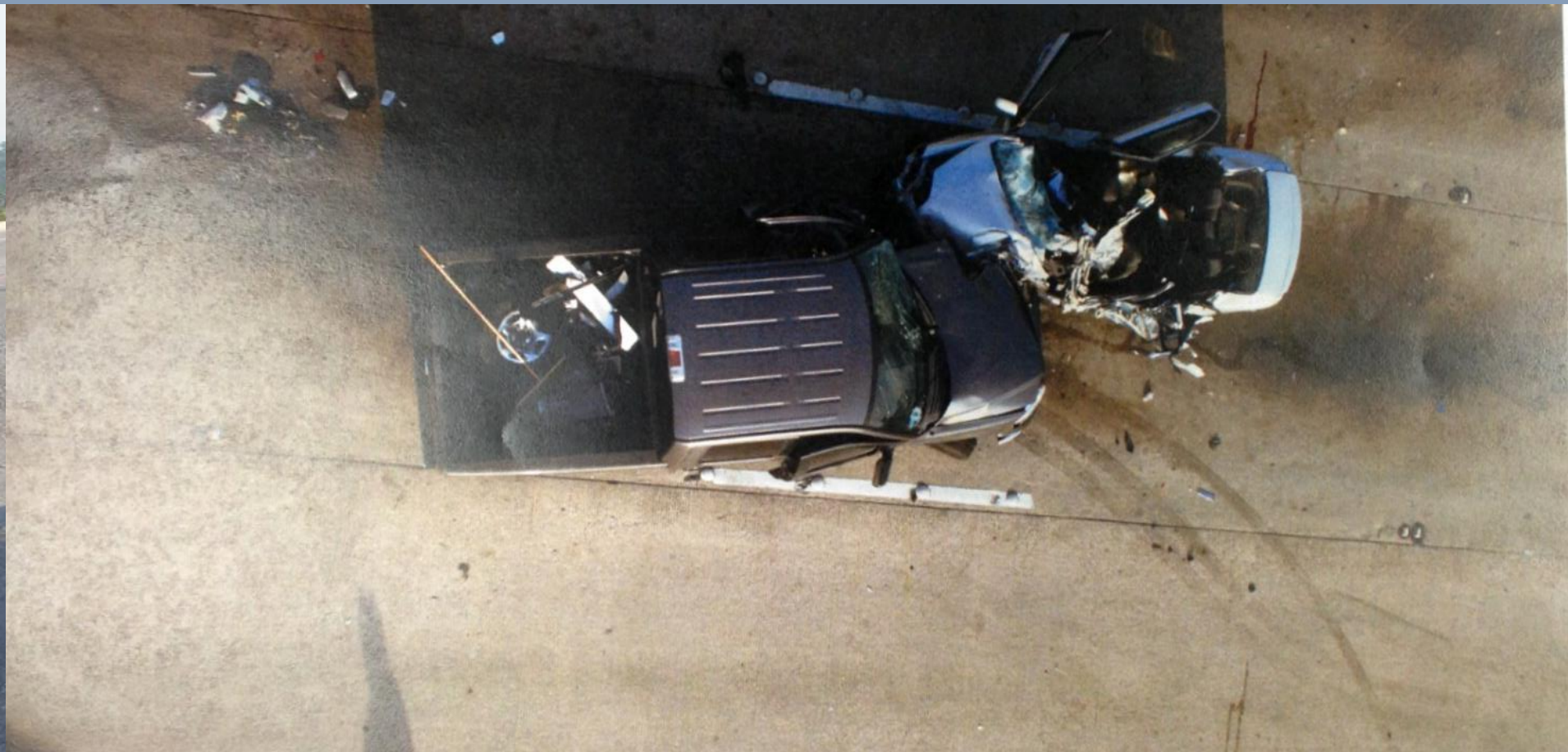
All 4
directions



Wide enough to
get debris, why is
officers bumper
back here?

Make sure to get a
reference in shot
so we can map
later

Don't let cars get moved first



Details of Damage

Headstar, helps
wheel driver

Study rub off and
impressions
carefully

Close up of
damage

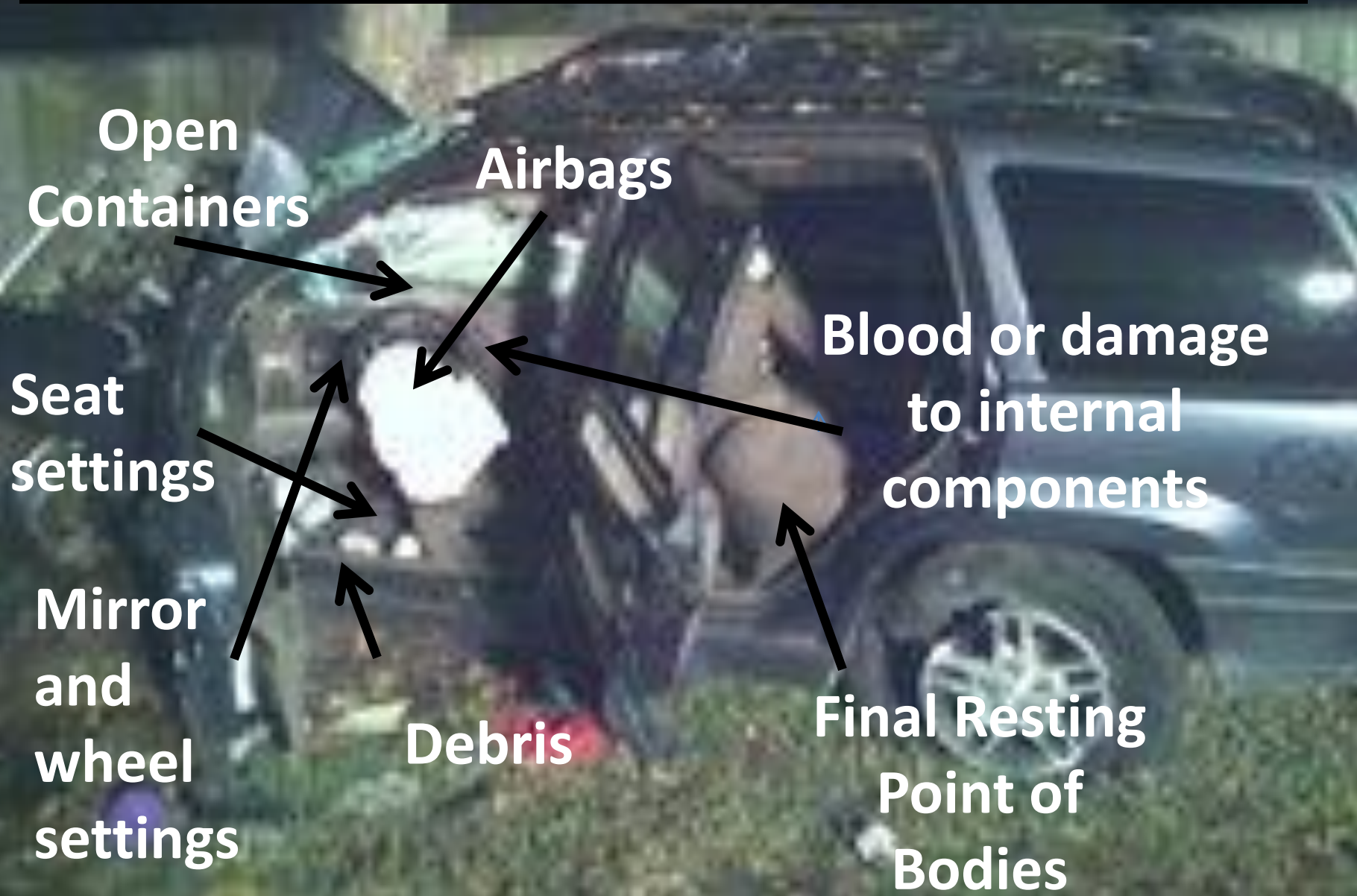


Tire examination: Skid Patch



Underside of tire reveals
tire damage due to sliding
on asphalt.

Interior of Vehicle



Other things of note.



Check Shoes and Brake Pedals



FABRIC FUSION MARK





**Downloading the airbag
control module**

A crime about motion should be captured in motion.

- **Walk the scene with a video camera.**
- **Use the camera on your vehicle.**
- **Use your smart phone.**

Suspects as a Crime Scene



Proving Operation: Wheeling the Driver



- If you did not observe driving this (not intoxication) is the defense.
- How?
 - Admissions (must be corroborated)
 - Witnesses
 - Circumstantial Physical Evidence
 - DNA



Gathering Testimonial Evidence From Suspect

- Interview early and be nice.
 - Wait before arrest.
 - Even at hospital.
- “So what happened”?
- Get it on Video
- Please let them explain.
 - Drunk’s story on the side of road is never ever as good as the story on direct at trial.
 - Let them talk

Gathering Testimonial Evidence From Suspect in Squad Car after Arrest

- **Turn Camera Around!**
- **No Custodial Interrogation.**
 - They have the right to remain silent, just not the ability.
- **“Hey officer can I call my mommy on my cell?”**
 - Oh please yes! A thousand times yes.
 - Just record it.
- **Every word they say until you leave them.**
- **Jail Calls**

At least 7 degrees of separation between who a Defendant is and how they will appear at trial.

- **Everything they say and do can and should be used against them and will be if it is documented.**
 - **Remorse.**
 - **Evasiveness.**
 - **Focus of their concern**
 - **Themselves.**
 - **Their Vehicle.**
 - **Their Friends.**
 - **The victim.**

Gathering Physical Evidence from Suspect

- Injuries
- Car Keys!
- Cell Phones
 - Search Incident to arrest
 - Don't peek
 - Turn it off
 - Get warrant
 - Never let this treasure trove of evidence go to jail property





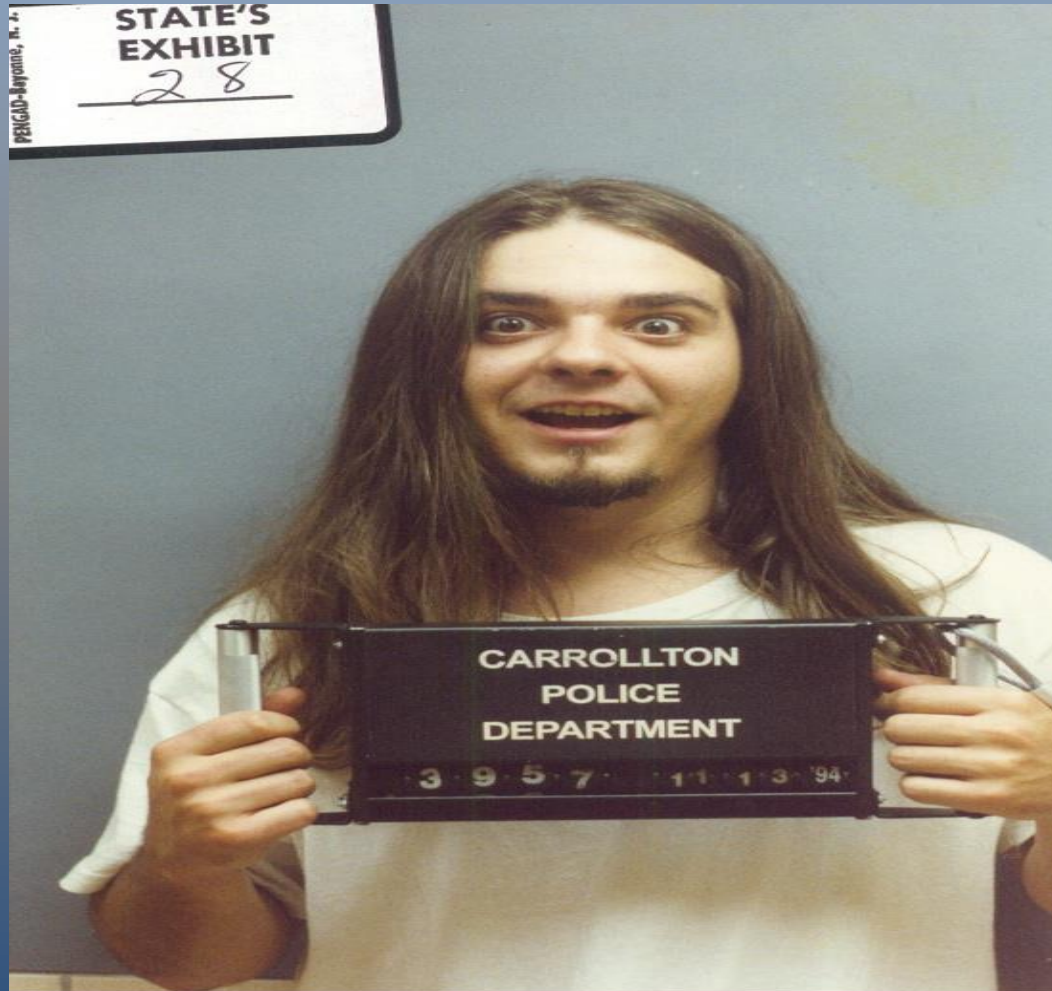
**Head Injuries if there
are headstars**

Seat Belt Bruise

**Any other injuries to
match the damage
you saw in vehicle**

**Injuries to
wrists or
ankles**

Take a picture it will last longer.



Gathering Evidence of Mental Impairment

- **Reaction to Crash**
- **Reaction and Response to Questions**
- **Divided Attention During Questioning**
- **SFSTs**
- **The More You Ask the More You Learn**

Gathering Evidence of Physical Impairment

- HGN
 - Always
 - Anywhere
 - Did I Mention Always?
- SFSTS
- If Refused Demonstrate
- Signing Documents
 - If you can't drive a pen, you can't drive a car.



Which is better?

0%

1. Suspect had slurred speech.

0%

2. The suspect was thick-tongued and spoke poorly.

0%

3. The suspect spoke slowly and deliberately and had trouble with certain words.

0%

4. The suspect spoke slowly and deliberately and had trouble saying the words, “officer”, “certainly”, “absolutely” among others.

Gathering Blood and/or Breath Evidence

When do I HAVE to get a warrant?

A peace officer SHALL require the taking of a specimen when an arrested suspect refuses when:

1. The officer reasonably believes an accident occurred and as a direct result of the accident:
 - ANY individual has died or will die;
 - Someone else suffered SBI; OR
 - Someone else suffered BI and been transported for medical treatment
2. DWI with Child under 15
3. Suspect has a prior conviction for DWI with child, Intox Assault, Intox Man, or out of state equivalent, or at least 2 prior convictions for DWI, BWI, FWI, or AOOAARWI (aka being a Carny while intoxicated)

What if D is Unconscious?

TC §724.014

A person who is dead, unconscious, or otherwise incapable of refusal is considered not to have withdrawn consent.

Get a warrant!



Search Warrants

- **Mere Evidence**
 - Not all Magistrates
- **Probable Cause of DWI**
 - Operate
 - Vehicle
 - Public Place
 - Intoxicated
- **Describe the Person (it is the person to be searched)**
- **Follow the Blood Draw Procedures**

Forms

- **Detail all DWI Observations**
- **Stop Facts**
 - (For elements not suppression)
- **Refusal**
 - Under (j) this is mandatory
 - Otherwise it is PC of impairment
- **Place and Description of Defendant**
- **Time is of the Essence**
 - (Too much time =no evidence)

Never Count on Hospital Blood

- **Officers leave it to prosecutors.**
- **But report it if you get it.**
- **Find out who drew the blood and when.**
- **Ask duty nurse if they get subpoena.**
 - **They don't but will be glad to throw someone else under bus.**
 - **Saves DA investigator tons of time.**

REFUSALS ARE EVIDENCE

- **Always read DIC 24.**
- **Carefully note all comments surrounding refusal.**
 - **This is not an ALR hearing.**
- **Prosecutors this is evidence, and the world's best punishment evidence.**
 - **Present it and argue it.**

Post Scene Investigations

Crash Reconstructionists

- **Crash Reconstructionist's opinions are only as good as the data.**
- **By data I mean on scene photos and measurements.**
- **Get a crash reconstructionist to scene if you can, if you can't you will need to take scene to them.**
- **Their main role will be to say what did NOT happen.**

Day After Pic



Day After Pictures: Roads



Day After: Measurements



Securing the Vehicles

- Have all vehicles involved towed to a secure lot and held as evidence.
- Later on you can have a “Vehicle Autopsy” done.
- If evidence was initially overlooked, it might still be there.
 - Cell phones
 - Receipts
 - Records

Use of Grand Jury

- **General Rule – Grand Jury Subpoenas are used to obtain documentary evidence**
- **Do not require probable cause**
- **Less obtrusive than search warrant**
- **Chance to depose defense witnesses (passengers, recent phone calls, family)**
 - **Nail down all witnesses without sworn statements.**
 - **That includes potential defense witnesses.**
 - **Dress rehearsal of crash reconstruction.**
 - **Present your photos.**

Use of Grand Jury

- **Backtrack Defendant**
 - Phone (locations and witnesses)
 - Credit Card and Bank Records (purchases and locations)
 - Restaurant and Bar Records and Video
 - Also consider TABC
- **Medical Records**
 - Defendant and Victims
- **Insurance**
 - Defendant and Victims
- **All vehicle Maintenance**

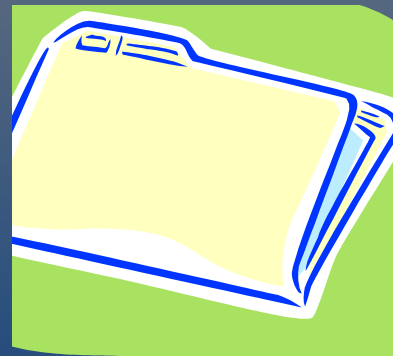
Medical Records

- Subpoena “all medical records.”
- Separate subpoena for the hospital lab.
- Look in nurses / doctors notes for admissions of drinking and/or driving.
- There is no physician/patient privilege in a criminal investigation.
- There are exceptions for EMS records and substance abuse counseling.



Insurance Agency Records

- Many accidents are not reported to police.
- The suspect's insurer may have records of claims paid from prior accidents.
- If you locate any unreported accidents, follow up with the other involved drivers.



Where do we learn....??

- Credit card numbers
- Phone numbers
- Mechanics and repair sites
- Insurance Companies

Inventory Search
Search Incident to Arrest

Follow up

- Phones
- Registration/owner
- ON Star/GPS
- Repair and Maintenance
- Gas Receipts
- Parking Stickers
- Witnesses



Questions?



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