

[Another Drunk Driving Accident Ends in a Fatality](#)

March 2nd, 2010 | by Chris Dorbandt

A drunken driver who struck and killed a construction worker on South Interstate 35 near Onion Creek in June pleaded guilty to intoxication manslaughter in a Travis County court today and was sentenced to 15 years in prison.

David Delacerda, 30, pleaded guilty under a plea bargain with prosecutors, said State District Judge Bob Perkins. He also pleaded guilty to failure to stop and render aid, for which he was sentenced to 10 years. The sentences will run together, Perkins said.

On June 24 at about 1:30 a.m., Delacerda, at right, drove a dark-colored sport-utility vehicle through a construction zone near Onion Creek Parkway, killing 36-year-old Fontino Cortez-Cruz, who was laying reflective tabs on the highway, according to police and transportation officials. Delacerda did not stop and continued south, prompting Austin police to tell law enforcement in Hays County to be on the lookout for his car, police have said. Hays County sheriff's deputies found a burned dark-colored SUV outside of Kyle about 4 a.m., police said. Shortly after, police received a call from South Austin Hospital after Delacerda had checked in with burns on his body, police said. He was later arrested. Intoxication manslaughter is a second-degree felony punishable by up to 20 years in prison.

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[A Drunk Driver Did This](#)

March 2nd, 2010 | by Chris Dorbandt

Elizabeth Smith, whose 16-year-old son was killed by a drunk driver in 2006, recently emailed the photo below of the car her son was driving during the crash.

Adam Smith, a Dripping Springs Texas High School student who had talked about becoming a marine biologist, was driving the truck in the picture on Hamilton Pool Road, heading home with friends after a day at the Barton Creek Square Mall. A car driven by now four-time convicted drunk driver Richard Laney crossed the divider and hit Smith's truck, killing him and injuring two of his friends.

Under a plea bargain, Laney was sentenced to three years in prison on Thursday. Prosecutors acknowledged problems with the evidence in the case, including uncertainty about whether a blood test showing Smith was intoxicated would be allowed at trial. Another blood test was ruled inadmissible by a state district judge.

Elizabeth Smith wrote in her email: "Our case seems to highlight everything that is wrong with Texas' drunk driving laws. We want to do anything we can to strengthen the laws because we KNOW we are not the only family that is going through this, and, unfortunately, will not be the last."

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[Twenty Five Year Sentence for Man Who Was Intoxicated and Killed Three Motorcyclists](#)

March 2nd, 2010 | by Chris Dorbandt

A 22-year-old drunken driver admitted today in a Travis County court to causing an April crash on East Martin Luther King Jr. Boulevard that left three people dead, his defense lawyer said.

Mario Hernandez-Rodriguez, at right, pleaded guilty to three counts of intoxication manslaughter and three counts of failure to stop and render aid under a plea bargain with prosecutors that will land him in prison for 25 years, said defense lawyer Leonard Martinez. At 1:47 a.m. on April 5, Hernandez-Rodriguez was driving a pickup on East Martin Luther King near Springdale Road when the truck veered into oncoming traffic, hitting a Mercedes and two motorcycles, police said. Hernandez-Rodriguez fled on foot but was caught by police, officials said.

The driver of one of the motorcycles, Maurice Britt, 36, died at the scene. His passenger, Audra Britt, 30, died later, as did the driver of the other motorcycle, Keith Haliburton, 42.

A Travis County District Judge sentenced Hernandez-Rodriguez to 20 years in prison for each count of intoxication manslaughter. The sentences will run concurrently. On Jan. 21, the Judge is scheduled to sentence him to five years on each count of failure to stop and render aid, with those sentences to run concurrently. The five-year sentences will run consecutively to the 20-year sentences, Martinez said. Family members of the victim will be allowed to address Hernandez-Rodriguez on the 21st.

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[Motorcyclist Killed While Testing Driving the Bike](#)

March 2nd, 2010 | by Chris Dorbandt

An accident involving a motorcycle and a sports utility vehicle claimed the life of a Lufkin man Sunday afternoon on state Highway 7. Wesley Paul Hahs, 27, **was out test-driving a 2007 Honda Shadow he was considering purchasing** with the owner Marion Webb when the accident occurred around 3:50 p.m. in front of Pollok Baptist Church, according to Texas Department of Public Safety officials. Hahs passed Webb over a blind hill in a no-passing zone and collided head-on with an eastbound Chevy Tahoe driven by Jane Chambers, 57, of Nacogdoches, Trooper Clint Henderson said. “When he saw the Tahoe, he applied his brakes, but he hit them so hard he lost the ability to steer and hit them head-on,” Henderson

said. Neither Chambers nor her passenger, husband James Chambers, 47, was physically injured in the accident. The Central Volunteer Fire Department and Lufkin Fire Department responded to the accident, but Hahs was killed instantly. Pct. 4 Judge Claude Marshall pronounced Hahs dead at the scene. After the accident Webb contacted Hahs' parents, who immediately came to the scene of the crash. Hahs' father said he leaves behind a 7-year-old son and would have turned 28 on April 23. He said Hahs grew up in Humble, but moved to Lufkin. Funeral arrangements are pending.

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[Blood stored without consent not just used for medical research](#)

February 24th, 2010 | by Chris Dorbandt

The Texas Department of Health Services last year found itself the subject of controversy when it acknowledged it had been [storing the blood of millions of newborn babies](#) whose parents never gave consent. The department agreed to destroy the samples under a [federal lawsuit settlement](#) announced in December.

At the time, the state said the samples were stored only so they could be used for research into ways to prevent, diagnose and treat serious medical conditions that affect Texas children. But today's [Texas Tribune](#), an online news organization that covers state government and public policy, reveals that a small amount of de-identified samples actually were sent to a U.S. military laboratory to create a national database "designed to identify missing persons and crack cold cases." The Tribune reviewed nine years' worth of e-mails and internal documents to find evidence of the transfer:

The records, released after the state agreed in December to destroy more than 5 million infant blood spots, also shows an effort to limit the public's knowledge of aspects of the newborn blood program, and to manage the debate around it. But the plaintiffs who filed the lawsuit never saw them, because the state settled the case so quickly that it never reached the discovery phase.

The article quotes health services department spokeswoman Carrie Williams saying that while the department's general philosophy was to save blood samples for public health research, "we did not have an exclusive policy." She adds that the department participated in the project because officials believed it would help in missing-persons cases — and knew the blood spots could not be linked back to a particular individual.

The December settlement agreement gave the state until April 13 to finish destroying its samples, which are stored at Texas A&M University's School of Rural Public Health. But according to the Tribune, the state is not asking outside researchers to return samples they were given.

The Austin American Statesman, whose stories first brought the state storing program to light, [reported today](#) that Jim Harrington, the civil right attorney who filed the lawsuit on behalf of five parents who'd never provided consent, sent a letter to Gov. Rick Perry and

Attorney General Greg Abbott asking that they intervene to get the samples destroyed if consent is not given.

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[Woman struck, killed by SUV while helping victim of car accident](#)

February 23rd, 2010 | by Chris Dorbandt

EL PASO — A 25-year-old woman died early today on Interstate 10 after getting out of her car to help an accident victim. Police identified the dead woman as Liz Gonzalez, a nurse who worked for the El Paso County Sheriff's Office at the downtown jail. She stopped about 5:30 a.m. to help Cecilia Marquez, 49, out of her vehicle, which had flipped onto its side after a collision with another car. Police said a Jeep Cherokee, driven by Laura Rodriguez, 25, veered out of control while traveling over the pass at Airway and hit Gonzalez. She died on the roadway. Ice was a factor in both collisions. No charges are likely, police said.

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[Bicyclist Mauled by Truck Tractor](#)

February 23rd, 2010 | by Chris Dorbandt

WILLIAMSON COUNTY – A bicyclist was critically injured Monday morning in a crash on FM 620 at El Salido Parkway that left her pinned under an 18-wheeler, said Austin-Travis County Emergency Medical Services spokesman Warren Hassinger. The female cyclist was taken to a Round Rock hospital with a critical leg injury. The woman and the 18-wheeler were at a stoplight in the southbound lanes of FM 620, facing the same direction. When the light turned green the woman veered right and the 18-wheeler caught her bicycle and dragged her under a wheel. “It was not a high-speed collision, but it was really traumatic because of the difference in the size, obviously,” Hassinger said. “At least one leg was badly crushed by the weight of the rig.” He said the woman was undergoing surgery.

[Duty to Avoid a Foreseeable Risk of Injury to Others?](#)

February 23rd, 2010 | by Chris Dorbandt

AUSTIN – The widow of an Internal Revenue Service employee killed when Andrew Joseph Stack III flew his plane into an office building has sued Stack’s wife, saying she should have warned others about her husband. According to the seven-page lawsuit filed in state district court in Travis County, Sheryl Mann Stack had a **duty to “avoid a foreseeable risk of injury to others,”** including 68-year-old Vernon Hunter, who was killed Thursday. **“Stack was threatened enough by Joseph Stack that she took her daughter and stayed at a hotel the night before the plane crash,”** the suit said.

Sheryl Stack has declined to comment on the incident, other than a written statement that said she was grief-stricken. Dan Ross, an attorney representing Valerie Hunter, said the Hunter family wanted to file a lawsuit early, but he declined to elaborate about why. Ross said that his client is interested to know whether any insurance proceeds might be available that the Hunter family could be awarded. “This is the proper way to determine what assets, including insurance, would be available for Mr. Hunter’s wrongful death,” he said. The lawsuit also seeks to prevent the Travis County medical examiner’s office from making public Hunter’s autopsy. Officials have said he was a victim of homicide and died of “conflagration injuries.”

Federal authorities have said that Stack, 53, flew his single-engine plane into a building that houses Internal Revenue Service offices Thursday morning after setting his home ablaze. Stack, who also was killed, left behind a rambling Internet message blaming the IRS for many personal and financial difficulties. The lawsuit was filed Tuesday, the same day that top Austin city officials toured the inside of the Echelon I building on Research Boulevard (U.S. 183) near MoPac Boulevard (Loop 1) at the invitation of the building’s owner. Based on his tour, Austin Mayor Lee Leffingwell said it appeared as though Stack’s plane never fully entered the four-story structure, which burst into flames on impact. In what he described as an eerie sight, Leffingwell said employees appeared to have quickly fled for exits, leaving behind briefcases, note pads and half-filled coffee cups at a conference room table. “It is obvious they got out of there ‘right now,’” he said. “You could almost visualize people in their seats,” City Manager Marc Ott said. “You saw things they had been drinking, personal effects, jackets on coat stands. It was very clear whatever was going on in that particular instant, people stopped doing what they were doing.”

Leffingwell said the second and third floors were the most badly damaged, with mangled wires reaching out from the ceiling and water standing on the floor. Walls are charred, and offices smell of soot. Leffingwell said damage continues about 40 feet inside the building. The first floor also received substantial water damage, but the fourth floor looks mostly unscathed, he said. The future of the building remains unclear, but Leffingwell said it is badly damaged in spots, with load-bearing beams melted in some locations. “There is so much damage there from the fire. It is really amazing more people were not injured or killed,” he said. According to Valerie Hunter’s lawsuit, the Hunter family is entitled to damages because Joe Stack was negligent in protecting Hunter’s life. The amount of damages being sought was not specified in the suit. Stack was required by law to fly his plane at an altitude 1,000 feet above the highest obstacle, according to the document. “Vernon Hunter belonged to a class of persons the (law) was designed to protect,” the suit says.

Personal comment: It will be interesting to see if the homeowner’s insurance pays the claim

or takes a stand and fights it based upon it being a criminal act and therefore, unforeseeable.

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[Dallas PD Officer's Family Files Suit Against City](#)

February 23rd, 2010 | by Chris Dorbandt

The family of a veteran [Dallas](#) police officer who died two years ago while escorting a motorcade for former first lady, Hillary Clinton, filed suit this week, alleging, among other things, that the city failed to properly train him for the difficult assignment. The lawsuit was filed Monday in state district court, on the two-year anniversary of the death of Senior Cpl. Victor Lozada. In addition to the City of Dallas, it names as defendants Clinton, who was running for president at the time; her campaign; and the Super Seer Corp., the maker of Lozada's motorcycle helmet.

"None of this is going to bring back their father and husband," said David Schiller, attorney for the Lozada family. He said the family decided to file suit "because they don't believe that without taking legal action many of these things are going to change on their own." Frank Libro, spokesman for the City of Dallas, said the city had no comment on the lawsuit. Representatives of the other defendants could not be immediately reached for comment. Lozada, 49, died after he failed to negotiate a curve on the Houston Street Viaduct and slammed into a concrete guardrail. Clinton's motorcade was headed across the viaduct to a rally in [Oak Cliff](#). The officer, a 20-year veteran of the force, was catapulted dozens of feet forward along the roadway. The force of the crash knocked off his helmet.

Personal comment: The family has probably been trying to settle the issue with the City and police department and had to file suit to preserve the claim and it is not not necessarily adversarial. Negligence on the part of City is probably disputed. If the officer had not been trained, why was he riding the motorcycle in full uniform?

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[Toyota faces new reports of sudden-acceleration deaths Complaints citing the defect in at least 13 fatalities have poured in to federal regulators since recalls were first announced, bringing the total to 34.](#)

February 16th, 2010 | by Chris Dorbandt

At least 34 people have died in accidents involving Toyota Motor Corp. vehicles that allegedly accelerated out of control in the past decade, federal safety regulators said Monday,

reflecting a sharp jump in the number of motorist complaints being filed in the three weeks since the automaker announced its latest recalls.

The new count from the National Highway Traffic Safety Administration includes 13 fatalities reported since Jan. 27, the day after Toyota ordered a sales and production halt of eight models in the U.S. to fix gas pedals that it said can stick and cause unintended acceleration.

An analysis of the data by The Times shows that all but one of the deaths reported to NHTSA by motorists in 2010 actually occurred in prior years — as far back as 1992 — suggesting that recent public attention to the issue spurred people to file complaints regarding past incidents. Most of the incidents occurred between 2003 and 2009.

According to accounts filed with NHTSA, Toyota and Lexus vehicles suddenly raced forward, smashing into other cars, buildings and pedestrians.

In addition to the fatalities, federal regulators said 22 people reported injuries from unintended acceleration accidents involving Toyota vehicles, which ranged from cuts and bruises to a woman left in a coma.

The Times first drew attention to the unusually high number of deaths attributed to sudden acceleration in Toyota vehicles Nov. 8, when it reported that the 19 fatalities linked to the problem since 2001 was greater than the total for all other automakers combined.

The rise in new complaints did not surprise federal highway safety officials, given the widespread news coverage that accompanied Toyota's decision to halt sales and production to address the gas pedal problem.

“It is normal for NHTSA to receive an increase in consumer complaints after a recall is announced and the public learns of a safety defect,” said Olivia Alair, a spokeswoman for the agency. “NHTSA takes every complaint seriously and reviews each one carefully. The agency is quickly gathering more data on all of these additional complaints to help guide our examination of sudden acceleration . . . as well as other safety issues.”

The agency generally does not seek to prove or disprove whether sudden acceleration occurred in the accidents, instead using the database of complaints to help identify potential defect trends. The Associated Press first reported the rise in the fatality count Monday.

“We take all customer reports seriously,” Toyota said in a statement released Monday. “That’s why we are taking steps to implement more stringent quality controls, investigate customer complaints more aggressively, keep open lines of communication with safety agencies and respond more quickly to safety issues we identify.”

The automaker has resumed sales and production of the eight models, and its dealers are in the process of installing shims on gas pedals to correct what it calls a defect that could make them stick.

More trouble

Nonetheless, the jump in reported fatalities in its vehicles marks another troubling development for Toyota, which has been furiously attempting to reassure the public about its commitment to safety in the wake of the recent recalls.

And many experts expect the drumbeat of bad news to continue as House and Senate committees prepare for hearings in coming weeks.

Noting the increased fatality total, Clarence Ditlow, executive director of the Center for Auto Safety in Washington, said federal safety regulators were still finding only the tip of the iceberg.

“We are going to go over 100 without a doubt,” Ditlow said. “The only question is what is the true number. So many fatalities don’t get attributed to sudden acceleration, especially as you go further back in time before people were paying attention to Toyota.”

The company has issued 10 million recall notices on three continents in recent months, with 2 million vehicles subject to more than one recall.

The largest recall, announced last fall, focuses on floor mats that the automaker said can entrap the accelerator pedal. The second recall addresses gas pedals that Toyota said can stick. And last week, Toyota recalled nearly 500,000 of its hybrid vehicles, including the 2010 Prius, because of a brake problem caused by faulty computer software.

This month, both Congress and NHTSA have said they are looking into whether electronic throttle control, which is standard equipment on all Toyota and Lexus vehicles, could play a role in sudden acceleration.

Toyota officials have denied that possibility, pointing to internal and external testing, as well as eight federal investigations, none of which found a throttle defect.

The latest data on fatalities filed as consumer complaints to NHTSA do not reflect all potential deaths from sudden acceleration in Toyota and Lexus vehicles. A number of lawsuits and police reports also indicate that Toyota vehicles suffering runaway acceleration led to fatalities, but those cases have not been registered as complaints in the government database.

The database has been flooded with complaints since the news of the latest recalls, followed by the unusual decision to stop sales and production of eight Toyota models late last month. Nearly 40% of all reported deaths related to runaway Toyotas have come this year.

Toyota, for its part, has not released data from its own internal complaint files on accidents, injuries or deaths alleged to stem from unintended acceleration. The automaker has declined to state how many complaints of the problem have been filed, but in general databases held by manufacturers are orders of magnitude larger than NHTSA’s.

Unrecalled models

NHTSA data show that many of the fatality reports involved Toyota models that were not included in any recalls.

For example, a fatal crash on Oct. 13, 2009, in New Hampshire involved a 2005 Highlander, which has not been recalled. Toyota has issued recalls only on 2008-2010 Highlanders.

According to the NHTSA complaint, the car hit a vehicle head-on, killing four people. “Believe car had uncontrolled acceleration,” said the complaint, which was filed Jan. 27.

In addition, the data show complaints alleging fatalities involving a Scion tC, and a Lexus GS, neither of which models are included in the recalls. No Scion models have been named in any of the recalls.

Nearly all the sudden acceleration-related fatality complaints on file for Toyota affect vehicles manufactured since the 2002 model year. Only five such allegations are included in

vehicles produced prior to that time, the oldest a 1988 Camry that crashed into a brick wall.

The majority of fatalities were in Camry and Lexus ES vehicles, which are built on the same platform and share many components. Both vehicles are subject to the floor mat recall.

A complaint of an August 2008 accident in Chicago alleges that the driver of a Lexus ES 330 had removed the floor mats from the vehicle the morning of a sudden acceleration incident that ended with the sedan striking and killing a pedestrian prior to passing through a fence and into a concrete pillar. According to the complaint, Toyota wrote the driver on Sept. 22, 2008, stating “that the car was operating properly.”

Another complaint detailed a 2004 crash in Indiana that took the life of a female driver whose 2003 Camry surged out of control and smashed into a building. The vehicle had less than 7,000 miles on it. A handwritten notation on the complaint, filed shortly after the accident, said “throttle stuck — engine surged.”

Paramedics arriving on the scene, the complaint said, “found the driver with both feet still on the brake pedal.”

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