ORIGINAL

IN THE COURT OF APPEALS
OF THE STATE OF NEW MEXICO

COURT OF APPEALS OF NEW MEXICO
FILED
AUG 27 2008

ART BUSTOS, as Personal Representative
of the Estate of Marcos Leandro Baca,
Deceased, and MARCOS BACA, TERRI BACA,
and ABEL BACA, Individually,

Plaintiffs-Appellees,

v.

Ct. App. No. 28,240

HYUNDAI MOTOR COMPANY, HYUNDAI MOTOR
AMERICA, and BORMAN MOTOR COMPANY,

Defendants-Appellants.

ON APPEAL FROM THE FOURTH JUDICIAL DISTRICT COURT
SAN MIGUEL COUNTY, NEW MEXICO
HON. JAMES A. HALL, DISTRICT JUDGE

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STATEMENT OF COMPLIANCE

As required by Rule 12-213(G), undersigned counsel hereby certifies that this brief was prepared in 14-point Times New Roman typeface using Microsoft Word, and that the body of the brief contains 10,802 words.

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INTRODUCTION

The overriding issue in this appeal is whether a defendant can be subjected to liability at the hands of plaintiffs who seek to fill critical gaps in the proof of their claims with expert testimony that does nothing but create a vague *impression* that the defendant bears some responsibility for the injuries, and who thereby persuade a jury (in a faraway, plaintiff-friendly venue) simply to ignore those gaps. That is what happened in this case. A decision allowing the resulting judgment to stand would severely weaken the specific causation requirement that is central to the tort system of this State, thereby effectively converting anyone who provides products or services into an insurer of those who use them.

Not surprisingly, the underlying facts are fraught with tragedy. Ricci Montes was driving at freeway speed when she lost control of her car, which left the roadway traveling over 60 miles per hour, flipped over, rolled three and a half times, and came to rest on its roof. Although Ms. Montes walked away with minor injuries, her passenger and fiancé, Marcos Baca, did not survive.

Also not surprisingly, Mr. Baca's successors now blame the car for his death. But they do not allege that the car, a 2002 Hyundai Accent, somehow caused the *accident* or the multiple rollovers that left the car upside down. Instead, they claim that the car injured Mr. Baca *after* the accident ended and the car had come to rest—that is, that despite the accident's severity, Mr. Baca would have survived but for defects in the design of the door and roof. That was the theory on which Plaintiffs brought suit and convinced a jury that Hyundai should be held liable for Mr. Baca's death. Yet neither before trial, nor at trial, nor in post-trial briefing did Plaintiffs produce any evidence that any identifiable defect actually *caused* the roof deformation that, according to Plaintiffs, allowed Mr. Baca to suffer an enhanced injury.

The central question, therefore, is whether the Plaintiffs' generic, one-size-fits-all evidence about automobile roof performance *in general* is sufficient to support a finding of specific causation, where there was no evidence to show that the alleged defect could be eliminated through an alternative feasible design (indeed, where the Plaintiffs' design expert opined that *no* comparable car is reasonably safe); and where the ultimate opinion on injury causation was purportedly based on testimony by another expert, but which that other expert never gave. Under settled New Mexico law, Plaintiffs' evidence was legally insufficient to meet their burden of proof, and the judgment cannot stand.

SUMMARY OF PROCEEDINGS

The fatal rollover at the heart of this case occurred in July 2004, in Doña Ana County. Tr.Vol.II-45:17-19. But the Plaintiffs sued Hyundai Motor Company, Hyundai Motor America, and Borman Motor Company (collectively, "Hyundai"), not in that county or in any county where the deceased or his family lived, Tr.Vol.III-36:19-37:4, but in San Miguel County. RP1-11.

Plaintiffs asserted theories of strict products liability, breach of implied warranty, and negligence. RP3-5,7-8. They argued that, although the 2002 Hyundai Accent did not cause the initial crash or the subsequent rollover, defects in the car's door and roof designs caused enhanced injuries distinct from those caused by the crash. Trial to a San Miguel County jury resulted in a verdict against Hyundai of $4.2 million. RP3018. The district court entered judgment on the verdict, RP3401-03, and denied Hyundai's motions for judgment as a matter of law, a new trial, or remittitur. RP3396-98.

FACTS

To fully appreciate why it was error to allow the verdict to stand, it is necessary to explore in more detail: (1) the accident; (2) the vehicle in which it occurred; (3) the genesis of this lawsuit; and (4) the resulting trial.

1. *The Accident.* Ricci Montes was driving on a state highway in Doña Ana County. Tr.Vol.II-45:17-19. Marcos Baca rode in the passenger seat. Tr.Vol.V.-14:4-6. When Ms. Montes reached for her cell phone, she lost control of the car, which left the paved road traveling at a speed of at least 62 miles per hour. Tr.Vol.II-48:7-13,90:5-15. The car then rolled 3.5 times, with the roof on the passenger side forcefully striking the ground three times before the car came to rest

on its roof and, according to Plaintiffs, with its passenger door open. Tr.Vol.II-56:1-7, 63:11.

At that point, although Mr. Baca remained belted nearly upside down in the passenger seat, his head and shoulders (according to Plaintiffs' expert) were outside the window frame on the passenger side. Tr.Vol.V.-14:4-6,16:18-19. A CD changer, several inches thick, was lodged between Mr. Baca's head and the ground. Tr.Vol.V-16:15-25,31:21-25. Plaintiffs allege that the weight of Mr. Baca's body against the CD changer forced Mr. Baca's chin toward his chest, restricting his airway, and, ultimately, causing him to asphyxiate. Tr.Vol.V-14:4-12,23:24-25.

2. *The Hyundai Accent.* The subject vehicle is a 2002 Hyundai Accent, a small but sturdily designed sedan. The undisputed evidence showed that the Accent satisfies, and in many cases far exceeds, all pertinent federal safety standards imposed by the National Highway Traffic Safety Administration. Tr.Vol.VI-176:9-11,215:17-25.

Those include Standard 206, which governs door-latch mechanisms and is designed to ensure that doors remain closed in most accidents. *See* 49 C.F.R. § 571.206 (1996). The undisputed testimony was that the Accent's door-latch mechanism was "in full compliance" with the federal standard. Tr.Vol.VI-164:2-11.

The undisputed evidence also established that the Accent satisfies Standard 216, which governs roof strength. That standard requires that when a large steel plate is pressed downward on the roof with a force of 1.5 times the vehicle's unloaded curb weight, the roof must displace by not more than 127 millimeters, or about 5 inches. 49 C.F.R. § 571.216 (2000). According to undisputed trial testimony, the 2002 Accent has a roof strength equal to *3.2 times* its curb weight – far in excess of the 1.5 required by the standard. Tr.Vol.VI-171:19-20.[1] The 2002 Accent's roof was even strong enough to exceed the government's proposed revised standard, which is not yet in effect. *See* 70 Fed. Reg. 49,223, 49,243 (Aug. 23, 2005). Tr.Vol.VII-107:14. Indeed, according to evidence that was unrebutted but excluded for other reasons, under this measure the Accent has a stronger roof design than approximately 95 percent of comparable vehicles. *See* Defendants' Exhibit 314 (excluded, *see* Tr.Vol.VI-131:21-132:5).

3. *The Lawsuit.* After naming a Las Vegas attorney as personal representative of Mr. Baca's estate, the Plaintiffs sued Hyundai in San Miguel County—far from the Plaintiffs' homes, and more than 300 miles from the location of the accident. RP1-11. Plaintiffs alleged that design defects in the Accent

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[1] To comply with federal standards, the Accent's roof had to withstand excessive roof crush under a load of 1.5 times its curb weight (2,284 pounds), or 3,372 pounds. The undisputed evidence showed that in federal testing, the Accent withstood excessive crush under loads up to *7,273 pounds*—more than double the strength required by federal law. *See* Tr.Vol.VI-170-171.

caused an *enhanced* injury, distinct from any injury resulting from the initial crash and rollover. RP3-5,663-65. And their claims focused on what they alleged to be defects in the Accent's design: the door latch, which they alleged was dangerously prone to opening during an accident; and the roof structure, which they claimed offered inadequate protection against roof crush. *Id.*

In pre-trial motions, Hyundai identified two irreparable gaps in Plaintiffs' causation evidence. First, the expert opinion relied upon for the causal link between Mr. Baca's death and the alleged roof defect was legally inadequate: Although the Plaintiffs' medical expert, Dr. Joseph Burton, testified in deposition that *if* "the...vertical roof deformation had been held to two to three inches vertically...then...Mr. Baca would not have died as a consequence of this event," that hypothetical opinion had no basis in the evidence. RP1517 at 138. Hyundai's motion explained that Burton himself was not competent to testify that a reduction of the roof's deformation to "two to three inches" was possible in the subject crash. Instead, his conclusions on that point relied entirely on opinions by Plaintiffs' design defect expert, John Stilson. RP995-97,1419-22. But, as the motions explained, Stilson had given only generalized testimony about roof crush; he had offered no evidence to establish that roof crush could reasonably have been reduced to "two to three inches" in this particular car, or in this particular accident.

RP996-97,1427-31. Second, there was no evidence—indeed, no attempt—to show that the alleged *door* defect caused Mr. Baca's death. RP993-1000,1414-16.

Thus, according to Hyundai, Stilson's opinion failed to provide the required factual foundation for Burton's opinion. And the Plaintiffs therefore lacked evidence sufficient to satisfy the demands of NMSA 1978, § 41-3A-1(D) (1987), which requires that "[w]here a plaintiff sustains damage as the result of fault of more than one person which can be causally apportioned on the basis that distinct harms were caused to the plaintiff,...[e]ach person is severally liable only for the distinct harm which that person *proximately caused.*" (Emphasis added).

The district court denied Hyundai's motion. The court acknowledged that Stilson's testimony merely discussed "what clearly are generalized princip[les]," without any attempt to quantify the forces operating on the car in this accident, or to quantify the likely effect of those forces on a differently designed car. *See* Tr.Vol.I-3:14-25,Tr.Vol.IV-142:18-22. But the court nevertheless concluded that such generalized testimony was sufficient to tie Stilson's opinion to Burton's opinion as to the cause of death. Tr.Vol.I-3:14-25.

4. *The Trial.* At trial, Plaintiffs' experts again purported to establish that a defect in the Accent's roof caused excessive roof crush and loss of "survival space" in the vehicle, resulting in Mr. Baca's death from "positional asphyxia"—a condition in which the position of the head and neck restricts the airway and

deprives the victim of oxygen. Tr.Vol.IV-25-28,87:11-15;Vol.V-13:5-10,23:23-25. Stilson testified that the Accent's roof was defectively designed simply because it failed to limit roof crush in the accident to a maximum of three inches. Tr.Vol.IV-86:11-16,91:8-21,93:7-10. He also discussed three potential alternative design features: additional structural supports in the A and B pillars, structural foam, and an integrated roll cage. Tr.Vol.IV-21-28,87-93. And he testified that certain "drop tests"—on a 1976 Ford Bronco, a 1976 GMC Blazer, and a specially modified 1996 Ford Explorer—that he had conducted years ago in another case showed that roof strength could be increased by an integrated roll cage: He claimed (without data or videos from the testing) that when such vehicles were fitted with integrated cages and dropped on their roofs from 2-3 feet above ground, roof crush did not exceed three inches. Tr.Vol.IV-91-93,142:23-143:10. But Stilson did *not* testify that his other proposed alternatives—structural foam and additional supports—could achieve his three-inch crush standard, either in general, or in the circumstances of this accident.

Furthermore, Stilson admitted that he had not attempted, through measurements, calculations or otherwise, to determine the magnitude of the forces actually applied to the Accent in this rollover. Tr.Vol.IV-142:18-22. Thus, Stilson did not, and could not, say how much roof crush the Accent would have sustained in this accident had any of his proposed design features—including an integrated roll cage—been used. Nor did Stilson say that the Accent would be reasonably safe even if it had been designed with any of these proposed features. To the contrary, Stilson testified that he does not believe *any* car manufactured during or before 2002 has a roof design that is reasonably safe. Tr.Vol.IV-145:17-146:24.

Burton, Plaintiffs' injury causation expert, attempted to build his conclusions on the foundation provided by Stilson. Burton testified that Mr. Baca sustained *non*-fatal injuries during the rollover itself, Tr.Vol.V-23:14-25,26:6-18,28:1-19, but then sustained fatal injuries due to positional asphyxia after the rollover. Tr.Vol.V-49:25-50:4. According to Burton, this resulted from excessive roof crush and attendant loss of survival space on the passenger side of the vehicle. Tr.Vol.V-91:2-7. Based solely on his stated understanding of Stilson's work, Burton concluded that Mr. Baca would have survived this accident had any of Stilson's proposed alternative designs been employed *and* if such a design had limited roof crush to three inches. Tr.Vol.V-87:16-90:13.

Burton admitted, however, that he was not an expert in vehicle design and thus not qualified to compare the performance of the Accent's roof with the performance of any other roof under the same rollover conditions; nor did he attempt to do so. Tr.Vol.V-88:25-90:13. Thus, the only possible factual predicate for Burton's opinion that Mr. Baca would have survived the rollover in a differently-designed vehicle was Stilson's analysis. *Id.* But, as noted, Stilson never supplied the predicate for Burton's conclusion: He never opined on the *amount* of roof crush the Accent actually would have sustained with a different design, much less testified that a different design would have limited roof crush to three inches—as Burton's opinion required.

Stilson also testified at length about alleged defects in the Accent's door system. Tr.Vol.IV-38-80. That testimony was apparently calculated to get the jury to infer that something about the door system caused the door to open during the accident, which in turn either weakened the roof or caused Mr. Baca's head to end up outside, rather than inside, the car, in turn causing his death. But neither Stilson nor any other witness supported such a causal link.

Hyundai, by contrast, presented evidence refuting both Stilson's claim that the Accent's roof design was defective and Burton's claim that excessive roof crush caused Mr. Baca's death. Kenneth Orlowski—an expert in automotive design, testing, regulations, and rollover crash performance—testified that the "design of the roof with respect to overall strength was proper and reasonably safe." Tr.Vol.VI-114:4-5,191:15. Orlowski explained that the Accent's roof was far stronger than the federal safety standard required, and that "compliance with [the federal standard] renders a vehicle reasonably safe for the wide variety of real world accidents." Tr.Vol.VI-215:24-25,171:18-20.

But according to Orlowski, this was an unusually severe accident: The car left the roadway at more than 60 mph and rolled 3.5 times. Tr.Vol.VI- 50:13-25. Indeed, Orlowski estimated that the damage to the Accent resulted from approximately four tons of force. Tr.Vol.VI-171:21-172:3. Orlowski also testified that "the door system was a well designed door system and had, really, nothing to do with the circumstances of this accident." Tr.Vol.VI-114:4-8; *accord id.* at 190:23.

At the close of the evidence, Hyundai moved, as it had done at the summary judgment stage, for directed verdict on the ground that Plaintiffs had not presented evidence sufficient to support a finding of roof-design defect or—most important for purposes of this appeal—that any defect or act of negligence on Hyundai's part proximately caused Mr. Baca's "enhanced injury" of death. Tr.Vol.VII-109-14. Hyundai also asked for a directed verdict on any door-system related claims (RP2941-49) and/or an instruction directing the jury to disregard the alleged door defect. Tr.Vol.V-113:13-114:9. The court denied the motions, however, sending all of the Plaintiffs' claims to the jury. Tr.Vol.VII-114:12-115:1. The court also denied Hyundai's request that the jury be instructed on defective design consistent with the *Restatement (Third) of Torts: Product Liability*, which would have required Plaintiffs to offer evidence of a "reasonable alternative design." Tr.Vol.VII-134:10-17.

In a special verdict, the jury found that the 2002 Accent was defective, that *both* Hyundai and Ms. Montes were negligent, and that both caused injury or damage to the Plaintiffs. RP3013-14.[2] The jury also found that Hyundai's conduct caused an injury distinct from any injury caused by the rollover accident itself. RP3015. Assigning all the resulting damages to Hyundai, the jury then awarded $1.7 million to the estate, $1.2 million to each of the deceased's parents, and another $100,000 to the deceased's brother, all for loss of consortium. RP3018.

Hyundai filed a post-trial motion for judgment as a matter of law under Rule 1-050(B) NMRA and a motion for a new trial or remittitur under Rule 1-059 NMRA. RP3040-71. After denying both motions, the district court entered a final judgment, including nearly $800,000 in prejudgment interest, of just under $5 million. RP3396,3401-02.

ARGUMENT

In large measure, this appeal is about a simple yet fundamental failure of proof. To prevail on their claim for enhanced injury, Plaintiffs were required by the terms of Section 41-3A-1(D) to prove not only the existence of a defect (or act of negligence), but also that the decedent suffered an enhanced injury distinct from

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[2] The jury also found a breach of the implied warranty of merchantability, but that finding played no express role in the ultimate findings on causation or damages. *See* RP3013.

any injuries caused by the underlying accident, *and* that the defect or negligence "proximately caused" that distinct injury. This, as explained in Section I, the Plaintiffs failed to do. In any event, as explained in Section II, the testimony of Plaintiffs' experts should have been excluded as unhelpful and unreliable. And finally, as explained in Section III, the district court erred in failing to instruct the jury that Plaintiffs were required to prove the feasibility of a reasonable alternative design. All of these flawed trial rulings permitted Plaintiffs to take their case to a jury when they had not met and could not meet their burden of proof.

I. Plaintiffs failed to prove the requisite causal links between the alleged defects and the alleged injuries.

The legal standard governing the first issue is clear: On appeal, this Court determines whether, when the evidence is viewed "in the light most favorable to the prevailing party," the verdict is supported by "such relevant evidence that a reasonable mind would find adequate to support a conclusion." *Weststar Mortgage Corp. v. Jackson*, 2003-NMSC-002, ¶ 8, 133 N.M. 114 (internal quotations and authority omitted).

Application of that standard requires that Hyundai be granted a judgment in its favor or, at a minimum, a new trial. Plaintiffs' enhanced-injury claim rested upon Section 41-3A-1(D), which provides that "[w]here a plaintiff sustains damage as the result of fault of more than one person which can be causally apportioned on the basis that distinct harms were caused to the plaintiffs,...[e]ach person is severally liable only for the distinct harm which that person *proximately caused.*" (Emphasis added). Thus, to prevail on their enhanced-injury claim, Plaintiffs were required to show that a design defect or act of negligence "*resulted in* injuries separate from and in addition to the injuries which otherwise would have been caused by the initial tort," i.e., separate from the injuries caused by the rollover itself. *Lewis v. Samson*, 2001-NMSC-035, ¶ 34, 131 N.M. 317 (emphasis added).

The essence of the inquiry is causation: "the plaintiff must...prove that the [defendant's] negligence proximately caused an enhancement of the initial harm." *Id.* ¶ 35; *see also Tenney v. Seven-Up Co.*, 92 N.M. 158, 159, 584 P.2d 205, 206 (Ct. App. 1978). Although causation is typically "a question for the jury," it cannot be permitted to *reach* the jury unless it is "supported by some degree of evidence." *Mazda Motor Corp. v. Lindahl*, 706 A.2d 526, 533 (Del. 1998). And where causation requires "understanding and analysis of issues beyond the ken of the typical jury...the absence of expert testimony will prevent the issue from ever reaching the jury." *Id.*[3]

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[3] In *Lindahl*, the Supreme Court of Delaware applied the analysis of the Third Circuit in *Huddell v. Levin,* 537 F.2d 726, 737-38 (3d Cir. 1976)—which has been adopted by this Court in *Duran v. General Motors Corp.*, 101 N.M. 742, 749-50, 688 P.2d 779, 786-87 (Ct. App. 1983), *overruled on other grounds by Brooks v. Beech Aircraft Corp.*, 120 N.M. 372, 902 P.2d 54 (1995), and approved by the Supreme Court in *Lewis v. Samson*, 2001-NMSC-035. *Lindahl* is thus highly persuasive authority.

Here, the issue of injury causation should never have reached the jury. Although Plaintiffs' experts alleged two distinct design defects—pertinent to the roof and the door—and although they alleged an "enhancement of the initial harm" (in the form of Mr. Baca's death), they offered no evidence sufficient to prove that either defect proximately caused the enhanced injury.

A. Plaintiffs offered no evidence sufficient to prove that the allegedly defective roof design caused an enhanced injury.

First, Plaintiffs failed to establish the requisite causal link between their alleged roof-crush defect and Mr. Baca's death. At trial, Plaintiffs offered only one theory of enhanced injury causation: Burton's claim that *if* the amount of roof crush resulting from the accident had been reduced to "about three inches," then there was "no reason for [Mr. Baca] to die from mechanical asphyxia." Tr.Vol.V-88:15-24. But Burton's opinion on injury causation rested on one critical factual predicate—that but for the alleged defect in the roof design, the amount of roof crush in this accident would have been three inches or less. And, as demonstrated below, Stilson completely failed to prove that predicate: He offered no evidence that but for the alleged defect, the Accent's roof crush, in *this* accident, would have been reduced to three inches or less. And because Stilson's testimony on roof-crush causation was the only foundation for Burton's entire opinion on injury causation, Burton's testimony was insufficient as a matter of law to prove enhanced injury causation–as Hyundai pointed out in moving for directed verdict, thereby preserving this issue for review. *See* Tr.Vol.V-113:13-114:9; RP2941-49 (renewed motion for directed verdict). Hyundai was therefore entitled to a directed verdict or judgment as a matter of law. *See, e.g., McNeill v. Burlington Resource Oil & Gas Co.*, 2007-NMCA-024, ¶ 13, 141 N.M. 212, *aff'd* 2008-NMSC-022, 143 N.M. 740 (stating that directed verdict appropriate when no issue of fact for jury to decide); *Owen v. Burn Constr. Co.*, 90 N.M. 297, 301-02, 563 P.2d 91, 95-96 (1977) (when reasonable minds cannot differ, court must direct a verdict or grant a motion for judgment as a matter of law).[4]

1. Expert Stilson failed to opine that any alternative design could have reduced roof crush to three inches in this accident.

As noted, Stilson was the only Plaintiff's witness qualified to provide the causal link between the alleged roof-design defect and the roof crush that Burton claimed caused Mr. Baca's death. To make that link, Stilson had to testify to one

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[4] *See also Sunwest Bank of Clovis, N.A. v. Garrett*, 113 N.M. 112, 114-16, 823 P.2d 912, 914-16 (1992) (affirming directed verdict for plaintiffs where defendant "presented no evidence refuting the existence of the underlying corporate debt and, thus,...created [no] issue of fact" for the jury); *Hoggard v. City of Carlsbad*, 1996-NMCA-003, ¶¶ 1, 10, 19, 121 N.M. 166 (holding that district court erred in refusing to grant directed verdict for defendant where "[p]laintiff did not make a threshold showing that reasonable minds could differ in their understanding" of the terms of the subject lease and where there was no evidence of repudiation of the defendant's contractual obligations); *Tapia v. McKenzie*, 85 N.M. 567, 570, 514 P.2d 618, 621 (Ct. App. 1973) (holding that district court erred in denying defendant's motion for directed verdict and motion for judgment notwithstanding the verdict where there was insufficient evidence of negligence).

critical fact: that but for a defective design, the Accent's roof would have crushed to a maximum of three inches. But he never did.

It is undisputed that Stilson provided no *direct* testimony informing the jury that any particular design alternative would have reduced roof crush to three inches in *this* car, in *this* accident. The transcript speaks for itself, and Plaintiffs have never argued otherwise.[5] The issue is thus whether Stilson's highly general testimony about the performance of other cars under other conditions provided sufficient *indirect* evidence to permit the jury to infer the causation on which Plaintiffs' entire case depends. It did not.

We note, first, that in "highly technical areas" like automotive engineering, "expert proof is essential." *Duran v. General Motors Corp.*, 101 N.M. 742, 753, 688 P.2d 779, 790 (Ct. App. 1983), *overruled on other grounds by Brooks v. Beech Aircraft Corp.*, 120 N.M. 372, 902 P.2d 54 (1995); *accord Curtis v. General Motors Corp.*, 649 F.2d 808, 813 (10th Cir. 1981); *Lindahl*, 706 A.2d at 533. This is particularly true where an expert has appeared but failed to opine on a relevant

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[5] *See* Plaintiffs' Response to Defendants' Motion for Judgment as a Matter of Law at 5 (RP3108-3116) (claiming that "[t]he Bacas presented evidence of...the injuries that would have been suffered if the alternative designs had been used to prevent roof crush beyond three inches," but not identifying any evidence supporting the conclusion that any alternative design could have achieved that result in this accident); Transcript of Hearing on Post-Judgment Motions (Tr.Vol.IX-15-16) (noting but not disputing Hyundai's argument that "Mr. Stilson never specifically provided testimony that the Hyundai Accent itself...would have deformed only three inches," except to assert that such specific evidence is not required).

issue, because "[t]o hold otherwise...would allow the jury to decide the very question which [the] expert could not answer." *Duran*, 120 N.M. at 753, 688 P.2d at 790.

This Court, moreover, has made clear that absent direct evidence, the jury's ability to infer causation is strictly limited: It has often warned that a jury may not "stack inferences upon inferences" to supply missing evidence of causation. *Id.*; *see also Hansler v. Bass*, 106 N.M. 382, 386, 743 P.2d 1031, 1035 (Ct. App. 1987); *Adamson v. Highland Corp.*, 80 N.M. 4, 9, 450 P.2d 442, 447 (Ct. App. 1969).

But in this case, that is exactly what the jury was permitted to do.

The truth of that conclusion is established by a review of Stilson's trial testimony. He dedicated only a few moments to a highly general discussion of alternative roof designs and causation issues. Tr.Vol.IV-88:7-19. And he offered no specific assessment of how an allegedly non-defective Accent would have performed in the rollover at issue here.

Indeed, he could not possibly do that because he had performed none of the work necessary to make such an assessment. As Plaintiffs themselves admitted, Stilson did no analysis of any design alternatives "specifically for this case." Tr.Vol.IV-90:1-3. And Stilson admitted he had conducted no analysis of the forces imparted to the Accent's roof in the rollover accident—the sort of analysis that easily *could* have been done and in fact was done by Hyundai's expert. Tr.Vol.IV-142:18-22;Tr.Vol.VI-171:21-172:3. Without an analysis of those forces, Stilson could not offer a meaningful assessment of how the Accent would have performed if his design alternatives were in place.

Instead, Stilson testified (very briefly) about three generic alternative roof designs that he claimed could have improved the Accent's crush resistance: the use of structural foam in the roof pillars; structural reinforcement of the roof pillars; and the use of an "integrated roll cage." Tr.Vol.IV-88:7-19.

As to structural foam, Stilson never testified that its use could reduce the roof crush to three inches, in *any* kind of vehicle. Although he did testify that its use in the Accent's pillars would have increased its crush resistance by "10 to 20 percent," he did not say whether that increase would have been sufficient to reduce the vertical roof crush in the Accent to three inches. Tr.Vol.IV-22:23-23:2,25:5-8. And a simple math shows it would not: According to Stilson, the Accent's roof crushed 10.8 inches. Tr. Vol.IV-31:17-24. Thus, even if structural foam had reduced roof crush by the maximum of twenty percent, the roof would still have crushed more than *eight* inches—far in excess of the three-inch maximum that Burton claimed was necessary to save Mr. Baca's life.

Thus, of Stilson's three proposed alternative designs, only two–the structural reinforcements (other than foam) and the integrated roll cage—were even claimed to reduce roof crush to three inches, in any vehicle, in any set of circumstances. Tr. Vol.IV-91:8-93:10.

Stilson, however, did not testify that either of those designs would reduce roof crush to three inches *in an Accent*, much less in a rollover like this one. Rather, he identified three *other* vehicles in which he claimed those designs had achieved his three-inch crush standard: a 1976 Ford Bronco; a 1976 Chevy Blazer; and a modified 1996 Ford Explorer. Tr. Vol. IV-91:8-92:14,122:23-123:10,93:1-4. And he did not testify that any of *those* vehicles could achieve the three-inch standard in a real-world rollover accident like the one here. To the contrary, his testimony dealt only with static "drop tests" from two or three feet off the ground—conditions that Stilson did *not* testify were analogous to the rollover accident here where the roof hit the ground three times with four tons of force. *Id.*

Thus, for the jury to conclude that any of Stilson's proposed alternative designs would have reduced roof crush to three inches in *this* accident, it first had to conclude that (1) those alternative designs were feasible in a 2002 Accent; (2) if used in a modified 2002 Accent, those designs would achieve crush resistance similar to that achieved in the much larger, truck-like Bronco, Blazer, and Explorer; and (3) the crush forces imparted by two- and three-foot static drop-tests are similar to the forces imparted in a real-world, high-speed rollover accident.

But Stilson gave the jury no basis on which to draw any of those conclusions. He did not testify, for example, that an Accent could be fitted with an integrated roll cage without compromising some critical aspect of the car's design. Nor did he testify that an Accent modified with any of his alternative designs could achieve the crush resistance achieved by the Bronco, Blazer, and modified Explorer.

Nor, finally, did he testify that artificial, static drop tests were comparable to real-world rollover accidents. In fact, Stilson's own testimony strongly suggested that they were not: In describing the origins of his three-inch crush standard, he explained that "[o]ne of the objectives" of the Government's *original* roof strength test program was "to evaluate the rollover crush resistance of a vehicle that initially was to be tested at a 50-mile-per-hour rollover condition," but that the objective "was amended to allow the automotive industry to conduct...drop tests" instead. Tr. Vol.IV-91:16-92:1. That testimony is doubly revealing: it shows both that the drop test is not analogous to a real-world rollover and that the original integrated roll cage was designed to reduce crush to three inches in a drop test—*not* in a real-world rollover like the one at issue here.

In short, Stilson offered almost no testimony to connect his alternative-design analysis to the Hyundai Accent, and *no* testimony at all to connect that analysis to *this* rollover accident. His general testimony, unconnected to the facts of this case, was insufficient to establish the roof crush that "otherwise would have been caused" absent the defect. *See Lewis*, 2001-NMSC-035, ¶ 34. In the absence of expert testimony on this issue, the jury was left to infer, from old testing having nothing to do with this case, everything about causation that Plaintiffs were required to prove.

Especially on a highly technical topic like automotive engineering, the law does not permit the jury to make those inferences. *See, e.g., Duran*, 101 N.M. at 753, 688 P.2d at 790; *accord Curtis,* 649 F.2d at 813; *Lindahl*, 706 A.2d at 533. And because Stilson's causation testimony required the jury to make impermissible and unsupported inferences, it was insufficient as a matter of law to provide the crucial factual predicate—i.e., the maximum of three inches of crush—for Burton's opinion that Hyundai's design caused an enhanced injury. *See Lewis*, 2001-NMSC-035, ¶ 34.

2. Because Burton's opinion on injury causation relied entirely on Stilson's deficient testimony about roof-crush causation, Burton's opinion was unsupported by the evidence and therefore cannot support the verdict.

Stilson's failure to demonstrate a causal link between the alleged defect and the amount of roof crush would be inconsequential if Plaintiffs had offered other evidence sufficient to demonstrate such a link. But they did not. Burton's opinion on injury causation relied *entirely* upon opinions about alternative designs purportedly given by Stilson in his deposition. And because Stilson never gave the opinions on which Burton's testimony depended, Burton's testimony was legally incompetent to prove that Hyundai's allegedly defective roof design caused an enhanced injury.

To see why, it is necessary merely to recall the heart of Burton's trial testimony, i.e., that if "the roof crush [had] preserved [Mr. Baca's] survival space…he would not have died from positional asphyxia." Tr.Vol.V-91:5-7. To support that opinion, Burton purported to rely entirely on Stilson: Asked what work he had done to evaluate how a non-defective roof design "would have affected the outcome of this particular collision," Burton replied:

> A: Well, according to my understanding, Mr. Stilson said that with his design changes, he could reduce the roof deformation, the vertical occupant space lost to about three inches. Three inches vertically and laterally. If he did that…there's no reason for [Mr. Baca] to die from mechanical asphyxia."

Tr.Vol.V-88:15-24. Burton then clarified that he "wasn't privy to [Stilson's] testimony" at trial, and that his opinion about the effect of alternative designs was based upon his understanding "that Mr. Stilson said those things, at least in his deposition." Tr.Vol.V-89:4-8.

But Stilson did *not* say those things, at trial *or* in his deposition. As noted, nowhere in Stilson's trial testimony did he state that any particular alternative design would have reduced the roof crush in a Hyundai Accent, in this multiple-rollover accident, to "about three inches." At most, Stilson testified that one alternative design (an integrated roll cage) had been observed to reduce roof crush in *other* kinds of vehicles, and in *other* situations (static drop-tests) that Stilson never attempted to connect to this accident.

The same is true of Stilson's deposition testimony, which (by the way) was never even admitted into evidence. At no point in his deposition did Stilson state, as Burton claimed, that "with his design change, he could reduce the roof deformation, the vertical occupant space lost to about three inches." Tr.Vol.V-88:18-21. Instead, Stilson's deposition testimony was only that the *goal* of roof design should be the reduction of roof crush to about three inches: "I'm pushing for an overall requirement of a three-foot drop test and ... a maximum of three inches of residual crush. *That's my safety objective*." Stilson Dep. 130:23-131:2 (RP2385) (emphasis added). But Stilson offered no testimony suggesting what design alternatives could be used to achieve that goal in the Accent or any car like it. In fact, he admitted that he had not tested any design modifications on an Accent or a similar car. *Id.* at 159:13-160:3 (RP2389).

More damningly, Stilson admitted he did not know how the Accent could be modified to meet his self-defined roof crush standard: Asked to be "specific about the particular [design] changes that would be required" to make the Accent meet his standard, he replied "I don't know specifically how to do that." *Id.* at 158:17-159:1 (RP2389).

Burton's reliance on Stilson's deposition testimony was thus wholly improper because it was based not only on testimony that was not before the jury, but on testimony that the deponent had never given. In other words, Burton had *no* valid basis for his opinion that an alternative roof design would have prevented the roof crush that caused Mr. Baca's death.

This failure of proof forecloses Plaintiffs' claims for enhanced injuries. They simply failed to give the jury any evidentiary basis for an inference that the roof design caused any injuries "over and above" those which would have occurred if the roof had been designed differently. *Couch v. Astec Indus., Inc.*, 2002-NMCA-084, ¶ 35, 132 N.M. 631. And absent evidence that Hyundai caused any distinct injury, Plaintiffs, as a matter of law, could not prevail on the "narrow theory" of successive tortfeasor liability. *See Payne v. Hall*, 2006-NMSC-029, ¶ 14, 139 N.M. 659 (holding that if the plaintiffs cannot show "*separate and causally-distinct injuries*," then "joint and several liability does not obtain") (internal quotations and authority omitted). Accordingly, Hyundai should have been granted a directed verdict or judgment as a matter of law.

B. Plaintiffs also failed to link the alleged door-latch defect with any injury.

At trial, Plaintiffs also alleged another design defect—in the door-latch mechanism. Plaintiffs have been inconsistent about whether the two alleged defects represented two separate grounds for liability, or merely related elements of a single theory. But it does not matter: Because Plaintiffs failed to connect the alleged door defect to Mr. Baca's injuries, that alleged defect likewise cannot support liability. And the district court's failure to exclude the door-latch defect from the jury's consideration was highly prejudicial to Hyundai. Hyundai preserved this issue for review by seeking an instruction informing the jury to disregard the alleged door defect (Tr.Vol.V-113:13-114:9) and through its renewed motion for directed verdict. RP2941-49.

1. Plaintiffs offered no evidence that the alleged door defect *directly* caused any injury.

Although Plaintiffs claimed at trial that the alleged door defect somehow contributed to Mr. Baca's death, that claim was completely unsupported by evidence. As noted, Plaintiffs offered only one witness to testify on injury causation: former medical examiner Burton. And that witness offered only one theory of causation: that if "the *roof crush* [had] preserved [Mr. Baca's] survival space…he would not have died from positional asphyxia." Tr.Vol.V-91:5-7 (emphasis added).

But Burton never mentioned any injury resulting from the allegedly defective door; in fact, his causation analysis never even purported to analyze the effect of any door-related defect. *See* Tr.Vol.V-7-94. Although at one point Plaintiffs' counsel apparently intended to "ask the Doctor about the door opening, the consequence that has to the position of Mr. Baca and the cause of his death," they never did so. Tr.Vol.V-39:24-40:1. And for good reason: Although in deposition Burton provided a conclusory opinion that the door opening was a proximate cause of Mr. Baca's death, he withdrew that opinion before trial. *See* RP2067 (Plaintiffs' Response to Hyundai's Motion for Summary Judgment at 15).

In fact, Burton's only testimony relating to "the door opening" and its consequences for "the position of Mr. Baca" confirmed that the door opening had nothing to do with his death. *See* Tr.Vol.V-39:24-40:1. First, asked by counsel to explain how Mr. Baca's head came to rest outside the vehicle, Burton testified that Mr. Baca's head would have ended up outside the vehicle *even if the door remained closed*: "Because the window glass is gone, even if the door doesn't open, your head will want to go and your shoulder will want to go with the window opening." Tr.Vol.V-41:8-17 (emphasis added). Second, in any event, Burton testified (and provided a computer simulation to prove) that even if Mr. Baca's head had remained inside the vehicle, his fatal injury would have been exactly the same: "when you move him inside, there's no difference [between Mr. Baca's head] being inside on the roof rail and being outside on the CD changer. In fact, there's a little less room inside on the roof rail." Tr.Vol.V-38:7-10.

The *only* injuries Burton connected to the presence of Mr. Baca's head outside the vehicle were soft-tissue injuries—injuries that Burton testified did *not* play a role in Mr. Baca's death and thus, under Plaintiffs' own theory, were the responsibility of Ms. Montes, the driver, not Hyundai. Tr.Vol.V-19-20. There was thus no evidence of a direct connection between the passenger-side door and Mr. Baca's fatal injury.

2. Plaintiffs offered no evidence that the alleged door defect *indirectly* caused injury by contributing to roof crush.

Nor was there any evidence establishing an indirect causal connection. As noted, Burton was the Plaintiffs' only causation expert, and his *only* theory of injury causation was based on vertical roof crush. Yet Plaintiffs' design expert, Stilson, never testified that the alleged defect in the door contributed in any way to the crushing of the roof. *See* Tr.Vol.IV-38-80.

To be sure, in opposing Hyundai's motions, Plaintiffs' counsel *claimed* that "Stilson testified that it was the failure of the door that caused the A Pil[l]ar to weaken and thereby contributed to the roof crush." Tr.Vol.IX-17:13-15. But Stilson said precisely the reverse: that damage to the A-pillar caused the door to crush and then to pop open, not the other way around. Tr.Vol.IV-57:19-58:6. He further testified that the A-pillar crushing into the door had *no effect* on the strength of the roof: Asked what caused the door to open, Stilson testified:

> A. The A-pillar crush in the rollover when that front fender impacted, crushed in and crushed back...[the door] was crushed through and opened here. That's because the A-pillar crushed this door rearward.
>
> Q. Did that have an effect on the roof strength?

A. That didn't, no.

Tr.Vol.IV-57:22-58:6.

Moreover, when asked about alternative designs that would improve roof strength, Stilson listed only structural foam, structural reinforcements, and integrated roll cages—none of which relate to the door. Tr.Vol.IV-21-28,87-93. Indeed, Stilson's testimony about alternative *door* designs related only to designs that (he claimed) were less likely to open in a rollover—and, as shown, he never attempted to show that an open door contributed to roof crush in this accident. Vol.IV-79:17-80:9.

In short, there is no evidence linking the alleged door defect to any injury. Thus, whether Plaintiffs intended the alleged door defect to constitute an independent theory of liability or merely a complement to their primary roof-defect theory, it should never have gone to the jury, as it was totally unsupported by the evidence and highly prejudicial to Hyundai. *See supra* page 16 and authorities cited therein.

C. As a matter of law, plaintiffs failed to establish the requisite degree of enhancement.

Even if the evidence at trial were sufficient to prove that excessive roof crush caused an enhanced injury to Mr. Baca, Plaintiffs' crashworthiness claim would fail as a matter of law because, as Hyundai showed in its motions for directed verdict (thereby preserving this issue), Plaintiffs offered no evidence to prove the required "degree of enhancement." *Huddell v. Levin,* 537 F.2d 726, 738 (3d Cir. 1976); see Tr.Vol.V-115:20-116:12 (oral motion at close of plaintiff's case); RP2941-49 (renewed motion at close of evidence).

To establish the degree of enhancement and prove a claim of enhanced injury, Plaintiffs were required to "establish what injuries *would* have resulted from a non-defective [design]" in the rollover accident. *Huddell,* 537 F.2d at 738 (emphasis added), *quoted and approved in Lewis*, 2001-NMSC-035, ¶ 40. It is not sufficient to show merely that a different design would have increased the safety of the product in general. Instead, a plaintiff is required to prove the *extent* of the "injuries, if any, [that] would have resulted had an alternative, safer design been used." *Couch*, 2002-NMCA-084, ¶ 35. That is, even if a plaintiff proves that an alternative design would have avoided the enhanced injury, he is not entitled to assume that the alternative design would have resulted in *no* injury. *See Huddell,* 537 F.2d at 737-38; *see also Lindahl*, 706 A.2d at 534 and n.35.

Here, even if Plaintiffs had proved that a defective design caused Mr. Baca's enhanced injury (his death), they could not have established the "degree of enhancement" without proof that a non-defective design would have resulted in a lesser injury or no injury in the unique circumstances of this rollover accident. That is clear from *Huddell,* in which the plaintiffs argued that the decedent would have survived a car accident if the car had been built with a different head restraint.

537 F.2d at 738. The Third Circuit ruled that the plaintiffs had failed to satisfy the degree-of-enhancement requirement because, although their medical expert "testified that there was no evidence of significant injury to vital organs from the accident as it happened," that testimony "ignored the possibility that injury to those organs might have been more severe" if the alternative design had been used. *Id.*; *see also Lindahl*, 706 A.2d at 534 and n.35

This case and *Huddell* and *Lindahl* are strikingly similar. Plaintiffs, like Huddell and Lindahl, claim that an automobile design defect resulted in the decedent's death. Plaintiffs, like Huddell and Lindahl, purport to have identified (at a high level of generality) alternative designs that they claim could have enabled the decedent to survive. But Plaintiffs, like Huddell and Lindahl, also failed to provide any evidence of what injuries, if any, would have resulted from the use of those designs. Instead, they simply assumed that because (they claim) the alternative designs would have reduced the Accent's roof crush to survivable levels, Mr. Baca would have survived without additional injuries.

But the law does not permit that assumption, and for good reason: If an alternative design had been used to reduce roof crush, the tremendous force that smashed the Accent's roof in Mr. Baca's accident would still have been exerted against the car. And how that redirected force would have affected the redesigned car and its passengers is anybody's guess: As the *Huddell* court put it, the

Plaintiffs have "not established whether the hypothetical victim of the survivable crash would have sustained no injuries, temporary injuries, permanent but insignificant injuries [or] extensive and permanent injuries." 537 F.2d at 738.

Testimony regarding the injuries Mr. Baca would have sustained if an alternative design had been used is especially important here in light of the testimony by Hyundai's medical expert, Dr. Raddin, that Mr. Baca's death resulted from his being suspended upside down while he was unconscious. *See* Tr.Vol.VII-65-75. That evidence establishes that Mr. Baca would have died in *any* redesigned vehicle that still landed on its roof in this rollover accident. But Plaintiffs simply failed to rebut that evidence.

But even if Plaintiffs here had *attempted* to quantify possible injuries resulting from the use of an alternative design in this crash, their evidence could not have supported any conclusions on that score. That is because their only design expert, Stilson, made no attempt to analyze how the proposed alternative designs would have performed in a 2002 Hyundai Accent in a crash like this one; and, he made no attempt to relate his alternative design concepts to *this* vehicle or to *this* accident. Without such an analysis, any attempt to identify the injuries that would have been suffered in a non-defective car would be wholly speculative.

For that reason, even if Stilson's generic and conclusory testimony were somehow sufficient to prove that the alleged defect caused Mr. Baca's enhanced injury, it was necessarily insufficient to satisfy Plaintiffs' burden to prove the degree of enhancement. And for that reason as well, Hyundai is entitled to judgment as a matter of law.

* * * * *

To allow a judgment to stand in these circumstances is to hold, essentially, that anyone providing a product or service is an insurer of anyone who uses that product or service. But that is contrary to a long line of decisions from an array of jurisdictions, including New Mexico, holding that, absent clear direction from the legislature, product liability law should not be read to create an insurance system. *See Tenney*, 92 N.M. at 160, 584 P.2d at 207 (Doctrine of strict liability "does not make the manufacturer an absolute insurer."); *accord, e.g.*, *Anderson v. Owens-Corning Fiberglas Corp.*, 810 P.2d 549, 552 (Cal. 1991) ("'[U]nder strict liability the manufacturer does not thereby become the insurer of the safety of the product's user.'") (quoting *Daly v. General Motors Corp.*, 575 P.2d 1162, 1166 (Cal. 1978)); *Artis v. Fibre Metal Prod.*, 450 N.E.2d 756, 759 (Ill. App. Ct. 1983) ("'Strict products liability...does not make a manufacturer...an insurer of the consumer's safety.'") (quoting *Mullen v. General Motors Corp.*, 336 N.E.2d 338, 344 (Ill. App. Ct. 1975)); *Micallef v. Miehle Co.*, 348 N.E.2d 571, 578 (N.Y. 1976) (noting that a manufacturer is not "compel[led]...to clothe himself in the garb of an insurer in his dealings nor to supply merchandise which is accident proof") (internal citations omitted)); *see also* Brief of Association of Commerce and Industry as *amicus curiae* at 14-15 and authorities cited therein.

II. Stilson's and Burton's opinions should have been excluded under *Daubert* and *Alberico*.

Stilson's failure to provide the critical predicate for Burton's injury causation opinion necessarily means that opinion should also have been excluded. But at a minimum, Stilson's testimony should have been excluded. Leaving aside the total failure of his causation testimony, the premise of his opinion was absurd on its face: He argued, in essence, that an automobile roof is defective if it crushes more than three inches in *any* circumstances. Thus, according to Stilson, whether a car endures a violent rollover, a fall from a cliff, or merely a static, two-foot drop test, its roof must deflect no more than three inches to meet what Stilson called "my standard." Tr. Vol.IV-146:20-24.

Stilson's "standard," moreover, is flatly inconsistent with the only generally accepted standard—the government's crush testing—which demonstrates that the Accent's roof is stronger than 95% of the roofs on the market.[6] Tr.Vol.VI-129:12-

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[6] Hyundai's Exhibit 314 is a chart compiled by the Society of Automotive Engineers comparing the performances of different vehicles under Federal Motor Vehicle Safety Standard 216. The district court excluded the exhibit on either relevance or prejudice grounds, apparently concerned that the comparisons with other vehicles would open a Pandora's box of evidence about those vehicles. Its decision can only be described as puzzling: Stilson's entire presentation on causation was based upon other vehicles, and Hyundai offered Exhibit 314 in part to rebut Stilson's testimony. Tr. VI-130:19-24. If this case is remanded to the

18. And although the jury was not permitted to see that evidence, Tr.Vol.VI-131:21-132:5, it would not have affected Stilson's view: Amazingly, he admitted that in his opinion *no* passenger vehicle on the road in 2002 was reasonably safe. Tr.Vol.IV-146:10-24. It is therefore hardly a surprise that Stilson concluded that the Accent's roof was defective: In his world, *every* roof is defective.[7]

That is one reason Hyundai moved before trial to exclude Stilson's testimony on the ground that his opinions were unreliable and unhelpful to the jury. RP1412-1590; *see* Rule 11-702 NMRA; *see also Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993); *State v. Alberico*, 116 N.M. 156, 861 P.2d 192 (N.M. 1993). And Hyundai preserved this issue through its motion for directed

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district court, Hyundai requests a ruling ordering that the exhibit be admitted in any subsequent proceeding.

[7] Here is one such colloquy:

> Q. There is not a single [vehicle] that you believe to be safe and non-defective, is there, Stilson?
>
> A. Of the vehicles I have surveyed and the vehicles I have looked at and investigated from that time frame, there aren't any. …
>
> Q. Every roof you've ever evaluated since you left Ford Motor Company and started doing this litigation analysis, every roof has been defective. It doesn't meet your standards, correct?
>
> A. The ones I've investigated for that purpose, no. It does not meet my standard.

Tr.Vol.IV-146:10-24.

verdict at the close of all the evidence (RP2941-49), and again in its motion for new trial (RP3040-53). *See Gonzales v. New Mexico Dept. of Health*, 2000-NMSC-029, ¶ 18, 129 N.M. 586. But the district court denied Hyundai's motion, concluding that Hyundai's concerns about Stilson's opinions went primarily to the weight of his testimony, not its admissibility. Tr.Vol.X-29:20-23. That holding constituted an abuse of discretion—the applicable standard of review, *see Alberico*, 116 N.M. at 170, 861 P.2d at 206-07—and represents a failure to perform the function required of trial courts by *Daubert/Alberico*.

The purpose of *Daubert/Alberico* scrutiny of expert testimony is to ensure "that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 152 (1999). To satisfy that standard, Plaintiffs were required to establish not only that Stilson was qualified as an expert, but also that his testimony would: (1) assist the jury and, (2) be based only on reliable scientific or technical analysis. *See Alberico*, 116 N.M. 156, 861 P.2d 192. As shown below, Plaintiffs failed to satisfy either requirement.

A. Stilson's opinions did not satisfy the "helpfulness" requirement because they were unconnected to the facts of this case.

First, Stilson's testimony was not helpful to the jury because it did not bear "'a valid scientific connection to the pertinent inquiry,'" *State v. Anderson*, 118

N.M. 284, 291, 881 P.2d 29, 36 (1994) (quoting *Daubert*, 509 U.S. at 591)—namely, the issues of defect and injury causation. As previously explained, Mr. Stilson's opinions on defect and causation were not anchored in the specific facts of this rollover accident. Instead, they reflected, first, Stilson's entrenched view that *all* roofs are defective, and second, his analysis of data relating solely to other vehicles in static drop tests. Indeed, his prefabricated opinions were completely generic: For Stilson, any roof that crushes more than three inches is defective, regardless of the circumstances.

But, again, the "pertinent inquiry" in this case is not whether the Accent possesses a defect that *could* cause excessive roof crush in some hypothetical accident. It is whether a particular design defect *did* cause excessive roof crush in *this* particular accident. At best, Stilson's generic testimony provided only a highly attenuated (and legally insufficient) link between a defect and an injury. At worst, its focus on other vehicles in differing circumstances was affirmatively misleading.

To be clear, Hyundai does not contend that such general testimony is inevitably unhelpful. It could provide useful background for an opinion that provides an appropriate causal link between a particular asserted defect and a particular injury in a particular accident – *if* the expert takes the additional step of using a reliable methodology to connect such general testimony to the facts. But without that critical link, Stilson's opinions were not helpful to the jury under the standards imposed by *Daubert/Alberico.*

In short, because Stilson's opinions on defect and causation were unconnected to the facts of this case, they did not bear a valid connection to the pertinent inquiry, and should have been excluded. *See id.*, 881 P.2d at 36.

B. Stilson's opinions were unreliable because they were not based upon an analysis of the forces acting on the vehicle in this accident.

For similar reasons, Stilson's opinions did not remotely satisfy the reliability requirement. A true expert in the field of automotive engineering would never render an opinion about the likely performance of a particular alternative design under specific, measurable conditions without analyzing the likely performance of that other design *under the same or similar conditions*. *See Kumho Tire*, 526 U.S. at 155-56 (holding tire failure expert's testimony unreliable where "he had not looked at many tires similar to the one at issue"). Yet that is exactly what Stilson did. As noted, he never even attempted to estimate the forces acting on the Accent in this accident. Accordingly, to the extent one can infer from his testimony an opinion about the effect of an alternative design, that opinion was based entirely on the performance of *other* vehicles, not in a rollover maneuver similar to the one at issue here, but in static "drop tests" in which those other vehicles were simply dropped by two or three feet onto the ground. Tr.Vol.IV-91-93.

Without competent and admissible evidence comparing the relationship between the forces acting on the roofs of those vehicles and the forces acting on the roof of the vehicle in *this* high-speed rollover, the results of those "drop tests" are utterly unreliable—indeed, meaningless—as a basis for predicting how an alternative design would have affected the amount of roof crush in the accident at issue here. *See, e.g., Kumho Tire*, 526 U.S. at 154-58 (holding tire failure expert's testimony unreliable where his methodology was "insufficiently precise to tell 'with any certainty' from the tread wear" *how far* the tire at issue had traveled); *accord Kirk v. Union Pac. R.R.*, 514 N.W.2d 734, 739-40 (Iowa Ct. App. 1994) (rejecting accident reconstruction expert's testimony where "the aggregate effect of numerous failures to account for potential variable differences between the actual accident and the simulation of the accident, coupled with the inability to verify the impact speed of the cars and the engagement of the brakes," rendered the testimony nothing "more than mere speculation or conjecture"); *Bradley v. Triangle Amoco, Inc.*, 859 S.W.2d 333, 336-37 (Tenn. Ct. App. 1993) (rejecting expert's "bald assertion" that all Ford C-6 transmissions manufactured before 1980 were defective, where expert "did not attempt to show there was a manufacturing defect in the [particular] transmission of the vehicle that backed over plaintiff"). Other courts have excluded Stilson's opinions in similar cases for this very reason. *See*, *e.g.*, *General Motors Corp. v. Iracheta*, 161 S.W.3d 462 (Tex. 2005);

Ducharme v. Hyundai Motor America, 698 N.E.2d 412 (Mass. App. Ct. 1998). And this Court should do the same.

In sum, because Stilson's conclusions were neither helpful nor reliable, they represent precisely the sort of *ipse dixit* conclusions that the Rules of Evidence are designed to exclude. *See Kumho Tire*, 526 U.S. at 157; *General Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997). His testimony, especially when combined with Burton's opinions, did nothing more than create an *impression* in the jurors' minds—reinforced by their expert credentials—that the Accent's design must have had something to do with Mr. Baca's injuries. The district court's decision to admit their patently unscientific opinions was error, entitling Hyundai to a new trial.

III. The district court applied the wrong legal standard to Plaintiffs' defective-design claims, failing to instruct the jury that Plaintiffs were required to prove the feasibility of a reasonable alternative design.

An additional error likewise requires a new trial: the trial court's refusal to instruct the jury that the Plaintiffs must prove the feasibility of a reasonable alternative design. Drawn from the Restatement (Third) of Torts, Hyundai's proposed instruction (by which it preserved this issue) provided as follows:

> A product is defective in design when the foreseeable risks of harm posed by the product could have been reduced or avoided by the adoption of a reasonable alternative design....

RP2901. Observing that "there is no controlling authority in New Mexico" on the alternative-design issue, the trial court rejected Hyundai's proposed instruction in favor of an instruction that permitted the jury to find a design defect without a showing of any "reasonable alternative design." Tr.Vol.VII-129:25-131:25;143:1-20. Although the Supreme Court has not yet definitively adopted the Restatement standard for design defect claims, it is very likely to do so—and this Court, reviewing the district court's instruction de novo,[8] should do so as well—for two reasons.

First, the Restatement standard embodies the "risk-benefit" approach to determination of design defects already embedded in New Mexico law. The Restatement's approach to design defects is rooted in the need for "risk-utility balancing": Because "[p]roducts are not generically defective merely because they are dangerous," a determination of defective design requires an "independent assessment of advantages and disadvantages" posed by the design. RESTATEMENT (THIRD) OF TORTS § 2 cmt a (1998). That assessment necessarily implies a relative calculation: a design has advantages or disadvantages only as compared to some other design that serves the same purpose. *See* Brief of Products Liability Advisory Council, Inc. as *amicus curiae* at 6-9.

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[8] *Benavidez v. City of Gallup*, 2007-NMSC-026, ¶ 19, 141 N.M. 808.

The New Mexico courts also assess design defects using an implicit risk-utility assessment. The standard New Mexico jury instruction on design defects instructs the jury to "consider the ability to eliminate the risk without seriously impairing the usefulness of the product or making it unduly expensive." UJI 13-1407 NMRA. As the Supreme Court has pointed out, that instruction requires the jury "to make a risk-benefit calculation...so as to focus jury attention on evidence reflecting meritorious choices made by the manufacturer on alternative design." *Brooks*, 120 N.M. at 380, 902 P.2d at 62 (1995). In other words, the standard New Mexico jury instruction already requires the jury to consider the role of alternative designs—but without expressly saying so. *Accord* RESTATEMENT (THIRD) OF TORTS § 2 cmt. d (describing New Mexico as a jurisdiction "implicitly requiring proof of a reasonable alternative design," citing *Brooks*, 120 N.M. 372, 902 P.2d 54). The only question is whether the courts of this State should adopt the new Restatement standard and make explicit what is already implicitly required.

The only court to consider this question in a published opinion concluded that the Supreme Court is likely to adopt the Restatement standard and make the alternative-design requirement explicit. In *Morales v. E.D. Etnyre & Co.*, 382 F. Supp. 2d 1278, 1283 (D.N.M. 2005), the U.S. District Court for the District of New Mexico analyzed New Mexico law and concluded that "if the Supreme Court of New Mexico were presented" with the question of adopting the Restatement's alternative design requirement, "it would most likely adopt the Restatement (Third)."

The federal district court was correct. Although the trial judge in this case accurately noted that there is not "any controlling authority in New Mexico that would make alternative design an element of [a design defect] case," Tr.Vol.VII-130:15-17, the Supreme Court's dicta in *Brooks* strongly suggests that proof of an alternative design is already required to establish a design defect under New Mexico law: There the Court described how requiring a risk-utility calculation "focus[es] jury attention on evidence reflecting meritorious choices made by the manufacturer on alternative design," and noted that the existing uniform instructions "*allow* proof and argument on all the factors suggested by the Restatement (Third) of Torts as relevant in determining whether the omission of a reasonable alternative [design] gave rise to an unreasonable risk of injury." *Brooks*, 120 N.M. at 379-80, 902 P.2d at 61-62 (emphasis added). *Brooks* thus strongly suggests that the Court believes the Restatement standard is *consistent* with New Mexico law, even if the existing instructions do not *require* a jury to apply that standard in determining defect issues.

The second reason to expect the Supreme Court to adopt the Restatement standard is a practical one: The Restatement standard offers a superior means of achieving the goals of the risk-benefit analysis that is already required by New Mexico law.

New Mexico's risk-utility approach to determining design defects is necessary in light of a basic principle of tort: that "[p]roducts are not generically defective merely because they are dangerous." RESTATEMENT (THIRD) OF TORTS § 2 cmt. a. Any product may be dangerous in the right circumstances; the goal of products liability is thus not to eliminate all risk but to create an optimal balance of product benefits, product risks, and costs. *See id.* And in the great majority of cases, the creation of that balance requires an assessment of alternative designs. The reason is simple: without an understanding of the relative risks, benefits, and costs of a *non*-defective design, one cannot meaningfully assess whether the manufacturer has struck the correct balance.

Rather than making this alternative design requirement explicit, the practice in New Mexico has been to "let the lawyers argue." Tr.Vol.VII-130:5-17; *see Brooks*, 120 N.M. at 380, 902 P.2d at 62. But that approach provides little guidance to the jury, and little or no predictability for potential litigants, as to the standards of conduct applicable under New Mexico law. It may be obvious to lawyers and judges that the standard instruction's edict to "consider the [defendant's] ability to eliminate the risk without seriously impairing the usefulness of the product or making it unduly expensive" requires consideration of alternative designs. But that is far from obvious to jurors unfamiliar with the intricacies of tort law. To leave jurors to decide on their own between the conflicting arguments of counsel—one advocating for the necessity of proof of a reasonable alternative design, the other advocating just as forcefully for its unimportance—is to leave the jury adrift.

The Restatement approach solves this problem by giving jurors valuable and needed guidance. By emphasizing the importance of alternative designs, a Restatement-based instruction makes concrete the comparative analysis of risk that will be required in the great majority of defect cases.

In this case, the failure to instruct the jury on the importance of alternative designs was highly prejudicial to Hyundai. As previously discussed, although Plaintiffs offered conclusory evidence of alternative designs, they never attempted to show that those alternative designs would have been effective in this particular accident. A jury properly focused on proof of alternative designs could not reasonably have concluded that the Accent's roof or door designs were defective. The erroneous instruction tainted the verdict, and Hyundai is entitled to a new trial.

CONCLUSION

In sum, the verdict is not supported by substantial evidence—or indeed any evidence—on the critical element of causation. Unless the Court wishes to see New Mexico tort law transformed from a fault-based system to what amounts to an insurance system, the judgment below must be reversed and judgment entered for Hyundai. If this Court nevertheless concludes that judgment as a matter of law is not warranted, it should vacate the judgment and order a new trial to be conducted free from the legal and instructional errors identified here.

Dated: August 27, 2008

Respectfully submitted,

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I hereby certify that on August 27, 2008, I caused copies of the foregoing *Appellants' Brief in Chief* to be served by first-class United States mail, postage prepaid, on

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COURT OF APPEALS OF NEW MEXICO
FILED
OCT 05 2009

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New Mexico Court of Appeals
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237 Don Gaspar Avenue
Santa Fe, NM 87504-2008

Re: *Bustos v. Hyundai Motor Company, et al.*,
New Mexico Court of Appeals No. 28, 240

Dear Ms. Maestas:

Pursuant to Rule 12-213(D)(2) of the New Mexico Rules of Appellate Procedure, we write to advise the Court of a recent scholarly article and a recent rulemaking by the National Highway Transportation Safety Authority (NHTSA). This supplemental authority pertains to pages 15-25 of the Brief-in-Chief and pages 1-9 of the Reply Brief of Defendants-Appellants Hyundai Motor Company, et al. *See* NHTSA Roof Crush Resistance Standard No. 216, 49 C.F.R. § 571.216 (2009) (adopting a new roof-strength standard with which the 2002 Hyundai Accent already complied) (Ex. A); James Raddin, et al., *Compressive Neck Injury and Its Relationship to Head Contact and Torso Motion During Vehicle Rollovers*, SAE INTERNATIONAL, April 2009, at Discussion, Conclusion (suggesting that additional roof-strength requirements are unlikely to have any appreciable impact on the head and neck injuries sustained in typical rollover accidents because such

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injuries fundamentally result from torso augmentation rather than roof deformation) (Ex. B).

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Exhibit A

LEXISNEXIS' CODE OF FEDERAL REGULATIONS

*** THIS SECTION IS CURRENT THROUGH THE SEPTEMBER 17, 2009 ISSUE OF ***
*** THE FEDERAL REGISTER ***

TITLE 49 -- TRANSPORTATION
SUBTITLE B -- OTHER REGULATIONS RELATING TO TRANSPORTATION
CHAPTER V -- NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION
PART **571** -- FEDERAL MOTOR VEHICLE SAFETY STANDARDS
SUBPART B -- FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Go to the CFR Archive Directory

49 CFR 571.216

§ 571.216 Standard No. 216; **Roof crush resistance;** Applicable unless a vehicle is certified to § 571.216a.

S1. Scope. This standard establishes strength requirements for the passenger compartment roof.

S2. Purpose. The purpose of this standard is to reduce deaths and injuries due to the crushing of the roof into the occupant compartment in rollover crashes.

S3. Application.

(a) This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 2,722 kilograms (6,000 pounds) or less. However, it does not apply to--

(a) School buses;

(b) Vehicles that conform to the rollover test requirements (S5.3) of Standard No. 208 (§ 571.208) by means that require no action by vehicle occupants;

(c) Convertibles, except for optional compliance with the standard as an alternative to the rollover test requirements in S5.3 of Standard No. 208; or

(d) Vehicles certified to comply with § 571.216a.

S4. Definitions.

Altered roof means the replacement roof on a motor vehicle whose original roof has been removed, in part or in total, and replaced by a roof that is higher than the original roof. The replacement roof on a motor vehicle whose original roof has been replaced, in whole or in part, by a roof that consists of glazing materials, such as those in T-tops and sunroofs, and is located at the level of the original roof, is not considered to be an altered roof.

Raised roof means, with respect to a roof which includes an area that protrudes above the surrounding exterior roof structure, that protruding area of the roof.

Roof over the front seat area means the portion of the roof, including windshield trim, forward of a transverse vertical plane passing through a point 162 mm rearward of the SgRP of the rearmost front outboard seating position.

Windshield trim means molding of any material between the windshield glazing and the exterior roof surface, including material that covers a part of either the windshield glazing or exterior roof surface.

S5. Requirements. Subject to S5.1, when the test device described in S6 is used to apply a force to either side of the forward edge of a vehicle's roof in accordance with the procedures of S7, the lower surface of the test device must not move more than 127 millimeters. The applied force in Newtons is equal to 1.5 times the unloaded vehicle weight of the vehicle, measured in kilograms and multiplied by 9.8, but does not exceed 22,240 Newtons for passenger cars. Both the left and right front portions of the vehicle's roof structure must be capable of meeting the requirements. A particular vehicle need not meet further requirements after being tested at one location.

S5.1 For multipurpose passenger vehicles, trucks and buses that have a raised roof or altered roof, manufacturers have the option of using the test procedures of S8 instead of the procedures of S7 until October 25, 2000. The option of using the test procedures of S8 ceases to be available on that date.

S6. Test device. The test device is a rigid unyielding block whose lower surface is a flat rectangle measuring 762 millimeters by 1,829 millimeters.

S7. Test procedure. Each vehicle must be capable of meeting the requirements of S5 when tested in accordance with the procedure in S7.1 through 7.6.

S7.1 Place the sills or the chassis frame of the vehicle on a rigid horizontal surface, fix the vehicle rigidly in position, close all windows, close and lock all doors, and secure any convertible top or removable roof structure in place over the occupant compartment. Remove roof racks or other non-structural components.

S7.2 Orient the test device as shown in Figure 1 of this section, so that --

(a) Its longitudinal axis is at a forward angle (in side view) of 5 degrees below the horizontal, and is parallel to the vertical plane through the vehicle's longitudinal centerline;

(b) Its transverse axis is at an outboard angle, in the front view projection, of 25 degrees below the horizontal.

S7.3 Maintaining the orientation specified in S7.2 --

(a) Lower the test device until it initially makes contact with the roof of the vehicle.

(b) Position the test device so that --

(1) The longitudinal centerline on its lower surface is on the initial point of contact, or on the center of the initial contact area, with the roof; and

(2) Except as specified in S7.4, the midpoint of the forward edge of the lower surface of the test device is within 10 mm of the transverse vertical plane 254 mm forward of the forwardmost point on the exterior surface of the roof, including windshield trim, that lies in the longitudinal vertical plane passing through the vehicle's longitudinal centerline.

S7.4 If the vehicle being tested is a multipurpose passenger vehicle, truck, or bus that has a raised roof or altered roof, and the initial contact point of the test device is on the raised roof or altered roof to the rear of the roof over the front seat area, the plate is positioned so that the midpoint of the rearward edge of the lower surface of the test device is within 10 mm of the transverse vertical plane located at the rear of the roof over the front seat area.

S7.5 Apply force so that the test device moves in a downward direction perpendicular to the lower surface of the test device at a rate of not more than 13 millimeters per second until reaching the force level specified in S5. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S7.2(a) and S7.2(b). Complete the test within 120 seconds.

S7.6 Measure the distance that the test device moved, i.e., the distance between the original location of the lower surface of the test device and its location as the force level specified in S5 is reached.

Display Image

S8 Alternate test procedure for multipurpose passenger vehicles, trucks and buses that have a raised roof or altered roof manufactured until October 25, 2000 (see S5.1). Each vehicle shall be capable of meeting the requirements of S5 when tested in accordance with the following procedure.

S8.1 Place the sills or the chassis frame of the vehicle on a rigid horizontal surface, fix the vehicle rigidly in position, close all windows, close and lock all doors, and secure any convertible top or removable roof structure in place over the passenger compartment.

S8.2 Orient the test device as shown in Figure 2, so that --

(a) Its longitudinal axis is at a forward angle (side view) of 5 [degrees] below the horizontal, and is parallel to the vertical plane through the vehicle's longitudinal centerline;

(b) Its lateral axis is at a lateral outboard angle, in the front view projection, of 25 [degrees] below the horizontal;

(c) Its lower surface is tangent to the surface of the vehicle; and

(d) The initial contact point, or center of the initial contact area, is on the longitudinal centerline of the lower surface of the test device and 254 millimeters from the forwardmost point of that centerline.

S8.3 Apply force in a downward direction perpendicular to the lower surface of the test device at a rate of not more than 13 millimeters per second until reaching a force in Newtons of 1 1/2 times the unloaded vehicle weight of the tested vehicle, measured in kilograms and multiplied by 9.8. Complete the test within 120 seconds. Guide the test device so that throughout the test it moves, without rotation, in a straight line with its lower surface oriented as specified in S8.2(a) through S8.2(d).

S8.4 Measure the distance that the test device moves, i.e., the distance between the original location of the lower surface of the test device and its location as the force level specified in S8.3 is reached.

Display Image

HISTORY: [36 FR 23300, Dec. 8, 1971, as amended at 38 FR 21930, Aug. 14, 1973; 56 FR 15517, Apr. 17, 1991; 58 FR 5633, Jan. 22, 1993; 60 FR 13647, Mar. 14, 1995; 64 FR 22567, 22578, Apr. 27, 1999; 4579, 4581, Jan. 31, 2000; 74 FR 22348, 22384, May 12, 2009]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

NOTES: [EFFECTIVE DATE NOTE: 74 FR 22348, 22384, May 12, 2009, revised the section heading and S3, effective July 13, 2009. For compliance date information, see: 74 FR 22348, May 12, 2009.]

NOTES APPLICABLE TO ENTIRE CHAPTER:
CROSS REFERENCE: See 23 CFR, chapter I, subchapter G, Federal Highway Administration, Department of Transportation, for regulations on the certification of vehicle size and weight enforcement and the certification of speed limit enforcement.

NOTES APPLICABLE TO ENTIRE PART:
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Petitions for Reconsideration denied, see: 51 FR 11309 (1986); 52 FR 42440, 46479, 46480 (1987); 53 FR 5579, 9944, 17053 (1988); 56 FR 13784 (1991); 57 FR 3556, 47007 (1992); 58 FR 19628, April 15, 1993; 58 FR 31658, June 4, 1993; 59 FR 2755, Jan. 19, 1994; 59 FR 14569, March 29, 1994; 59 FR 27506, May 27, 1994; 60 FR 63651, Dec. 12, 1995; 62 FR 19523, April 22, 1997; 62 FR 31008, June 6, 1997; 63 FR 19839, April 22, 1998; 63 FR 34330, June 24, 1998; 66 FR 18208, Apr. 6, 2001; 69 FR 60316, Oct. 8, 2004; 69 FR 60968, Oct. 14, 2004; 70 FR 6777, Feb. 9, 2005; 70 FR 40917, July 15, 2005.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Petitions for Reconsideration, see: 61 FR 1152, Jan. 17, 1996; 69 FR 9229, Feb. 27, 2004; 69 FR 51393, Aug. 19, 2004.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Petitions for Rulemaking denied, see: 63 FR 46899, Sept. 3, 1998; 68 FR 69046, Dec. 11, 2003; 70 FR 61908, Oct. 27, 2005.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Statement of Policy, see: 63 FR 59482, Nov. 4, 1998.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Interpretive Rule, see: 64 FR 16358, Apr. 5, 1999.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Notice concerning review, see: 66 FR 9673, Feb. 9, 2001.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** Notice of availability, see: 68 FR 43972, July 25, 2003.]
[PUBLISHER'S NOTE: For Federal Register citations concerning Part **571** withdrawal of rulemaking, see: 69 FR 55993, Sept. 17, 2004; 69 FR 61322, Oct. 18, 2004; 69 FR 67068, Nov. 16, 2004.]

1303 words

Exhibit B

2009-01-0829

Compressive Neck Injury and its Relationship to Head Contact and Torso Motion during Vehicle Rollovers

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ABSTRACT

Previous literature has shown that serious neck injury can occur during rollover events, even for restrained occupants, when the occupant's head contacts the vehicle interior during a roof-to-ground impact or contacts the ground directly through an adjacent window opening. Confusion about the mechanism of these injuries can result when the event is viewed from an accelerated reference frame such as an onboard camera. Researchers generally agree that the neck is stressed as a result of relative motion between head and torso but disagree as to the origin of the neck loading.

This paper reviews the principles underlying the analysis of rollover impacts to establish a physical basis for understanding the source of disagreement and demonstrates the usefulness of physical testing to illustrate occupant impact dynamics. A series of rollover impacts has been performed using the Controlled Rollover Impact System (CRIS) with both production vehicles and vehicles with modified roof structures. Data from these tests were analyzed in both the vehicle reference frame and an inertial reference frame to demonstrate the neck injury mechanisms. The results of these tests show that neck loading was fundamentally a result of torso augmentation rather than roof deformation.

INTRODUCTION

The collection of publications in the literature on the role of roof structure deformation in occupant injury causation is extensive. Much of the early literature either treated the minimization of roof intrusion into the occupant space as implicitly desirable, or presented data which suggested that an association between roof crush and injury implied causation (Strother et al., 1984).

Initial studies of the General Motors testing series known colloquially as "Malibu" found that reinforced roof structures did not afford an increased level of protection for either restrained or unrestrained occupants when compared to production roofs (Bahling et al., 1990, Orlowski et al., 1985). These studies concluded that compressive neck loading at a magnitude associated with cervical spine injury is not caused by roof crush, but by the occupant moving toward the roof panel which is in contact with the ground, and that peak neck loads occur prior to significant roof deformation. A later study of a number of rollover tests in the literature, including the Malibu data, reaffirmed this conclusion (James et al., 1997). Occupant and vehicle motions in the Malibu tests have been further reexamined to quantify occupant and vehicle motions using techniques such as digitized film analysis, in which the occupants' heads were observed

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to consistently reach the roof area prior to upper vehicle structure-to-ground impact (Gloeckner et al., 2007). A recent study used a computer simulation to demonstrate that when occupant head excursion is sufficient to contact the interior roof panel, compressive preloading of the neck can occur during the airborne phase of the rollover and prior to roof-to-ground contact, effectively reducing the dynamic loading required for injury on subsequent roof-to-ground impacts (Ashby et al., 2007).

The Controlled Rollover Impact System (CRIS) is a machine that was developed to produce a specific and repeatable rollover impact event, which does not impose any external constraints on the vehicle during or after the initial roof-to-ground impact. (Carter et al., 2002, Cooper et al., 2001). Recently, the CRIS has been used to compare production vehicle roof-to-ground impacts with corresponding impacts of vehicles modified with roll cages (Moffatt et al., 2003). This study reached conclusions similar to those in the Malibu work and found no significant difference in head accelerations and neck loads even when there was deformation of the production vehicle roof structure. These studies have consistently concluded that peak head accelerations and neck loads are the result of the roof striking the ground and stopping and the occupant "diving" into the roof, and are not caused by roof structure deformation.

In 2007, a study was published in light of proposed changes to FMVSS 216 related to rollover crashworthiness (James et al., 2007). In response to the methodologies employed by critics of the original Malibu findings, this study concluded that "observations from an inertial reference frame are necessary to correctly interpret the relationship of vehicle and occupant motions during a rollover crash". This study also found that neck loading is the result of the torso moving toward the head, and not roof intrusion that would cause the head to move toward the torso.

In 2005, an extensive overview of available literature on the topic of roof strength and occupant head excursion was published, outlining factors influencing overall head excursion and discussing a number of countermeasures and areas for expanded research (Moffatt and James, 2005).

Despite findings that dismiss roof deformation as the basis for compressive neck injury, the topic remains contentious. A study that analyzed high-speed Malibu test video and correlated injury to "roof intrusion rates", concluded that roof collapse in a rollover "imposes velocities and forces on an occupant's head that are far greater than an occupant would experience solely from his or her dropping at the vertical velocity of the vehicle's center of gravity" (Friedman and Nash, 2001). The same authors also concluded in a later reexamination of Malibu timing data that neck load is caused by roof intrusion "pushing" the head toward the torso (Friedman and Nash, 2005). The long time delays between A-pillar ground contact and peak neck loads, which were the basis of the authors' conclusion, were shown to be misinterpretations of the original Malibu work (James et al., 2007). Another study which reexamined Malibu data attempted to correlate the timing of peak "roof acceleration" to peak occupant neck loading (Chirwa et al., 2006). This study was shown to have confused vehicle body displacement with roof displacement with respect to the inertial reference frame, and failed to demonstrate a causal relationship between roof crush and neck loading (James et al., 2007). An examination of the timing of peak neck loads and roof crush in a series of Ford Explorer rollover tests concluded "roof crush into the survival space of restrained dummies was the direct cause of neck loads..." (Bidez et al., 2005). This study evaluated data in a vehicle-fixed rather than earth-fixed reference frame. Errors have been identified in this study's computation of instantaneous roof crush (Yamaguchi et al., 2007). Yamaguchi et al corrected the original derivations and found these methods of computing dynamic roof crush to be "theoretically feasible" but "completely impractical" due to current sensor technology limitations.

The purpose of this paper is to discuss rollover kinematics using fundamental principles and to demonstrate those principles using rollover test data.

ROLLOVER PRINCIPLES

The literature continues to include contradictory papers on the role of roof deformation in rollover neck injury primarily because there remain significant differences in the ways people understand the rollover event. Previous authors tend to portray rollovers either in qualitative terms that are technically deficient or in quantitative terms that are mathematically unapproachable for the average reader. The importance of distinguishing between body-fixed versus inertial reference frames is commonly neglected in the analysis of occupant dynamics in rollovers. This paper will first attempt to characterize the physical rollover event in approachable terms and then define and present data relevant to neck injury causation within that context.

The first requirement is to observe the rollover event from a non-accelerated, non-rotating reference frame, usually called an inertial reference frame. For our purposes, this can be a frame of reference fixed to the earth or moving at constant velocity. If this requirement is not met, motions of objects observed from an accelerated reference frame can be mistakenly ascribed to what are called "fictitious forces" (Serway, 1996). In other words, the accelerations of the reference frame result in what appear to be accelerations of some object of interest, and, therefore, forces on that object are imputed. In rollovers, this problem commonly arises in interpretation of film or video taken from a vehicle-mounted camera. Ground-based cameras are used to document the vehicle dynamics but vehicle-mounted cameras are more commonly used to study occupant motion. Authors may refer to an observed change in motion of an Anthropometric Test Device (ATD) when, in fact, the observed change in motion may result from a vehicle impact which has changed the motion of the vehicle-mounted camera. This error can cause attribution of injury to forces that are not there with resulting inappropriate protection recommendations.

A second requirement is to adequately describe the motion of the relevant parts of a vehicle involved in a rollover event. Mathematically, the motion of the center of mass as a function of time can be described with respect to an inertial reference frame. The motion is typically described using time functions of displacement, velocity and acceleration. For a rigid body, one can then define the motion of any other point in the body if the angular velocity is also known. For example, the velocity of a Point P in the body is defined by the following equation, where r is the distance from the center of mass to Point P and is the angular velocity in radians per second.

$$\vec{V}_P = \vec{V}_{cm} + \vec{\omega} \otimes \vec{r}$$

This general equation involves vector cross products and vector sums, but it is more approachable and illustrative if we reduce it to a simple, specific case.

Consider a symmetrical wheel rolling at constant velocity on a flat, horizontal surface, as shown in **Figure 1**.

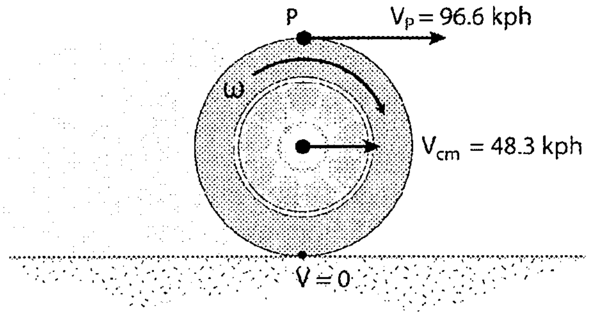

Figure 1: Wheel rolling at constant velocity.

The velocity of the wheel would be described as V_{cm} which would be entirely horizontal, say 48.3 kph or about 13.4 m/s with respect to an inertial or fixed reference frame. If the radius of the wheel is 1.07m and if there is no slipping of the wheel on the surface, we can compute the magnitude of the rotation rate with the following equation.

$$\omega = \frac{v}{r}$$

where ω is the rotation rate in radians per second, v is the velocity in meters per second, and r is the radius in meters. For our example, ω equates to about 12.5 radians per second or nearly 2 revolutions per second. If we were to calculate the velocity of a Point P on the edge of the wheel, again from a fixed reference frame, the observed instantaneous velocity would vary with time depending on where Point P happened to be. Its velocity is in the same direction as the center of mass at the top and in the opposite direction at the bottom. The resultant velocity would never be 48.3 kph in a horizontal direction. In fact, the velocity of Point P when it is right at the bottom would be exactly zero since the wheel is not slipping or moving against the surface. The velocity of P reaches a maximum in the horizontal direction when P is at the top and the vector sum of the velocity is twice the velocity of the wheel's center of mass or about 96.6 kph. In accordance with the vector sum in the first equation, a point on the surface of the rolling wheel has a velocity that is the vector addition of the center of mass velocity and the tangential velocity. The tangential velocity has both magnitude and direction and while its magnitude remains constant (for a constant center of mass speed) the direction of the tangential velocity varies with time. The velocity of P for three distinct wheel orientations is shown in **Figure 2**. The velocity of P, in terms of its horizontal and vertical components, takes the form of trigonometric functions and is shown in **Figure 3**.

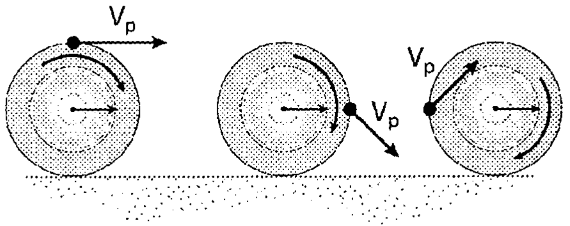

Figure 2: Resultant velocity of point on rolling and translating wheel.

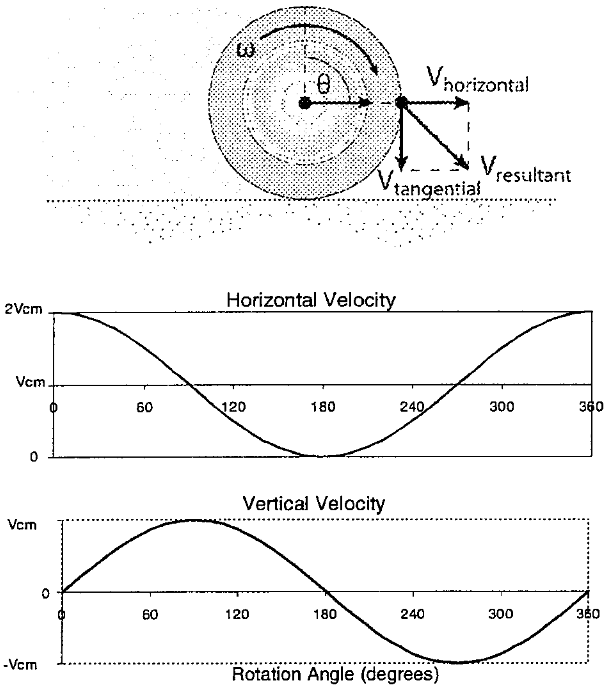

Figure 3: Horizontal and vertical velocity components of point P for one revolution.

The third law of motion states that for every force there is an equal and opposite reaction force. The second law dictates that the sum of the forces gives rise to the rate of change of linear momentum. For our wheel, there is a constant force being applied by the spokes that acts at a 90º angle to the tangential velocity of point P to change its direction but not its magnitude. This is termed a centripetal force and produces a centripetal acceleration in accordance with the second law of motion. A freely movable bead on a spoke of our wheel would move radially outward to the rim until a force constrains it within the wheel's path. This bead motion is analogous to what happens to occupants in rolling vehicles. The inertial force that moves the bead out to the periphery is called a centrifugal force and is equal and opposite to the force of the bead as it loads the wheel rim. In vehicle rollovers, every point in the vehicle and in the occupants generally has a different instantaneous velocity, acceleration, and force taking place. The inertial centrifugal force is directly proportional to both radius and the square of the angular velocity, always directed along a radius from the center of mass. As measured at the head, this force may exceed ten times the force of gravity in a high-speed rollover (for a 550 deg/s roll rate and a 1.07m radius).

A final observation with our wheel analogy relates to angular momentum and angular energy which are angular analogs of the more familiar concepts of translational momentum and energy. For the translational case, we have

$$\text{Momentum} = \vec{P} = m\vec{v}$$

$$\text{Translational Energy} = E_T = \tfrac{1}{2}mv^2$$

where momentum is a vector quantity (having both direction and magnitude) and energy is a scalar. The mass of an object is a measure of its resistance to being accelerated by a force. The angular analog is called moment of inertia (I), which is a measure of an object's resistance to being spun around a specific rotation axis by a torque or twisting force. We therefore have

$$\text{Angular Momentum} = \bar{L} = I\vec{\omega}$$

$$\text{Angular Energy} = E_A = \tfrac{1}{2}I\omega^2$$

Just as momentum is changed by a force acting over time (impulse) and energy is changed by a force applied over distance (work), angular momentum is changed by torque over time and rotational energy is changed by torque acting through an angle. It should be noted that angular momentum and translational momentum have different units (torque-time vs. force-time) while translational and angular energies share the same units (force-distance). The practical application of these concepts includes the understanding of how angular energy and translational energy interchange in a rollover. Specifically, a sliding vehicle prior to rollover has virtually all its energy in a translational form. When it is rolling, some of that energy is converted to angular energy, which implies that it has less translational energy and, therefore, a lower velocity of the center of mass. In other words, when a vehicle starts rolling, its over-the-ground velocity slows down. The proportion of the original translational energy temporarily transformed into rotational energy may be in the range of 10% to 25% or more. The angular momentum of the rolling vehicle also imparts gyroscopic characteristics which result in precession and nutation effects. These are rarely taken into account in rollover analyses but would rationalize what is more commonly assessed to be a chaotic process.

Vehicles typically do not roll like wheels or barrels, but the same mathematics apply. Among the differences is the typical lack of the non-slip situation described above. The external influence that makes vehicles roll is the interactive force between the exterior of the vehicle and the terrain. That force tends to get less effective in increasing the roll rate as the magnitude of the tangential velocity approaches the center of mass velocity. Therefore, the tangential velocity is usually lesser in magnitude than the center of mass velocity. This means that the horizontal component of the velocity of a part of a rolling vehicle in contact with the ground is generally less than the center of mass velocity but more than zero as would have been the case with a wheel. The vehicle-ground interaction induces a torque into the vehicle that results in scrapes left on the vehicle. The scrapes can typically be used to assess the roll direction since they are formed in the direction of the angular rotation, or down on the leading side and up on the trailing side, as shown in **Figure 4**.

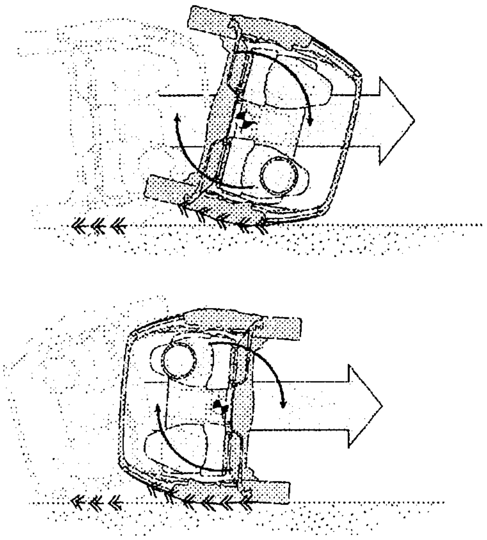

Figure 4: Direction of scrapes created by the vehicle-to-ground interaction.

The velocity of a part of the vehicle away from the ground (and above the center of mass) will be more than that of the center of mass velocity but generally less than twice as much as it would have been in the case of the wheel example presented in **Figure 3**. This explains why occupants ejected from the high side in a rollover leave the vehicle with a higher velocity than those ejected from the low side.

The conceptual underpinnings have now been reviewed sufficiently to allow an examination of the ground impacts of a rolling vehicle. Consider another symmetrical wheel rotating with a constant horizontal velocity but supported barely above a horizontal surface. It is then allowed to touch down on the surface with negligible vertical velocity while rotating at an angular velocity lower than that necessary to roll without slip on the surface. The touchdown will result in a frictional force between the surface and the wheel that will tend to accelerate the angular velocity of the wheel by acting as a torque, as shown in **Figure 5**. The torque in this case produces an angular acceleration that changes the angular velocity in direct proportion to the torque and in inverse proportion to the moment of inertia.

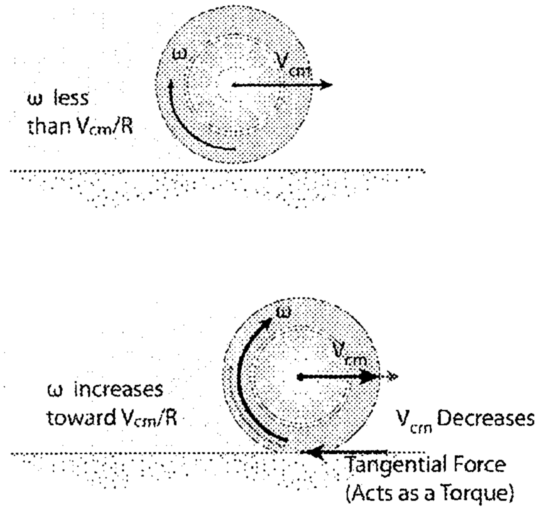

Figure 5: Increase in rotational velocity with touchdown of horizontally translating wheel.

If we were to drop the same wheel from a greater height, it would arrive at the surface with a vertical velocity as well as a horizontal one. Force would be applied by the surface to the wheel (and equally and oppositely by the wheel to the surface) that would be more complex. As shown in **Figure 6**, there would be a vertical (or normal) component of force acting through the center of mass of the wheel to reduce the downward velocity of the wheel.

There would again be a horizontal (or tangential) component acting at a 90° angle to the radius acting as a torque to increase the angular velocity of the wheel similar to the previous example. In general, the coefficient of restitution during the impact will insure some degree of bounce since the normal force not only slows the vertical velocity to zero but also typically continues to act to impart a vertical velocity upward as the elastic compression of the wheel is reversed.

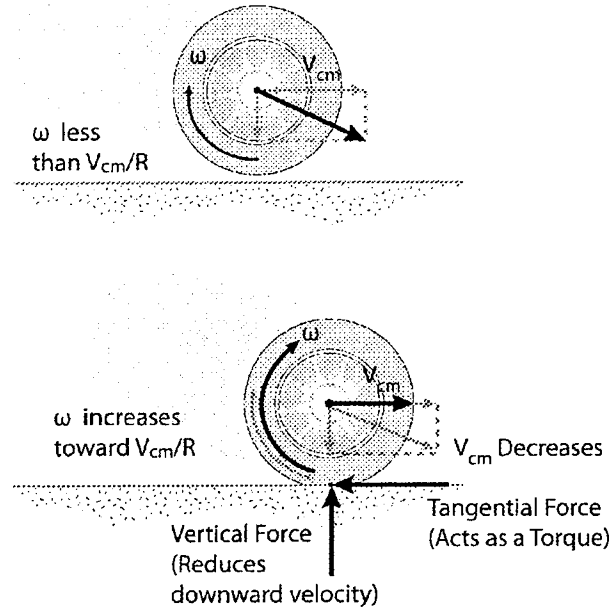

Figure 6: Force generated by touchdown of vertically and horizontally translating wheel.

Vehicle-ground interaction is further complicated by vehicle shape. The roof rail is generally further from the center of rotation, for example, than the center of the roof. The roof rail will generally not contact the ground just as the radius from the center of rotation to the roof rail passes through vertical. When it doesn't, the vertical force from the ground will also tend to act to some extent as a torque, as shown in **Figure 7**, and the horizontal force will also tend to act to a greater extent on the center of mass. Note that **Figure 7** only shows the effect of the vertical component which becomes predominant as ω increases toward V_{CM}/R and as the vertical component of V_{CM} increases.

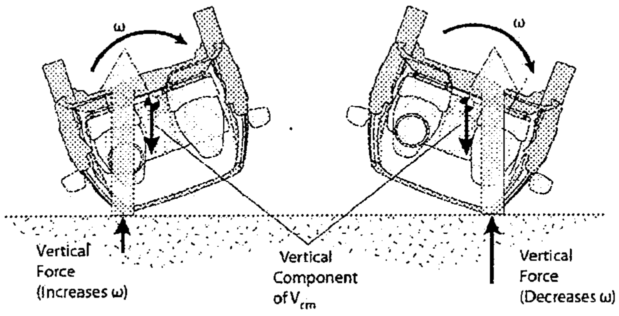

Figure 7: Effect of vertical component of contact force on rotation.

In general, vehicle-to-ground contact may increase or decrease the angular velocity depending on the interaction. Some contacts may first decrease and later increase the angular velocity during a single contact with the net effect depending on the comparative contributions. The graphic in **Figure 7** shows a near-side contact followed by a far-side contact. The continued rolling of the vehicle in this configuration requires some combination of deformation or rapid change of the vertical velocity of the center of mass of the vehicle. There is simply no room for the undeformed far-side roof rail to miss the ground given the downward moving center of mass and the radius to the roof rail being greater than the distance from the center of mass to the ground. This is the reason that designers reject the use of square shapes as wheels and explains why trailing roof rails are often rounded off by rollover deformation. It is fundamentally the same conceptual reason that an occupant whose head is already against a trailing roof rail at a far-side ground contact will be exposed to neck loading prior to roof deformation.

Another effect of irregular vehicle shape is that the tangential velocity of the contact point will in general affect the vertical velocity of the contact, as shown in **Figure 8**. The vertical contact velocity of the roof rail without rotation would simply be the vertical velocity of the center of mass, or 8.05 kph in the example shown in **Figure 8**. With rotation, the roof rail contact velocity will be the vector sum of the center of mass velocity and the tangential velocity at the roof rail. In our example, the vertical velocity of the roof rail contact would increase to 20.45 kph and the horizontal velocity would decrease to 6.28 kph. This increased vertical velocity is certainly within an injurious range, independent of roof deformation. Inverted drop tests conducted with vehicles and instrumented ATDs released from 0.46m that achieved contact velocities of 10.8 kph have been shown to result in injurious neck loads (Nightingale, 1996). Contact of the trailing side roof rail with terrain before it passes under the center of mass is again the most hazardous condition for producing increased vertical velocities.

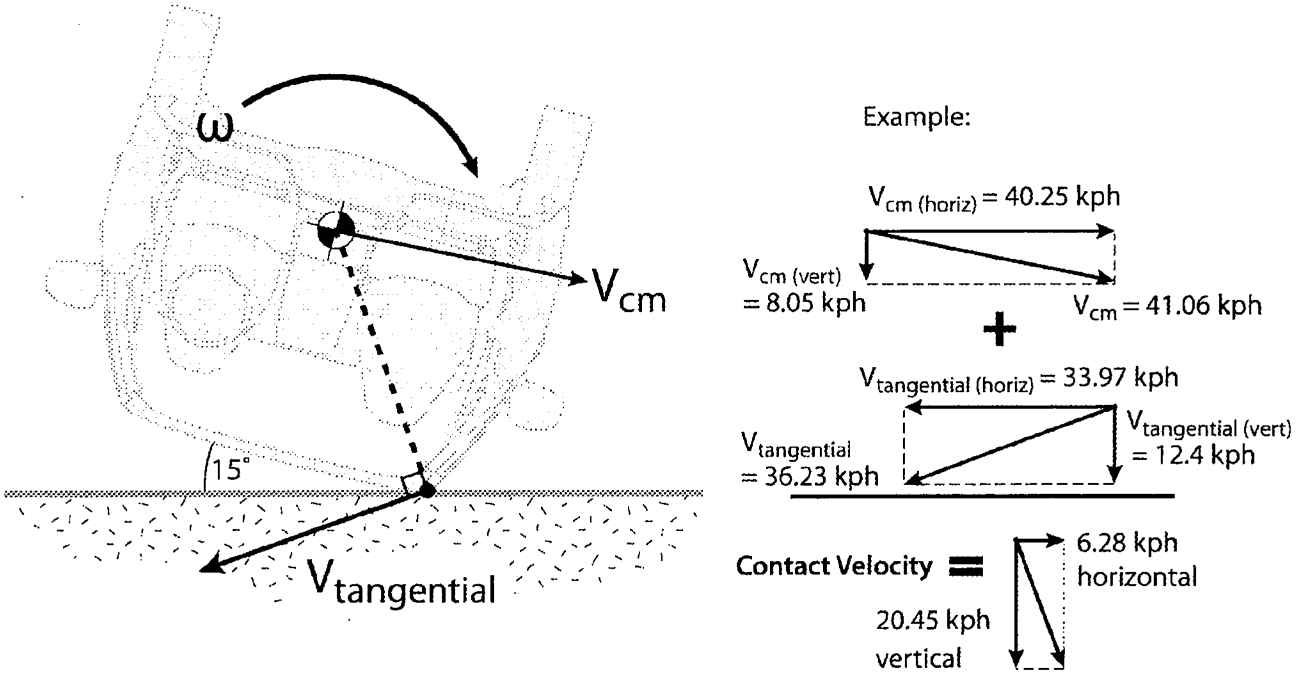

Figure 8: Influence of vehicle rotation rate on contact velocity at roof contact.

Vehicle deformation introduces yet another complexity, as all real materials deform. An idealized non-deforming vehicle bouncing and rolling on a non-deforming surface would experience infinite forces and accelerations. The relatively modest accelerations measured at the center of mass of a rolling vehicle attest to the attenuation (cushioning) effect that the deforming structures make when contacting the ground. The deformation lengthens the distance and duration of the impact, decreasing the peak translational acceleration of the center of mass and of the non-contacted portions of the vehicle. Accelerations of parts of the vehicle nearer the contact point are much higher (Carter et al., 2002). Increased roof stiffness would increase the center of mass acceleration at roof contact and, therefore, increase relative occupant displacements. Further increases in contact severity occur with terrain variations such as an impact into rising terrain, since more of the vehicle horizontal velocity acts like an increased vertical velocity.

The increased time of the contact results in another important effect. Ground contacts in rollovers where the vehicle has high translational and angular velocity may have durations in the range of 100-200 milliseconds. The very late contacts may last even longer. Therefore, the force from the terrain acts at a changing angle during the contact, which often changes over an angular range of more than 40 to 60 degrees as the vehicle continues to rotate and translate and the contact point continues to slide.

Occupant kinematics within the vehicle will vary depending on how the vehicle strikes the ground. For a rolling vehicle, the occupant does not simply move toward the point of ground contact but rather responds in accordance with the laws of motion, generally in a curving path with respect to the rotating vehicle. The centripetal effects at the vehicle periphery ensure the occupant's head is not at a neutral driving position during most of a multi-rollover event. Instead, it is typically at or near the roof rail, which is reachable by most restrained adult occupants since it is generally lower than the roof above a neutral head position. After window breakage, the head may pass beyond the roof rail, becoming susceptible to direct terrain contact. Vehicle-to-ground impacts during a roll sequence can affect occupant kinematics such that head-to-vehicle contact also occurs inboard of the roof rail. The most hazardous impacts typically occur when a trailing side roof rail hits the ground because the tangential velocity is more likely to add to vertical contact severity on the trailing side and decrease vertical contact severity on the leading side. At contact, direct roof rail loading of the head may occur as the roof or roof rail undergoes a significant change in velocity with the head already against it. For typical trailing side roof rail contacts, occupant head motion may carry on out the window since the occupant does not simply move toward the roof rail in contact with the ground.

The complex motions described above dictate the type of test approaches required to investigate them. Simple inverted drop tests are a poor comparison for the following reasons. The lack of vehicle angular velocity mispositions the occupant vertically and laterally since there is no centrifugal or centripetal force. In fact, even the displacing effect of gravity is lost once the vehicle is released. Secondly, the vehicle structure is loaded unrealistically since there is no horizontal component of contact force and no changing angle of force. Thirdly, the occupant kinematic response is not representative since the occupant has only a vertical velocity and it is not subjected to the angular rotation effects. Finally, reference frame confusion is often introduced through the use of vehicle-mounted cameras. Drops onto a roof rail are similarly not representative of the conditions in a roof-to-ground impact during a rollover.

Other test approaches have been devised with rotating vehicles and moving impact surfaces (Friedman et al., 2007) that have more intuitive appeal and may be repeatable but that repeatedly involve fundamental problems. Most critically, the dynamics of these devices lead to the imposition of unrealistic impact forces derived from the constraints imposed by the fixture. They do not have six degrees of freedom like a rolling vehicle, so unrealistic impact forces result from the way the vehicle is prevented from moving along and about the constrained axes. The problems are compounded when partial vehicle segments are used. These are typically weight compensated but the moments of inertia are not representative, resulting in both the rotational and translational impact dynamics being wrong. Finally, reference frame problems are introduced if changes in the velocities of the moving impact surface and the dropping vehicle are unrepresentative of a real impact, no matter where you mount the cameras. To achieve representative impact loading on the vehicle and on the occupant, a true six degree-of-freedom or unconstrained impact must be employed.

It is important to get the mechanism of neck loading right. Otherwise, incorrect notions may lead to well-intentioned interventions with unanticipated adverse effects. For example, attempts to increase the strength of roof supports typically result in more elastic structures that have greater elastic recovery (or bounce more). This results in increased velocity changes for roof-to-ground contacts, increasing the energy change of the event not only for occupants against structure at the contact location but also for remotely located occupants.

ROLLOVER TESTING

To assist in understanding the source of neck loading in rollover impacts, a compilation of test data was reviewed from tests in which impacts were produced, which involve all the rotational, translational, gravitational, and impact conditions of an unconstrained rollover ground impact.

Data were assessed from an inertial frame of reference by utilizing inertial sensors in the head of the ATD. The inertial sensors or accelerometers inherently measure with respect to an inertial reference frame. At the same time, neck load cells measure real forces so that reference frame confusion can be avoided. If, as some authors have claimed, injurious neck force is derived from the head being accelerated into the neck by roof deformation, then the inertial sensors in the head should measure significant acceleration as the roof deforms and the neck is loaded. If, on the other hand, the inertial sensors do not measure significant acceleration of the head during neck loading or during roof deformation, then the neck forces must derive from some other source such as torso loading, or torso augmentation. In particular, contacts of reinforced vehicles with little roof deformation should yield negligible neck loads if neck loads are the result of roof deformation.

CONTROLLED ROLLOVER IMPACT SYSTEM

The Controlled Rollover Impact System (CRIS) is currently the only system that can repeatedly orient a full vehicle for a specific impact while allowing six degrees of freedom (**Figure 9**). The ability to repeatedly configure a specific impact allows direct comparison between production and reinforced roof structures.

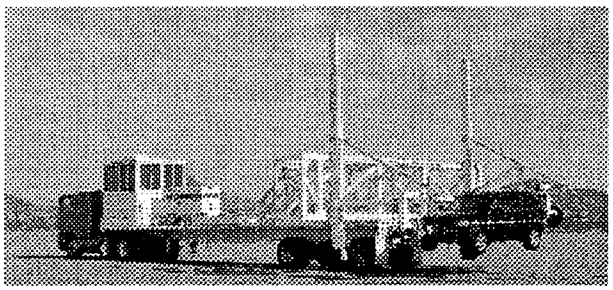

Figure 9: Photograph of CRIS system with vehicle attached.

The CRIS consists of a Class-8 tractor and a flatbed trailer that has been modified so that a full-size vehicle can be hung from adjustable supports at the back of the trailer. The vehicle can be spun about its principal roll axis with bearings that are located at the front and rear of the test vehicle. While the test vehicle's principal axis is fixed relative to the vehicle, this axis can be adjusted relative to the ground. This adjustment allows the test vehicle to be configured to a specific pitch angle, yaw angle, and drop height. Vehicle translation speed is determined by the speed of the tractor-trailer.

An electric motor spins the test vehicle up to the desired roll rate, and the front and back of the vehicle is released simultaneously at both ends. The release is timed so that the vehicle is at the intended roll angle when it impacts the ground. Once the test vehicle is released from the CRIS it is unconstrained, and, therefore, it has six degrees of freedom at impact.

ROLLOVER TEST DATA

Data from ten CRIS tests were analyzed where Hybrid-III ATDs were restrained in the driver seating position of the test vehicles. The tests were conducted to simulate a passenger-side leading rollover with a roof-to-ground impact on the driver side roof. This configuration is also referred to as a far-side occupant impact. A secondary impact was analyzed for the Isuzu Rodeo test where the ATD's head directly contacted the ground through the adjacent window opening (**Figure 10**). By design, except for the second Rodeo impact, all ATD impacts occurred near the 180-degree roll angle. The Volvo XC90 had a pitch angle of 5 degrees at impact, while all other test vehicles had a zero pitch and yaw angle at impact. Refer to **Table 1** for a summary of each impact configuration.

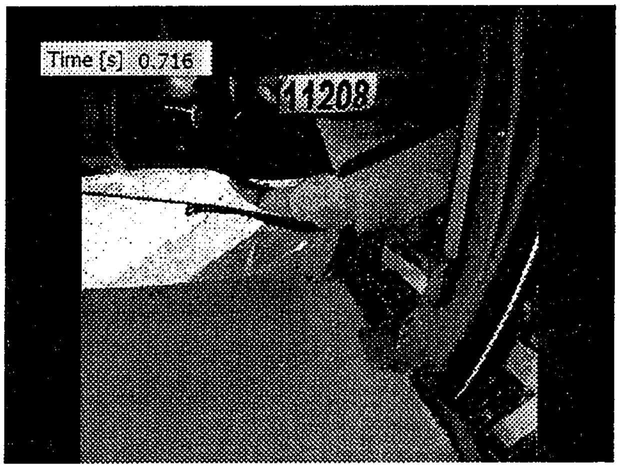

Figure 10: Onboard video showing the head-to-ground contact during the second impact in the Rodeo CRIS test.

Table 1: CRIS test initial conditions at roof contact: translational speed, drop height, and roll rate.

Vehicle	[kph]	[cm]	[deg/s]	ATD	Roof
2005 Volvo XC90	12	27	224	50th	Prod.
1996 Isuzu Rodeo 1	60	48	317	5th	Mod.
1996 Isuzu Rodeo 2	–	--	–	5th	Mod.
1998 Ford Crown Victoria	13	27	227	50th	Mod.
1999 Ford Crown Victoria	13	27	226	50th	Mod.
1999 Ford Crown Victoria	13	28	223	50th	Prod.
1998 Ford Crown Victoria	13	30	227	50th	Prod.
2000 Ford Crown Victoria	32	33	363	50th	Mod.
1999 Ford Crown Victoria	32	32	361	50th	Prod.
1996 Chevrolet Blazer	13	25	226	50th	Prod.
1996 Chevrolet Blazer	13	25	226	50th	Mod.

Instrumentation for the CRIS tests included test vehicle roll rate at release, test vehicle translation speed at release, ATD triaxial head accelerations, and ATD upper-neck triaxial forces and moments. A detailed analysis was conducted on the data collected during these tests. The data referenced to the vehicle coordinate system will be presented in standard SAE J211 sign convention; i.e. the positive longitudinal axis is forward, the positive lateral axis is to the right, and the positive vertical axis is down.

The inertial reference system will be defined with respect to earth with the positive lateral direction oriented by the travel direction of the CRIS test device (**Figure 11**). The longitudinal and vertical directions will be defined from the lateral axis using the right hand rule; i.e. the positive longitudinal axis oriented generally in the vehicle longitudinal direction, and the positive vertical axis into the ground. Note that the positive vertical axis for both the vehicle and earth reference frame are collinear when the vehicle is at a 0-degree roll angle.

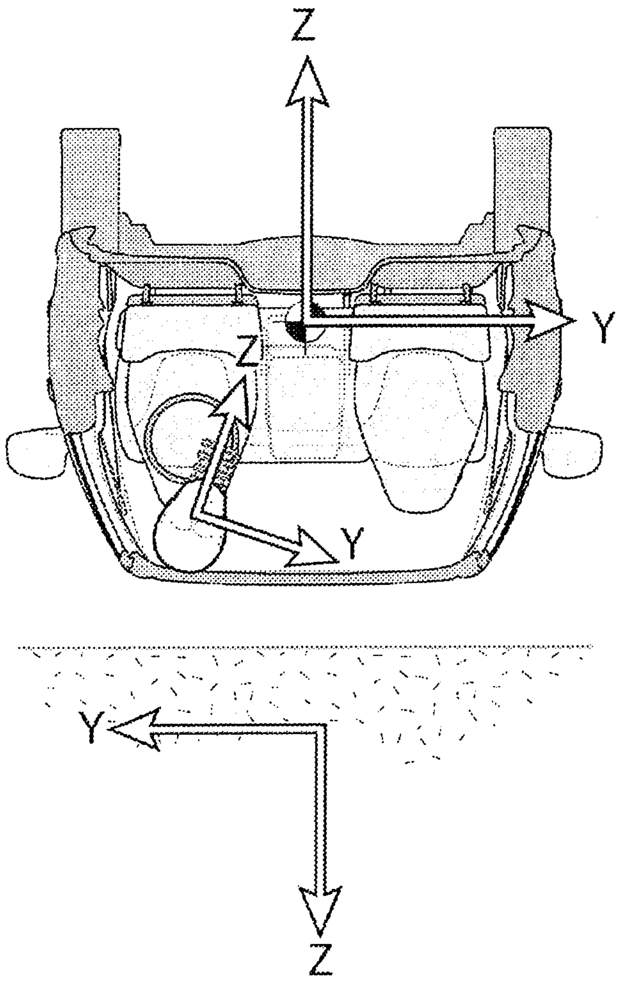

Figure 11: Vehicle, head and inertial coordinate systems.

ATD data were collected according to standard SAE J211 sign conventions. Head accelerations are positive in the longitudinal direction with a forward acceleration, in the lateral direction with a rightward acceleration, and in the vertical direction with a downward acceleration. The ATD upper neck positive signals are consistent with the reaction forces from the head acting on the upper neck. Therefore, a positive upper neck longitudinal force is consistent with an aft force applied to the front of the head, a positive lateral force is consistent with a lateral force applied to the right side of the head, and a positive vertical force is consistent with a tension force applied to the top of the head, resulting in a left hand reaction coordinate system.

The authors suggest that analysts carefully conduct this type of analysis and should pay particular attention to the coordinate system in which the analysis is performed. Although ATD head accelerometers are oriented with the ATD's coordinate system, they inherently measure accelerations of the object to which they are attached within the inertial reference system. Therefore, accelerometer data from the ATD head cannot be directly used to determine accelerations at other points within the vehicle coordinate system, or the vehicle coordinate system itself. Comparison between inertial accelerations of the ATD head and the vehicle can only be done if inertial accelerations are known at another point of interest.

Information regarding the origin of ATD upper neck loads can be gleaned by using inertial accelerometer data from the ATD head to calculate forces at the head based on its mass, and then comparing these forces to those recorded at the ATD upper-neck. The total force applied by the ATD at the top of its head can be computed by summing the upper neck load and the calculated inertial head force as shown in the free body diagram of the head in **Figure 12** and represented by the equation below.

$$\text{Total head force} = -\left(F_{neck} + m^{*}a_{head}\right)$$

The force at the base of the head ($-F_{neck}$) is directly measured from the upper-neck load cell. The polarity of the neck load data will be inverted since we want it to represent the force of the neck acting on the head (earth coordinate system), which is opposite the SAE J211 sign convention. The measured neck force at this location includes the inertial forces reacted through the neck required to decelerate the torso, reducing its velocity component toward the ground.

The inertial head force can be calculated using Newton's second law of motion.

$$F = ma$$

The head mass is based on information specific to the ATD, and its acceleration was measured at its center of gravity throughout the event. Like the neck load data, the measured head accelerations are inverted since the free-body diagram is represented in the earth coordinate system, and the force of the head is acting in the opposite direction of the recorded accelerometer data. The lateral components of these forces were also analyzed in a similar manner.

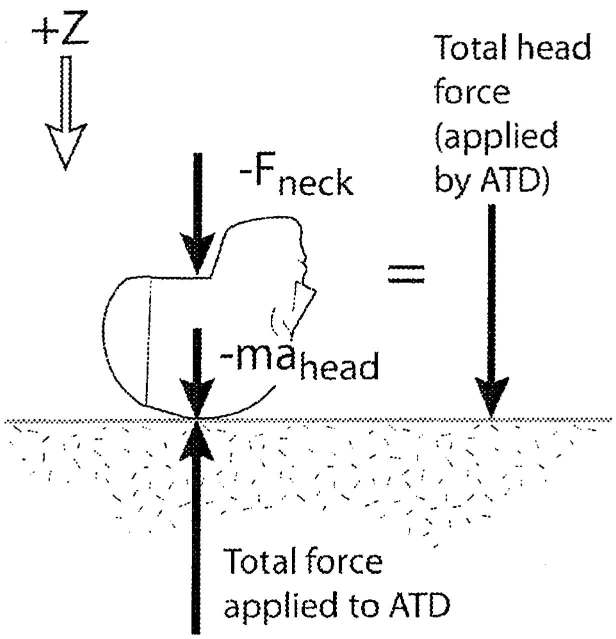

Figure 12: Free-body diagram of vertical head forces.

Although the head accelerometers measure accelerations in an inertial reference frame, they do so at an orientation consistent with the ATD head. Calculating the forces in an inertial reference frame consistent with the earth coordinate system defined previously will require a coordinate transformation. This is also true for the vehicle coordinate system. The effects of these transformations depend on head angle, vehicle angle, and the relative magnitudes between the vertical and lateral components of acceleration. If the head angle is small relative to the coordinate system of interest, then the difference between calculations in the head coordinate system and the coordinate system of interest will be small. This is especially true if the components of force in directions orthogonal to the direction of interest are small when compared to the direction of interest.

Effects of head and vehicle angle on this analysis were considered for selected impacts. Video analysis from one of the onboard high-speed video cameras was used to determine the ATD head angle relative to the vehicle reference frame. Head and roof displacements were also determined from video analysis of the onboard camera. Additional video analysis was performed from cameras onboard the CRIS fixture, and from ground-based cameras. Data from these cameras included head displacements and vehicle roll angle. Low frequency video data was curve-fit using polynomial functions to estimate positions between points measured at each video frame.

Video data can be used to assess overall motion of the ATD head within the reference frame in which it is recorded. However, since the video acquisition rate of the high-speed cameras was 250 Hertz, time resolution of the video data is coarse compared to the neck load data at 10 kHz. The video can be used to define the initial conditions, the vehicle angle, and the head angle throughout the impact and then superimposed with the 10 kHz neck load data to illustrate the origin of the ATD upper-neck loads.

RESULTS

An analysis of the vertical head forces was conducted on the eleven head impacts from the CRIS tests presented in **Table 1**. The time history plots of the ATD data for each of the impacts from the CRIS tests can be found in the APPENDIX. In the next two sections, data collected from the production Volvo XC90 and the reinforced Isuzu Rodeo vehicles tested on the CRIS will be presented in detail. The load data from the instrumented ATD head, which is presented in the inertial reference frame (earth coordinate system), will be addressed first. It is followed by the presentation and discussion of the video analysis performed from the onboard cameras. The data is compared and contrasted to highlight the meaning of the results from analysis in each of the two coordinate systems.

VOLVO XC90 CRIS TEST

A production 2005 Volvo XC90 was dynamically balanced and tested on the CRIS machine. The initial conditions at impact were: 12.3 kph horizontal speed, 182 degree roll angle, 224 deg/s roll rate, 5 degree pitch, and zero yaw. The drop height, from release to first contact, was 274 mm. Prior to the test, the driver ATD had a head clearance with the interior of the roof panel of 38 mm in a static 1g inverted position; dynamically the head clearance would be less. The vehicle was released from the CRIS fixture, fell to the ground without any external constraints on the vehicle, and impacted the ground, as shown in **Figure 13**.

Figure 13: Ground contact with the exterior roof panel in the XC90 CRIS test.

The two plots in **Figure 14** and **Figure 15** represent the lateral and vertical component forces acting on the ATD head in the earth's inertial reference frame. The roof first contacted the ground at time T=0s, and occurred at the roof panel over the B-pillar. The blue traces represent the inertial head force obtained by multiplying only the head mass by the acceleration of the head in the respective directions. The orange traces represent the algebraic sum of the inertial head force and the measured neck load, transformed from the ATD reference frame to the inertial reference frame. The measured neck load is not shown separately in these plots for clarity, but it is presented in the head-based coordinate system in the APPENDIX. Observe that in the earth-based coordinate system (**Figure 12**) the vertical force from the head during a ground impact would be a positive quantity, as shown in the plot of **Figure 15**.

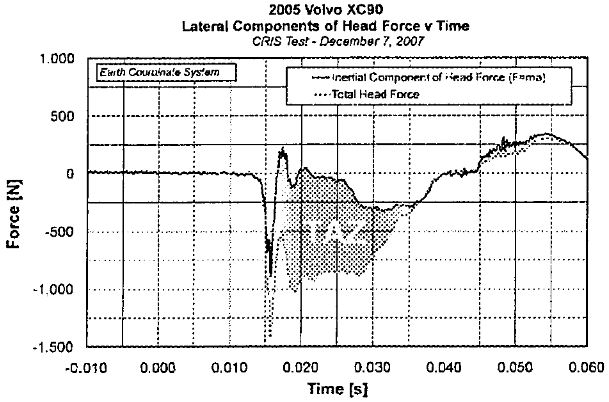
2005 Volvo XC90
Lateral Components of Head Force v Time
CRIS Test - December 7, 2007

Figure 14: Lateral inertial and total head force during the XC90 CRIS impact.

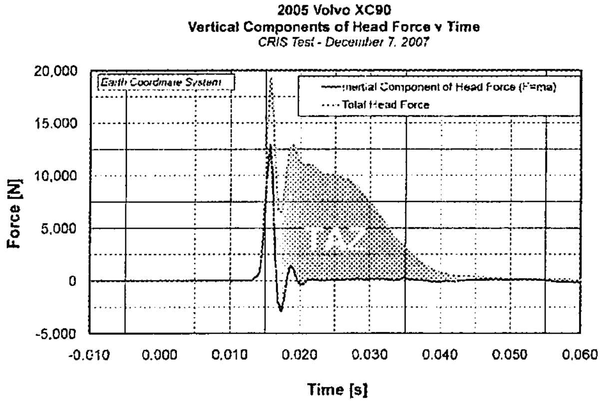
2005 Volvo XC90
Vertical Components of Head Force v Time
CRIS Test - December 7, 2007

Figure 15: Vertical inertial and total head force during the XC90 CRIS impact.

The inertial head force, which by definition is governed by its acceleration, is generated by changing the velocity of the head within the inertial reference frame. Therefore, no inertial force is generated if the head remains at a constant velocity, or if the head has come to a stop. This is clearly shown in the data of **Figure 15** (blue trace) at the time prior to roof contact and after the transient response from the head deceleration after it struck the ground.

The total head force is dominated initially by the short transient response of the inertial component of the head force, which occurs within approximately 4 ms of the initial head contact (see **Figure 15**). This short duration force is the inertial component generated from changing the velocity of the head. When the inertial head force goes to zero, then by definition the head is no longer being accelerated; the vertical motion of the head is stopped against the ground but the head continues to move in the lateral direction. The later duration of the total head force represents the inertial force of the torso into the head through the neck, and is directly measured by the neck load cell. The effect of this inertial torso loading is what dominates the total head force after the inertial head force has diminished and is illustrated in the data of **Figure 14** and **Figure 15** as the Torso Augmentation Zone (TAZ).

The components of the head velocities and displacements were calculated from the accelerometer data in the earth reference frame. The components of the ATD neck load data were also transformed to the earth reference frame. Plots of the neck load data and the head displacement data are presented in **Figure 16**. The correlation of the earth-based head displacement and neck load data show the head is moving toward the ground (vertical direction) and stops at approximately 16 ms. This would indicate that it took 16 ms for the head to travel from its initial position to the roof panel, and for the roof panel above the ATD head to contact the ground. During the time that the top of the head is decelerating, there is simultaneous loading to the neck from the torso, which is measured by the neck load cell. The data clearly show that the head is not displaced into the torso when the peak neck load occurs. In fact, the vertical and lateral head displacements do not change appreciably over the duration where there is significant neck load.

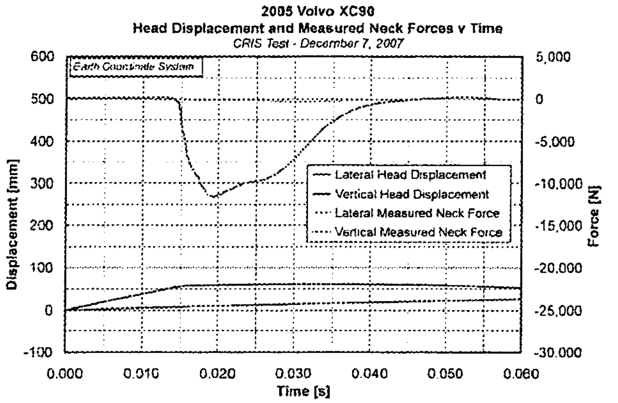

Figure 16: Measured neck loads and head displacements in the earth coordinate system.

The head velocities are correlated in time with the measured neck forces in **Figure 17**. The initial velocity from contact to the beginning of the inertial head loading is relatively constant at approximately 14 kph (note the linear displacement profile in **Figure 16**) and then abruptly experiences the change in velocity shown in **Figure 17**. Observe that the data also show that after approximately 16 ms the measured neck force only includes the force imparted on the head from the deceleration of the torso. Notice also that the vertical velocity of the head is zero because it is stopped against the ground during the time that the torso loads the neck.

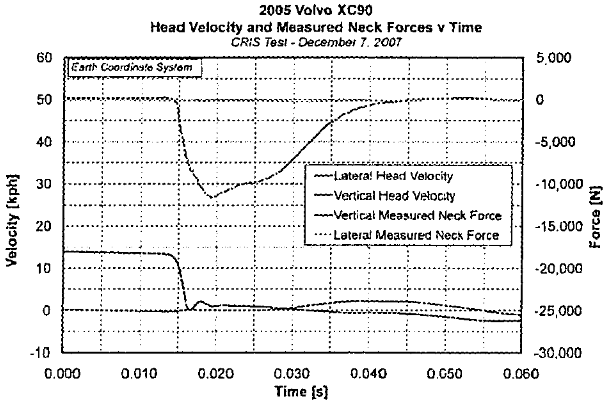

Figure 17: Measured neck loads and head velocities in the earth coordinate system.

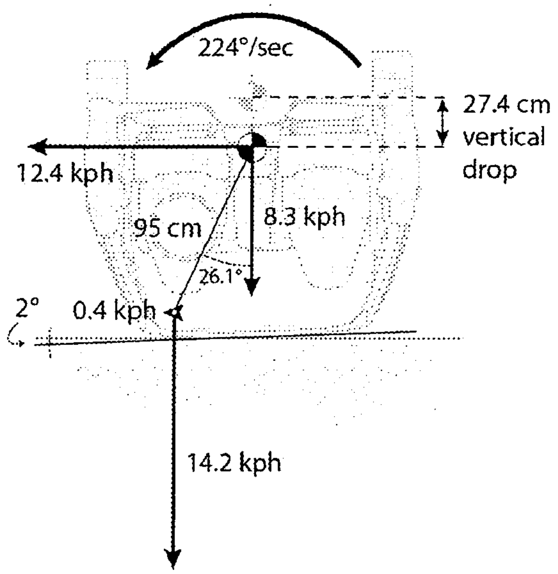

Figure 18: Vector velocity analysis of the XC90 impact in the earth-based reference frame (forward looking aft).

The initial vertical velocity data are compared in **Figure** 17 to a vector analysis using the initial impact conditions (**Figure 18**) showing that the change in head velocity compares quite well with the electronic data. The comparison confirms the validity of the analysis in the earth based inertial coordinate system as an appropriate means of assessing the injurious neck loading in this type of impact.

At vehicle contact with the ground during the XC90 test, the ATD head was just inboard of the left roof rail, as shown in **Figure 19**, which also shows the clearance between the ATD head and the interior roof panel.

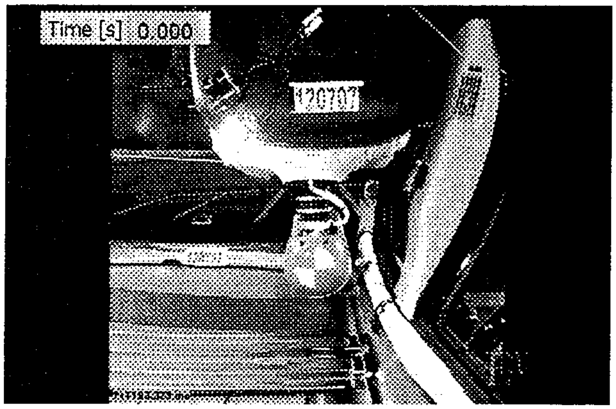

Figure 19: Screen capture of the onboard high-speed video of the driver ATD in the XC90 CRIS test at vehicle-to-ground contact.

The peak measured compressive neck load occurred at 19.3 ms and the nearest frame in the high-speed video to this peak was at 20 ms, which is shown in **Figure 20**. Observe the compression in the neck by comparing the aluminum neck rings at 20 ms versus the neck rings at the unloaded neck at 0 ms. Also observe that there is wrinkling of the roof panel at the time of this peak measured neck load. The magnitude of this roof displacement was evaluated by conducting a quantitative video analysis of the onboard high-speed video of the rear of the ATD in the vehicle based coordinate system. The apparent roof displacement and velocity were determined using on-board cameras with positive values indicating downward motion with respect to an upright vehicle.

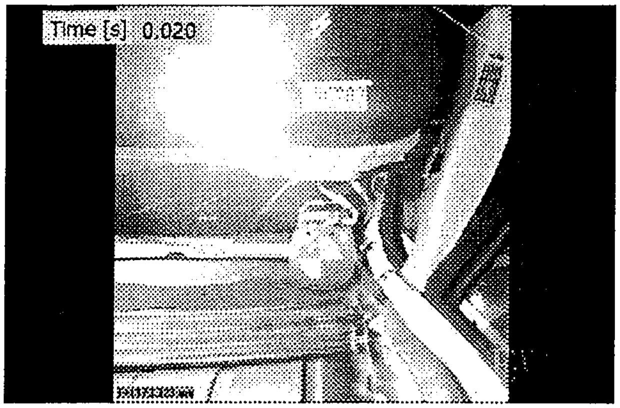

Figure 20: Screen capture of the onboard high-speed video of the driver ATD in the XC90 CRIS test near peak measured compressive neck load.

The video analysis data from the onboard camera revealed a negligible amount of head rotation during the compressive neck loading event. The roof and head displacements and velocities, both the lateral and vertical components, and the head angle were determined for the neck loading event. The vertical component of the head and roof displacements from the video analysis are plotted for the duration of the roof contact in **Figure 21**. The high-speed camera is mounted to the vehicle floor pan, which is undeformed during the roof-to-ground impact. As the roof contacts the ground, the roof stops vertically, yet the vehicle floor pan and the ATD continue to move toward the ground. When the high-speed video is analyzed from the accelerated reference frame (vehicle floor pan in this case), there is a quantifiable displacement of the head and roof relative to the camera. One must exercise caution in the interpretation of this data and realize that the displacement quantified by the plot is relative to an accelerated reference frame. The measurements are actually representative of the camera motion relative to the head and roof.

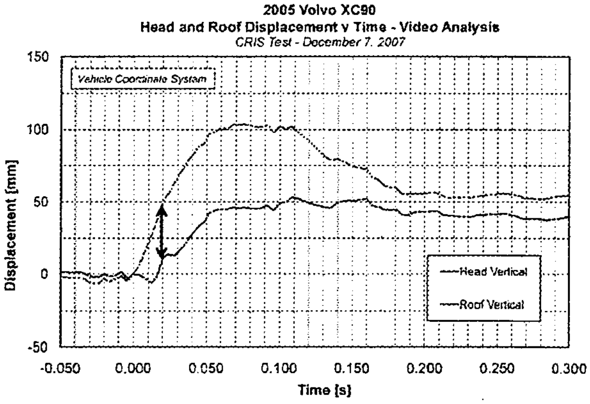

Figure 21: Apparent roof and head displacement calculated from the on-board high-speed video camera, which is attached to an accelerated reference frame.

The actual peak in the neck load occurred at 19.3 ms, which is depicted with the black double-sided arrow located two lines after time 0.000 s in **Figure 21**. This means that in the vertical direction, the camera moved 49 mm closer to the roof and 11 mm closer to the head during the time from contact to the peak neck load. The roof and head data from this accelerated reference frame video analysis show that the ATD moved (with the video camera mounted to the vehicle) toward the ground by 38 mm. This distance was the approximate clearance between the head and the roof panel. At peak neck load, therefore, the head was not affected by roof deformation.

A temporal comparison of the roof lateral and vertical velocities reveals a biphasic event. The vertical velocity peaks first at 76 ms and the lateral velocity peaks later at 88 ms. The phasing of these measurements is consistent with the roll angle at impact with the ground, i.e. adjacent to the ½ roll position. Note that the vertical velocity calculated in the accelerated reference frame was less than 10 kph, where in the inertial reference frame it was 14 kph.

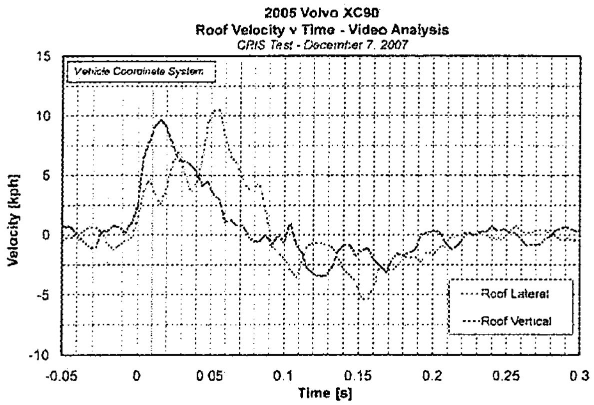

Figure 22: Apparent roof velocity calculated from the on-board high-speed video camera, which is attached to an accelerated reference frame.

Video analysis was also conducted in the inertial reference frame to demonstrate consistency with the earth-based analysis performed using the acceleration and neck load data recorded by the ATD instrumentation. This video analysis was conducted in the inertial reference frame from a camera attached to the CRIS fixture (see **Figure 13**). The ground was also tracked near the point of impact and used to remove any motion of the camera caused by the moving CRIS device. This ensured that the fixture-mounted camera was resolved in the earth reference frame. The components of the head displacements and velocities during the duration of head contact are illustrated in **Figure 23** and **Figure 24.**

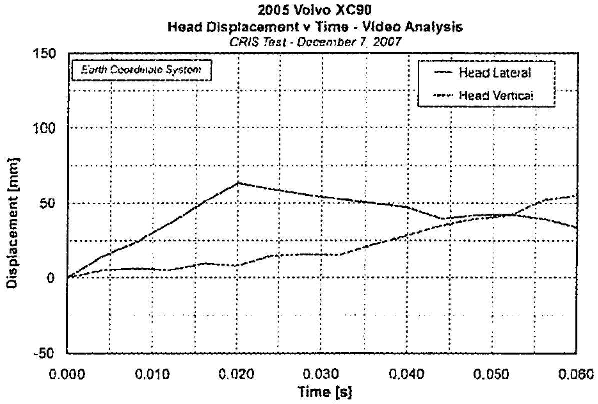

Figure 23: Component displacements of the ATD head in the earth-based reference system.

Recall that the neck loading event peaks at 19.3 ms, which is where the vertical displacement profile in **Figure** 23 plateaus. This vertical displacement profile agrees with the displacement profile from the inertial based displacement profile calculated from the ATD acceleration data (**Figure 16**). The same comparison can be made in the earth-based reference frame for the vertical velocity profiles between the video analysis (**Figure 24**) and the ATD acceleration data (**Figure 17**). These comparisons validate the earlier analysis from an independent data set.

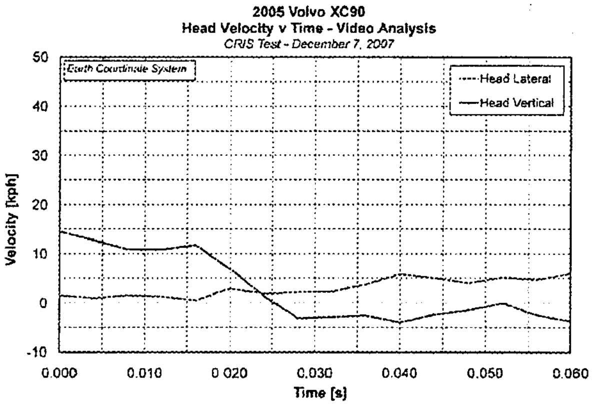

Figure 24: Component velocities of the ATD head in the earth-based reference system.

The video analysis is only sufficient to determine the overall occupant kinematics; it is not suitable to illustrate the mechanism of neck loading during the head impact. The measurements made by the neck load cells and head accelerometers are more appropriate to determine the origin of neck loading during rollover events. In fact, SAE J211 states that the cut-off frequency for both head accelerations and neck loads shall be 1650 Hz, well above the 250 Hertz video data. It is for this reason that the authors encourage the reader to be cautious about the propriety of using video analysis data for determining the timing between ATD neck loading and head kinematics. The video data do provide confirmation that the overall displacements are consistent with the high frequency data analyzed in the earth coordinate system.

ISUZU RODEO TEST – IMPACT 1

A production 1996 Isuzu Rodeo was modified, dynamically balanced, and tested on the CRIS machine. The Rodeo was modified by adding 4130 steel plate at select locations along its left and right roof rails, A-pillars, and B-pillars. Additional modifications included: steel tubes inserted within the A-pillars, the replacement of the original front roof header with one from a Volkswagen Touareg, and the replacement of the original roof bow with one from a Volvo XC90. Finally, voids within the side roof rails, the front header, roof bow, and the B-pillars were filled with an expandable two-part rigid polyurethane foam that had a density of 23 pounds per cubic foot. The initial conditions at impact were: 317 deg/s roll rate, and zero degrees pitch and yaw. The drop height, from release to first contact, was 480 mm. The position of the ATD head and the vehicle at impact was such that the top of its head was adjacent to the interior roof rail between the A- and B-pillars. The driver side window was closed for this test. As with all of the CRIS tests, the vehicle was released from the CRIS fixture and fell to the ground unconstrained. **Figure 25** depicts the vehicle and ATD orientation as the vehicle contacted the ground.

Figure 25: Ground contact with the exterior roof panel in the first impact of the Rodeo CRIS test.

The two plots in **Figure 26** and **Figure 27** represent the lateral and vertical component forces acting on the ATD head in the earth's inertial reference frame. It can be seen that for the lateral components, the total head force is not necessarily larger than the sum of the inertial component and the neck component. This is explained by observing that these forces are not necessarily acting in the same direction. Like the XC90 test, the vertical inertial components of force dominate the total force during a short duration after initial contact, and diminish within approximately 4ms of head contact. However, unlike the XC90 test, these inertial forces do not go to zero. This occurs because once the head comes in contact with the modified roof rail, and the head changes velocity considerably, it continues laterally through the adjacent window opening until it contacts the ground. This can be seen in both the lateral and the vertical directions. It can also be seen that the inertial force is fairly low during the time it takes the head to drop from the roof rail to the ground. Although this impact was considerably different than that of the XC90, the contribution of torso augmentation can clearly be seen in the vertical direction.

It is noteworthy to point out that the second head loading event seen in **Figure 27** is directly with the ground after the head continued passed the roof rail. The loading profile demonstrated similar head inertial and neck force characteristics to that seen in the preceding head contact with the vehicle structure just milliseconds earlier.

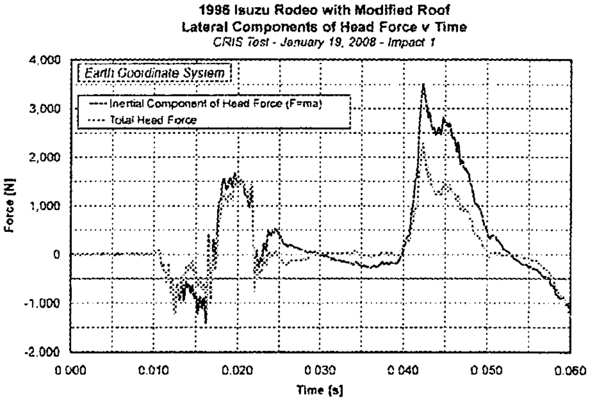

Figure 26: Lateral inertial and total head force during the first Rodeo CRIS impact.

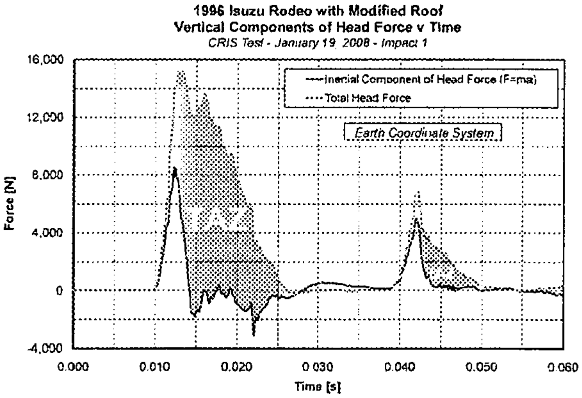

Figure 27: Vertical inertial and total head force during the first Rodeo CRIS impact.

Components of the head velocities and displacements are plotted with the measured neck loads in the earth coordinate system in **Figure 28** and **Figure 29**. Earth-based head displacement and neck load data show that the head is moving toward the ground (vertical direction) and slows considerably once the head contacts the roof rail. It can be seen that as the head continues through the adjacent window opening its vertical velocity comes to a stop only after the head comes in contact with the ground.

These plots also illustrate the large lateral velocity between the ground and the head. The lateral velocity at the outer skin of the roof just prior to it interacting with the ground is also quite large, and it is this difference that imparts a large lateral force to the roof, resulting in a large torque to the vehicle and an increased roll rate.

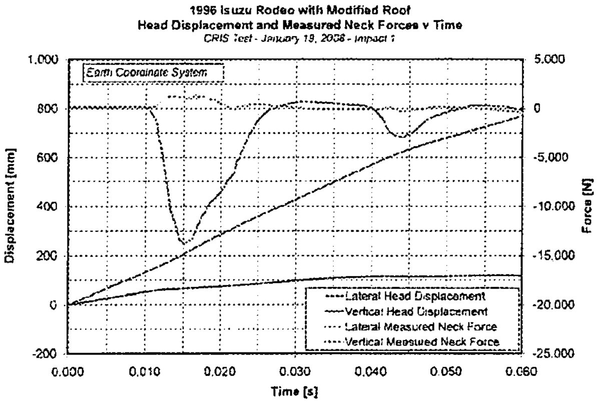

Figure 28: Measured neck loads and head displacements in the earth coordinate system.

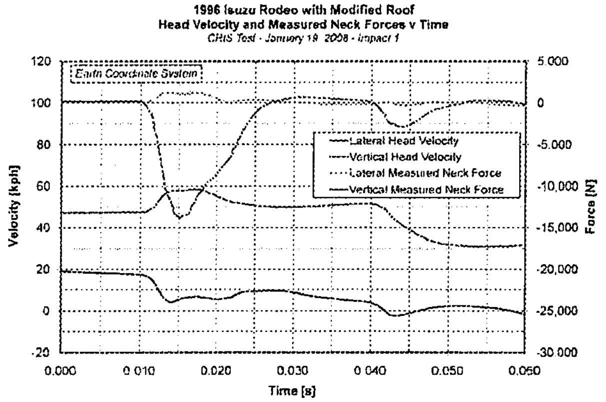

Figure 29: Measured neck loads and head velocities in the earth coordinate system.

The initial lateral and vertical head velocities from the plot in **Figure 29** were 47 kph and 19 kph, respectively. A vector analysis, similar to that done for the XC90 impact, was performed for the first Rodeo impact and is presented in **Figure 30**. Comparison of the vector analysis and the electronic data again demonstrates reasonable agreement.

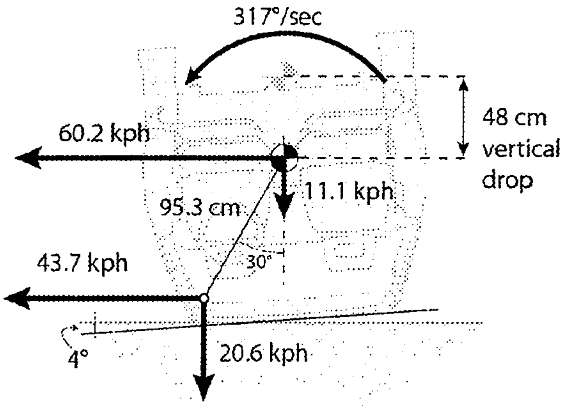

Figure 30: Vector velocity analysis of the first impact in the Rodeo impact in the earth-based reference frame (forward looking aft).

The screen capture from the onboard rear high-speed video camera in the Rodeo test (**Figure 31**) shows the orientation of the ATD with the interior of the left roof rail. The head was not in contact with the roof rail, which is not entirely clear in this image, but is known based on the zero compressive neck load shown in **Figure 29**.

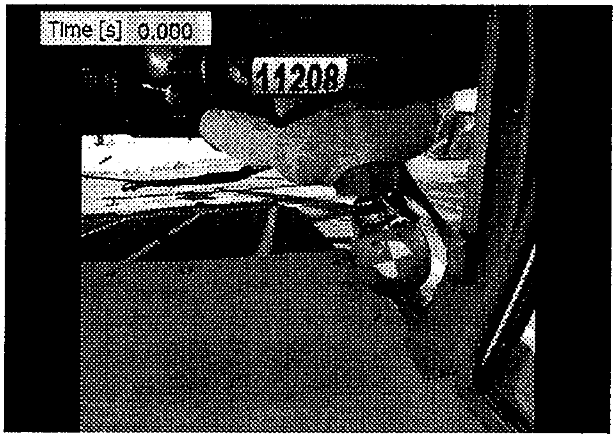

Figure 31: Screen capture of the onboard high-speed video of the driver ATD in the Rodeo CRIS test at vehicle-to-ground contact.

The peak measured compressive neck load occurred at 15.2 ms and the nearest frame in the high-speed video to this peak was at 16 ms, which is shown in **Figure 32**. The physical loading of the neck in compression is clearly observed by comparing the aluminum neck rings at 16 ms versus the unloaded neck at 0 ms. Interestingly, both the XC90 and the Rodeo had ATD head clearance at vehicle contact with the ground. The peak measured neck load occurred earlier in the Rodeo test (15.2 ms) than in the XC90 test (19.3 ms), which is attributable to two things in the Rodeo test: (1) the head was closer to the roof rail and (2) a higher vertical velocity based on the initial conditions. An attempt to apportion the role played by these factors in the timing of the neck load has not been made.

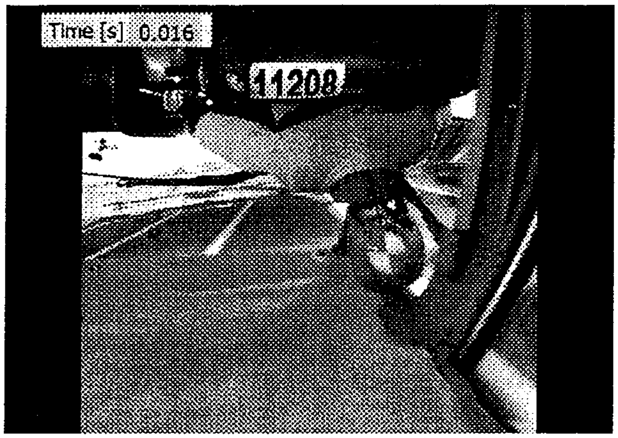

Figure 32: Screen capture of the onboard high-speed video of the driver ATD in the Rodeo CRIS test near peak measured compressive neck load.

As the impact progressed, the closed driver side window fractured at approximately 24 ms, as shown in **Figure 33**, which was after the peak compressive neck load occurred. This indicates that at least within the geometry of the Rodeo's interior, the 50th ATD head is capable of sustaining injurious neck loading by contact with the interior roof rail with the side window intact. It is unclear whether the dynamic deformation of the roof structure or head contact with the glass caused it to fracture.

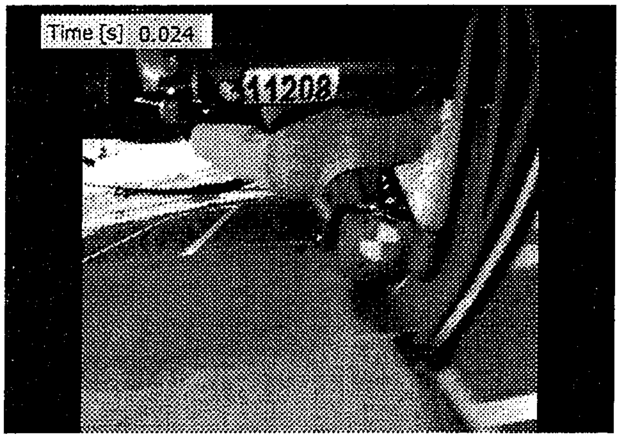

Figure 33: Screen capture of the onboard high-speed video of the driver ATD in the Rodeo CRIS test at side window fracture.

ATD head movement and deformation to the roof structure were evaluated from the onboard high-speed video camera and is plotted in **Figure 34**. At 16 ms this moving reference frame indicated that the vertical component of the roof was displaced 31 mm closer to the camera, while the head was displaced a minute amount. It was at this instant the head contacted the roof rail. The head then traveled out of the adjacent window opening, and at 32 ms made direct contact with the ground. After that point, the roof and the head were stopped vertically on the ground, and the video analysis indicated that they travelled approximately the same distances.

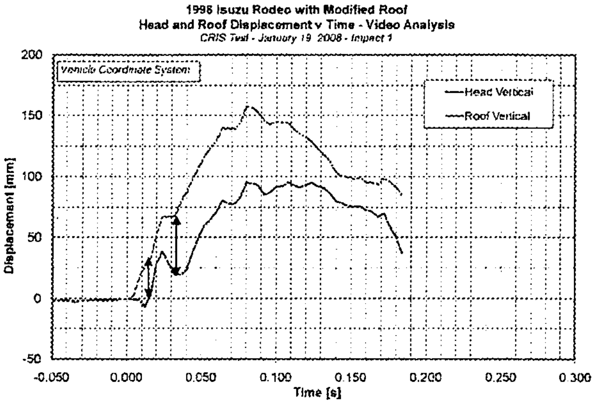

Figure 34: Roof and head displacement calculated from the on-board high-speed video camera. Arrows indicate timing of head-to-roof rail and head-to-ground contact.

The lateral and vertical velocities are illustrated in **Figure 35**, and like the XC90 test, there appears to be a biphasic event associated between their peaks. The vertical component of the velocity occurs first followed by the lateral component.

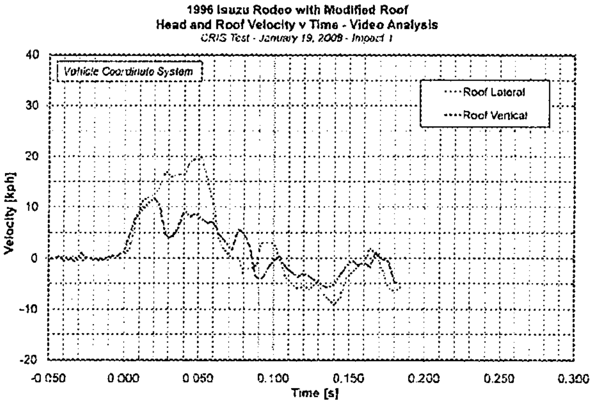

Figure 35: Roof velocity calculated from the on-board high-speed video camera.

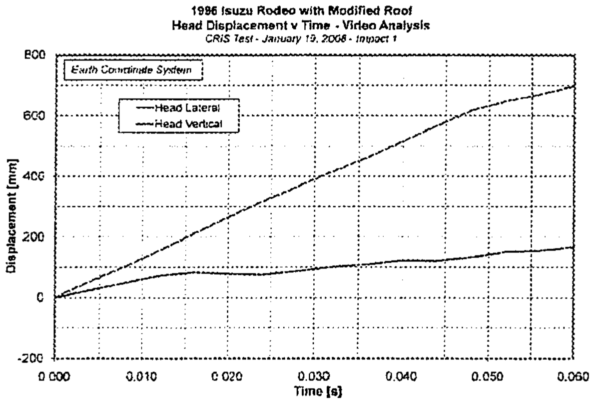

Figure 36: Component displacements of the ATD head in the earth-based reference system.

The components of the head displacements and velocities during the duration of head contact are illustrated in **Figure 36** and **Figure 37**.

It may appear from the data that the vertical head displacement actually continued toward the ground even after contact with it. The data do not suggest that the head penetrates the ground, but when analyzed in conjunction with the video, indicate that the tracked target on the head was actually rotating giving the appearance of additional movement toward the ground. To illustrate this point, a frame from the onboard high-speed video camera was captured at 60 ms and is shown in **Figure 38**.

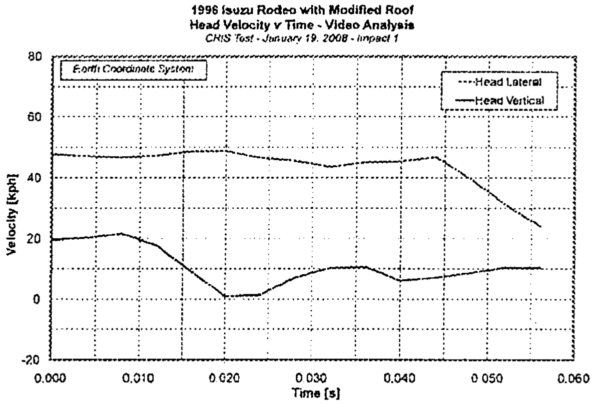

Figure 37: Component velocities of the ATD head in the earth-based reference system.

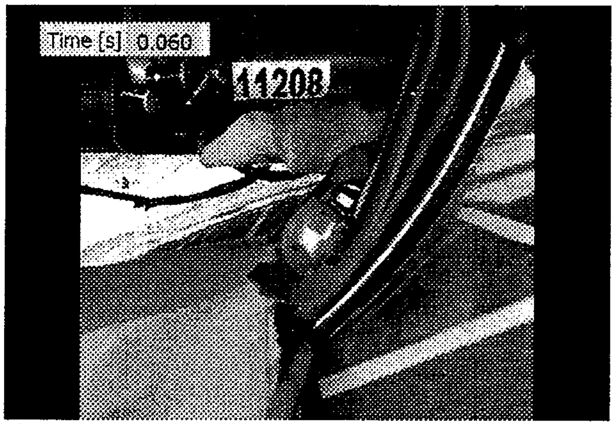

Figure 38: Video frame captured from the onboard high-speed video camera at 60 ms showing the head rotation after the initial neck loading.

HEAD COORDINATE DATA

Detailed analysis of the XC90 and Rodeo data required a combination of video analysis, electronic data, and several coordinate transformations to determine the mechanism of upper-neck loading. Much of the same information can be seen if the same analysis is simply conducted in the head coordinate system. For the XC90 test, **Figure 39** illustrates the difference between the total head forces calculated in the earth reference frame and total head forces calculated in the head reference frame. The plot shows, particularly in the vertical direction, that the difference between the measured force and the total force performed in the two coordinate systems is minimal.

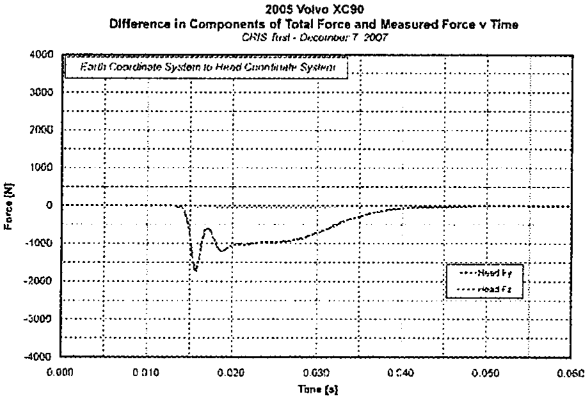

Figure 39: Difference between detailed analyses for the XC90 in the earth reference frame versus the head reference frame.

The same comparison can be made for the head contact during the Rodeo test. **Figure 40** illustrates the difference in forces between the Earth coordinate system and the Head coordinate system for the first roof-to-ground contact. It can be seen that the difference between the vertical components is relatively small, even though the head contact was at the outboard roof rail. The difference in the vertical component only becomes large once the head has passed through the adjacent window opening (**Figure 41**), and the head angle becomes large enough to drive this discrepancy. The results of these comparisons show that for the primary impacts there is little difference between the two coordinate systems, and that for a force analysis in the vertical direction we need only assess the forces in the head coordinate system.

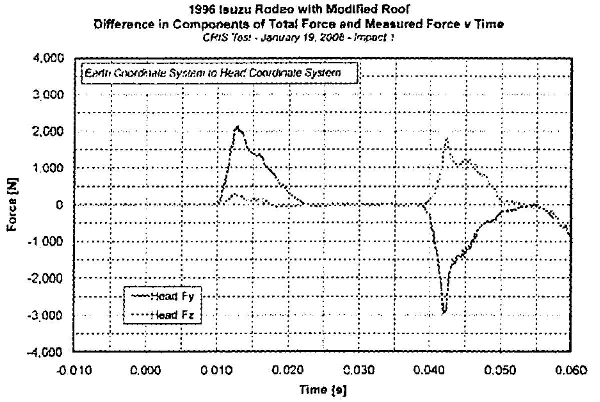

Figure 40: Difference between detailed analyses for the Rodeo in the earth reference frame versus the head reference frame.

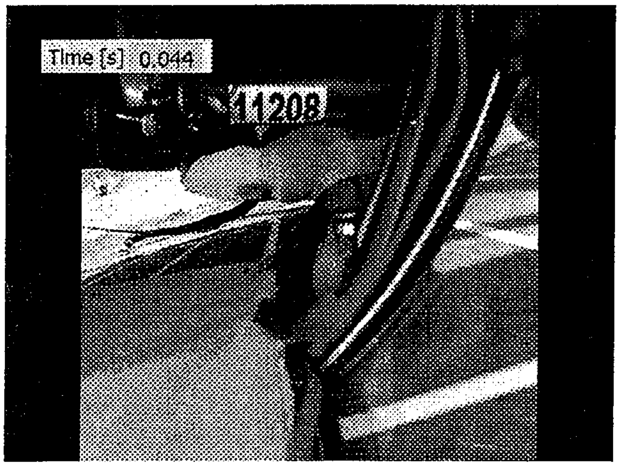

Figure 41: Frame captured from the onboard high-speed video of the Rodeo test showing head-to-ground contact at 44 ms.

Since the vertical head analysis is sufficient to determine the origin of neck loading, a force analysis in the head reference frame is presented in the APPENDIX for all of the head impacts. **Figure 42** through **Figure 47** represent the Crown Victoria CRIS tests, **Figure 48** and **Figure 49** represent the Blazer CRIS tests, **Figure 50** contains the XC90 CRIS test, and the Rodeo CRIS tests are presented in **Figure 51** and **Figure 52**.

DISCUSSION

The critical issue in the authors' rollover inquiry was to understand and illustrate the transient neck loading during a roof-to-ground contact in a rollover. The simple question is whether injurious force applied to the neck is primarily derived from roof crush accelerating the head toward the neck and torso or from the continued motion of the torso being decelerated in part by forces applied through the neck against an already slowed head.

Prior studies have already shown that the supposed downward motion of the roof is only observed from the deceptive accelerated reference frame of a vehicle mounted camera (Moffat et al., 2003, Orlowski et al., 1985). Prior studies have also shown that the roof deformation only becomes significant well after instrumentation demonstrates that the significant neck loading has already occurred (Bahling et al., 1990, James et al., 2007, Moffat et al., 2003, Orlowski et al., 1985). The present study examined the acceleration of the head with respect to an inertial frame in six degree-of-freedom rollover contacts and found that the inertial acceleration of the head had largely already taken place before the significant neck loading occurs. There was fundamentally a three-stage event consisting of head acceleration, neck loading, and roof deformation in that order. In all eleven of these CRIS tests studied, roof crush did not accelerate the head into the neck. The head decelerated, the continued torso motion loaded the neck, and the continued vehicle motion loaded the roof structure to maximum deformation. There was overlap among the three phases but the maxima and the primary events were clearly distinct in time. If roof crush actually produced motion of the head toward the torso, head acceleration with respect to an inertial frame would have been observed during the roof deformation.

In the XC-90 test, head acceleration had taken place within the first 5 milliseconds of head contact. Examination of neck and head forces experienced during the head impact demonstrated that the ATD head was vertically stopped before peak measured neck forces were generated. This occurred because the head was not rigidly coupled to the body and, therefore, its motion was arrested by the roof panel and ground before the torso was stopped. At the time of the first peak, which was dominated by the head deceleration, the force due to the inertial component of the head accounted for approximately 65% of the total force. Continued torso motion loaded the neck in compression, after the head was slowed. The second peak was dominated by decelerating the torso and occurred approximately 3 ms after the initial peak. The pulse duration of the measured neck force (approximately 27 milliseconds) had a much longer duration than the initial head force duration (5 ms). This was consistent with the longer torso stopping distance provided by neck compression compared to the head striking the interior roof panel. The subsequent peak in neck loading created by slowing the torso was a result of the ATD continuing to move into the stopped roof structure. The impulse associated with head acceleration was consistent with that necessary to eliminate the vertical component of the head's momentum. The continued force on the head through the neck did not produce acceleration of the head since the head was in contact with the vertically stopped roof structure.

The head and neck loading profile just described was designated as the Torso Augmentation Zone (TAZ). It is defined as the area between the total head force and the inertial head force. These CRIS tests and the methodology presented in this study clearly outline the origin of neck loading for the given loading conditions. For occupants in real world rollovers with similar loading scenarios, the TAZ represents a plausible basis for neck injury. If ground contact is similar to both reinforced and unreinforced roof structure impacts in producing neck loading, roof deformation can hardly be invoked as the operative mechanism. This point is further illustrated in the Rodeo test by the head and neck load profiles collected during the ATD head impacts that were directly with the ground (two out of three as seen in **Figure 51** and **Figure 52**). The loading profiles in these impacts had the same characteristics as those impacts where the roof structure was present.

During far-side head contacts in rollovers, the head stops vertically and slows laterally. Continued motion of the body loads the neck. Continued motion of the vehicle loads the roof supports, first vertically and then more laterally as the vehicle rotates. Roof deformation is greatest late in the event with more lateral contact. By that time, the neck loading is largely over because the torso by that time is also loading laterally into side structure instead of vertically into the neck. In addition, from an inertial reference frame, the head does not undergo significant acceleration later in the contact since the late lateral roof deformation is derived from the continued motion of the rotating vehicle not in contact with the ground.

CONCLUSION

This paper examines basic principles of rollover kinematics and utilizes actual rollover test data to demonstrate those principles. The data presented in this study demonstrate the timing of head and neck loading as a result of ATD head contact with a vehicle roof during a far-side ground contact. The short-duration head acceleration followed by a longer-duration neck force is similar to a diving impact demonstrated in studies on cervical spine tolerance (Nightingale et al., 1996). In the impacts analyzed and presented in this study, injurious levels of neck compression were a result of torso loading the neck against a head that was vertically stationary.

The findings of this study are consistent with the view that ground contacts of an upper vehicle structure during rollover produce neck injury on the basis of a component of continued torso motion toward a head whose motion has been changed prior to the neck-loading event. Specific conclusions based on the analysis performed on these CRIS tests include:

1. The origin of neck loading events in rollovers must be analyzed from a non-accelerating, non-rotating inertial reference frame.
2. Head accelerometers represent measurements in the inertial reference frame and can be used in appropriate tests to distinguish real from apparent head acceleration.
3. Relevant tests of rollover events must utilize fully unconstrained (six degree-of-freedom) impacts of vehicles with appropriate mass, moments of inertia, and translational and rotational velocities.
4. A typical far-side roof contact can be characterized as a tri-phasic event involving early short duration head acceleration sufficient to eliminate the vertically downward component of head velocity; later, longer duration neck loading derived from a component of continued torso motion without head acceleration; and still later, much longer duration roof deformation which does not yield meaningful head acceleration or injurious neck load.
5. In the tested configurations, roof deformation was a biphasic event consisting of early vertical followed by later lateral components. No meaningful head acceleration continued into either phase.
6. Inertial sensors in the head demonstrate that the bulk of the head acceleration event is over within about 5 milliseconds of head contact for the tested parameters, ending prior to the main neck loading pulse (Torso Augmentation Zone) and well before significant roof deformation.
7. Roof deformation did not accelerate the head into the neck.

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APPENDIX

The following plots in this appendix present the head forces in only the vertical direction within the head reference frame. The measured head accelerations were made relative to the earth's inertial reference frame but oriented within the head coordinate system. The measured neck forces and calculated forces presented below are oriented within the head coordinate system. Since the ATD coordinate system during these CRIS impacts were nearly aligned with the earth's reference frame (that is there was a small angle between the head coordinate system and the earth's inertial coordinate system), the forces on the ATD head within the head coordinate system was sufficient to illustrate the origin of neck loading.

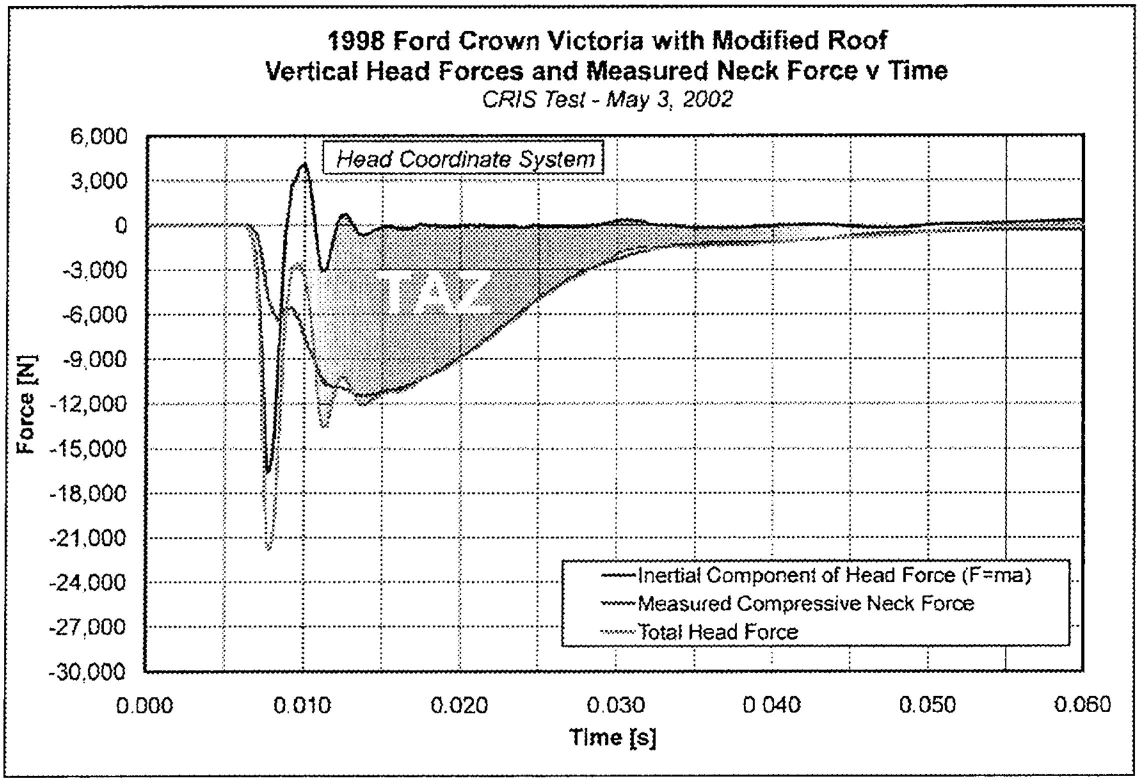

Figure 42: Vertical head forces and measured neck forces in the head coordinate reference frame.

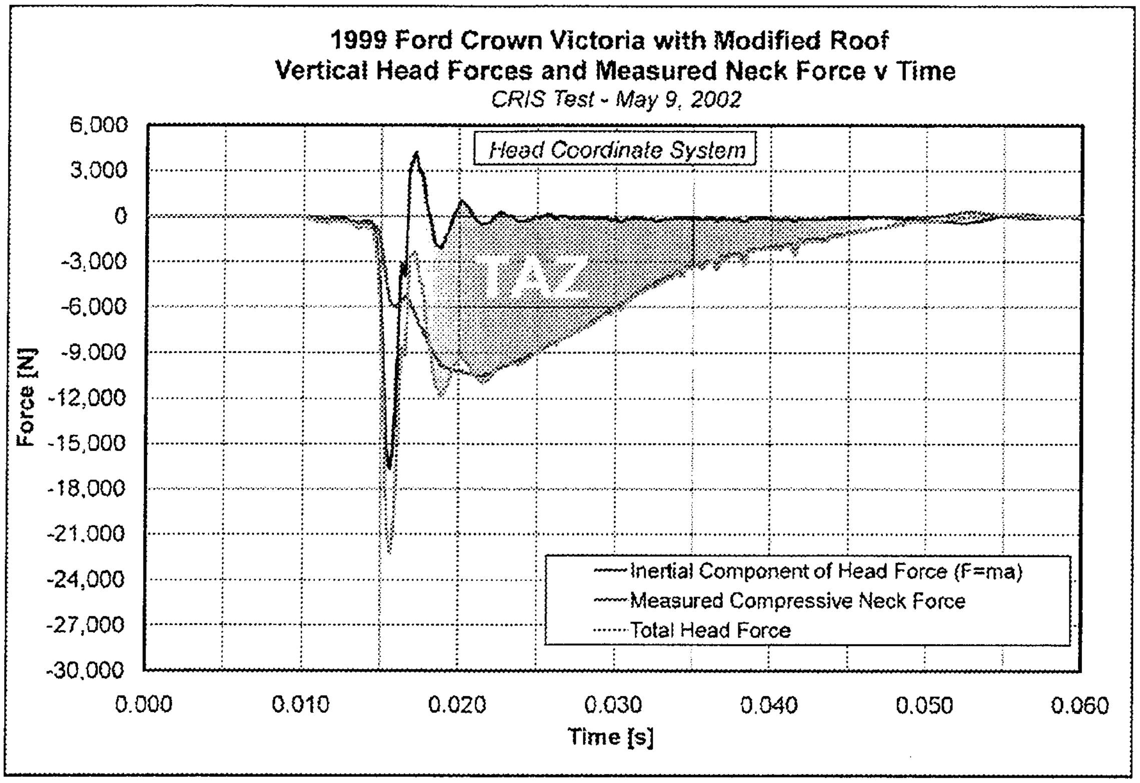

Figure 43: Vertical head forces and measured neck forces in the head coordinate reference frame.

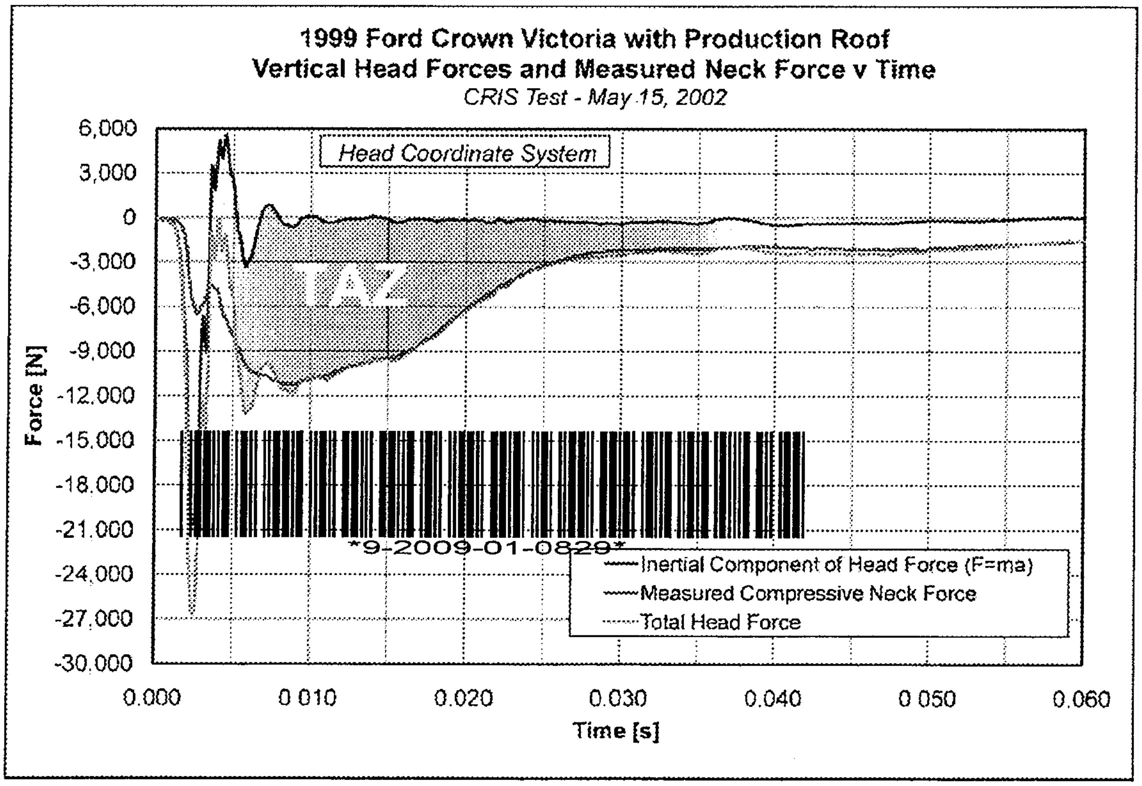

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Figure 44: Vertical head forces and measured neck forces in the head coordinate reference frame.

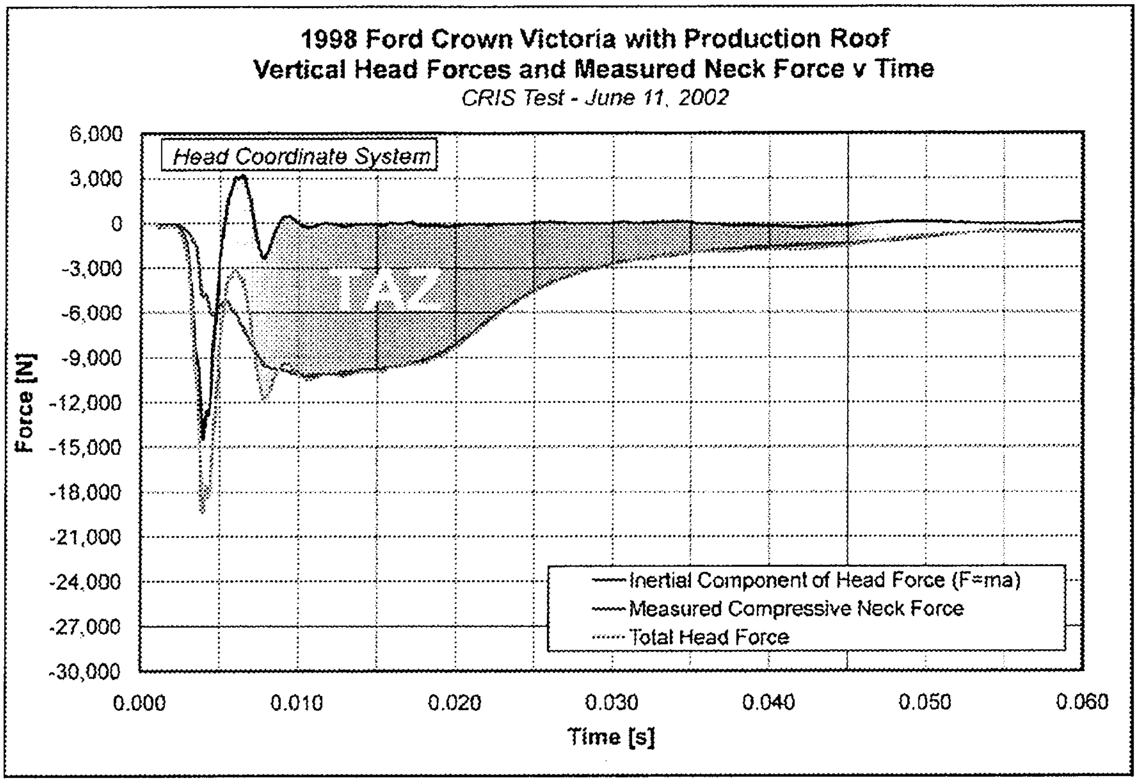

Figure 45: Vertical head forces and measured neck forces in the head coordinate reference frame.

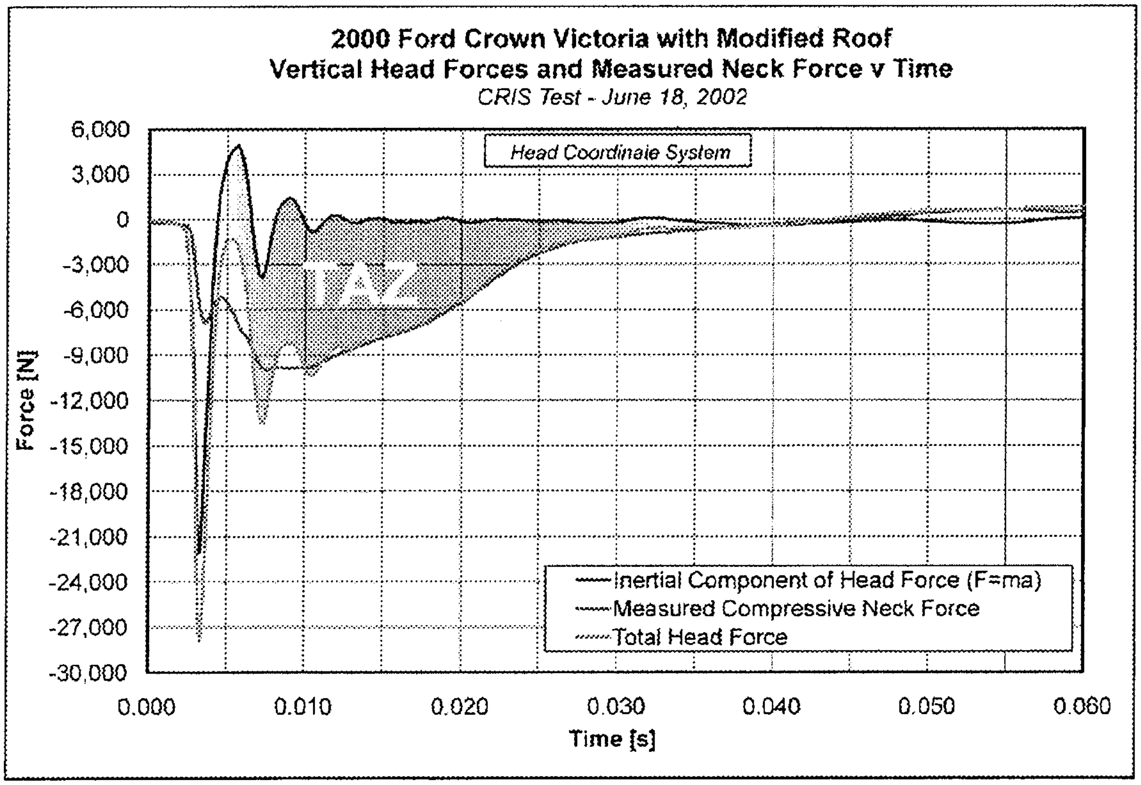

Figure 46: Vertical head forces and measured neck forces in the head coordinate reference frame.

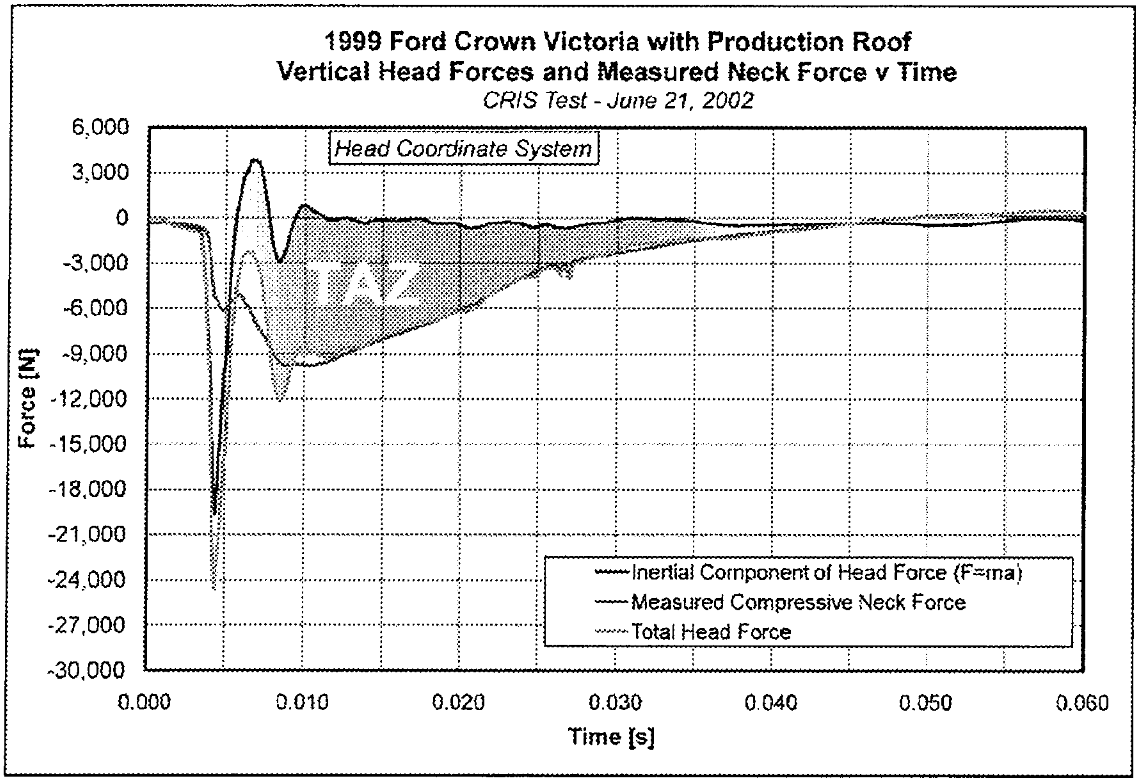

Figure 47: Vertical head forces and measured neck forces in the head coordinate reference frame.

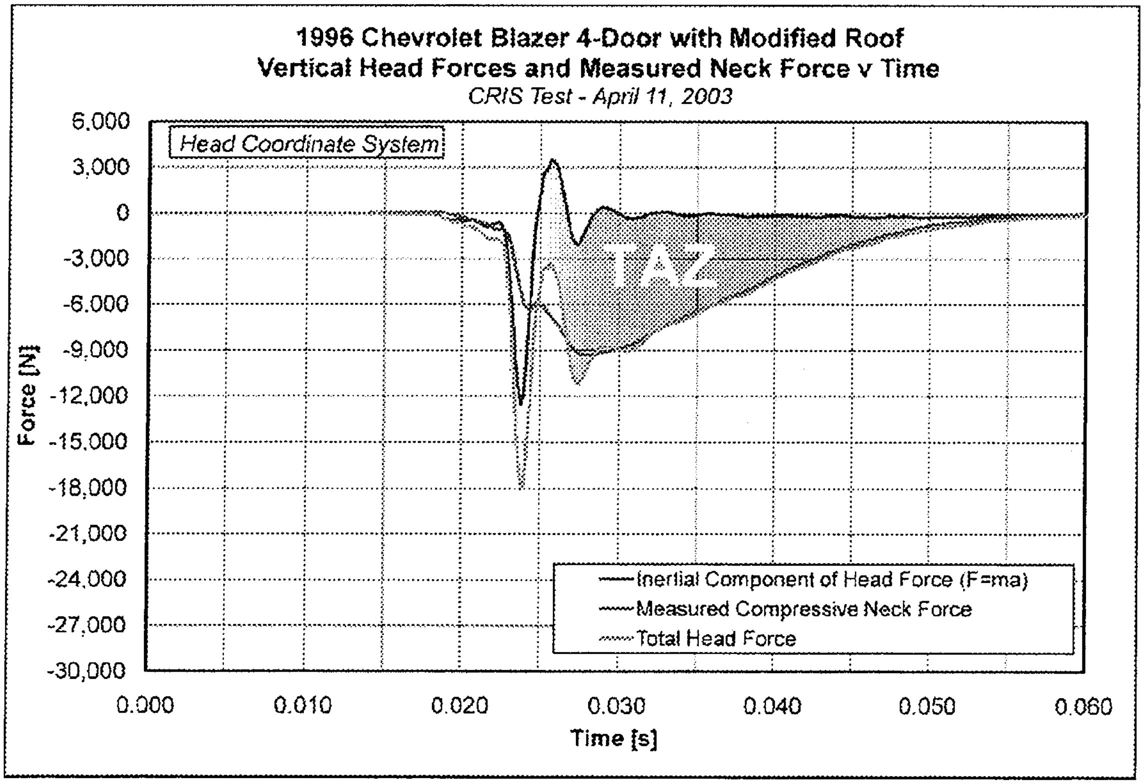

Figure 48: Vertical head forces and measured neck forces in the head coordinate reference frame.

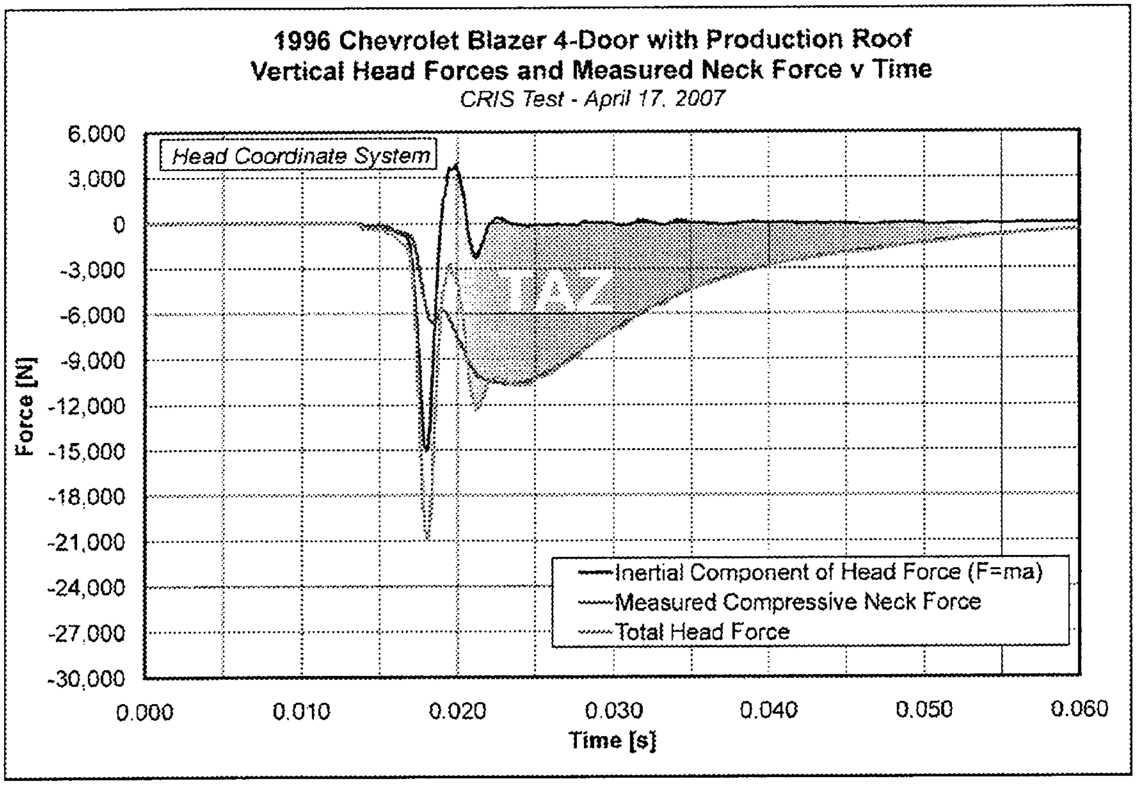

Figure 49: Vertical head forces and measured neck forces in the head coordinate reference frame.

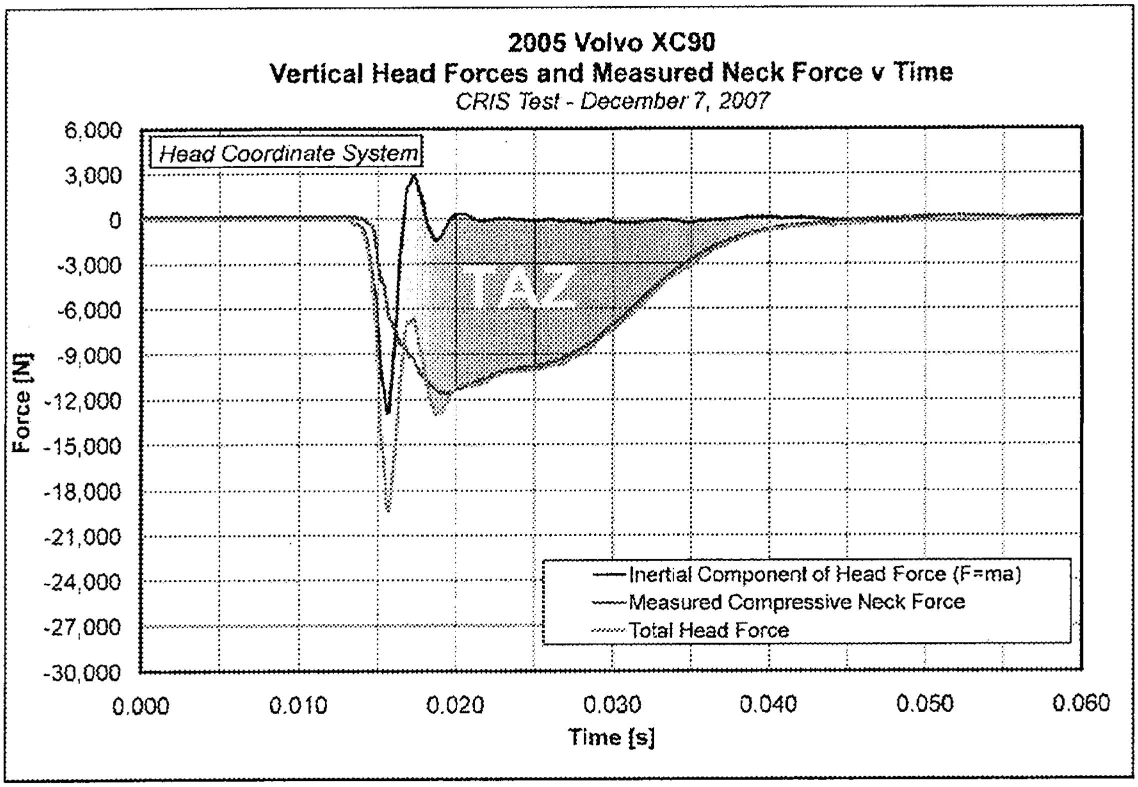

Figure 50: Vertical head forces and measured neck forces in the head coordinate reference frame.

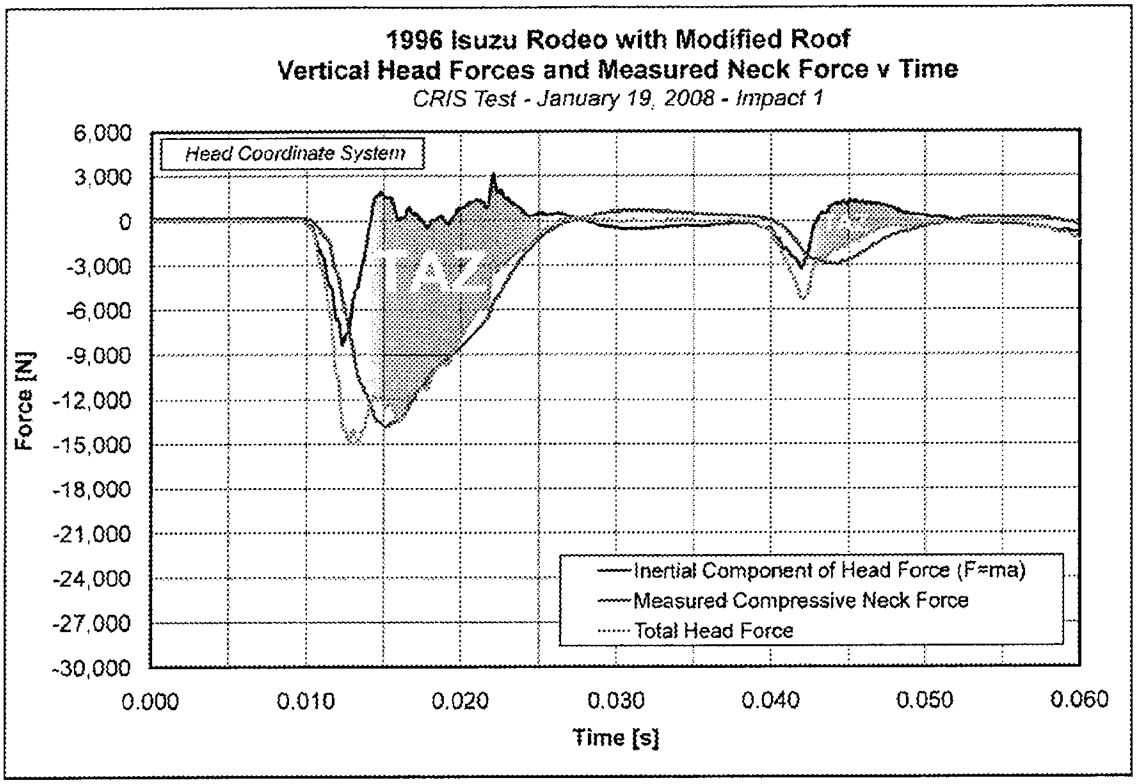

Figure 51: Vertical head forces and measured neck forces in the head coordinate reference frame.

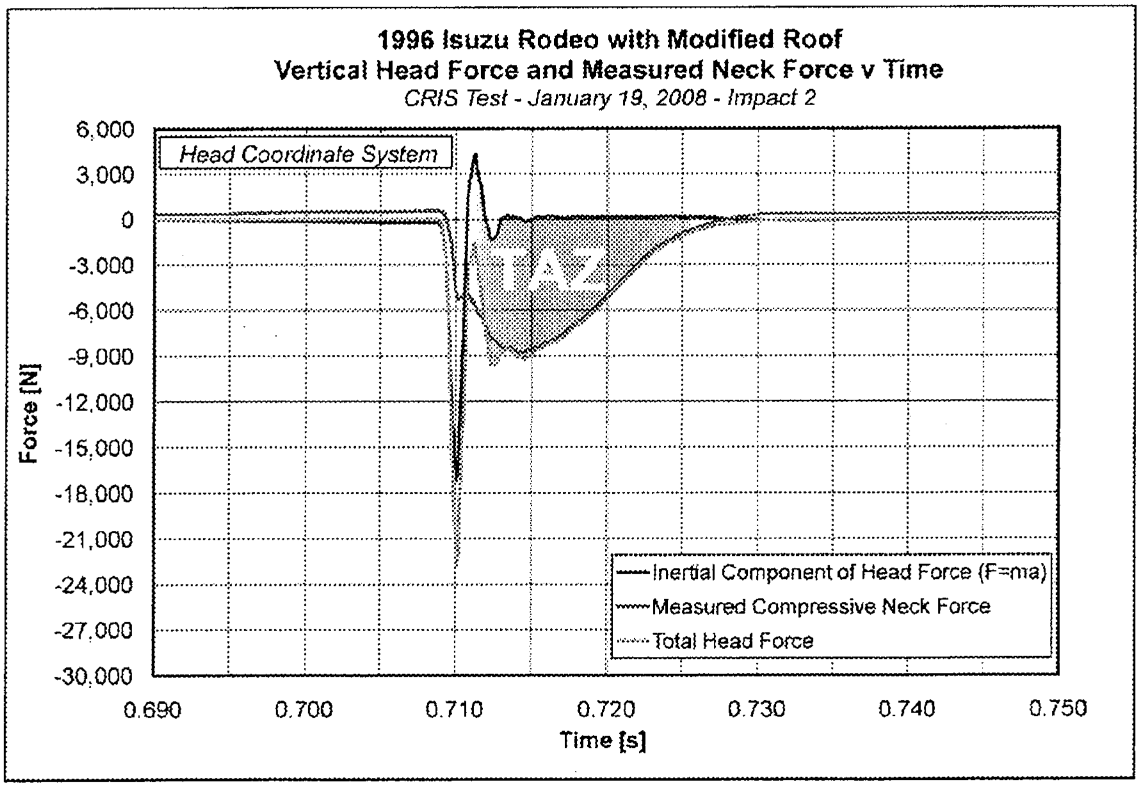

Figure 52: Vertical head forces and measured neck forces in the head coordinate reference frame.