



# Capturing Distracted Driving

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# Objectives

- **Why focus on this issue**
- **Reasonable suspicion**
- **Where to focus**
- **Evidence and how to document**
- **Aides to detecting**
- **The actual traffic stop**
- **Miscellaneous thoughts**



# What's the problem?





# This is the Problem

**Subject Vehicle with Texting Driver**





# The Innocent Victim

**Subject (grey vehicle) crossed center line and hit victim head on...Victim lost**





# More Victims

## Shakopee teen charged for allegedly texting before Eagan car crash

A 17-year-old Shakopee girl faces criminal charges after Dakota County prosecutors say she caused a car crash that injured three people, including a 15-month-old boy, because she was reading a text message. The girl, who was not named because she is a juvenile, was charged this week with felony criminal vehicular operation involving gross negligence and misdemeanor careless driving because of the July 27 crash at Duffey and Nissle roads in Eagan.

The 15-month old boy suffered a serious head injury, while his mother and her friend were hospitalized.

She also told police she was heading to school after three hours of sleep. The 15-month-old boy, who had been belted in a car seat in the back seat, was taken to Regions Hospital in St. Paul, where he underwent surgery. He was later transferred to Gillette Children's Specialty Healthcare in St. Paul and has since been released.

"This was a terrible crash that could have been prevented (and) that resulted in life-threatening injuries to a child," Dakota County Attorney James Backstrom said. "We hope this young victim fully recovers from this traumatic brain injury."

Distracted or inattentive driving is a factor in one in four crashes each year in Minnesota, Backstrom added.

The girl, who was petitioned into juvenile court, will make her first court appearance Nov. 25. Backstrom can be reached at 651-228-2173. Follow him at [twitter.com/JamieBackstrom](https://twitter.com/JamieBackstrom).



# Where to Begin

- **Drunk Driving is compared to Distracted Driving in driving behaviors**



# Where to Begin

- **Drunk driving starts with**
  - **Clear traffic violation**
  - **Driving behaviors giving a reasonable officer suspicion of drunk driving**



# The Next Step

- **Do the same thing for distracted driving**
  - **More likely your stop is going to be based on reasonable suspicion**



# Reasonable Articulable Suspicion

- **Was a standard established by the Supreme Court in 1968**



# Reasonable Articulable Suspicion

The court ruled that police officers should be allowed to stop and briefly detain a person if, based upon the ***officer's training and experience***, there is reason to believe that the individual is engaging in criminal activity



# Reasonable Articulable Suspicion

- Unlike probable cause that uses a reasonable person standard, reasonable suspicion is based upon the standard of a ***reasonable police officer***



# **“Normal” Driver Behaviors**

- **Head is up looking out of vehicle**
- **Keeps the vehicle centered in lane**
- **Stop light**
  - **Watching cross traffic**
  - **Staring at red light or car in front of them**
  - **Light turns green, vehicle goes without delay**



# Distracted Driver Behaviors

- **The opposite of the last slide**
- **Gradual drifting towards or over lane lines**
- **Quick jerks or corrections back to center**
- **Constant tapping of brakes as they buffer off the vehicle in front of them**
- **Green light, and don't begin to move**



# Cell Phone Distracted Driver

- **Using the phone but not holding it to ear**
- **Don't appear to be talking**
- **Are they scrolling or sliding finger across screen**
- **Are they tapping buttons or typing**
- **Head down facing phone, quick glance up**
- **Glow inside vehicle (nighttime)**



# Nighttime



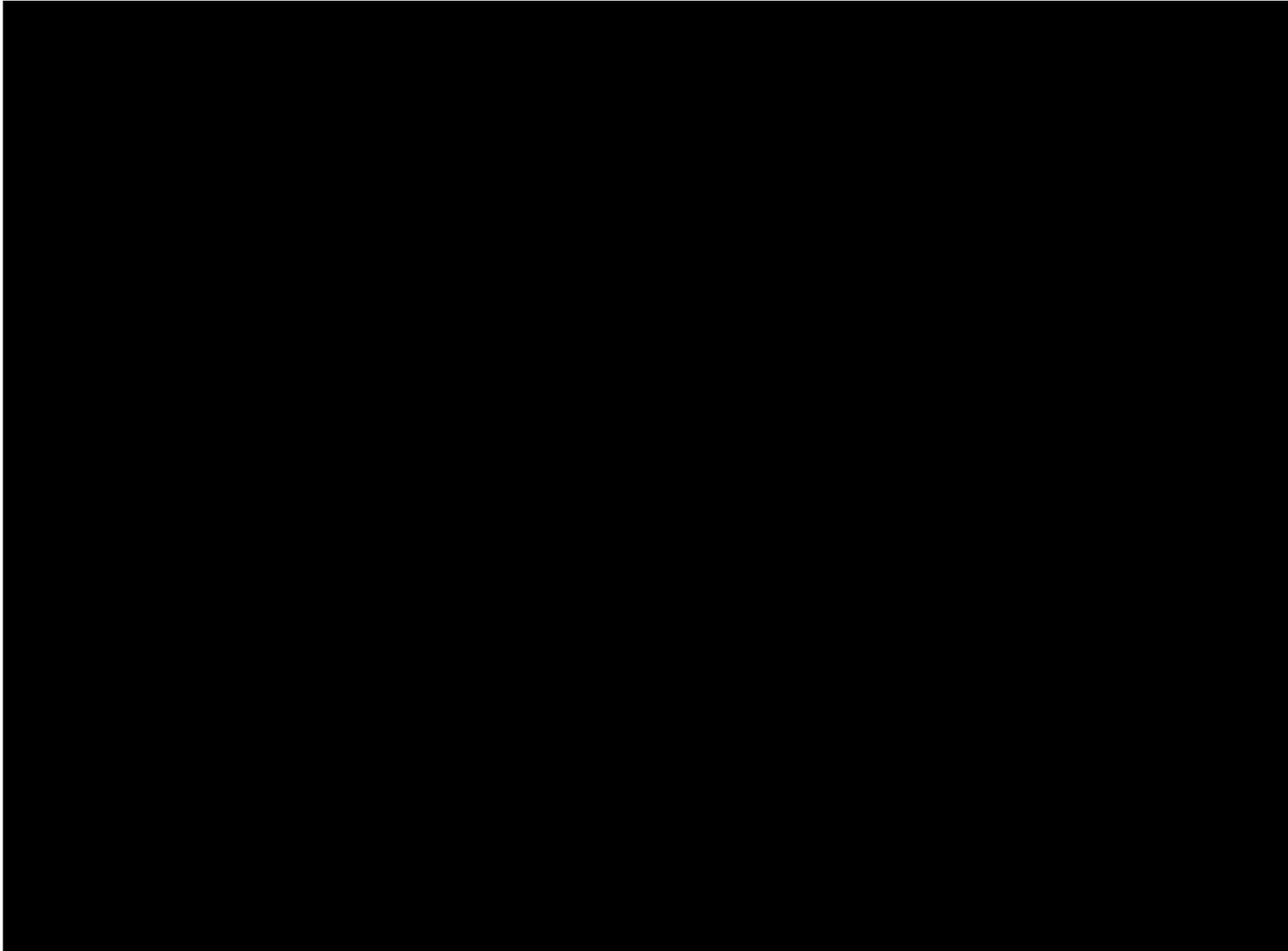


# Other Distracted Drivers

- **Reading the map**
- **Reading the newspaper**
- **Group map reading**
- **Dog in lap**



# Other Distracted Drivers





# 169.475 Use of Wireless Communication Device

- **Subd 1 Definition:** For purposes of this section, "electronic message" means a self-contained piece of **digital communication that is designed or intended to be transmitted between physical devices.** An electronic message includes, but is not limited to, e-mail, a text message, an instant message, a command or request to access a World Wide Web page, or other data that uses a commonly recognized electronic communications protocol. An electronic message does not include voice or other data transmitted as a result of making a phone call, or data transmitted automatically by a wireless communications device without direct initiation by a person.



# What is illegal?

- **Texting**
- **Email**
- **Instant Messaging**
- **Command or Request to access www**
- **Other Data**
  - **If you are in a WiFi area you are not using data, therefore Data is the www**
- **Blue tooth or Siri – Direct initiation by a person**



# GPS?

- **Is a smart phone a phone or GPS?**
- **Smart phones have a GPS receiver**
- **Does the GPS function if you turn off your WiFi and you place your phone in Airplane mode (in other words no data)?**
- **Short answer is NO**
- **Must purchase and download maps**



# Could this be better?

- **Specifically write in GPS**
- **What about apps that aren't using data**
  - **Games**
  - **Cell phone camera**
  - **Typing and scrolling for contacts**
- **Misdemeanor vs petty**
- **Enhance to GM or Felony for PDC or PIC**
- **We have increased the fine on 2<sup>nd</sup> offense to \$225 (fine) plus court costs**



# **Distracted Driving Violations**

- **Reckless 169.13 s1 (New 2015)**
  - **A person who drives a motor vehicle while aware of and consciously disregarding a substantial and unjustifiable risk that the driving may result in harm to another or another's property is guilty of reckless driving.**
  - **The risk must be of such a nature and degree that disregard of it constitutes a significant deviation from the standard of conduct that a reasonable person would observe in the situation.**



# Distracted Driving Violations

- **Careless 169.13 s2**
  - Careless or heedless disregard of others that does or is likely to endanger others or property
  
- **Fail to Drive with Due Care 169.14 s1**
  - Every driver is responsible for remaining aware of the actual and potential hazards existing on roadway and must use due care



# Best times to find violation

- **AM Rush Hour**
- **Lunch Rush**
- **After School**
- **PM Rush Hour**





# Where to find these violations

- Survey released in 2014 by AT&T....
- 98% of all drivers who text regularly are aware of the dangers of texting and driving
- 3/4 of the 98% still admit to texting and driving
- 2/3 of the 98% **admit** to texting while at stop signs or stop lights
- 1/4 of the 98% **admit** to doing while driving



# 2/3 Text while Stopped

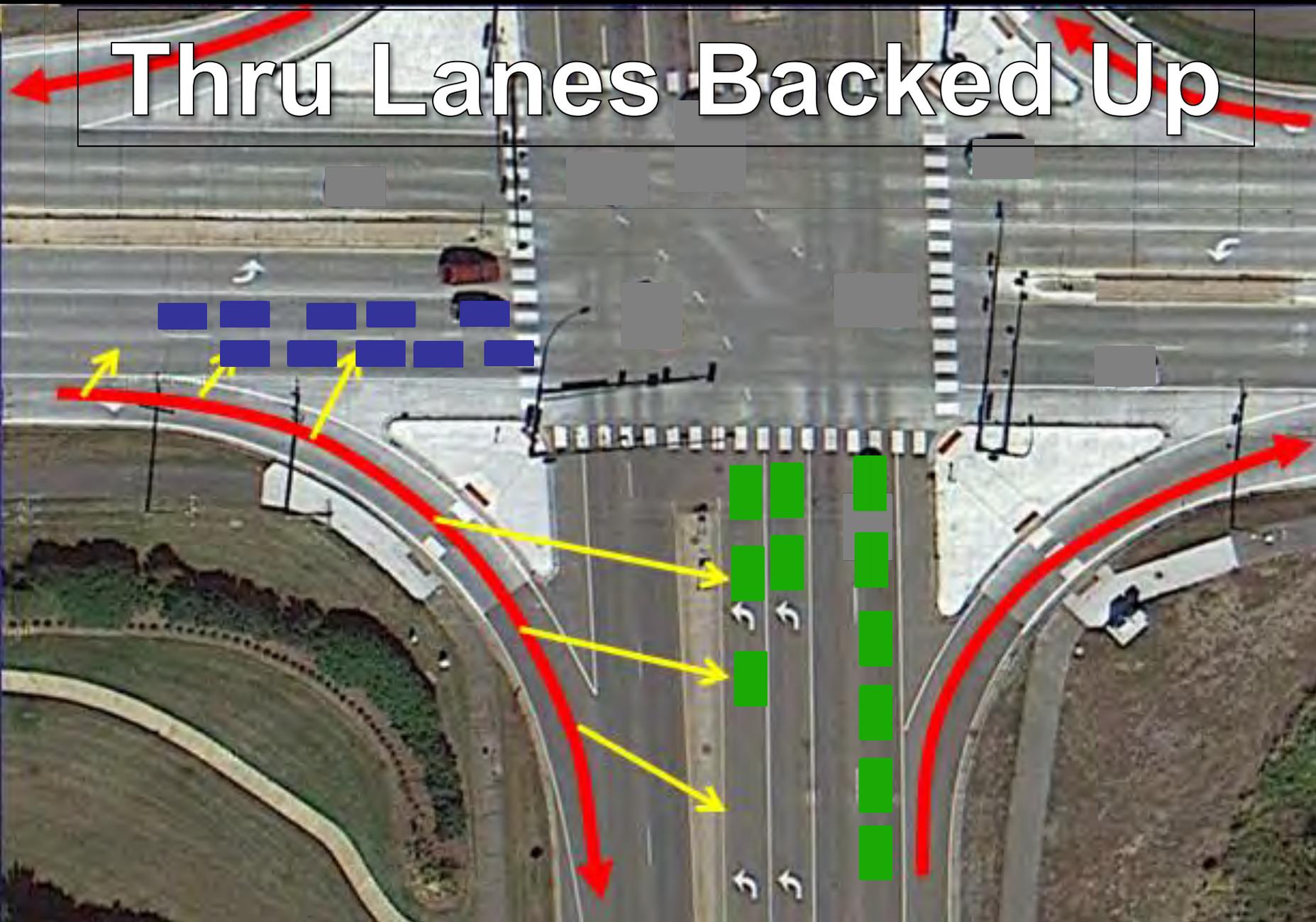
- **Go to busy intersections where traffic is backed up, slow moving or stopped to find these violations**
  - **If the thru lane(s) are backed up take the turn lanes or the open thru lane**
  - **If the turn lanes are backed up use the thru lanes**
  - **Cross traffic in left turn lanes best observed from right angle, right turn lane**
  - **Opposing traffic**



# Once you find the backup

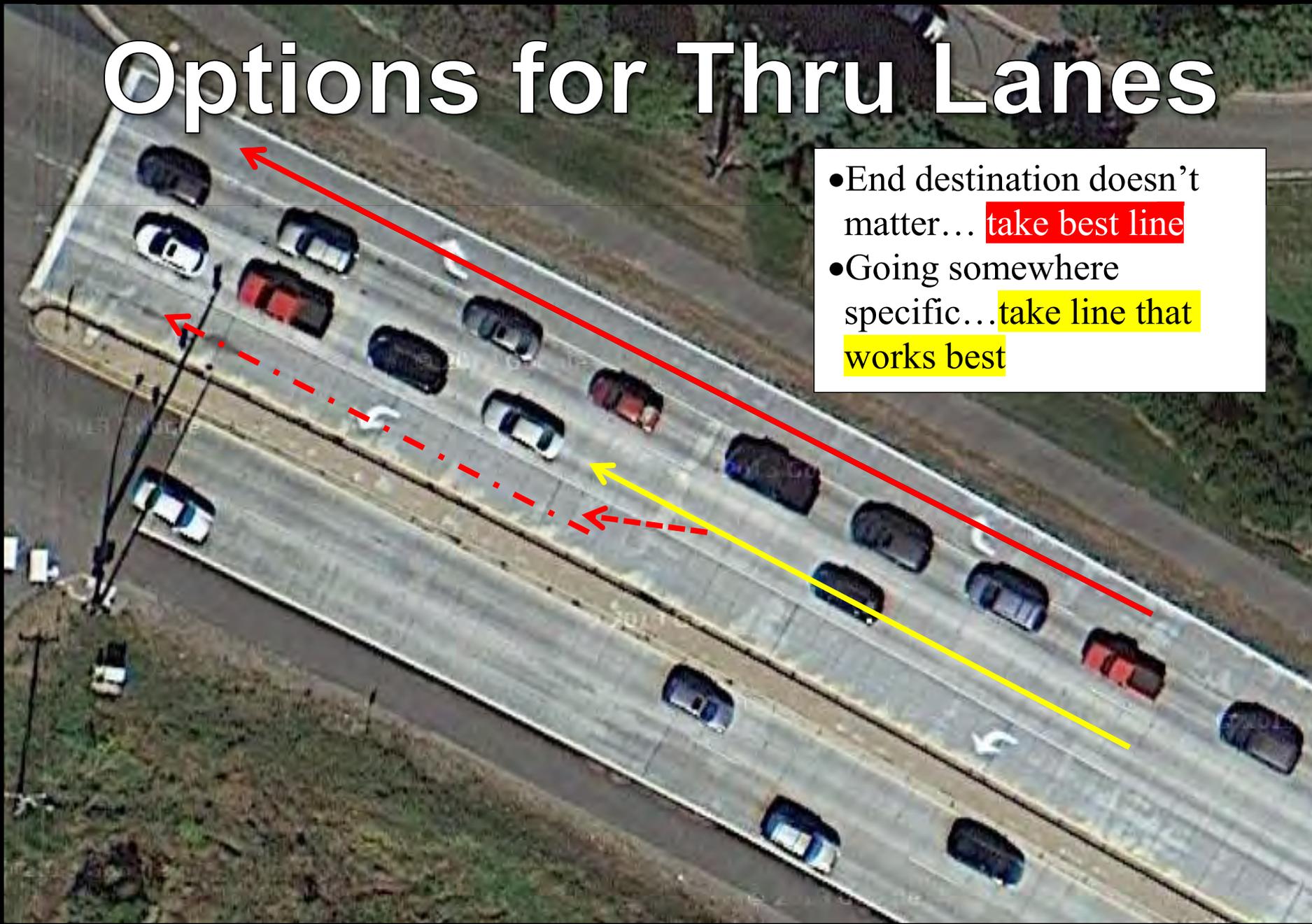
- Drive slowly up to stopped vehicle(s)
- Drive up on the 45 or just before/after B pillar
  - Remember they are buried in their phone they wont see you, even in a FULLY MARKED SQUAD
  - Look through side windows, look at side view mirrors, rear view mirror, through rear window
  - Look for those previously mentioned indicators
    - Hands holding phone, head up & down, thumb tapping, finger scrolling, no talking, slow to go no green, etc....

# Thru Lanes Backed Up



# Options for Thru Lanes

- End destination doesn't matter... **take best line**
- Going somewhere specific... **take line that works best**



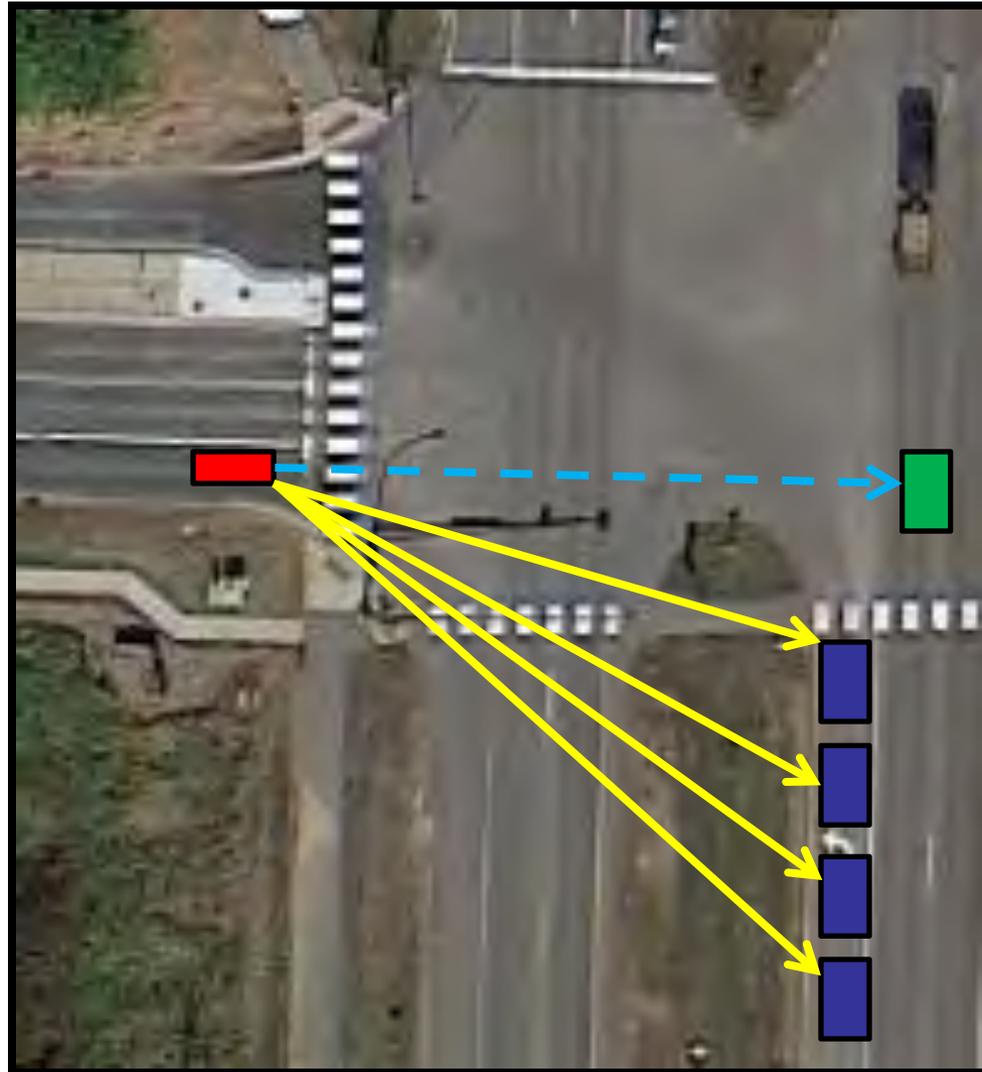


# Backed up Turn Lane



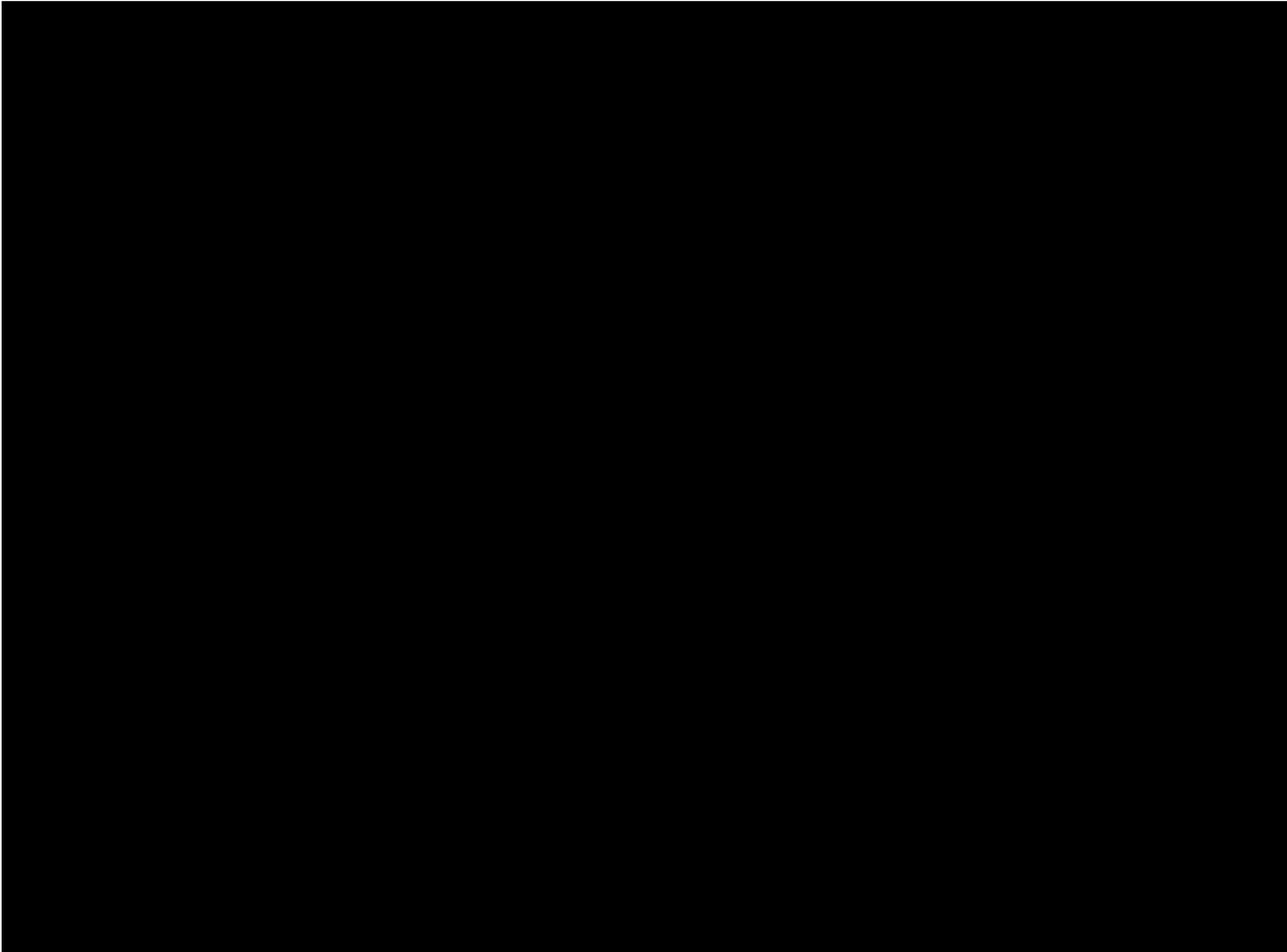


# Cross Traffic





# Cross Traffic





# 1/4 Text While Driving

- **Watch cross traffic while you are stopped**
  - You will get snap shots of head down looking into their lap
  - You may get to see the phone you may not
  - You may see enough to make the stop, you may need to chase them down and observe more
- **Same techniques as stopped but both of you are moving**



# Squads I have Used

- **Marked Tahoe**
- **Marked Explorer with light bar**
- **Marked Explorer without light bar**
- **Unmarked Explorer**
- **Unmarked Taurus**
- **Investigator Vehicles**



# Fully Marked with/out Lightbar





# Chevy vs Ford vs Dodge





# Unmarked Squads





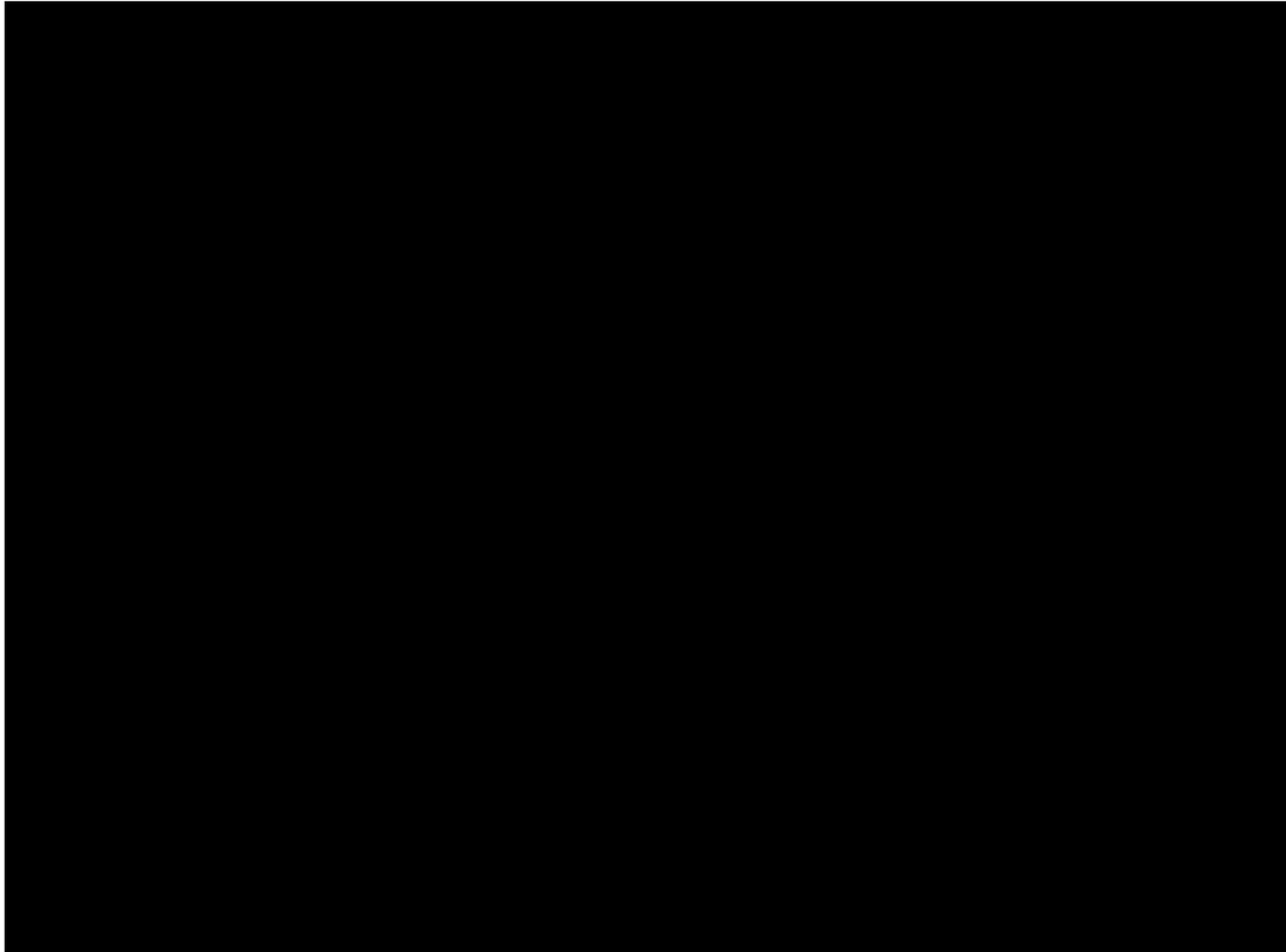
# Outside the Box

- **Be creative on how to do this....**
- **This is a Dodge Caravan, Right?**





# Dodge Caravan – Sorta





# Bike Patrol



- **Be Careful, watch for green light, take your lane or make an exit before green**
- **Great for seatbelts too**



# Two Person Squad

- **Department doesn't have or won't buy a GoPro**
- **One person drives**
- **One person handles video camera**
- **Benefits**
  - **Passenger is closer to right sided violations**
  - **Driver can drive and passenger can observe and record**



# Documentation of Evidence

- **Squad Video**
  - Start recording
  - Move camera angle to capture
- **GoPro Video**
  - Great quality
  - Post editing
  - Squad Safety - No view finder point in general direction and record
  - Bike Patrol on Helmet





# Narrate Evidence

- **Can't capture on video**
  - **Narrate what you are seeing**
    - **Eyes Up, Eyes down or Head Up, Head Down**
    - **Typing, scrolling, zooming**
    - **Type of phone – Smart phone or Flip phone**
    - **Color of phone or phone case**
    - **Talking or not talking**
    - **Holding phone to ear or talking to passengers**



# Actual Traffic Stop

- **Aim for Admissions and Compliance**
- **Don't use the hard nose approach**
- **Officer Friendly**
- **Observations**
  - **Do you see the phone?**
  - **Where is it?**
- **Do you know why I stopped you?**
- **What were you doing at stop light on your phone?**



# Question or Statement

- **Do you mind showing me?**
- **Once they grab the phone watch closely!**
  - **If they try to tilt or shield ask them not to**
  - **As they are opening ask them not to do anything once unlocked**
  - **Usually their last app is still open**
  - **If it isn't still open, be familiar with how different phones work**



# iPhone



**Home Screen**



**Last App  
Open**

**Push Twice**

**Open Apps Screen**

Within last few updates or newer iPhones this view has changed. Now the newest is the farthest to the right (still closest to what opens first).



# Other Options

- **Again questions and not orders!**
- **Do you mind showing me:**
  - **Your call history**
  - **Text messages**
  - **Emails**
- **You may get the positive confirmation like a time stamp of last text sent/received or they may just give up and tell the truth**



# Citation Notes

**Subj veh was NB in left turn lane stopped at red light. As I came up along side of subj veh, using the subj veh side view mirror, I could see subj holding a smart phone in his right hand. Subj face was facing the phone and the phone was connected to a charging cord. As I moved up closer, the light turned green. Subj was slow to start, then began to make his turn. Once moving, subj went back to looking at his phone again. Subj appeared to be reading as I did not see him talking, he never held up to ear. Could not see if subj was scrolling or typing.**



# Citation Notes Car Side

**Subj didn't know why stopped. Subj was then asked what he was doing on his phone at last intersection. Subj replied he had a call coming in that he cancelled. I asked him if he was willing to show me? He said sure, grabbed his phone, punched in password. When the subj phone unlocked the open screen was an email. When asked about the email, I told him that is what he was doing, he apologized and agreed that he was reading an email.**



# Other Thoughts

- **Window Tint**
  - More of it because it's cool or because it makes it harder to see seatbelts and cell use
- **Be Careful**
  - Pay attention to your actions so you don't crash!
- **When specifically looking for Use of Wireless Device, 3-5 an hour by myself**



# Most Interesting Distraction

- **0800 hrs**
- **Quick glance up, long look down to lap, repeat behavior**
- **Can see arms making movement**
- **Light goes green, long delay before moving**
- **Stop vehicle**
- **Denies use of cell phone**
- **Willing to show me her cell phone no text messages, no phone calls, no emails....**
- **What where you doing?**



# Most Interesting Distraction

- **She was in a hurry to get to grocery store and was trying to get her bra on (bra observed in passenger seat) enroute.**





# Questions?

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