

It Didn't Start With Dateline NBC

By Walter Olson

National Review, June 21, 1993

* * *

An "electronic Titanic"--as Howard Rosenberg of the Los Angeles Times called it--"an unprecedented disaster in the annals of network news, and perhaps the biggest TV scam since the Quiz Scandals." To many, NBC's Dateline fiasco seemed a freak, a bizarre departure from accepted network standards. Would any half-awake news organization have helped stage a crash test that was rigged to get a particular outcome? Or concealed from the public key elements--the hidden rockets, the over-filled tank, the loose gas cap? Or entrusted its judgment to axe-grinding "experts" who were deeply involved in litigating against the expose's target? Or, after questions came up, refused to apologize no matter how strong the evidence grew?

NBC was a latecomer to the safety-expose game, and had come under cost-cutting pressure. Maybe it lacked the high-minded public spirit and adequate research budget that was said to typify perennial Emmy-bait series like 60 Minutes (CBS) and 20/20 (ABC). And indeed, both CBS and ABC put out word that "their standards forbid the sort of staging that got NBC into trouble," to quote a second L.A. Times reporter.

If you think so, read on. An investigation of past network auto-safety coverage reveals that both CBS and ABC have run the same sorts of grossly misleading crash videos and simulations, withheld the same sorts of material facts about the tests, and relied on the same dubious experts with the same ties to the plaintiffs bar. In at least one documented case -- another is rumored--viewers were shown a crash fire and explosion without being told it had been started by an incendiary device. Dateline committed many journalistic sins. But not least was that it couldn't even manage to be original.

* * *

IN JUNE 1978, at the height of the Ford Pinto outcry, ABC's 20/20 reported "startling new developments": evidence that full-size Fords, not just the subcompact Pinto, could explode when hit from behind. The show's visual highlight was dramatic. Newly aired film from tests done at UCLA in 1967 by researchers under contract with the automaker showed a Ford sedan being rear-ended at 55 mph and bursting into a fireball.

"ABC News has analyzed a great many of Ford's secret rear-end crash tests," confided correspondent Sylvia Chase. And they showed that if you owned a Ford--not just a Pinto, but many other models--what happened to the car in the film could happen to you. The tone was unrelentingly damning, and by the show's end popular anchorman Hugh Downs felt constrained to add his own personal confession. "You know, I've advertised Ford products a few years back, Sylvia, and at the time, of course, I didn't know and I don't think that anybody else did that this kind of ruckus was going to unfold." You got the idea that he would certainly think twice before repeating a mistake like that.

If ABC really analyzed those UCLA test reports, it had every reason to know why the Ford in the crash film burst into flame: there was an incendiary device under it. The UCLA testers explained their methods in a 1968 report published by the Society of Automotive Engineers, fully ten years before the 20/20 episode. As they explained, one of their goals was to study how a crash fire affected the passenger compartment of a car, and to do that they needed a crash fire. But crash fires occur very seldom; in fact, the testers had tried to produce a fire in an earlier test run without an igniter but had failed. Hence their use of the incendiary device (which they clearly and fully described in their write-up) in the only test run that produced a fire.

The "Beyond the Pinto" coverage gives plenty of credit to the show's on-and-off-screen expert, who "worked as a consultant with ABC News on this story, and provided us with many of the Ford crash-test records." His name was Byron Bloch, and his role as an ABC News consultant was to prove a longstanding one; over the years he brought the network seven different exposes on auto safety, two of which won Emmys.

If the name is familiar, it's because the very same Byron Bloch starred as NBC's on-screen expert in the ill-fated Dateline episode. Bloch was present at the Indiana crash scene, and defended the tests afterward. ("There was nothing wrong with what happened in Indianapolis," he told Reuters. "The so-called devices underneath the pickup truck are really a lot of smoke that GM is blowing to divert you away from the punitive damages in the Moseley case.") And he played a key role in assuring NBC the truck fire had been set off by a headlight filament, providing a crucial excuse for not mentioning the igniters. (A later analysis for GM found the fire had started near the igniters, not the headlights.)

In 1978, as in 1992, Bloch wore two hats. One was as paid or unpaid network consultant, advisor, and onscreen explainer. The other was as the single best-known expert witness hired by trial lawyers in high-stakes injury lawsuits against automakers.

After NBC's downfall, 60 Minutes executive producer Don Hewitt was all over the media proclaiming that such things were unheard of at his show. "If that had happened at "60 Minutes," he said of NBC's failure to disclose the rocket use, "I'd be looking for a job tomorrow." Hewitt claimed not even to know why NBC might have wanted to plant the rockets. "I can't for the life of me figure out why anybody would do that," he said on Crossfire. "It's not something anybody at 60 Minutes would do."

Which, in context, can be read as a sort of Gary Hart Memorial Dare. Shall we take it up?

In December 1980, 60 Minutes reported that the small army-style "CJ" Jeep was dangerously apt to roll over--not only in emergencies but "even in routine road circumstances at relatively low speeds." A Jeep is shown crashing. "We'll get to precisely what the conditions were that made that single-car accident happen in a moment," promises Morley Safer.

The footage, it seems, is of tests run by the Insurance Institute for Highway Safety and was produced in collaboration with a CBS film crew. It shows Jeeps going

through what appear from a distance to be standard maneuvers. Safer describes the first. "It is something called a J-turn: a fairly gentle right-hand turn that a driver might make if he was going into a parking lot." The Jeep flips over. Safer concedes that "it does not happen every time," and a good thing too, since if it did the nation's parking lots would be cluttered with overturned Jeeps spinning their wheels helplessly like so many ladybugs.

The camera then shows a second test run, "an evasive maneuver, as if the driver is trying to avoid something on the road." An unwanted object is shown obstructing a roadway, lending a you-are-there touch. "The driver would pull out of his lane to the left, go around the obstacle, then pull back to the right into his lane," explains Safer. The Jeep flips over again. Dummy occupants, outfitted in plaid shirts and farmer caps, tumble out to their doom.

Now by this point even trusting viewers might have felt a gnawing canker of doubt. Jeeps may be awkward, hard-to-control vehicles, but do they really do that? After all, skillful stunt drivers can tip over many sorts of vehicles on purpose. Chrysler/AMC, which makes the Jeep, sends out a tape in which this trick is performed on various stock cars and trucks, including a Toyota Corolla, a Ford Bronco, and a Datsun 4 x 4 pickup.

Tantalizingly, Safer seems to share or at least foresee these same doubts. He chats with two guests from the Insurance Institute. "I'm trying to think of some of the things that AMC would accuse you of doing if they were here watching these tests along with us. For example, putting the vehicle through the sort of turns and the sort of stresses that it just would never be put through in normal real-world driving on the road." The guests are reassuring, if that is the right word: yes, the test conditions "do occur in the real world," at least "in panic situations." AMC, for its part, is quoted as saying it suspects the tests of being "contrived to make the Jeep turn over." But the detail stops there.

Too bad. Viewers might have profited by knowing, for example, that testers had to put the Jeeps through 435 runs to get 8 rollovers. A single vehicle was put through 201 runs and accounted for 4 of the rollovers. Make a car skid repeatedly, Chrysler says, and you predictably degrade tire tread and other key safety margins.

Was the J-turn, or for that matter the evasive maneuver, "fairly gentle"? The Jeep was occupied by robot drivers that were twisting the steering wheel through more than 580 degrees of arc, well over one and a half full turns of the steering wheel. (Do not, repeat not, try this cruising in your own vehicle.) More striking yet was how fast and hard they jerked the steering wheel: in one case, at a rate in excess of five full turns a second. A study for GM, apparently unrelated to the Jeep affair, found that average drivers' maximum steer rate in emergencies reaches 520 degrees/second, while expert drivers can reach 800; rates above 1,000 degrees/second seem to happen mostly when drivers lose control. The robots used rates of from 1,100 to 1,805 degrees/second in the obstacle-avoidance maneuver. They were also gunning the accelerator-- not what you or I might do if a crate of hens suddenly fell in front of us on the highway. (An Insurance Institute internal memo had proposed arranging variables "to ensure rollover.")

An investigative engineer at the National Highway Traffic Safety Administration later wrote that the tests' validity was "questionable" given their apparently

"abnormal test conditions and unrealistic maneuvers," and also found signs that the vehicles' loading had been "manipulated in combination with other vehicle conditions to generate worst-case conditions" for stability. The "vehicle loading" issue was clarified by the testers' own internal report, which was not disclosed at the time but emerged later in litigation. In their report, the testers say that at the request of Insurance Institute personnel, they had taken the step of _hanging weights in the vehicle's corners_ -- inside the body, where they were not apparent to the camera.

An isolated lapse? Consider the Emmy-winning 60 Minutes segment in March 1981 revealing how the most common type of tire rim used on heavy trucks can fly off, killing or maiming tire mechanics and other bystanders. Again CBS relied on film from the Insurance Institute, this time showing an exploding rim shredding two luckless dummies, an adult and a child. Such footage, said Mike Wallace, "shows graphically what can happen when a wheel rim explodes." Insurance Institute spokesman Ben Kelley (who had also appeared on the Jeep segment) explains that a truck tire is under enormous pressure. "And if that metal, for any reason, dislodges, it fires off like a shell out of a cannon."

Again, 60 Minutes did not see fit to tell viewers exactly why the metal happened to dislodge in the film clip. It turned out that, according to the Insurance Institute, the rims had been "modified" to get them to explode for the demonstration.

Well, actually, the rims' locking mechanism had been deliberately shaved off for the test. Under questioning in a later deposition, an Insurance Institute employee acknowledged that the testers had to go back and shave off more and more of the metal in stages before finally getting off enough of it--an estimated 70 percent--that the rims would explode.

Should 60 Minutes have to give back its Emmy? Nah. Maybe they can just take the statuette to a machine shop and have 70 per cent of it filed off. Then they can keep the rest.

Ben Kelley's name comes up often in these stories. Kelley worked at the Insurance Institute, supervising such functions as publicity and film-making, at the time of both the tire-rim and Jeep episodes. By the mid 1980s he had left the Institute and emerged, like Bloch, as a very busy combination of hired plaintiffs expert and perennial network source. He, too, turned up in the Dateline affair, when he boasted of having recommended to NBC that it hire its crash tests out to Bruce Enz--yet another frequent plaintiffs' testifier.

How to identify Kelley and his doings on screen is a point of some perplexity at the networks. 20/20's Jeep expose in 1990 tagged him as an "auto safety expert" formerly with the Insurance Institute; it did not mention that he had for years been working as a hired courtroom expert for Jeep rollover plaintiffs. Last year CBS Evening News got flayed in a cover story in TV Guide ("Fake News") for running a report on allegedly defective seat belts without doing enough to inform viewers that its source was a "video news release" from Kelley's Institute for Injury Reduction (IIR), which frequently sends made-to-order footage on auto safety to broadcast news departments. CBS's Street Stories, in another Kelley-sourced piece, identified the institute blandly as an "auto safety consumer group." In fact, as its letterhead states, it was "founded by trial attorneys," who remain its major constituency. "We are made up of trial attorneys," Kelley readily acknowledges. "This is like saying

that the Democratic Party is a front for Democrats."

* * *

NO CATALOGUE of this sort would be complete without an account of 60 Minutes's 1986 attack on the Audi 5000--perhaps the best-known and best-refuted auto-safety scare of recent years. The Audi, it seemed, was a car possessed by demons. It would back into garages, dart into swimming pools, plow into bank teller lines, everything but fly on broomsticks, all while its hapless drivers were standing on the brake -- or at least so they said.

"Sudden acceleration" had been alleged in many makes of car other than the Audi, and from the start many automotive observers were inclined to view it skeptically. A working set of brakes, they pointed out, can easily overpower any car's accelerator, even one stuck at full throttle. After accidents of this sort, the brakes were always found to be working fine. Such mishaps happened most often when the car was taking off from rest, and they happened disproportionately to short or elderly drivers who were novices to the Audi.

The Audi's pedals were placed farther to the left, and closer together, than those in many American cars. This may well offer a net safety *advantage*, by making it easier to switch to the brake in high-speed emergencies. (The Audi had, and has, one of the best safety records on the road.) But it might also allow inattentive drivers to hit the wrong pedal.

60 Minutes was having none of the theory that drivers were hitting the wrong pedal. It found, and interviewed on camera, some experienced drivers who reported the problem. And it showed a filmed demonstration of how an Audi, as fixed up by, yes, an expert witness testifying against the carmaker, could take off from rest at mounting speed. The expert, William Rosenbluth, was quoted as saying that "unusually high transmission pressure" could build up and cause problems. "Again, watch the pedal go down by itself," said Ed Bradley.

Bradley did not, however, tell viewers why that remarkable thing was happening. As Audi lawyers finally managed to establish, Rosenbluth had drilled a hole in the poor car's transmission and attached a hose leading to a tank of compressed air or fluid.

The tank with its attached hose was apparently sitting right on the front passenger seat of the doctored Audi, but the 60 Minutes cameras managed not to pick it up. It might have been for the same reason the Jeep weights were tucked away in the wheel wells, rather than being placed visibly on top. Or why the Dateline rockets were strapped out of sight underneath the truck rather than conspicuously on its side, and were detonated by remote control rather than by a visible wire. Doing it otherwise would only have gotten viewers confused.

* * *

IF YOU want to catch a vehicle doing something thrilling on camera, you face a problem: statistics. Most cars, most of the time, perform as intended. Small Jeeps do roll over more readily than other vehicles, but they seldom do so under ordinary road conditions. The dread Pinto gets rear-ended every day, but Pinto fires killed an average of four and a half people a year in the cars' heyday. And when it comes to a

vehicle like the GM trucks attacked on Dateline--which have a significantly better safety record than the average vehicle--the odds are even worse, or, as the case may be, better. According to federal data, it takes 4,000 side-impact crashes in a GM truck to produce one fire with a serious injury or fatality.

At a first approximation, then, any crash test where something interesting or unusual happens will probably turn out to involve what have been called strange inputs.

In itself, there's nothing wrong with simulating extreme adverse conditions, so long as you make it clear that that's what you're doing. (Automakers themselves frequently "test to failure," as it's called, to find out how far a system can be abused before giving out.) When news broadcasts air such videos, though, they tend not to bother listing the artificial conditions. Disclaimers, as we know, make for dull journalism: it's not very grabby to say, "This could happen to you on a rutted shoulder with sleet on the ground, bald tires, and a fair bit of driver error." Network execs want their safety exposes to match the emotional tone of a murder trial, not a drivers' ed class. And so do trial lawyers.

Given half a chance, the litigation lobby will yank on the direction of news coverage the way the robots yanked on the steering wheel of the rigged Jeep. All the more noteworthy, then, that one of the best retrospectives on the Dateline affair should have come from *The American Lawyer*. Editor-in-chief Steven Brill cites "the media's almost comic double standard when it comes to holding itself accountable as opposed to holding the rest of the world accountable." Many reporters fretted about "morale" at NBC, as if it would be a good thing for morale to stay perky under the circumstances. And, Brill points out, although the network paid dearly for faking the crash, few seemed to care "how utterly unfair the rest of the Dateline report was." His magazine called the networks to ask how many corrections they have aired lately. ABC said that it had run a total of three over the past year. CNN couldn't recall any for years back. And a spokesman for the unshamable CBS couldn't remember any corrections at all.

CBS continues to brazen out even its egregious Audi segment. Ed Bradley was a guest on Larry King recently when a caller praised *60 Minutes* in general but politely suggested it might want to apologize for faulty or mistaken stories like those on the Audi and on Alar, the apple spray. "First of all, they're not mistaken. Secondly, they are true," Bradley replied with some heat and more redundancy. He reminded listeners that among the Audi victims the show had spoken to were a policeman and a state auto inspector, supposedly unfoolable about such matters. "It's not a figment of our imagination. It actually happened, whether you believe it or not."

Hewitt, on *Crossfire*, defended the Audi show in a different and, if truth be known, contradictory way. If there was really nothing wrong with the cars, he asked, then why had Audi recalled them after the *60 Minutes* episode? But the point of the main recall was to add an "idiot-proof" device that kept drivers from shifting into gear unless their foot was on the brake. If you accept Ed Bradley's theory that their feet were on the brake all along, that fix should have been useless.

ABC is close behind in the race for the "Edie" (awarded to the network that, with Edith Piaf, regrets the least). One of the themes of its Jeep expose had been that many rollovers do not arise from driver error. It cited Carl Cook's fatal one-car

accident, and showed Mrs. Cook reciting the details of his blamelessness: "There was no speed, there was no drinking, there was no drugs, there was no falling asleep"; he had been "operating a Jeep vehicle in an off-the-road situation, exactly what it was designed to do." Summing it all up, 20/20 reported flatly that the jury in the resulting lawsuit said "that the fault was not Carl Cook's."

Flatly, and wrongly: in fact, the jury had voted Cook's own negligence 50 per cent responsible for the accident. When Chrysler called ABC on this palpable error, network exec Richard Wald wrote back that "we made a judgment that this was not significant" in light of Chrysler's having been found liable for the other half of the fault. Thus do modern networks deflect criticism: lest someone think they made an inadvertent slip, they claim to have misstated things on purpose.

Which leaves NBC as what you might call the moral front-runner. Of the three old-line networks, it was the last to plunge into dubious safety journalism in a big way; it got burned in what was, by most accounts, almost its first time out of the box; and it apologized, which is more than its rivals have done. Ousted NBC News head Michael Gartner, for all his sins, has earned the last word. "I saw that I had been too ready to believe our so-called experts, without trying to find out who they were I realized we were just plain wrong."

* * *

Walter Olson, senior fellow at the Manhattan Institute, is the author of [The Litigation Explosion](#).

Related Olson pieces on GM/Dateline case: [WSJ 2/9/93](#) / [Wash. Post 2/28/93](#)

[Overlawyered.com](#)

(frequently updated links and commentary on the U.S. legal system) / resources on [auto safety litigation](#) / on [product liability](#)

More Olson writings on [lawyers behaving badly](#) / on [media criticism](#)

[Books](#) | [Bio](#) | [Browse writings](#) | [Search](#) | [Email](#)
[Overlawyered.com](#) | [Walter Olson home page](#)