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# CENTER FOR AUTO SAFETY

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March 11, 2016

The Honorable Anthony Foxx  
Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

Dear Secretary Foxx:

On February 2, 2014, a Sunday morning, 13-month old Weston Kingsley lost his life on in a crash in Marion NC while his parents waited in line on Route 70 to turn into a church parking lot. Weston was properly restrained in a child seat behind his father, Jonathon, in a 2003 Dodge Caravan while his brother Teague was seated behind his mother Kelsey. Both front seats collapsed backward when the Kingsley's minivan was struck from behind by a 2000 Ford F-250. Weston's skull was fractured when his father's seatback collapsed into him. His older brother Teague was not injured because he was larger and suffered a non-harmful impact from his mother's seatback.

The National Highway Traffic Safety Administration (NHTSA) says not enough children or adults are killed to upgrading the seatback strength safety standard (FMVSS 207) although it issued a [notice of proposed rulemaking in 1974](#) to do exactly that by incorporating the 30-mph rear impact test in FMVSS 301 (fuel system integrity). Over the next 30 years, experts and safety advocates petitioned NHTSA time and again to upgrade FMVSS 207. [In 2004, NHTSA terminated all FMVSS 207 rulemaking](#) saying there wasn't enough evidence to justify a standard. In 2003, NHTSA published a [research study of FMVSS 301 rear crash tests](#) in which 5 out of 9 vehicles had seatback collapse of more than 25°. NHTSA failed to reference this study in its rulemaking termination even though its own researchers warned of the danger to children placed in rear seats: "Further, fatalities and injuries to rear child occupants due to seat back collapse of the front seat in rear impacts have also been reported. This is especially of concern since NHTSA recommends to the public that children of age 12 and under should be placed in the rear seat."

The fundamental problem is that NHTSA has no data source to show how many deaths and injuries occur every year due to seat back collapse. Based on an [analysis of 64 seatback collapse lawsuits and police reports involving death and serious injury in rear impact crashes](#), the Center found police accident reporting rarely includes any comment on seatback failure even when it is obvious. There is no place on a PAR for reporting such a failure other than the narrative description of the crash. This means that FARS also does not include any information on the role of seat performance in fatal crashes. The NASS coding for seat performance is minimal as well. As a consequence, an analysis of NASS and FARS cases that does not go beyond the recorded data will miss most crashes where poor seat performance contributed to injuries or fatalities.

The Center filed a [rulemaking petition](#) on March 9, 2016, with NHTSA to add a warning where to place a child in the rear seat as its researchers showed was necessary in 2003. Although FARS data cannot show if a seatback collapse caused a death or injury, it can show if a child behind an occupied front seat was killed in a crash. From 2000 to 2014, FARS shows an average of 50 children 12 years

and under killed in rear impact crashes where they were in a rear seat behind an occupied front seat as shown in the following table. The Center called on NHTSA to investigate each and every one of these fatal crashes to determine how many were caused by a collapsing front seat into the child behind.

The Department of Transportation and the National Highway Traffic Safety recently announced Proactive Safety Principles in which NHTSA, automakers and suppliers could work together to improve vehicle safety. The over forty years of inaction on seatback collapse shows why this process doesn't work. NHTSA's data bases are too inadequate to show the problem. The industry doesn't want to address a problem that NHTSA doesn't regulate. Even worse, neither industry nor NHTSA issues a warning to place children behind an unoccupied front seat or behind the lightest front seat occupant. Instead both industry and NHTSA simply recommend to place children in the rear without any advice on where to place the child. While a rear seat is the safest place for a child, it could be safer still if NHTSA and industry would warn parents to place a child behind an unoccupied front seat or the lightest front seat occupant if both front seats are occupied.

Just look at the tragic death of Weston Kingsley on his way to church in North Carolina and the rising toll of child deaths behind occupied front seats since NHTSA and industry recommended putting children in the rear without upgrading the seatback strength standard or cautioning parents about the safest place for children in rear seats. Industry and government meeting behind closed doors as is presently being done with Automatic Emergency Braking will not produce significant safety advance because safety advocates and independent experts are not there to raise the hard questions. While the Safety Principles blame driver error for 94% of vehicle crashes, the real safety question is could the deaths caused by driver error have been prevented by safer vehicle designs? In the case of seatback collapse, the answer is clearly yes and at a cost of a few dollars at most. Just ask the parents of Weston Kingsley or any of the other parents who had children killed, brain damaged or paralyzed by seatback collapse if they would have paid a few dollars more to save their child from avoidable death or injury.

Sincerely,

A handwritten signature in black ink that reads "Clarence Ditlow". The signature is written in a cursive, flowing style.

Clarence Ditlow  
Executive Director

<b>Child Fatalities in Rear Impacts</b>														
<b>Seated in the Second Row of 1990 and Later Model Year Passenger Vehicles (FARS 1990-2014)</b>														
<b>(Unejected, Non-rollover, Seated Behind a Front Seat Occupant or in the Center Rear Seat)</b>														
	<b>AGE</b>													
<b>Accident Year</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>Total</b>
1990											1			1
1991			1	1				1						3
1992	1		1	2										4
1993	1	2		3			1		1				1	9
1994	1	1	3		2			1	2			2	2	14
1995		3	2	2	1	1	2	1		1	1	1		15
1996	1	3		4	2	2	3	3		2	1	2	2	25
1997	1	1	4	3	4	2	1	3	1	1	2	1	1	25
1998	2	2	2	4	1	3	1	5	2	1	2	4	2	31
1999	3	4	4	4	2	3	3	1	3	4	1	1	1	34
2000	2	6	2	6	2	2	2	3		7	3	4	2	41
2001	6	8	5	5	2	2	4	3	2	2	2	3	1	45
2002	4	3	3	7	5	8	4	1	6	5	8	2	2	58
2003	14	7	2	5	4	3	2	1	3	3	1	4	1	50
2004	12	7	8	2	6	1	9	2	3	4	2	5	5	66
2005	10	4	5	6		6	4	6	5	7	2	1	1	57
2006	9	10	5	4	8	3	5	3	3	1	2	3	2	58
2007	8	7	5	1	3	4	3	3	2	4	1	2	4	47
2008	12	4	4	2	8	6	4	2	1	2	5	2	2	54
2009	6	2	4	4	6	3	5	2	1	4	1	1	3	42
2010	8	7	6	1	2	3	1	1	2	3	3	2	1	40
2011	2	5	6	2	5	5	1	3	1	2	4	3		39
2012	8	8	7	5	8	3	3	3	1	3	2	2	3	56
2013	4	4	1	3	6	7	4	3	4	4	1	2	1	44
2014	3	4	3	7	3	4	2	3	2	3	1	3	2	40
<b>Total</b>	<b>118</b>	<b>102</b>	<b>83</b>	<b>83</b>	<b>80</b>	<b>71</b>	<b>64</b>	<b>54</b>	<b>45</b>	<b>63</b>	<b>46</b>	<b>50</b>	<b>39</b>	<b>898</b>