

COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

RULE 71

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY
UNDER COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

SECTION 1. LEGAL BASIS

This Rule is adopted by virtue of Section 8 of Public Law No. 253, enacted on December 27, 1995, known as the Compulsory Liability Insurance for Motor Vehicles Act.

SECTION 2. PURPOSE

The purpose of this Rule is to adopt a system for the initial determination of liability through the use of diagrams, that subject to the terms and conditions of the compulsory liability insurance, will determine the liability of the parties involved in a traffic accident, establishing the respective share of liability of the parties, so that claims that are filed may be settled quickly and efficiently, without impairing the interests of the parties involved in such traffic accident.

SECTION 3. DEFINITIONS

(a) "Parking lots" will mean any premises, lot or area that is used by any person to park or allow such to be used for parking vehicles.

(b) "Insurer" will mean a private insurer as well as the Joint Underwriting Association.

(c) "Private Insurer" means a private insurer or an insurer that may be authorized in the future to underwrite motor vehicle liability insurance in Puerto Rico under the Puerto Rico Insurance Code.

(d) "Joint Underwriting Association" means the Compulsory Liability Insurance Joint Underwriting Association that will be comprised of all private insurers whose principal purpose will be to provide compulsory liability insurance to applicants for such insurance that are rejected by private insurers.

(e) "Toll highway" will mean those highways that are especially designed and built for high speed traffic, with controlled access, the use of which requires the payment of a toll.

(f) "Private road" will mean any road located on private property and not used by the owner for public access.

(g) "Code" means Public Law No. 77, enacted on June 19, 1957, as amended, known as the Puerto Rico Insurance Code.

(h) "Commissioner" means the Commissioner of Insurance of Puerto Rico

(i) "Diagrams for initial determination of liability" means the situations referred to in Section 7 of this Rule what will be used to decide the liability of the parties involved in a traffic accident

between two motor vehicles, where at least one of such vehicles is insured under compulsory liability insurance.

(j) "To park" will mean to stop a vehicle with or without passengers when there is no intention to continue moving.

(k) "Amicable accident report" means a uniform accident report that all insured will use to notify or report to insurers the occurrence of an accident between two (2) or more motor vehicles and that shows the circumstances in which the accident occurred. The amicable accident report will not imply acknowledgement of liability but rather a true statement of the facts and information to facilitate the adjustment and payment of claims arising from a traffic accident. The Commissioner will adopt the form to be used for filing the amicable accident report to be used by insurers.

(l) "Intersection" will mean the surface beyond the line that extends from the adjacent curbs, or if there are no curbs, the side lines of the vehicle movement areas of two or more public thoroughfares that intersect in approximately at a right angle, or an area in which vehicles that are moving on different thoroughfares may meet at any other angle.

(m) "Act" means Public Law No. 253, enacted on December 27, 1995, known as the Compulsory Liability Insurance for Motor Vehicles Act.

(n) "Puerto Rico Vehicles and Traffic Act" means Public Law No. 141, enacted on July 20, 1960, as amended.

(ñ) "Centerline" means a continuous broken or yellow line that divides the area of movement of a thoroughfare in order to separate opposing traffic where it is permitted to overtake and pass another vehicle taking due precautions.

(o) "Police" means the Puerto Rico and/or the Municipal Police.

(p) "Compulsory liability insurance" means the insurance required under the Act and that covers damages caused to motor vehicles of third parties as a result of a traffic accident for which the owner of the vehicle insured by this insurance is legally liable, and the use of such vehicle having caused such damages. The insurance will have a coverage of three thousand (3,000) dollars per accident. The commissioner may only increase such coverage after three (3) years from the date on which the compulsory liability insurance is required.

(q) "Vehicle insurance" means the insurance referred to in Section 4.070 of the Code.

(r) "Traditional liability insurance" means " means liability insurance for vehicles, as defined in Section 4.070(1) of the Code, which is different from the definition in paragraph (j) of this Subsection, and which is written by private insurers.

(s) "Traffic signals" means any sign, semaphore, mark or device that may have been installed or placed by order of any body or official with jurisdiction to do so, for the purpose of regulating, orienting, or directing traffic.

(t) "System" means the Initial Determination of Liability System adopted under this Rule.

(u) "Commercial vehicles" means motor vehicles that the Puerto Rico Department of Transportation and Public Works does not register as a private automobile, an automobile for a disabled person, or a motorcycle. The term "commercial vehicles" includes trailer trucks with a capacity of more than two (2) tons that are registered as such with the Department.

(v) "Motor vehicles" means and includes commercial and private passenger vehicles.

(w) "Private passenger vehicles" means motor vehicles that the Puerto Rico Department of Transportation and Public Works has registered as private automobiles, automobiles for persons with disabilities, and motorcycles.

(x) "Public thoroughfare" will mean any road, street or state or municipal highway and any street or road within land belonging to public corporations created by law and the subsidiaries of such. It will include the total width between the borders of the entire publicly owned thoroughfare open for public use for the movement of vehicle.

SECTION 4. APPLICABILITY OF THE SYSTEM

The system will not be applicable for determining the liability for damages to a motor vehicle of a third party involved in a traffic accident unless:

(i) the traffic accident occurred between two motor vehicles

(ii) at the time of the traffic accident at least one of the vehicles involved was moving.

(iii) at the time of the traffic accident at least one of the vehicles involved was covered by the compulsory liability insurance; and

(iv) the requirements of Section 7 of this Rule are complied with.

SECTION 5. DETERMINATION BASED ON THE SYSTEM

(a) The determination of liability for damages caused to a motor vehicle of a third party as a result of a traffic accident by means of the system will be limited by the terms and conditions of the compulsory liability insurance.

(b) The system will not determine liability for the following damages:

(1) Damage caused to the motor vehicle of a third party in excess of the amount paid by virtue of the determination of liability made by means of the system.

(2) Bodily injury.

(3) Medical expenses.

(4) Any damages other than those to the motor vehicle itself, or harm, such as the loss of use, loss of income, mental anguish and suffering, and similar damages that arise as a consequence of a traffic accident.

SECTION 6. PROCESSING OF CLAIMS

(a) In the event of a traffic accident between motor vehicles, the parties that are involved will fill out and sign an amicable accident report, regardless of the insurance that covers the vehicles. In addition, the insured under the compulsory liability insurance will report the traffic accident to the Police within no more than forty-eight (48) hours

(b) Unless there is a justifiable reason, an insured under the compulsory liability insurance who is involved in a traffic accident and does not notify such to the Police within the established period of forty-eight (48) hours, will not have a right to receive the compulsory liability insurance benefits.

(c) Owners of motor vehicles, or drivers of such, who are involved in a traffic accident will each submit to their insurers or authorized representatives the amicable accident report, including the number of the Police incident report, within the next fifteen (15) days, to be counted from the occurrence of the traffic accident.

The amicable report of the accident will not imply acknowledgment of liability but rather a correct recording of data and information to facilitate the processing, adjustment, and payment of claims that arise from a traffic accident and that are resolved by means of the system.

(d) On receiving the documents indicated in paragraph (a) of this section, the insurers will evaluate such and determine whether the claim satisfies the criteria established in Section 4 of this Rule.

If the Rule is applicable, the insurers will communicate with each other in a timely manner, so that under the provisions of the diagrams for the initial determination of liability under Article 7(a) of this Rule, liability may be determined subject to the provisions of Section 5 of this Rule. Insurers will use such means of communication as will allow for recording and corroborating all communication between them.

If this Rule is not applicable, the insurers will notify the insureds in a timely manner of the reasons for such a determination, and it shall not be deemed that the fact that this Rule is not applicable releases the insurers from their obligation to resolve the claim using the means available to do so.

The fact that an insurer or its authorized representative does not receive an amicable accident report, nor is it possible for the insured to obtain such, does not release the insurer from complying with the obligations of this Rule, if such information has been submitted by another person, another insured, or another party involved in the traffic accident.

(e) Once the determination of liability has been made by means of the system for a claim arising from a traffic accident, the insurer of the party found to be liable will make the valuation of the damages using the available methods as provided under the Code.

(f) Once the determination of liability has been made by means of the system, and the amount of the damages in a traffic accident between motor vehicles is determined, the injured party has signed a

release or analogous document of the settlement, and the insurer of the motor vehicle that is liable and by which the damages were caused in a traffic accident, the insurer will make payment to the injured party under the provisions of Section 9 of the Act.

(g) The applicability and the use of the system do not release insurers from the obligation to comply with the provisions of the Code regarding claims adjustment procedures.

SECTION 7. DIAGRAMS FOR THE INITIAL DETERMINATION OF LIABILITY

(a) Subject to the provisions of Section 4 of this Rule, the determination of liability shall be made exclusively on the basis of the data and information set forth in the amicable accident report by the parties involved in the traffic accident in view of the diagrams that are included as part of this Rule.

(b) The determination of liability under paragraph (a) of this Section will not be admissible as evidence in any civil, criminal, or administrative proceedings that are related to the facts that give rise to the determination. Likewise, the amicable accident report that has been completed and signed by the parties involved in a traffic accident will not be admissible as evidence in any civil, criminal, or administrative proceedings related to said traffic accident. This exclusion will not be applicable when misrepresentation or fraud is imputed in the claims submitted under the compulsory liability insurance or traditional liability insurance.

(c) Subject to the provisions of Section 4 of this Rule, in cases in which the diagrams used for determining liability that are referred

to in paragraph (a) of this Section do not reflect the facts of the traffic accident, the system will not be used to resolve the claim. In such cases the insurers shall continue to have the obligation to resolve the claim using the means available to do so, subject to the provisions of the Code for such purposes.

(d) The diagrams will not be used in the following cases:

(1) When the diagrams for determining liability referred to in paragraph (a) of this Section do not show the particular facts of a traffic accident.

(2) When two different diagrams may be applicable to the same accident, and the determination of liability would be conflicting.

(e) In evaluating a traffic accident in the light of the diagrams referred to in paragraph (a) of this Section the following will be considered:

(1) The illustrations in each diagram are a visual aid for understanding particular circumstances, so that it will be deemed that situations that are analogous to those that reflect the same basic concept are included in the diagram.

(2) In the event that two diagrams may be applied to a particular traffic accident, the diagram that will be applied will be the one that reflects more specifically the circumstances of the accident.

(3) In the event that liability for a traffic accident is determined using the diagrams included in the section titled

"Traffic accidents in intersections, whether or not controlled by traffic signals," and any of the parties involved in the traffic accident admits to having committed a violation to the Puerto Rico Vehicles and Traffic Act, because of a failure to obey traffic signals or taking the proper precautions, which contributed to the occurrence of the accident, such admission will have the effect of modifying the determination of liability set forth in such diagrams to determine against the party making such admission.

SECTION 8. MEDIATION

In the event that there is a controversy between insurers regarding the applicability of the System or with regard to the selection of a diagram for a particular claim, the insurers by mutual accord will appoint a person of recognized experience in motor vehicle insurance claims to mediate in the controversy with a view to finding a rapid and effective solution to the controversy.

The insurers will agree on the terms and conditions that will govern the mediation.

SECTION 9. JUDICIAL REVIEW

The determinations of liability made under this Rule may be made subject to review by the parties involved in a traffic accident as well as by the insurers in the Court of First Instance for the sole purpose of deciding any controversy regarding the applicability of the system or the selection of a diagram for a particular claim.

The remedy of judicial review established hereby will only be available to insurers when all mediation efforts set forth in Section 8 of this Rule have been exhausted.

SECTION 10. MISREPRESENTATION AND FRAUD

(a) Any person who knowingly submits or causes to be submitted a false or fraudulent claim, or any evidence to support such claim, for the payment of a loss under the compulsory liability insurance or traditional liability insurance or prepares, makes, or signs any false amicable accident report, account, certificate, sworn statement, proof of loss or other false document or writing of any kind with the intention of submitting such in support of such claim, will be subject to penalties as provided in Section 27.200 of the Code and any other legislation that may be approved to prohibit fraud in the submission of insurance claims.

(b) Insurers may investigate cases of misrepresentations and false or fraudulent claims made by insureds or drivers involved in traffic accidents. Insurers will act in a timely manner and cooperate with the investigation, discovery, and criminal and administrative action in such cases.

SECTION 11. AMENDMENTS

The Commissioner, on his or her own initiative or at the request of insurers or the Legislative Assembly, may amend the Initial Determination of Liability System adopted by virtue of this Rule.

SECTION 12. APPLICABILITY OF THE CODE

The provisions of the Code are complementary to this Rule on all matters with regard to which they are not incompatible. The Commissioner will be the official responsible for the enforcement of this Rule and shall have the power to take such action as the Commissioner may deem necessary for the effective application and implementation of the Rule.

SECTION 13. SEVERABILITY

If any word, sentence, paragraph, subsection, section, or part of this Rule were found to be null or invalid by a court of competent jurisdiction, the order issued by such court will not affect or invalidate the remaining provisions of this Rule, but rather the effect of such order will be limited to the word, sentence, paragraph, subsection, section, or part that has been found to be invalid.

SECTION 14. APPLICABLE DATE

This Rule will enter into effect on January 1, 1998.

APPENDIX TO RULE 71

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY
UNDER COMPULSORY MOTOR VEHICLE LIABILITY
INSURANCE

DIAGRAMS

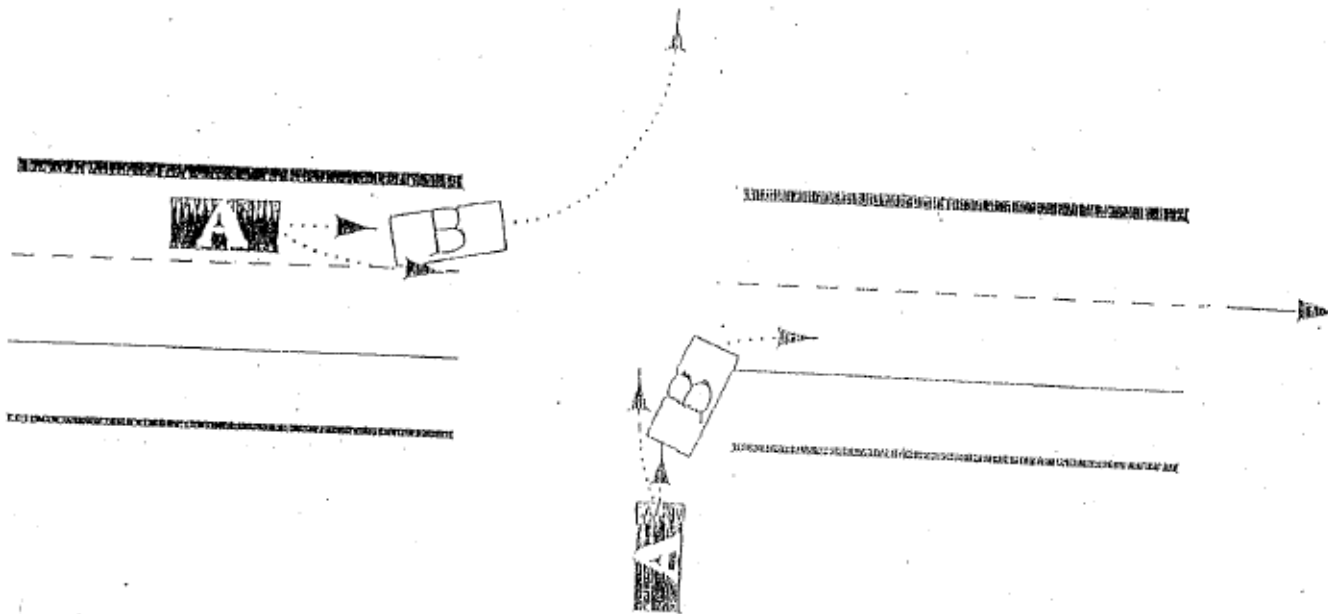


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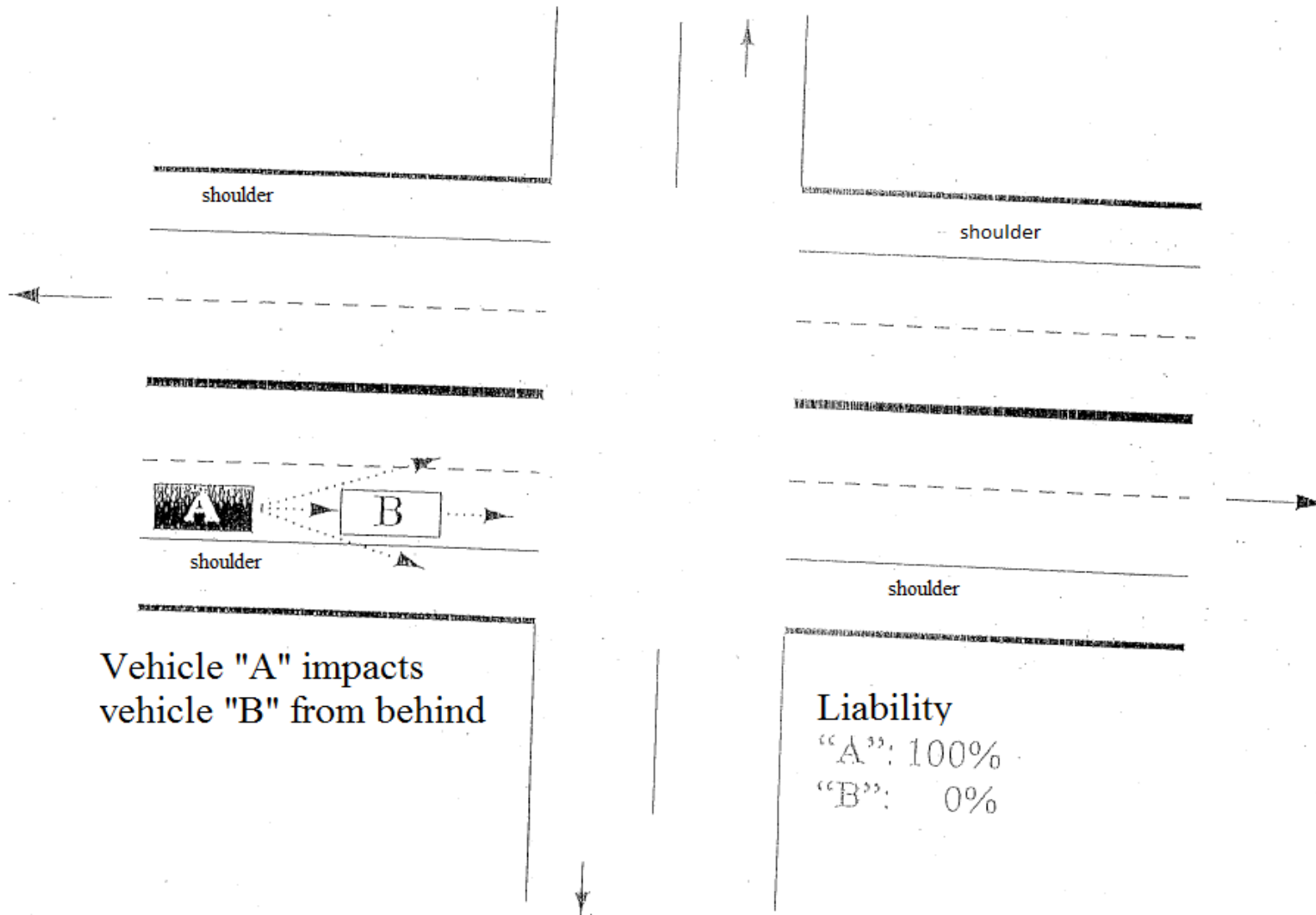
These diagrams are referred to in Section 7 (a) of Rule 71 adopted under Section 8 of Public Law No. 253, enacted on December 27, 1995.

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER
COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section I

Motor vehicles “A” and “B” moving in the same direction and in the same lane

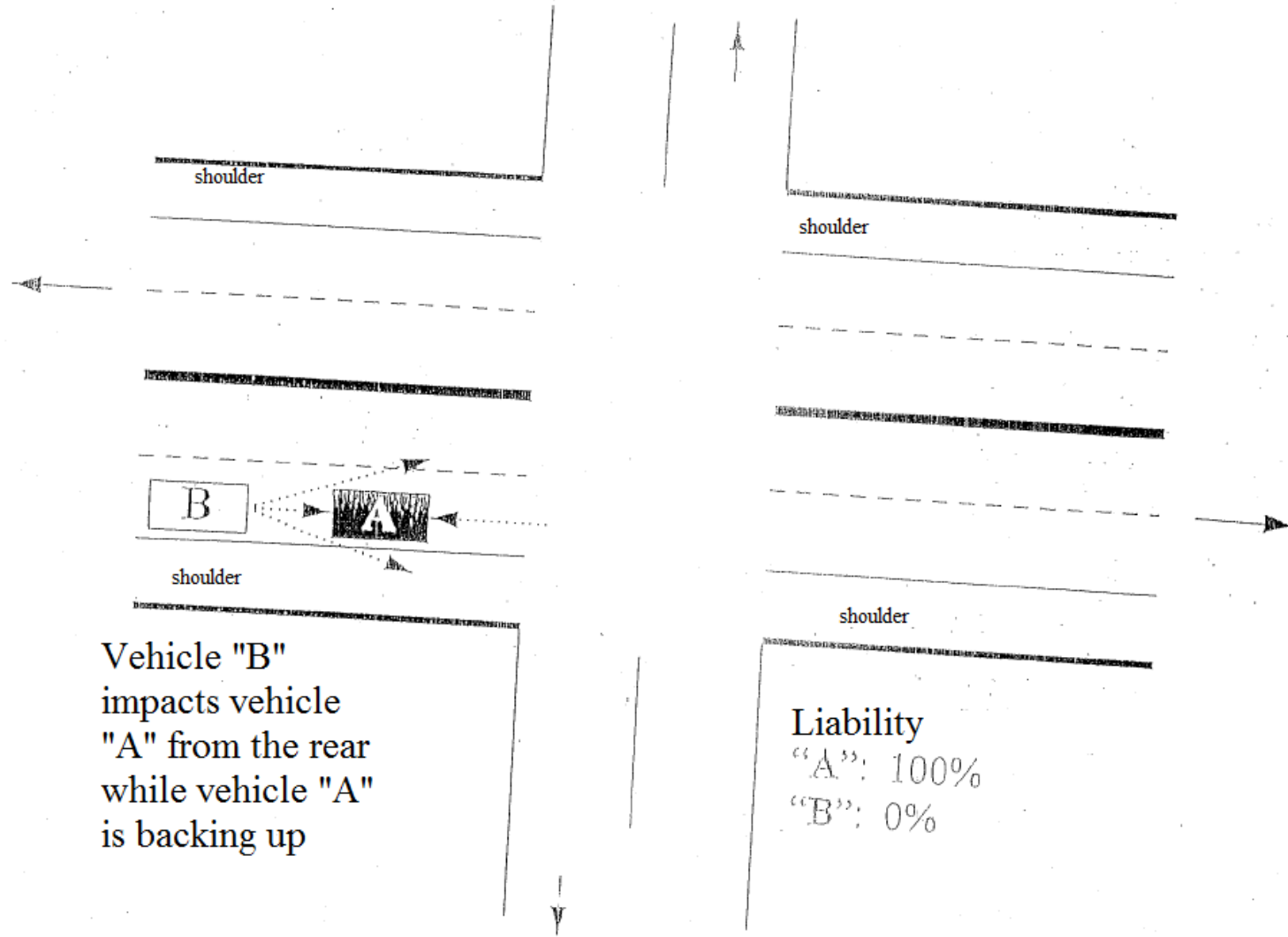
DIAGRAM I-1



Vehicle "A" impacts
vehicle "B" from behind

Liability
"A": 100%
"B": 0%

DIAGRAM I-2



Vehicle "B"
impacts vehicle
"A" from the rear
while vehicle "A"
is backing up

Liability
"A": 100%
"B": 0%

DIAGRAM I-3

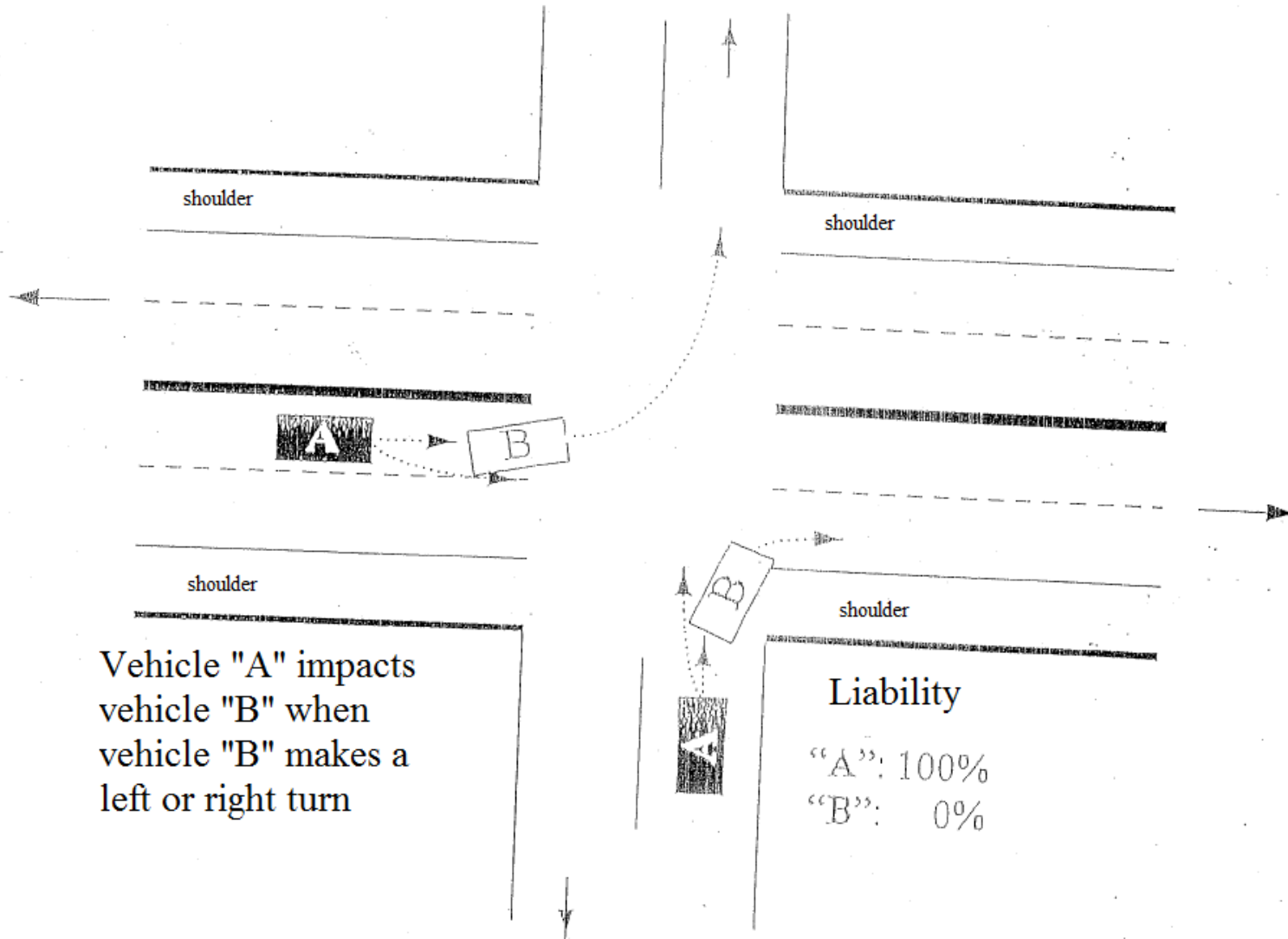
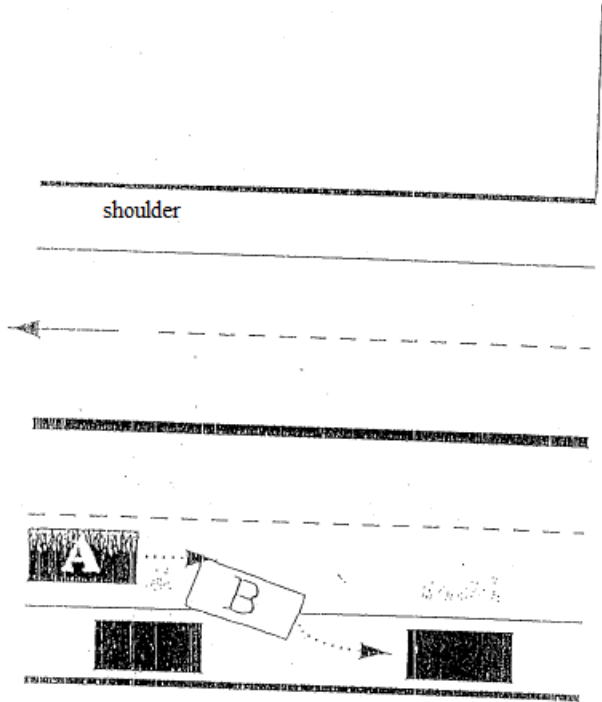
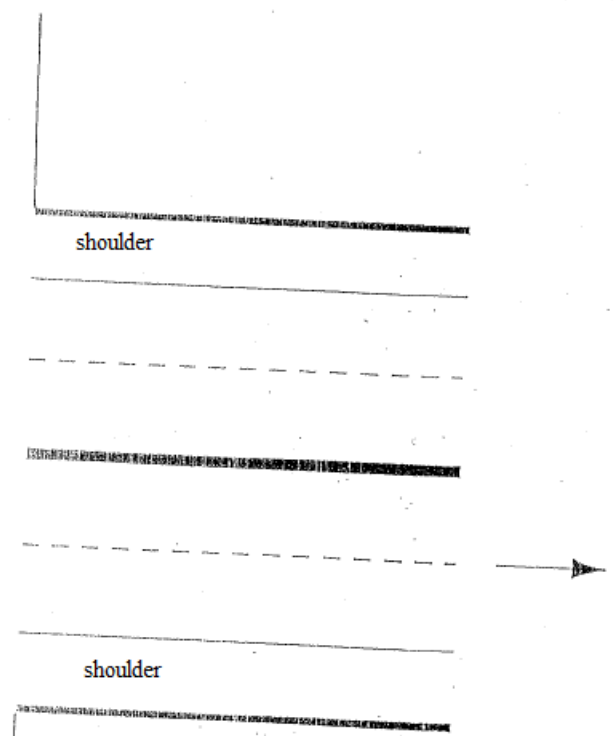


DIAGRAM I-4



Vehicle "A" impacts vehicle "B" from the rear when vehicle "B" was attempting to park on a public thoroughfare.



Liability
"A": 100%
"B": 0%

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section II

Motor vehicles “A” and “B” moving in the same direction but in different lanes

DIAGRAM II-1

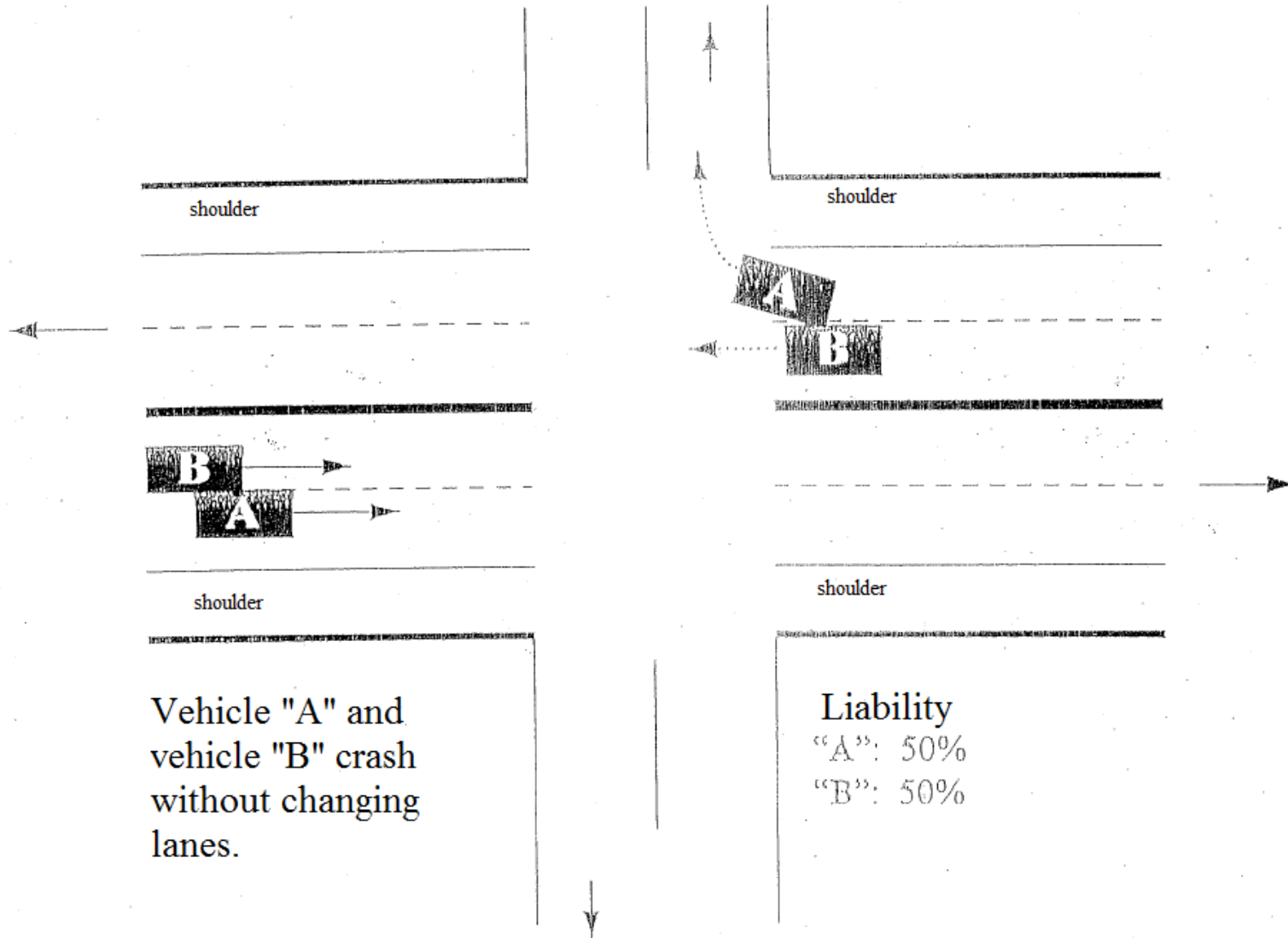
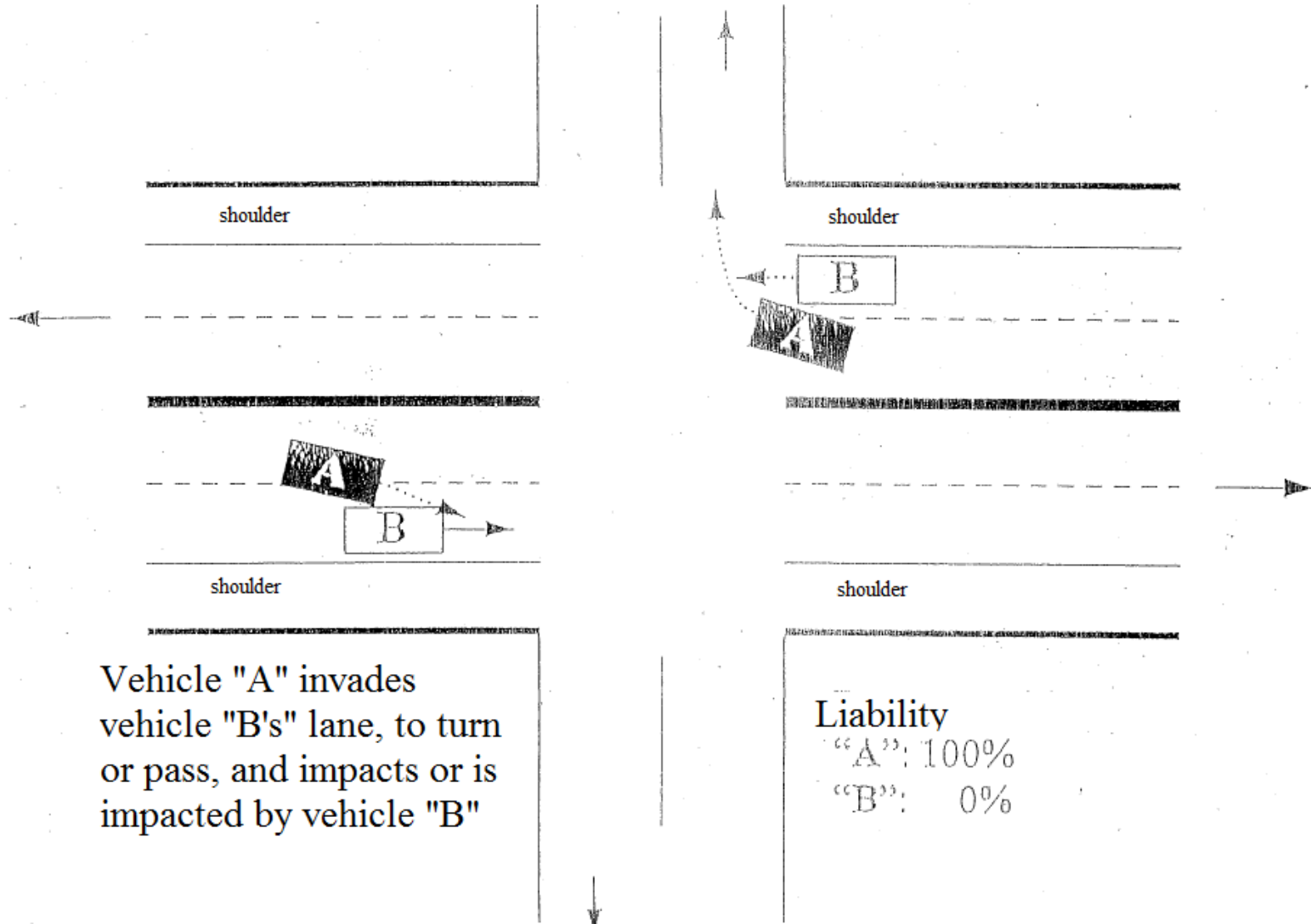


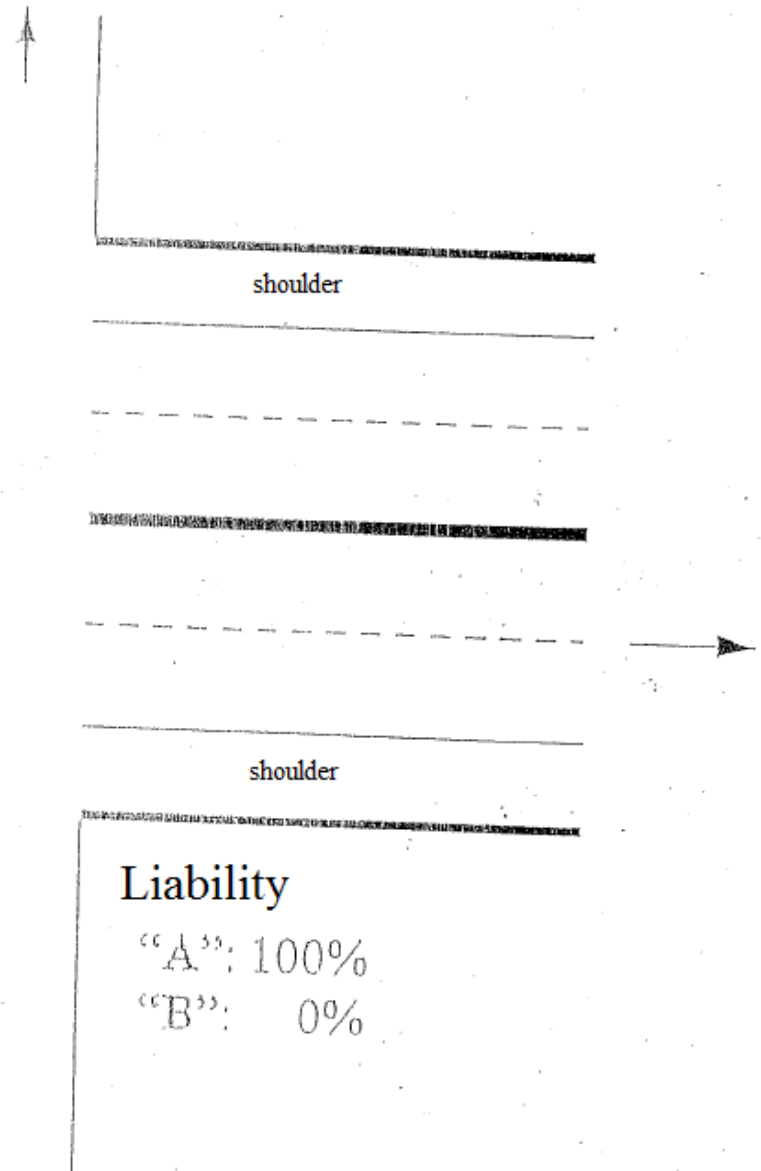
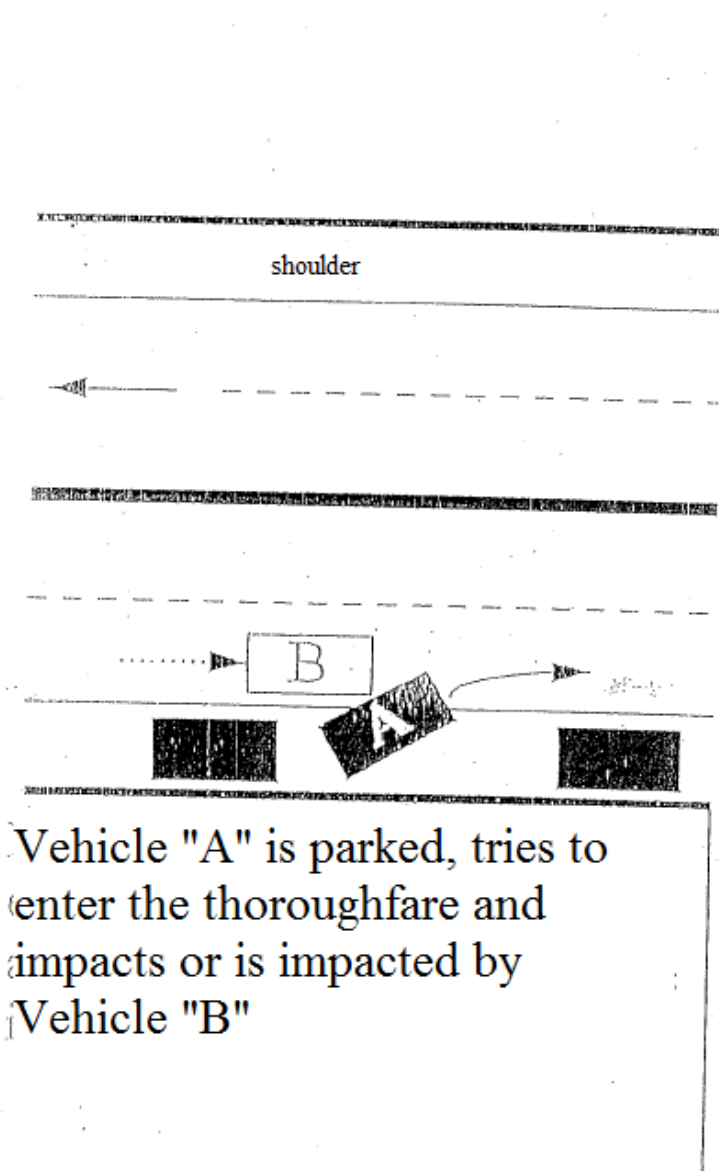
DIAGRAM II-2



Vehicle "A" invades vehicle "B's" lane, to turn or pass, and impacts or is impacted by vehicle "B"

Liability
"A": 100%
"B": 0%

DIAGRAM II-3



SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section III

Motor vehicles “A” and “B” have a traffic accident when moving in lanes in
opposite directions

DIAGRAM III-1

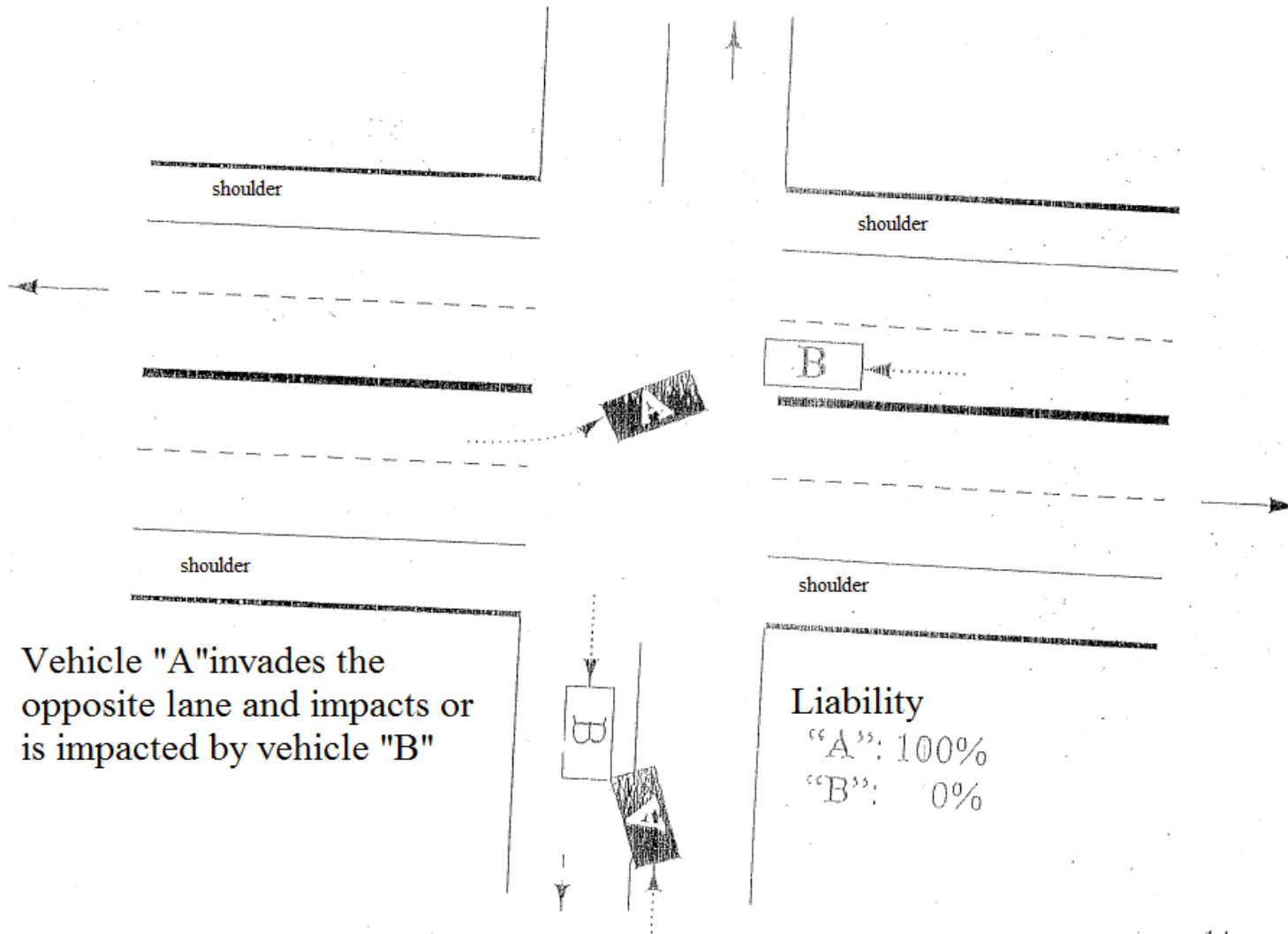


DIAGRAM III-2

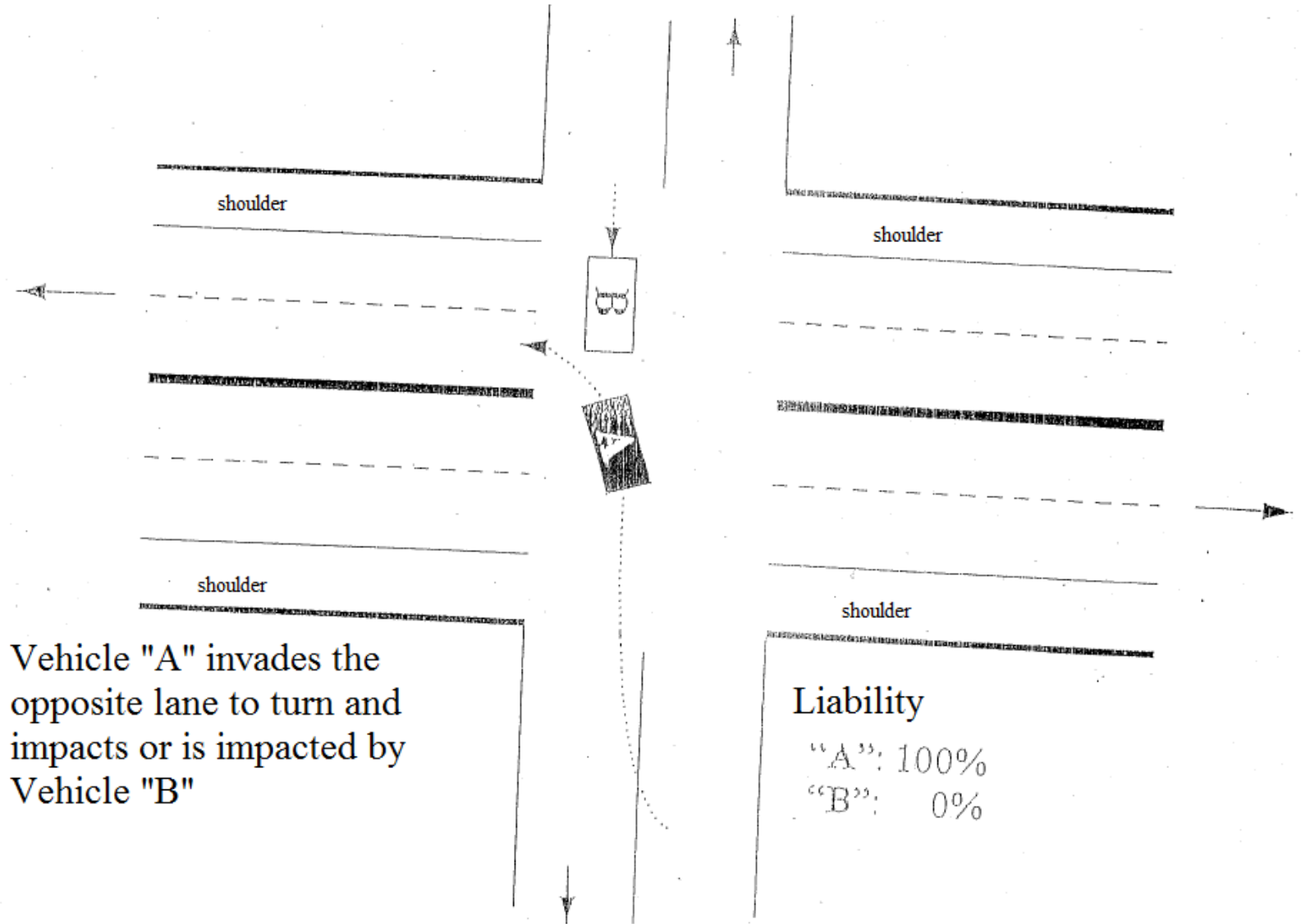


DIAGRAM III-3

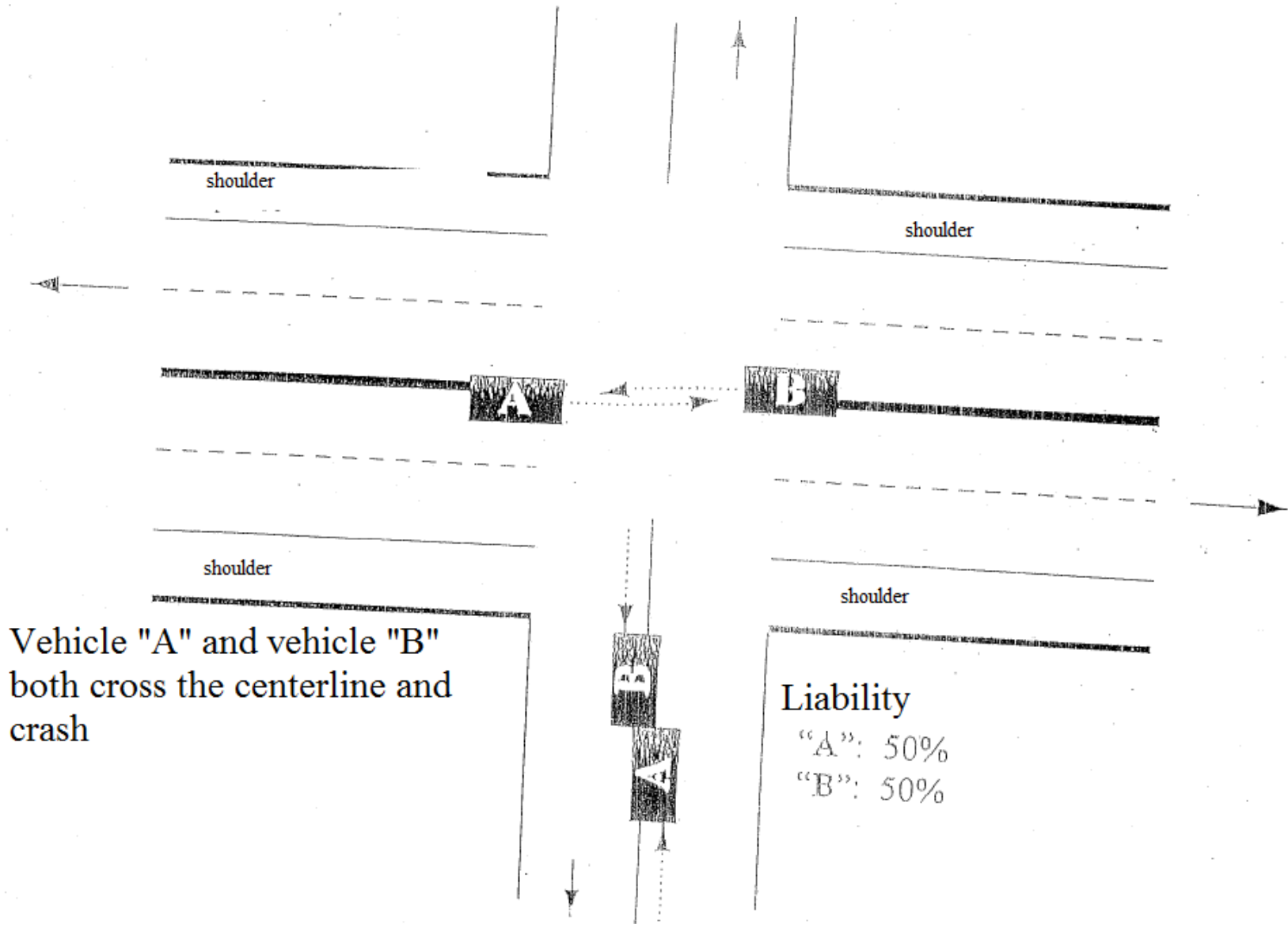
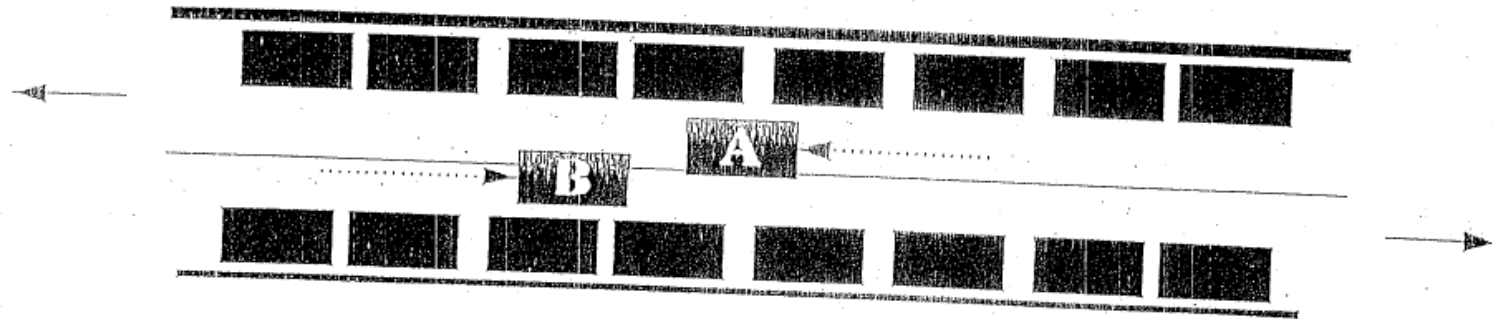


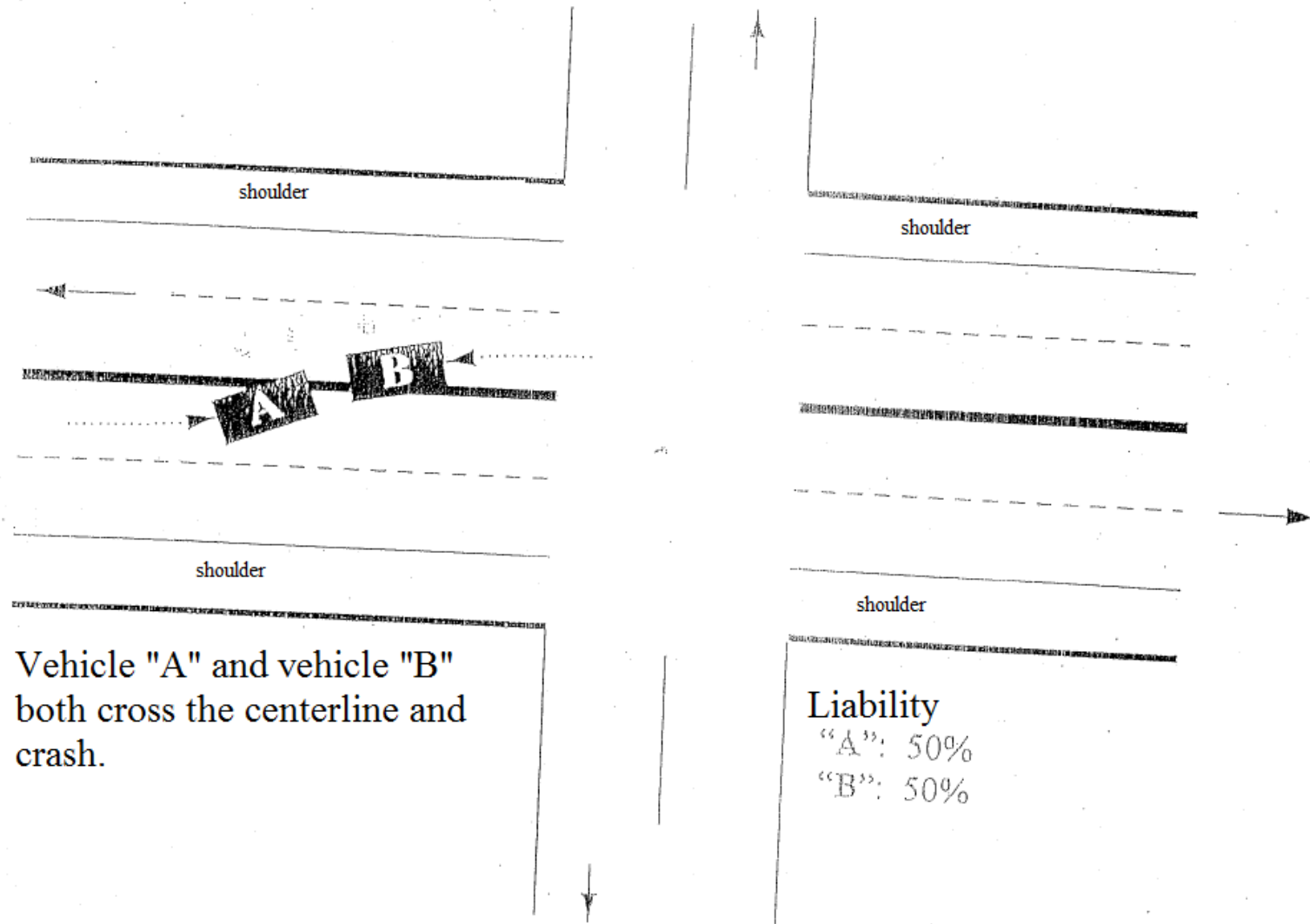
DIAGRAM III-4



Vehicle "A" and vehicle "B" crash while moving in a narrowing in the road

Liability
"A": 50%
"B": 50%

DIAGRAM III-5

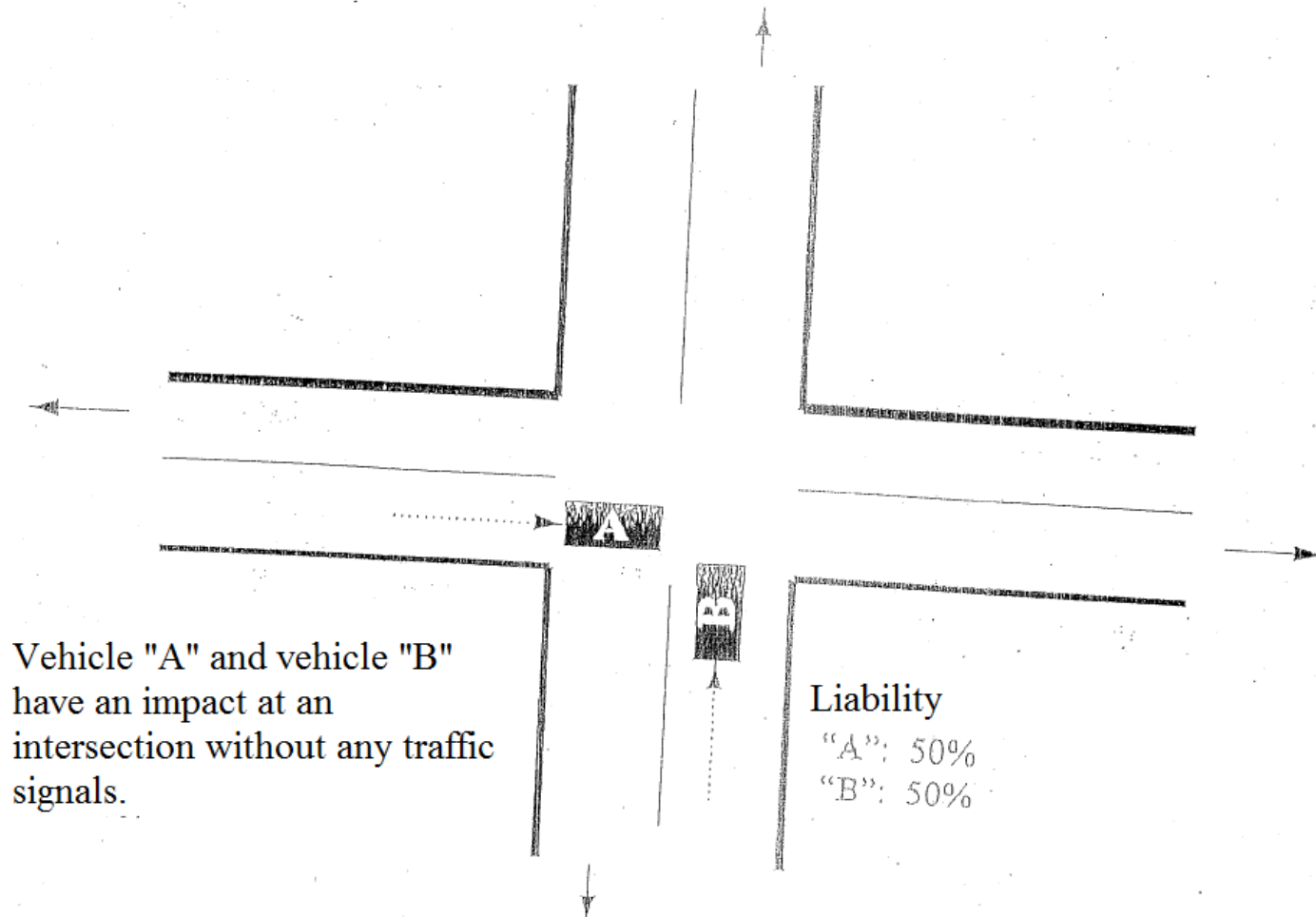


SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER
COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section IV

Motor vehicles “A” and “B” have a traffic accident in an intersection, whether or
not controlled by traffic signals

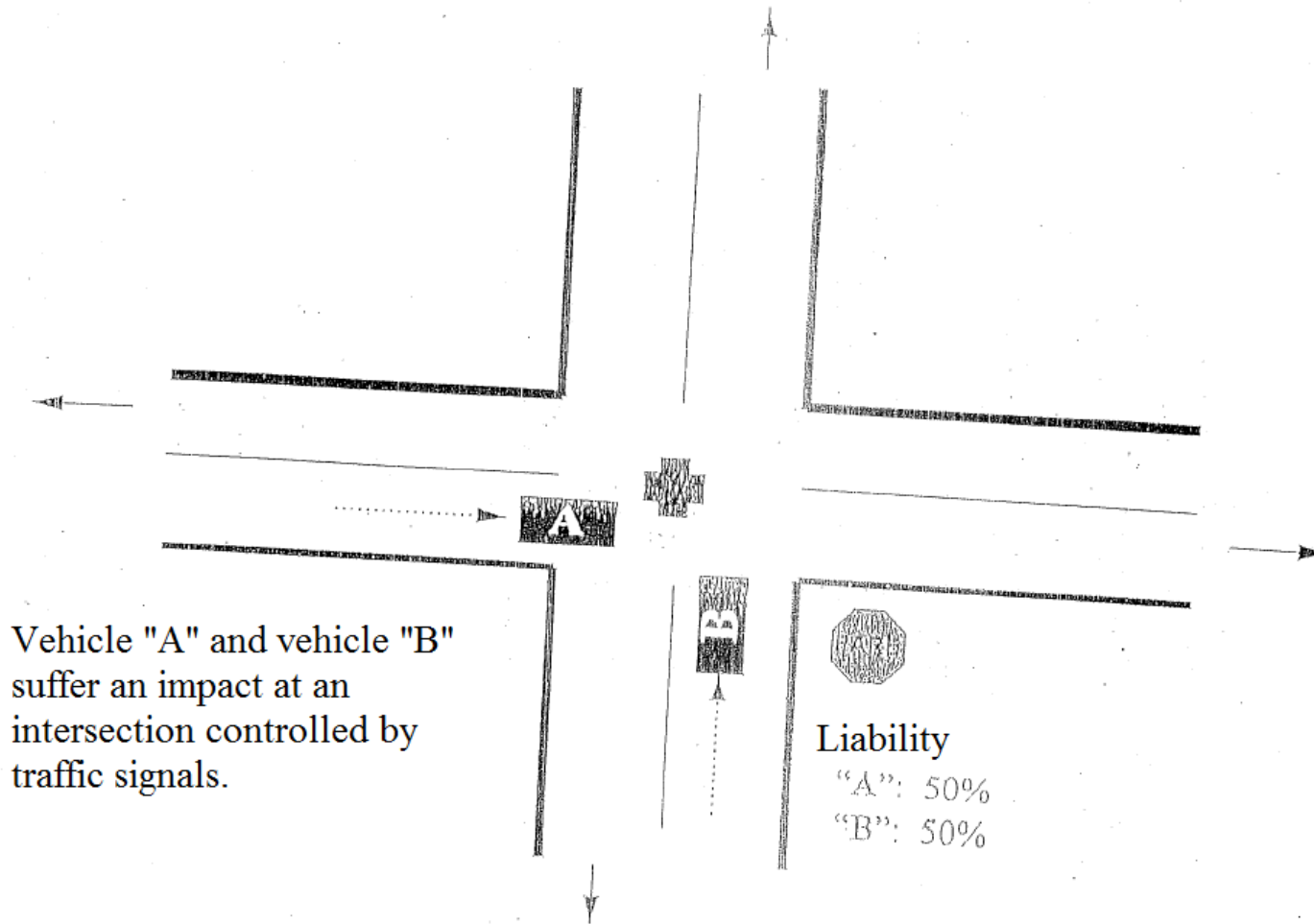
DIAGRAM IV-1



Vehicle "A" and vehicle "B" have an impact at an intersection without any traffic signals.

Liability
"A": 50%
"B": 50%

DIAGRAM IV-2



Vehicle "A" and vehicle "B" suffer an impact at an intersection controlled by traffic signals.

DIAGRAM IV-3

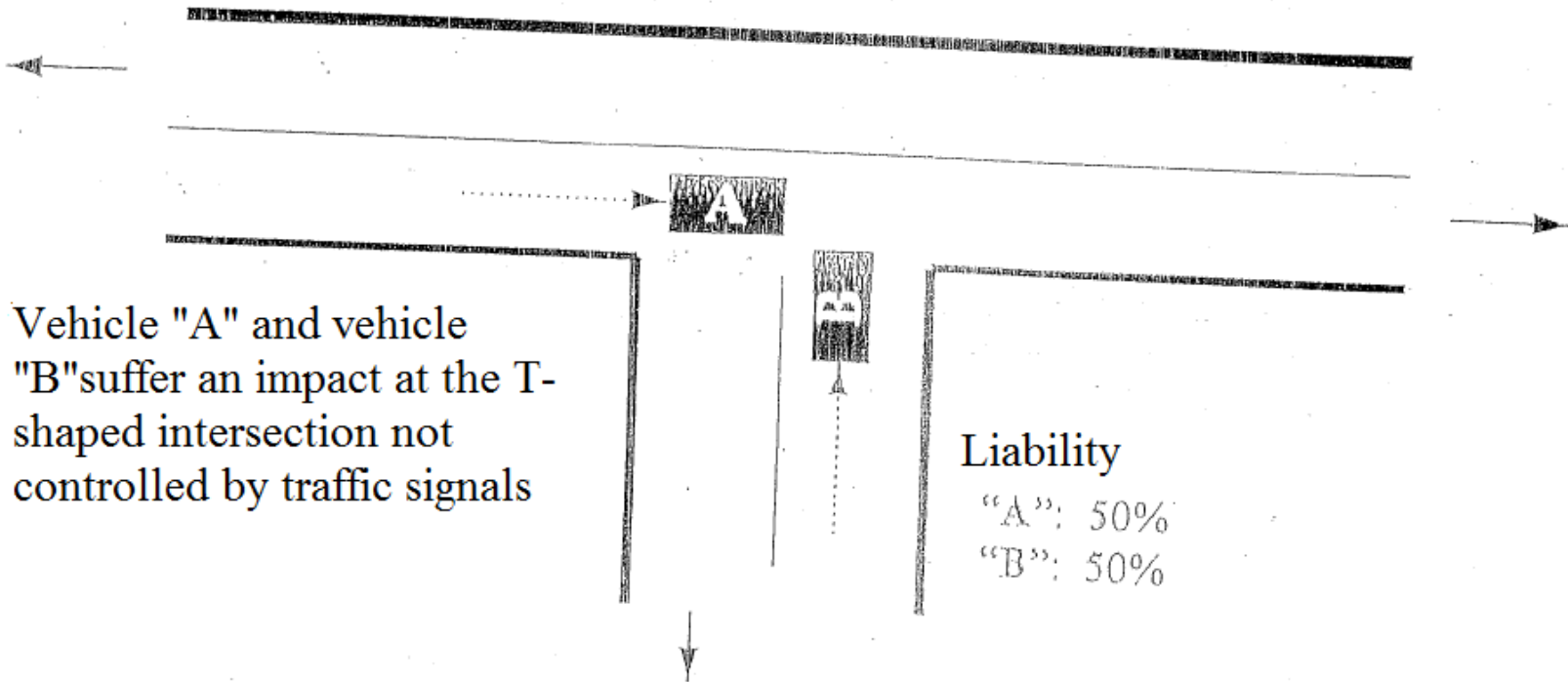
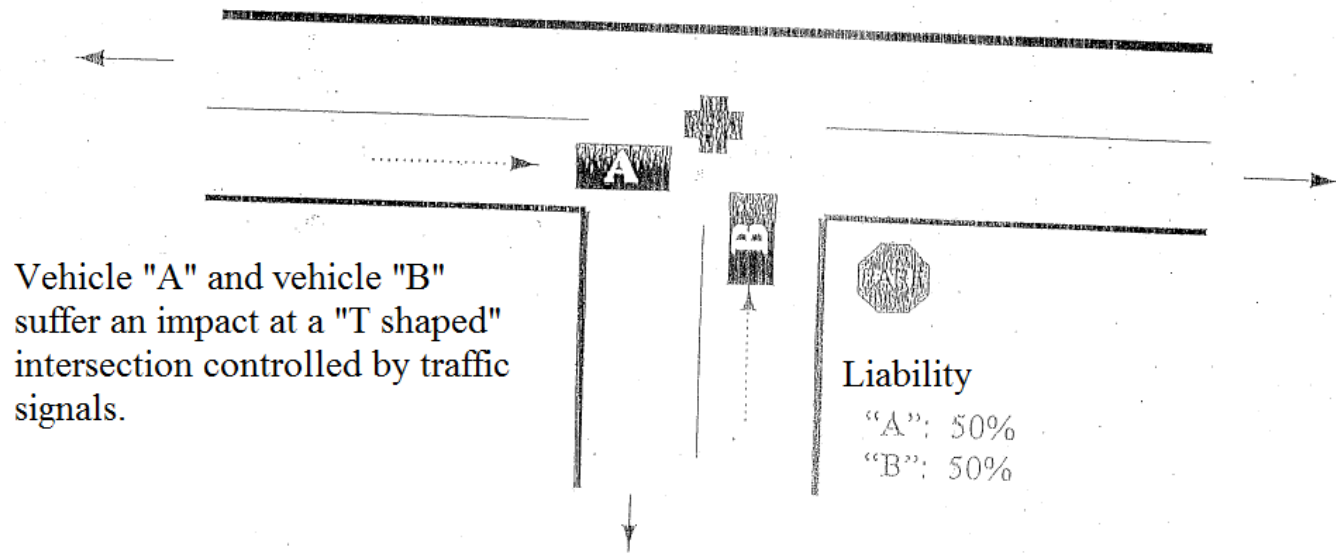


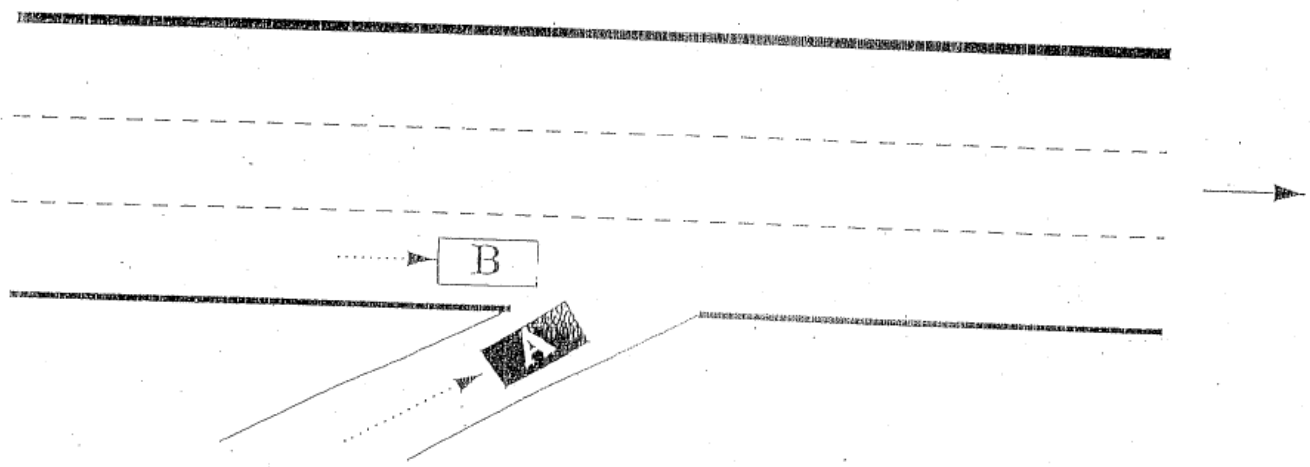
DIAGRAM IV-4



Vehicle "A" and vehicle "B" suffer an impact at a "T shaped" intersection controlled by traffic signals.

Liability
"A": 50%
"B": 50%

DIAGRAM IV-5



Vehicle "B," which is moving in its lane, impacts or is impacted by vehicle "A" that is moving on a toll road exit or a thoroughfare.

Liability
"A": 100%
"B": 0%

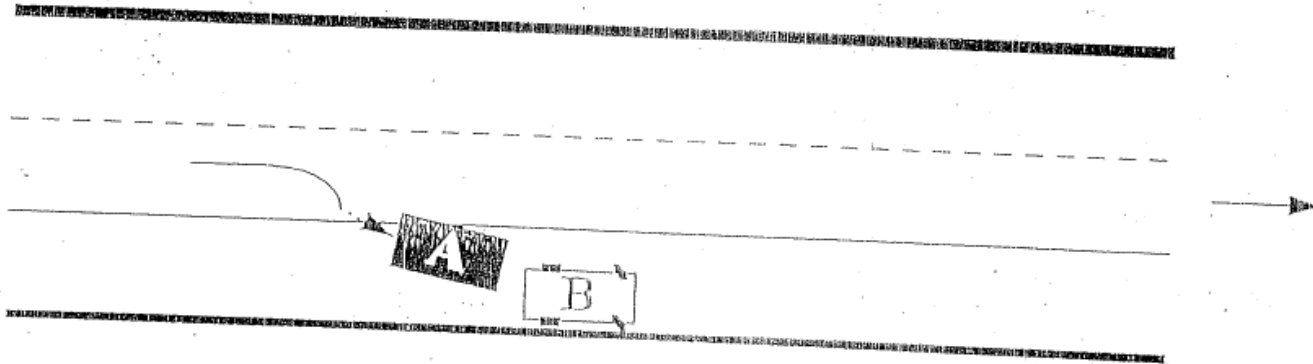
SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section V

Motor vehicles “A” and “B” have a traffic accident:

- in a parking area, or
- at the exit of a parking area or a private road,
- or when one of the vehicles is parked on a thoroughfare.

DIAGRAM V-1



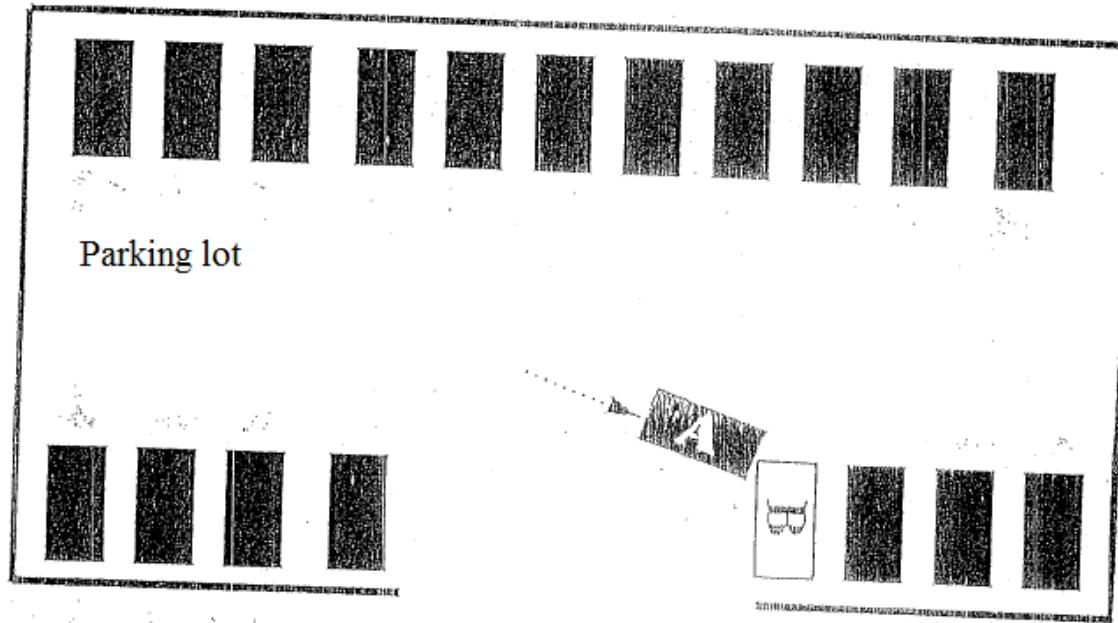
Vehicle "B" is parked on the thoroughfare and vehicle "A" impacts vehicle "B".

Liability

"A": 100%

"B": 0%

DIAGRAM V-2



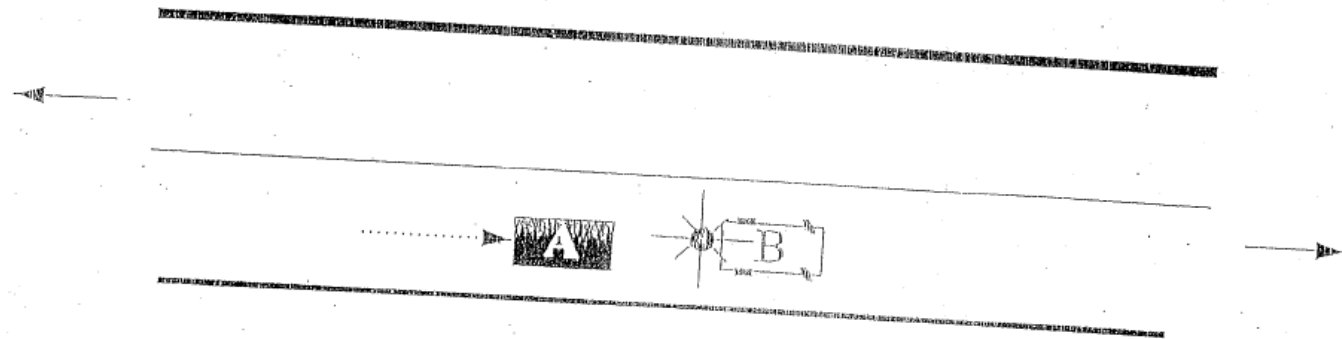
Vehicle "B" is parked in a parking lot and vehicle "A" impacts vehicle

Liability

“B”.

“A”: 100%
“B”: 0%

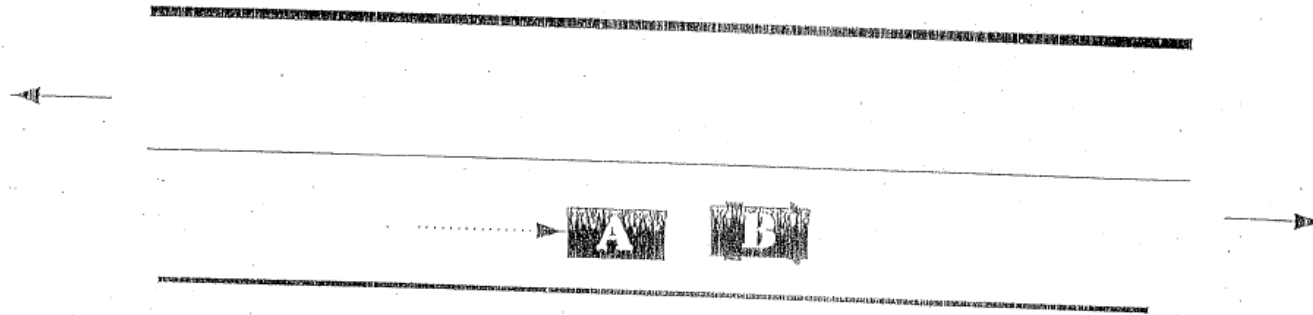
DIAGRAM V-3



Vehicle “B” is stopped on the roadway using signal or hazard lights and vehicle “A” impacts vehicle “B”.

Liability
“A”: 100%
“B”: 0%

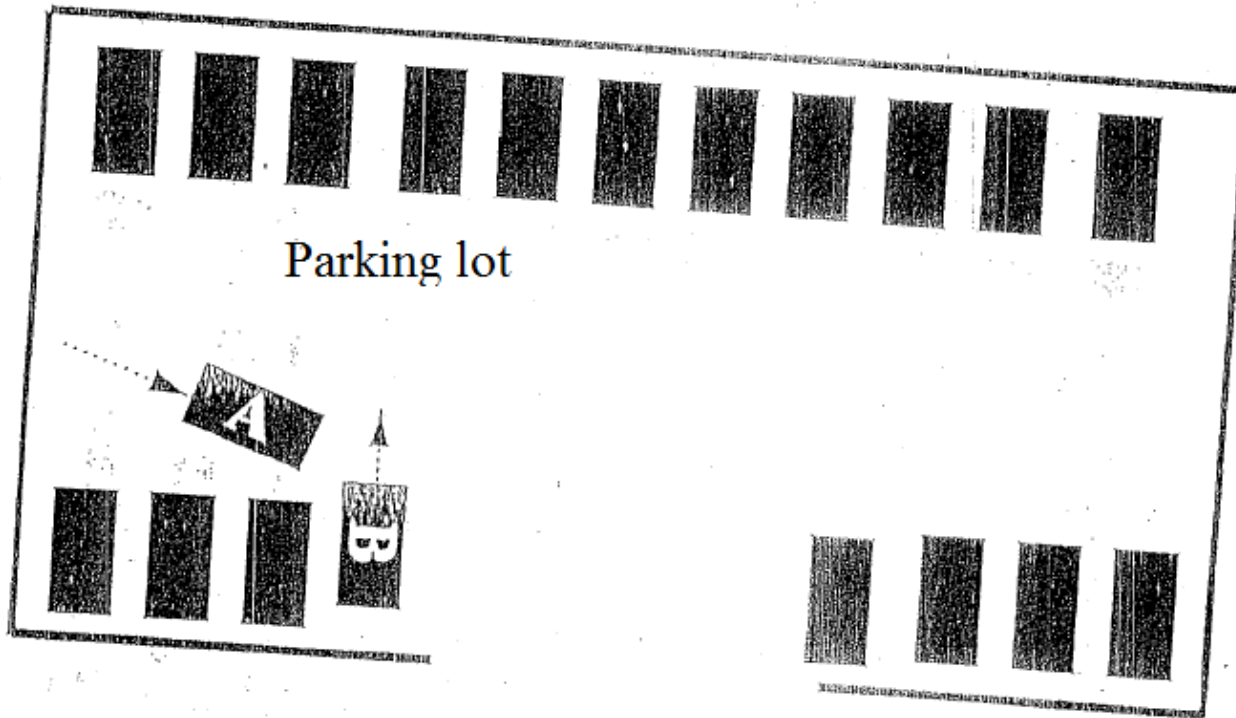
DIAGRAM V-4



Vehicle "B" is stopped on the roadway not using signal or hazard lights and vehicle "A" impacts vehicle "B".

Liability _____
"A": 50%
"B": 50%

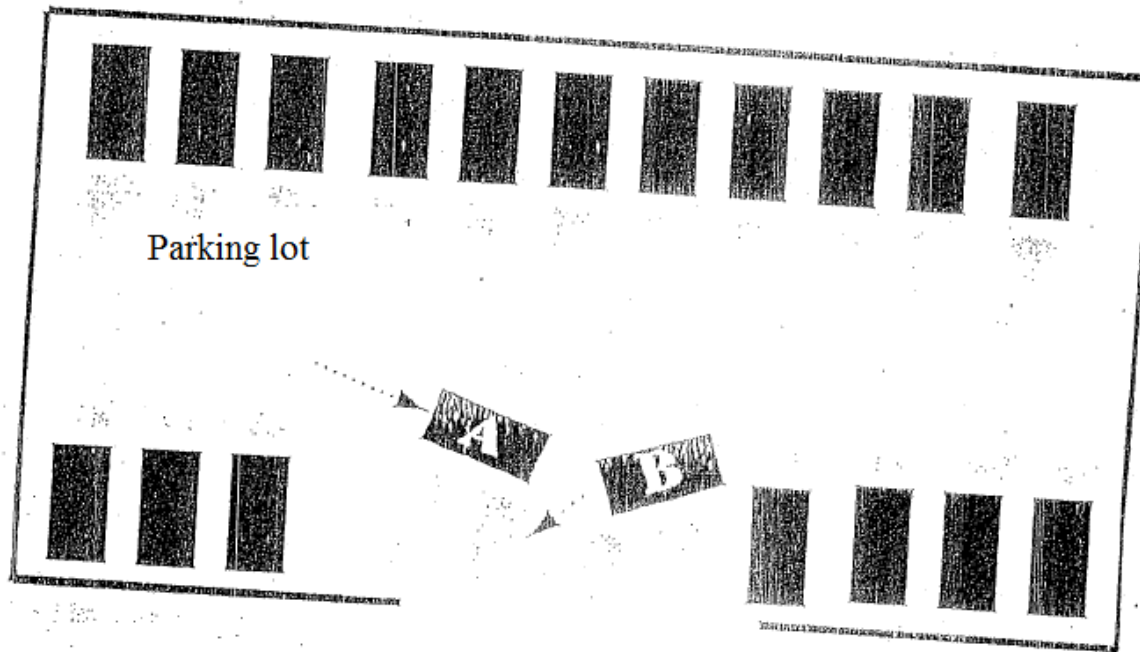
DIAGRAM V-5



Vehicle "B" is exiting a parking place and impacts or is impacted by vehicle "A" impacts vehicle that is also moving.

Liability _____
"A": 50%
"B": 50%

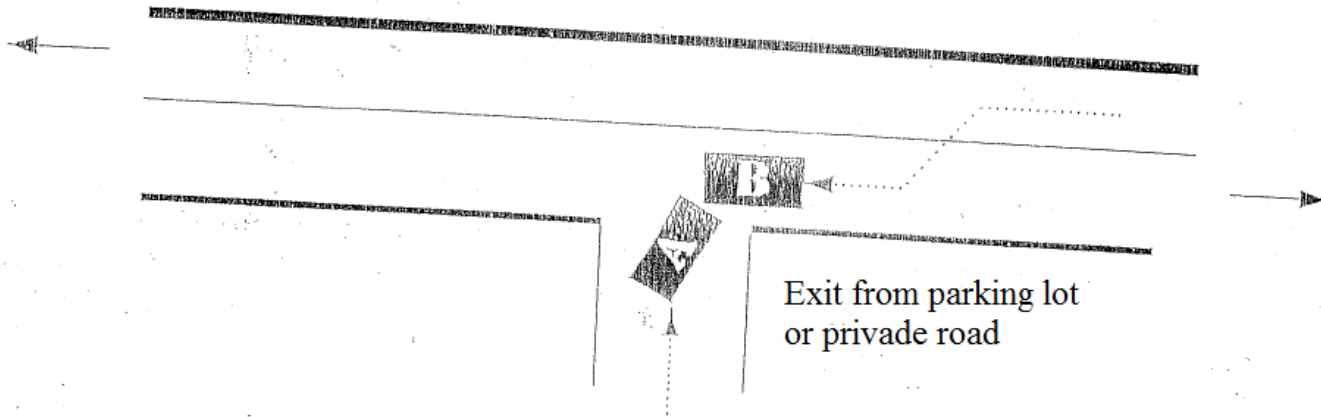
DIAGRAM V-6



Vehicle "A" and vehicle "B" suffer an impact while moving in a parking lot.

Liability _____
"A": 50%
"B": 50%

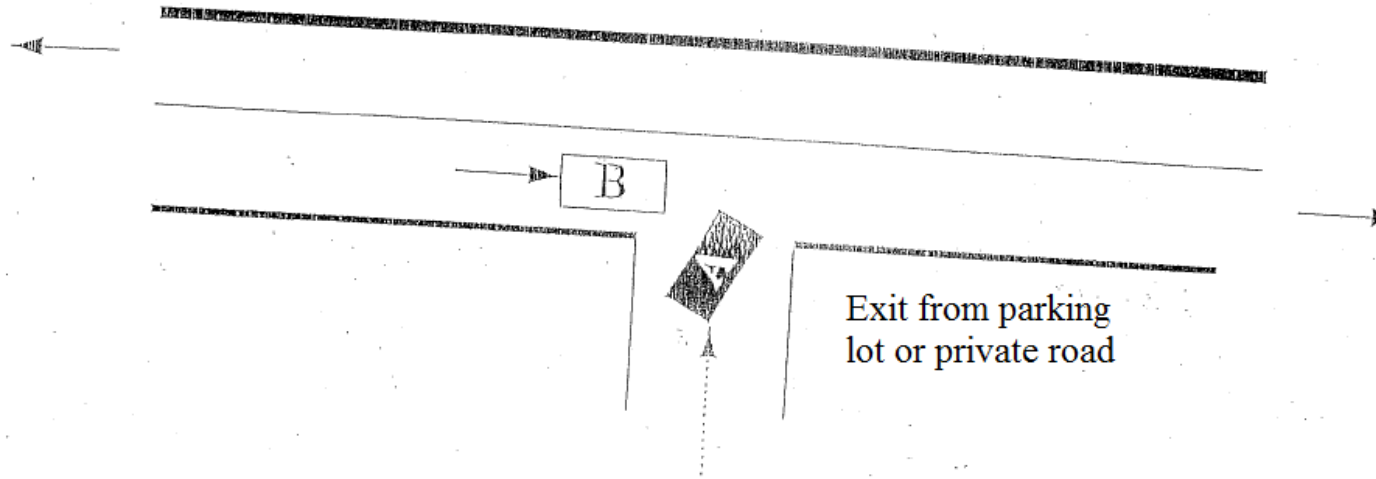
DIAGRAM V-7



Vehicle "A" is exiting a parking lot or private road towards the thoroughfare and impacts or is impacted by vehicle "B" that invades the opposing lane whether or not with the intention of entering the parking lot or private road.

Liability _____
"A": 50%
"B": 50%

DIAGRAM V-8



Vehicle "A" is exiting a parking lot or private road towards the thoroughfare and impacts or is impacted by vehicle "B" that is moving in its lane.

Liability

"A": 100%

"B": 0%

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER
COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section VI

Motor vehicles “A” and “B” are in a collision:

- W
When vehicle “A” make a U-turn and impacts or is impacted by vehicle “**B**”
- V
When ehicle “A” opens a door and impacts or is impacted by vehicle “**B**”

DIAGRAM VI-1

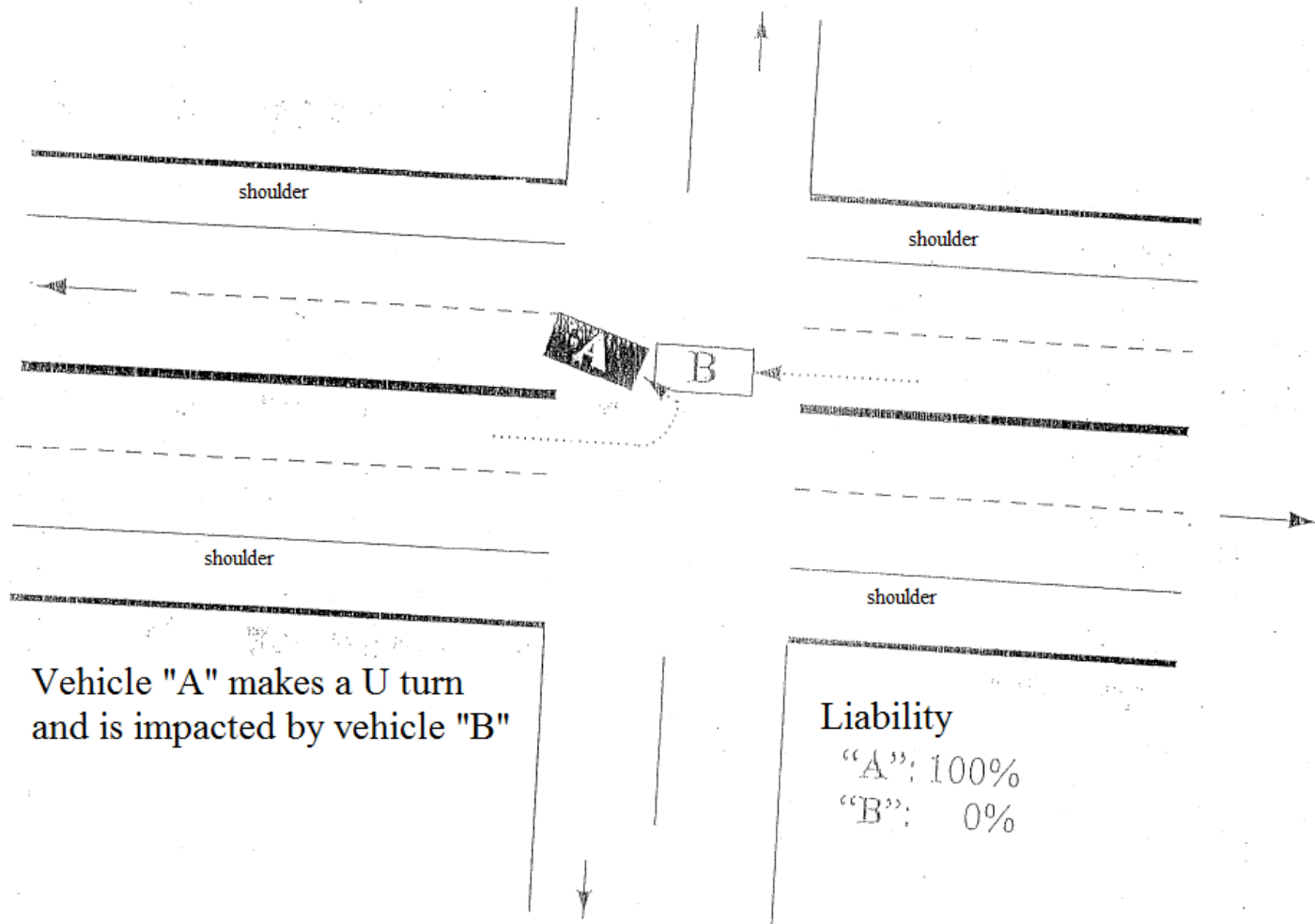


DIAGRAM VI-2

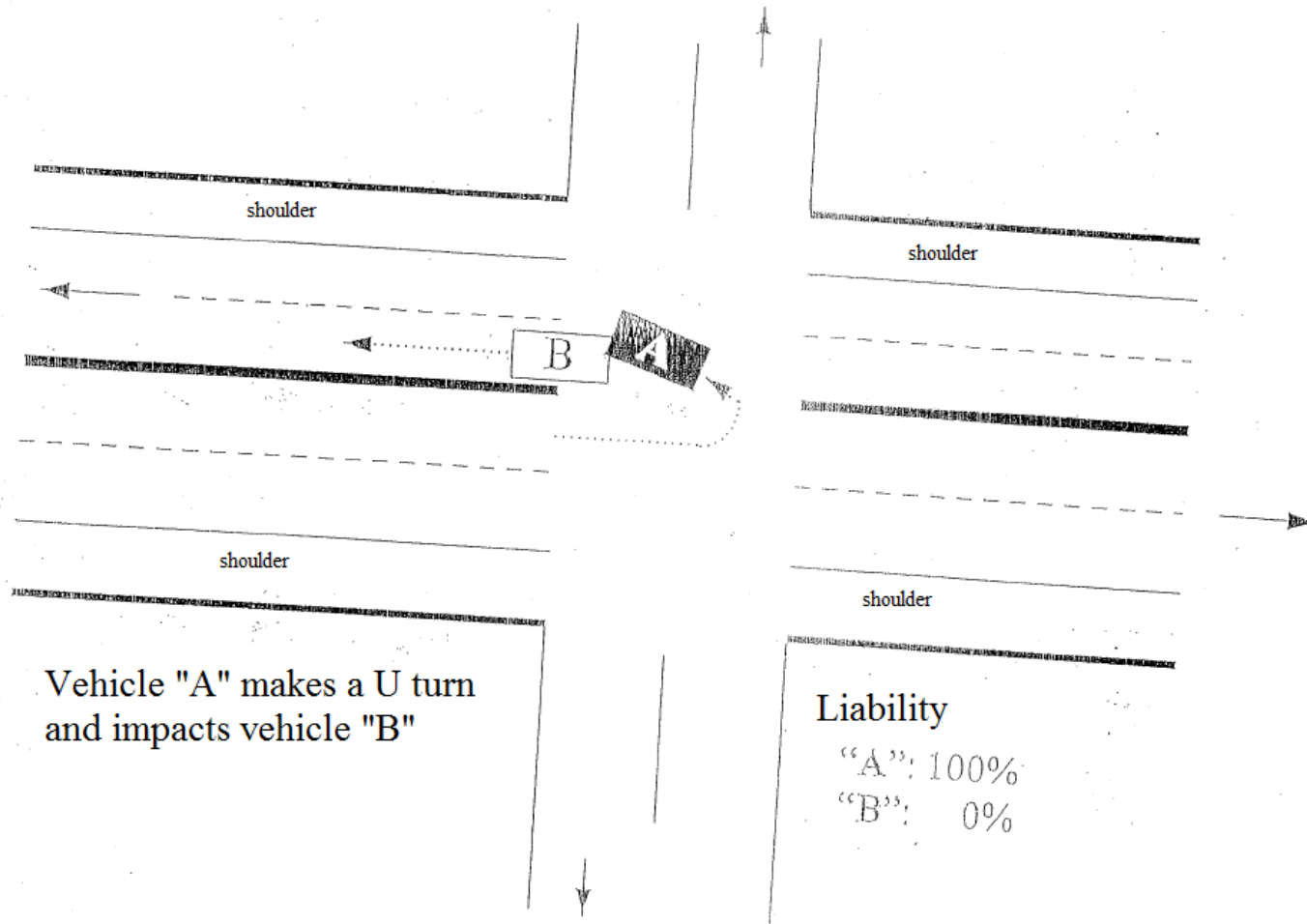
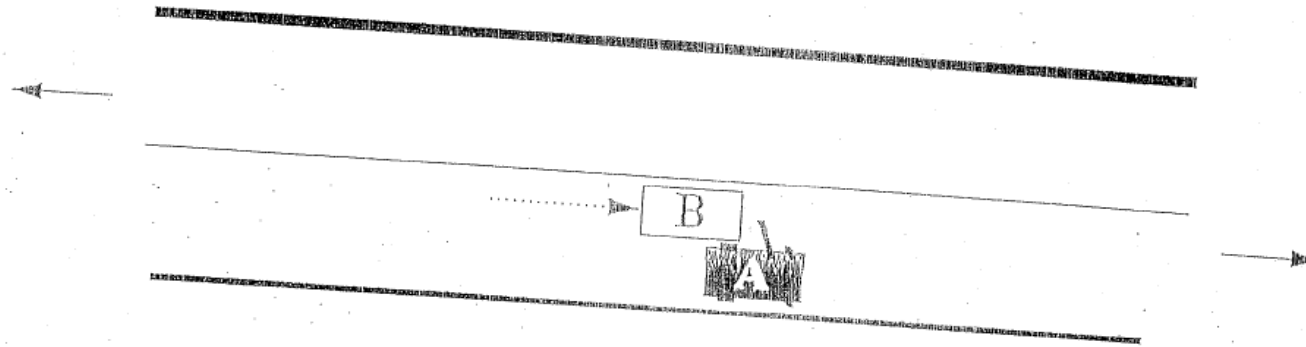


DIAGRAM VI-3



Vehicle "B" impacts or is impacted by vehicle "A" when vehicle "A" opens a door.

Liability

"A": 100%

"B": 0%

DIAGRAM VI-4

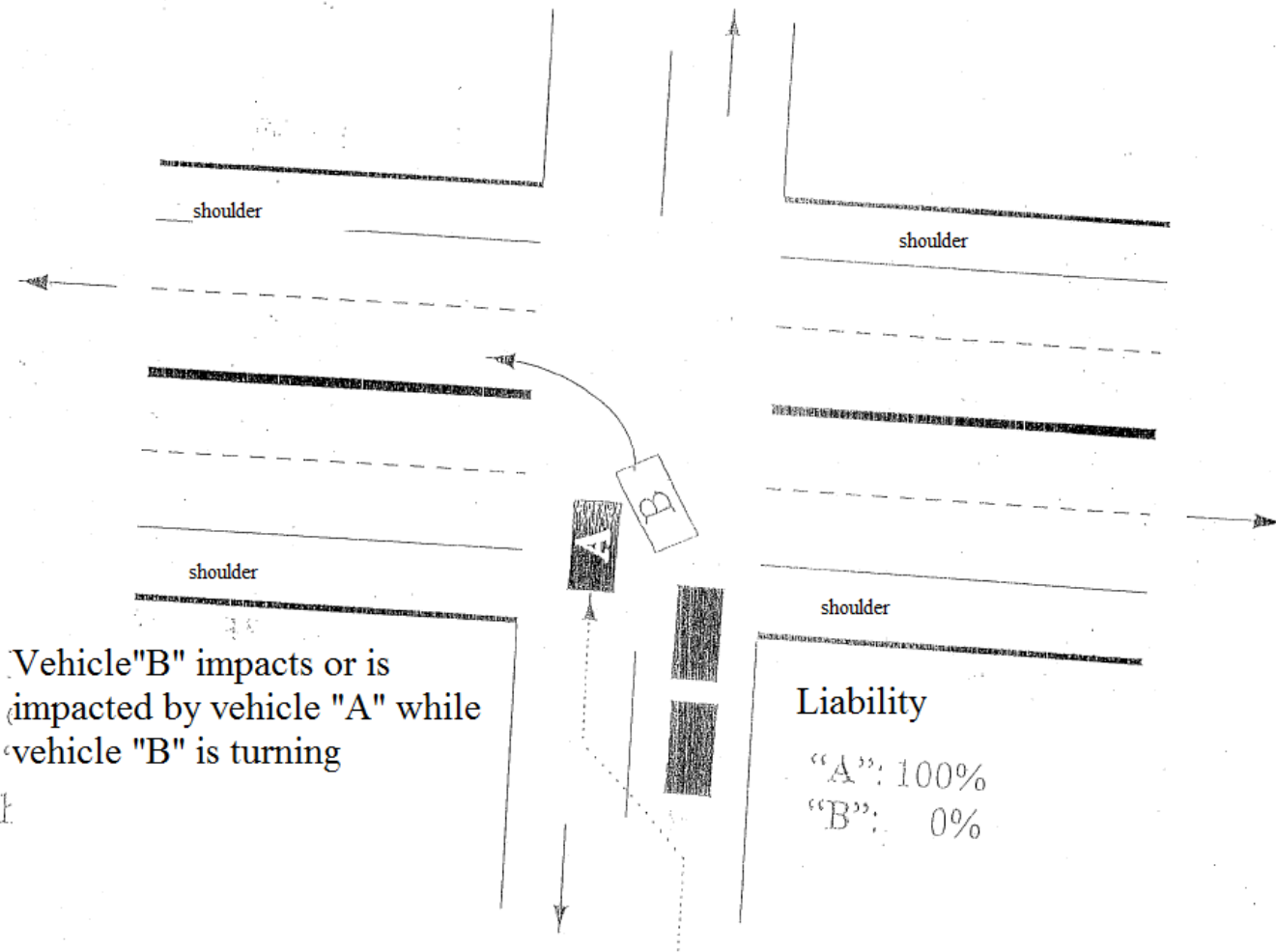
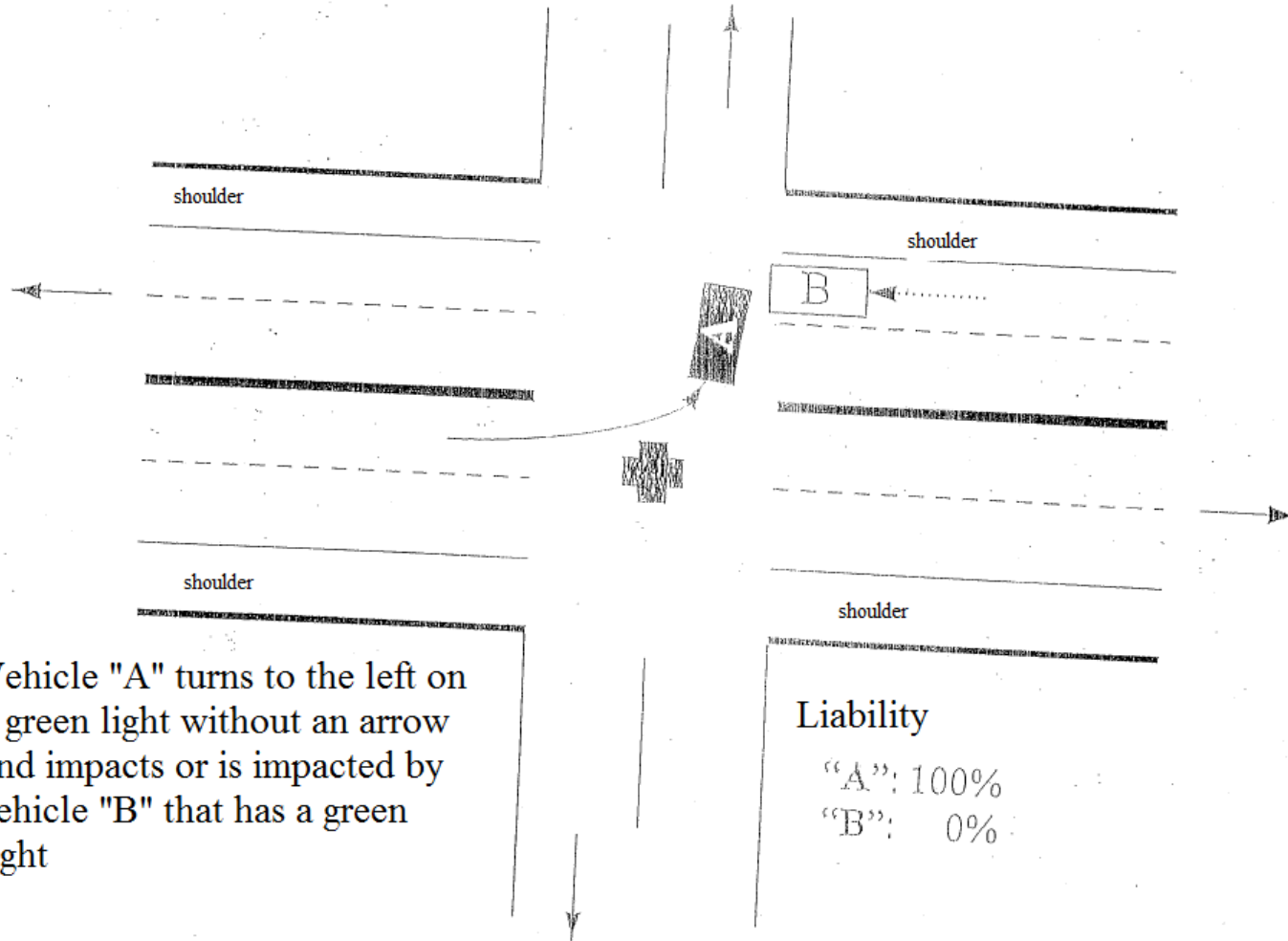
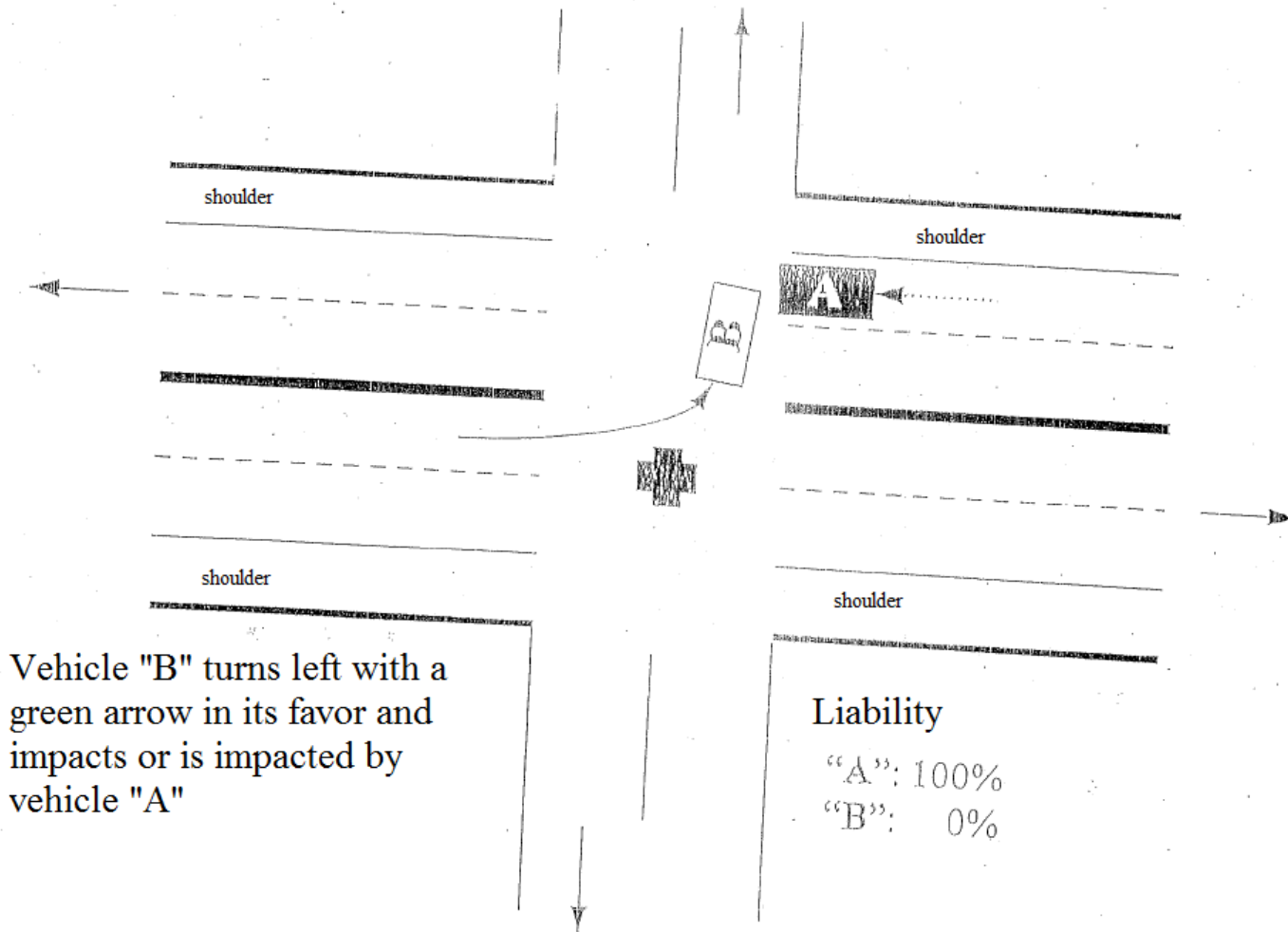


DIAGRAM VI-5



Vehicle "A" turns to the left on a green light without an arrow and impacts or is impacted by vehicle "B" that has a green light

DIAGRAM VI-6



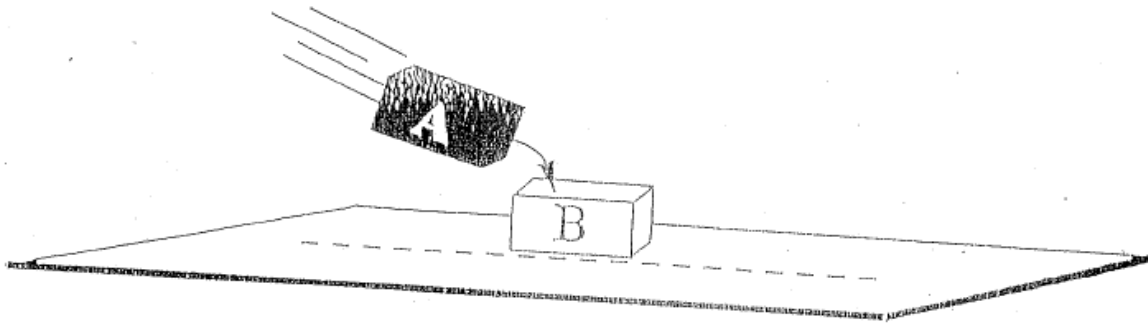
Vehicle "B" turns left with a green arrow in its favor and impacts or is impacted by vehicle "A"

SYSTEM FOR THE INITIAL DETERMINATION OF LIABILITY UNDER
COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Section VII

Other types of traffic accidents

DIAGRAM VII-1



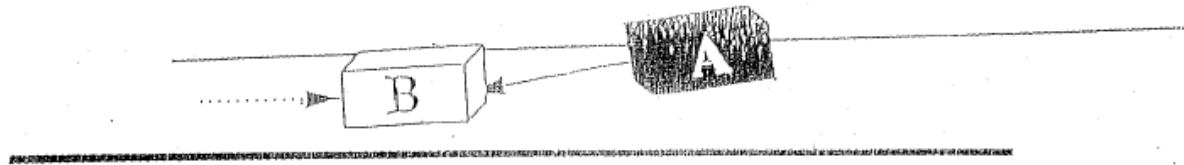
Vehicle "A" falls on vehicle "B".

Liability

"A": 100%

"B": 0%

DIAGRAM VII-2



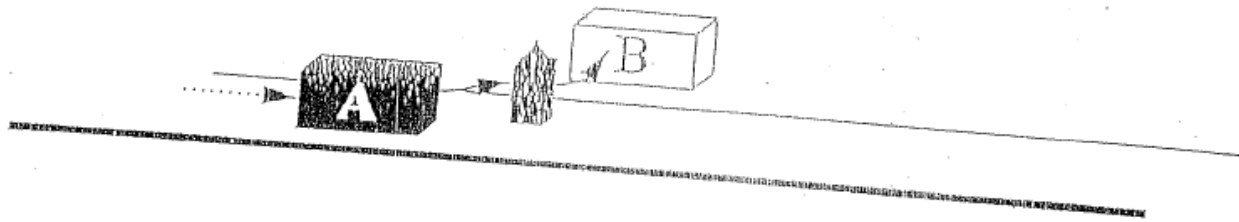
Gears unexpectedly shift in vehicle
“A”, causing it to move and impact
vehicle “B”.

Liability

“A”: 100%

“B”: 0%

DIAGRAM VII-3



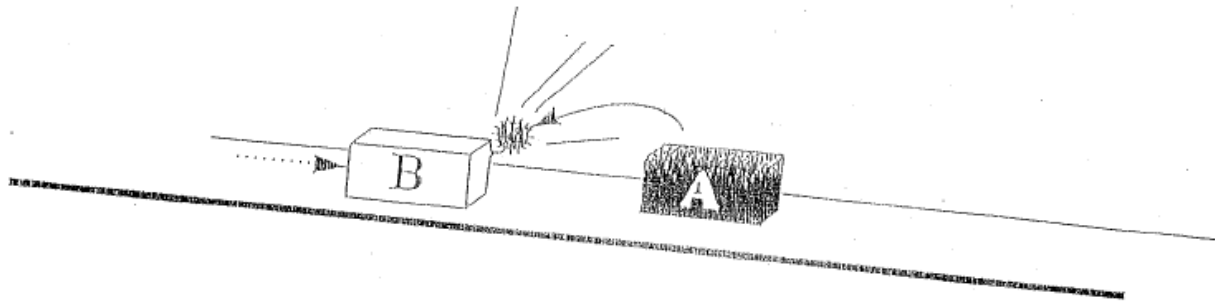
Vehicle "A" impacts a stationary object and this object in turn impacts vehicle "B".

Liability

"A": 100%

"B": 0%

DIAGRAM VII-4



An object falls off from Vehicle "A"
and this object in turn impacts vehicle
"B" (for example: cargo, a tire)

Liability

"A": 100%

"B": 0%