In March 1995, Mr. Victor A. Fleming, an attorney associated with the Gill Law Firm of Little Rock, Arkansas, petitioned the National Highway Traffic Safety Administration (NHTSA) to order a safety recall of certain motor vehicles produced by the Chrysler Corporation (Chrysler) for remedy of an alleged defect in the park lock system of the automatic transmissions installed in those vehicles. Specifically, Mr. Fleming requested that Chrysler be ordered to conduct a safety recall of its 1984 through 1991 model year vehicles equipped with console-mounted transmission shift lever assemblies, in order to adequately notify owner/ operators that the shift lever can be moved out of the "Park" position after the ignition key has been removed. The petitioner proposed that, as a remedy for the alleged defect, a readily visible warning should be installed in the subject vehicles.

The safety defect alleged in this matter does not refer to the failure or malfunction of any component or operating system of the vehicle. Rather, the petition requests that the manufacturer be ordered to undertake a safety recall "* * * for the purpose of adequately notifying * * *" owners of the subject vehicles of certain design and operating features of the automatic transmission park lock system. The petitioner argues that such notification is necessary to provide a proper warning that the transmission park lock system permits removal of the engine ignition key when the transmission is not in the "Park" position. For the reasons set forth below, Mr. Fleming's petition is denied.

The petitioner presented as a documentary account of this design characteristic, the experience of a client severely injured when struck by her 1990 Dodge LeBaron convertible equipped with a console mounted gear shift lever. According to the petition, the vehicle had been parked on a slight incline with the engine ignition turned off and the ignition key removed, when it began an unpowered rollaway and struck the driver while she was walking away from the vehicle. The petitioner also stated that the driver believed that the transmission had been shifted into, or toward, the "Park" position, as was the driver's stated habit to do so. The petition is silent as to whether the parking brake was applied or failed to function properly. The petitioner's client filed suit against Chrysler in January 1994, and a jury subsequently ruled for Chrysler. Reportedly, a motion for a new trial is pending.

This petitioner's allegations are limited to 1984 through 1991 Chrysler

vehicles equipped with automatic transmissions and a center floor console shifter. Petitioner argues that the design of the transmission park lock system is defective in that even though the system performs as it was intended, the design itself represents a safety defect. The petitioner presents a detailed discussion of the relevant technical issues, reflecting extensive research in support of the litigation against Chrysler on behalf of his client. Included as an attachment to the petition is a copy of the NHTSA closing report for Engineering Analysis, EA91-010, which concerned the park lock system installed in 1981–1990 Chrysler Corporation vehicles with steering column-mounted gear selector levers.

In EA91–010, the issue of concern was defined broadly as failure of the transmission to properly engage or lock in the "Park" position when properly shifted to that position by the vehicle operator. It was established through engineering tests and design analyses that when properly shifted to the "gated Park" position, the transmission would effectively prevent self mobility or unpowered vehicle rollaway incidents, and that the design of the shift mechanism disclosed no mechanical or hydraulic defect that would cause the subject transmissions to shift from "Park" to "Reverse" without external input.

The vehicle operated by the petitioner's client was a Chrysler LeBaron convertible equipped with Chrysler's type A-413 or A-460 automatic transmission. These two transmission models were the subject of EA91–010. In the Le Baron convertible model, the shift lever was center console mounted, as opposed to being mounted on the steering column in the sedan. The petition argues that the characteristics of the design of the floor mounted shift linkage present a safety defect in that the key can be removed from the vehicle without the shift lever being placed in the "Park" position. This, according to petitioner, increases the likelihood of injury from an unintended rollaway in that the operator may leave the vehicle without placing the transmission in "Park" or applying the parking brake.

It should be noted that Federal Motor Vehicle Safety Standard (FMVSS) No. 114, "Theft Protection," sets minimum performance requirements for the transmission park lock system of vehicles with a GVWR of 10,000 pounds or less. At the time the subject vehicles were manufactured, the purpose of FMVSS No. 114 was "theft protection to reduce the incidence of accidents resulting from unauthorized use." In 1990 FMVSS No. 114 was amended (effective September 1, 1992) to specify "requirements to reduce the incidence of crashes resulting from rollaway of parked vehicles." For vehicles manufactured prior to September 1, 1992, FMVSS No. 114 required that vehicles must have a key locking system that prevents vehicle steering or selfmobility, or both, when the key is removed. The public docket detailing promulgation of FMVSS No. 114 is complete in its presentation and analyses of relevant technical issues.

To meet the requirements of FMVSS No. 114 as they existed prior to September 1, 1992, manufacturers typically installed a steering column lock to prevent steering with the ignition key removed. Alternatively, the requirement to prevent vehicle selfmobility with the key removed was usually addressed by installation of a transmission shift lever lock. The designs of such shift lever locks required that an automatic transmission be shifted into the "Park" position in order to enable removal of the ignition key, and after the key was removed, shifting the transmission from the "Park" position to any other gear was prevented. Many vehicle manufacturers installed both types of locks even though not required to do so by FMVSS No. 114. Chrysler chose to use only the steering column lock to prevent steering of the subject vehicles.

On April 5, 1988, NHTSA issued a notice of proposed rulemaking (NPRM) to address the problems of inadvertent steering column lock-up and inadvertent shifting of the transmission. Following the normal procedures associated with the issuance of a rulemaking action, NHTSA issued on May 22, 1990, an amendment to FMVSS No. 114 which required that each vehicle be equipped with a key locking system that, whenever the key is removed:

a. Prevents normal activation of the vehicle's engine or motor, and

b. Prevents either steering or forward self-mobility of the vehicle or both. For a vehicle equipped with an automatic transmission with a Park position, the key locking system must prevent removal of the key unless the transmission or transmission shift lever is locked in "Park," or becomes locked in Park as a result of removing the key.

The purpose of the amendment, applicable to certain vehicles manufactured after September 1, 1992, was to preclude operation of the shift lever by children, thus preventing child injuries associated with vehicle rollaway incidents.