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Your advocate for bicycling,  
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# **EXECUTIVE ORDER:**

**A MAYORAL STRATEGY FOR TRAFFIC SAFETY**



July 2009



# Acknowledgements

**Executive Order: A Mayoral Strategy for Traffic Safety** was written and developed by Jessie Gray Singer.

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- » Christina Curry, Harlem Independent Living Center
- » Moira Donahue, Safe Kids USA
- » Susann Dooha, Center for Independence of the Disabled New York
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- » Brett Eisenberg, Bronx Independent Living Services
- » Fern Hertzberg, Washington Heights Inwood Interagency Council on Aging
- » James Huntley, Communications Workers of America, Local 1182
- » Joel Johnson, Zipcar New York
- » Mary Beth Kelly, whose husband was killed by an NYPD tow truck driver in 2006
- » Charles Komanoff, Right of Way
- » Peter Kostmayer, Citizens Committee for New York City
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- » Carl McDonald, Mothers Against Drunk Driving
- » Daneek Miller, Amalgamated Transit Union, Local 1056
- » Peter Moskos, John Jay College of Criminal Justice
- » Rachael Myers, whose fiancé was killed by a car driver in 2004
- » Edith Prentiss, Disabled in Action
- » Dr. Kent Sepkowitz, Medical Doctor of Infectious Diseases, and Author, *New York Times* Op-Ed “No Need for Speed”
- » Kate Slevin, Tri-State Transportation Campaign
- » Tom Vanderbilt, Author, *Traffic: Why We Drive the Way We Do*
- » Marvin Wasserman, Brooklyn Center for Independence of the Disabled
- » Adam White, Esq.

Tuesday, July 14, 2009

**Dear Mayor Bloomberg:**

From this country's first mandatory seatbelt law, to its first red light camera enforcement program, to the only right-on-red prohibition, New Yorkers have always been pioneers of traffic safety. Now with Broadway's transformation from the Great White Way into a great new way to walk, and bike lanes being laid across the city, New York is retaining its role as a leader and innovator of safer streets. Your determined efforts have brought New York City streets to a new level of green, livable infrastructure. Now we ask you to help people experience all of New York City in safety, without fear or threat of traffic.

Despite acres of new pedestrian space and a 1,800-mile bicycle network in development, in 2007 there were still 79,510 car crashes in our city, including 11,035 incidents of a motor vehicle hitting a pedestrian. In 2007, 273 people were killed in car crashes and the majority of them were pedestrians. **Being struck by a car while walking remains the number two cause of injury-related death for New York City adults over 45, second only to an accidental fall, and it is the number one injury-related cause of death for New York City children under 14.** It is increasingly evident that the fatal consequences of New York City streets are reliant on more than infrastructure. What good is a crosswalk with a car blocking it? What use are red lights when 1.23 million vehicles speed through them every day? This everyday behavior terrifies New Yorkers. The lack of action to counter this behavior is a problem. As the number of pedestrians, cyclists and drivers killed in New York City car crashes remains unchanged, the number of summons issued for the most dangerous traffic violations is actually declining. Transportation Alternatives' **Executive Order: A Mayoral Strategy for Traffic Safety** outlines the breadth of the problem, and on the basis of our expertise, offers extensive recommendations towards a solution. Mayor Bloomberg, we strongly urge you to recognize the problem of traffic safety; please read, consider and act on the recommendations outlined herein.

In the month of October 2008, there were 16 reported instances in which a vehicle crashed into a person. Between October 1 and October 24 alone, seven people were struck by cars and were fortunate enough to survive. In those same 24 days, motor vehicle drivers killed 11 pedestrians and 2 cyclists: five of the drivers hit and ran; one drove on a suspended license; none of the drivers were charged with a crime. Had the moving violations that caused these deaths, the speeding, red light running and failure to yield not resulted in a crash, it is extremely unlikely that any of the drivers' illegal actions would have been caught. However these fatalities are not the only disastrous effect of the failure to enforce moving violations. For every fatality, there are hundreds of crashes that cause debilitating injury, for every injury there are thousands of terrifying crashes, and for every crash there are millions of New Yorkers whose quality of life suffers under the toll of dangerous traffic in their community.

We, the undersigned, ask you to stop this cycle and create an effective deterrent to dangerous driving. Mayor Bloomberg, please make reining the chaos of New York City streets a priority for your administration. You alone have the power to align the agencies necessary to halt the problem. Create an Office of Road Safety within your administration, to coordinate the enforcement efforts of the New York Police Department, the research capacity of the Department of Health and Mental Hygiene, the infrastructural engineering abilities of the Department of Transportation and the prosecutorial needs of the District Attorneys' Offices. Only you can bring together the powers necessary to affect the problem. Mayor Bloomberg, your city is facing a public health and safety crisis. You were able to conquer the public health crisis of smoking with a comprehensive response. The solution to the Wild West conditions of city streets lies in a mayoral response as well. You have the ability to halt the number one killer of children in New York. Will you act to save these lives?

Respectfully,

**Jon Adler**  
Federal Law  
Enforcement Officers  
Association

**Audrey Anderson**  
whose son was killed  
by a car driver in 2005

**Lawrence Carter-Long**  
Disabilities Network NYC

**Christina Curry**  
Harlem Independent  
Living Center

**Moira Donahue**  
SafeKids USA

**Susann Dooha**  
Center for  
Independence of the  
Disabled NY

**Brett Eisenberg**  
Bronx Independent  
Living Services

**Fern Hertzberg**  
Washington Heights  
Inwood Interagency  
Council on Aging

**James Huntley**  
Communication Workers  
of America Local 1182

**Joel Johnson**  
Zipcar New York

**Mary Beth Kelly**  
whose husband was  
killed by an NYPD tow  
truck driver in 2006

**Charles Komanoff**  
Right of Way

**Peter Kostmayer**  
Citizen Committee for  
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**Fred A. Levine, Esq.**  
Law and Public Policy  
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**Carl McDonald**  
Mothers Against Drunk  
Driving

**Daneek Miller**  
Amalgamated Transit  
Union Local 1056

**Peter Moskos**  
Professor, John Jay  
College of Criminal  
Justice

**Rachael Myers**  
whose fiancé was killed  
by a car driver in 2004

**Edith Prentiss**  
Disabled in Action

**Dr. Kent Sepkowitz**

**Kate Slevin**  
Tri-State Transportation  
Campaign

**Tom Vanderbilt**  
Author

**Marvin Wasserman**  
Brooklyn Center for  
Independence of the  
Disabled

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**Paul Steely White**  
Transportation  
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# Executive Summary

Drivers in New York City commit moving violations because there are no conditions of deterrence in place. In recent years, as the number of crashes and fatalities caused by the most dangerous moving violations has increased, the number of summons issued for these violations has decreased dramatically. Violators are rarely caught and those who are caught have good chance of going unpunished. Drivers whose actions result in the killing of another are rarely prosecuted for causing these deaths. Based on analysis of the known rates of infraction and summoning by New York Police Department, **Executive Order: A Mayoral Strategy for Traffic Safety** produced the following key findings:

- » The likelihood of getting a ticket for speeding in New York City is less than 1 in 12,698
- » A driver could speed every day and get ticketed only once every 35 years
- » Despite the extensive system of 100 red light cameras<sup>1</sup> in New York City, police and cameras catch only 1 out of every 438 red light runners
- » New York City's 100 red light cameras were responsible for 95.5% of the red light summons issued in 2007
- » The likelihood of being ticketed for failure to yield, the number two cause of crashes in NYC, is less than 1 in 579,983
- » A driver could fail to yield every day and get ticketed only once every 1,589 years
- » While the number of fatalities caused by drivers failing to yield rose 26 percent between 2005 and 2007, the number of summons issued for failure to yield decreased 12 percent during that period
- » While the number of fatalities caused by speeding rose 11 percent between 2001 and 2006, the number of summons issued for speeding actually dropped 22 percent during that period

In New York City, disregard of traffic laws is commonplace. Disobedience is rooted in endemic practice, and the tacit understanding that no one is watching. In New York City, drivers are taught through experience that moving violations are acceptable.

Pedestrians are taught another harder lesson: Moving violations cause irreversible harm. In the dense urban environment, the dangerous conditions produced by the near-constant occurrence of moving violations are multiplied exponentially by an extraordinary population of pedestrians. For children under 14-years-old, the most dangerous thing in New York City is its traffic. For adults, being struck by a car while walking is the number two cause of injury-related death, according the New York City Department of Health and Mental Hygiene. Though senior citizens comprise only 13 percent of the city's population, they represent 33 percent of the city's pedestrian fatalities. In case of any crash between a motor vehicle and a pedestrian or cyclist, the vulnerable user of the road is the likely victim: Pedestrians and cyclists are

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<sup>1</sup> The New York State Assembly recently renewed New York City's red light camera legislation and increased the number of red light enforcement cameras in New York City to 150.

6.5 times more likely to die in a crash than is a driver.<sup>2</sup> And fatalities are not the lone tragic product of ubiquitous moving violations. For every fatal crash, there are hundreds more that result in incapacitating injury. For every injury, there are thousands of crashes that terrify New Yorkers, and for every frightening crash there are millions of New Yorkers whose quality of life is threatened by the traffic in their community. Changing driver behavior not only has the ability to save hundreds of lives and improve quality of life for millions of New Yorkers, but also can increase economic viability and improve the environmental stability of New York City.

**Executive Order: A Mayoral Strategy for Traffic Safety** is based on the testimony of more than 30 experts in traffic, engineering, law enforcement, safety and public health, and brings together 20 of their recommendations to solve the problem. Their conclusions unanimously recognize that traffic safety is a serious public health crisis that requires new deterrents to committing moving violations. These experts recognize that the current systems of enforcement, adjudication and prosecution have failed to create an environment of deterrence against dangerous driving.

The following are some of the 20 recommendations, as dictated by expert testimony, which are expanded upon in this report, as to how to create an environment of deterrence from dangerous driving in New York City:

### **Mayoral Initiative**

**Mayor of the City of New York: Create an Office of Road Safety at City Hall by December 2010, in charge of reducing traffic violations, crashes, injuries and fatalities.** Pg 19

**Mayor of the City of New York: Change the mission of the NYPD and DOT to prioritize traffic safety by November 2009.** Pg 21

### **NYPD Procedure and Operations**

**New York Police Department: Reemploy the former NYPD policy of deploying officers to accident prone locations by December 2009.** Pg 30

**New York Police Department: Measure traffic safety in incident reduction, not summons issued starting in February 2010.** Pg 47

**New York Police Department: Include crashes resulting in serious injury in the NYPD Accident Investigation Squad purview by January 2010.** Pg 59

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<sup>2</sup> Of the 64,150 crashes that occurred in 2007 involving two motor vehicles (not including crashes involving pedestrians, bicyclists or motorcyclists) there were 112 drivers or passengers killed, meaning that for every 1,000 crashes involving two motor vehicles, there was a 1.75 likelihood of fatality. Of the 14,001 crashes that occurred in 2007 involving a motor vehicle and a pedestrian or cyclist, there were 160 cyclists or pedestrians killed, meaning that for every 1,000 crashes involving a motor vehicle and a pedestrian or cyclist, there was an 11.4 likelihood of fatality. The likelihood of fatality is 6.5 times higher for crashes that occur from a motor vehicle hitting a cyclist or pedestrian, than a motor vehicle hitting another.

### DMV Policy

**Department of Motor Vehicles: Distribute points to licenses from the time of conviction, not retroactively from adjudication, in order to keep dangerous drivers off the road, beginning in January 2010.** Pg 40

### State Legislative Reform

**New York State Legislature: Pass the Hayley Ng and Diego Martinez Law to increase the penalties for injuring or killing the most vulnerable users of the public way in the legislative session beginning January 2010.** Pg 64

Mayoral leadership to raise the priority of traffic safety can benefit everyone in New York City. As the mayor and the Office of Road Safety take responsibility for the safety of traffic, the following recommendations (color-coded by agency responsibility) are the building blocks of that change.

## Additional Recommendations

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Enforcement	Adjudication	Transparency	Investigation	Prosecution
Reinstitute accident prone location deployment: Pg 31	Allow violators only one rescheduling of summons adjudication: Pg 40	Measure success in incident reduction, not summons issued: Pg 47	Expand Accident Investigation Squad purview to include crashes resulting in "Serious Injury" as well as fatality: Pg 59	Pass the Hayley Ng and Diego Martinez Law: Pg 64
Allow Traffic Enforcement Agents to write moving violation summonses: Pg 32	Distribute points to licenses from the time of conviction, not retroactively from adjudication: Pg 40	Measure compliance with traffic regulations and the effectiveness of enforcement through sampling surveys: Pg 48	Create supplemental NYPD addendums to the MV104 crash report in case of non-fatal crashes: Pg 59	Be responsive to the families of victims of traffic: Pg 65
Move Operation Impact off the sidewalk and into the streets: Pg 30		Create public access to summoning, violation and crash data: Pg 48	Use cameras for crash scene investigation: Pg 60	Publicize and make victims' services available: Pg 64
Pass legislation for automated speed enforcement: Pg 33		Use GPS locations to mark crash sites: Pg 49	Improve 911 dispatcher training for crashes: Pg 60	
		Utilize 311 to document and map moving violations: Pg 49		

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**Key:** NYPD Procedure and Operations Mayoral Initiative DMV Policy State Legislative Reform District Attorney's Office Policy



# Conversations

This report is based on the experience, opinions and expertise of a variety of stakeholders in New York City streets. In addition to those listed below, **Executive Order: A Mayoral Strategy for Traffic Safety** uses interviews with and the firsthand knowledge of a variety of employees of the City of New York, including both high-ranking officials and various field officers from the New York City Police Department, the New York City Department of Transportation and the New York State Department of Motor Vehicles. The following list includes the additional experts whose ideas were integral to the recommendations dictated in this report:

## Enforcement:

- Jon Adler, President, Federal Law Enforcement Officers Association
- Tom Duckham, Project Manager, London Safety Camera Partnership
- James Huntley, President, Communications Workers of America Local 1182, representing all of New York City's Traffic Enforcement Agents
- Carl McDonald, National Law Enforcement Initiative Manager, Mothers Against Drunk Driving
- James McShane, former Commanding Officer, NYPD Traffic Control Division
- Peter Moskos, Professor of Criminal Justice, John Jay College, former Police Officer

## Public Health and Safety:

- Moira Donahue, Pedestrian Safety Program Director, Safe Kids USA
- Edith Prentiss, Vice President of Legislative Affairs, Disabled in Action
- Dr. Kent Sepkowitz, Medical Doctor of Infectious Diseases, Author of *New York Times* op-ed "No Need for Speed"
- William Stoner, Associative State Director for Livable Communities, AARP New York

## Transportation Engineering:

- Richard Retting, Vice President, Sam Schwartz Engineering, former Engineer, NYC Department of Transportation, former Senior Engineer, Insurance Institute for Highway Safety
- Lou Riccio, former Commissioner, NYC Department of Transportation, Professor, Department of International and Public Affairs at Columbia University
- Sam Schwartz, former First Deputy Commissioner, NYC Department of Transportation, President, Sam Schwartz Engineering

## Street Survivors:

### Families of the victims of traffic crime:

- Audrey Anderson, whose son was killed by a car driver in 2005
- Mary Beth Kelly, whose husband was killed by an NYPD Tow Truck driver in 2006
- Rachael Myers, whose fiancé was killed by a car driver in 2004

### Legal:

- Fred A. Levine, Esq., Law and Public Policy Consulting
- Joe McCormack, Chief of Vehicular Crimes, Bronx County District Attorneys Office
- Maureen McCormick, Chief of Vehicular Crimes, Nassau County District Attorneys Office, former Chief of Vehicular Crimes, Brooklyn District Attorneys Office
- Adam White, Esq., representing crash victims

### Personal Transportation:

- John Corlett, Legislative Committee Chairman, AAA New York State
- Joel Johnson, General Manager, Zipcar New York
- William Lindauer, Campaign Coordinator, New York Taxi Workers Alliance
- Joseph Rogers, named New York City's Safest Taxi Driver, All Taxi Management
- Tom Vanderbilt, Author of *New York Times* bestseller: *Traffic: Why We Drive the Way We Do*

### Commercial Transportation:

- Jim Carlino, Regional Safety Director, FedEx
- Ed Figueroa, former President, Amalgamated Transit Union Local 1056, representing all MTA bus drivers operating in the borough of Queens
- Michael O'Toole, President, Teamster Local 282 representing New York City flatbed truck, cement and dump truck drivers



# Section One: The Casualties of Walking: Priorities and Problems in the Safety of Traffic

The New York Police Department, the only government body in charge of the enforcement and reduction of moving violations, prioritizes the efficient flow of traffic over the safety of traffic. While traffic might flow smoothly in New York City, the risk of fatality and injury is high, and unsafe conditions threaten the quality of life of all New Yorkers.

“When you think about the death of any one person and the way it ripples out into the lives of so many people, it’s huge,” says Mary Beth Kelly, whose husband Dr. Carl Henry Nacht was hit and killed by an NYPD tow truck in 2006. “It’s like we are all the collateral damage of these events, and we live with it like a life sentence. When other people disregard what has been put in place, in order to protect or allow a sense of safety on the streets, disregards those practices or those rules and there is no consequence for it we encourage a kind of anarchy on the streets that is really survival of the fittest, and the fittest at this point is going to be the biggest and the most armored.”

In the October 2007 issue of *Law Enforcement Technology Magazine*, Linda Scagnoli wrote of former NYPD Chief of Transportation Michael J. Scagnelli:

“Scagnelli lives and breathes the NYPD traffic-related mission statement:

Move Traffic, Move Traffic, Move Traffic,  
Reduce Accidents, Move Traffic,  
Reduce injuries related to accidents, Move Traffic.  
Reduce death related to accidents, Move Traffic!”

The first and foremost priority of the NYPD’s Transportation Bureau is not the reduction of injuries; it is not the reduction of fatalities; the first and foremost priority of the NYPD’s Transportation Bureau is the efficient flow of traffic. Former Commanding Officer of the Traffic Division, James McShane says, “That was really the mission of the Traffic Division, to increase the flow of traffic in safe and efficient way.”

The NYPD instructs its officers to prioritize the movement of traffic over the safety of traffic. However, in a city where motor vehicle-related injuries dominate the causes of death, the attitude of the NYPD, those in charge of enforcing traffic regulations, is a hazard unto itself. According to the New York City Department of Health and Mental Hygiene, from 2002-2006:

- » Being a pedestrian is the number one cause of injury-related death in children aged 1-14

- » For adults aged 45 and up, being struck by a car while walking is the number two cause of injury-related death
- » Though senior citizens comprise only 13 percent of the city's population, they represent 33 percent of the city's pedestrian fatalities
- » For adults and children aged 15-44, motor vehicle crashes are the number two cause of injury-related death
- » Overall, the third and fourth leading causes of injury-related death in New York City are being a pedestrian and being inside a car, respectively

Even the country's largest and most efficient advocate for car drivers, the American Automobile Association, considers the grave numbers of traffic deaths of larger concern than New York City considers them. The American Automobile Association (AAA) of New York State notes that "as an organization, we consider traffic safety as a serious public health issue," says John Corlett, Chairman of AAA's New York State Legislative Committee. The government of New York City does not.

In a poll commissioned in 2006 by the Tri-State Transportation Coalition, it was found that 42 percent of New Yorkers consider unsafe conditions for pedestrians a major problem in their daily life. The behavior that crowds New York's roadways and endangers the overall health of New York is the product of moving violations, as ubiquitous as sidewalk litter. This bad behavior on behalf of drivers is such a constant that unsafe traffic becomes part of every New Yorker's understanding of the city; New Yorkers come to understand that the reduced quality of life produced by being constantly unsafe is a consequence of city living.

Despite the severe risks imposed by motor vehicle traffic in New York, the NYPD prioritizes the movement of traffic over the safety of traffic. The consequence of this attitude leads directly to a lack of emphasis on the enforcement of moving violations. The consequences of prioritizing traffic flow over traffic safety has results as small as not stopping a driver who fails to yield to pedestrians, for fear of further slowing a crowded street, to hastily investigating a traffic crash, as to more quickly clear that street of wrecked cars. **The priorities of the NYPD towards the management of traffic in New York City need to refocus with the understanding that traffic kills, traffic maims and that traffic safety is integral to the quality of life of all New Yorkers.**

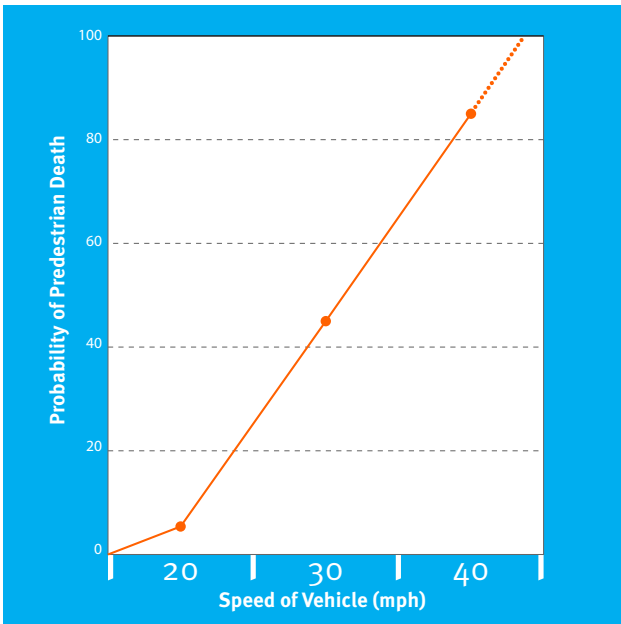
## Speed Kills

Speeding is a particularly notable danger. A study in the April 2004 issue of the *Journal of Urban Technology* notes the relationship between vehicle speed, fatality rates, stopping distance and the ability for eye contact. The study concludes that "modifying traffic behavior is critically dependent on speed" and found that:

- » 5 percent of people die when struck by a motorist going 20 mph

- » 45 percent of people die when struck by a motorist going 30 mph
- » 85 percent of people die when struck by a motorist going 40 mph
- » When cars exceed 20 mph, the comfort level of cyclists and pedestrians drops significantly
- » Eye contact between drivers, and between drivers and pedestrians, drops rapidly at speeds greater than 20 mph
- » Driving 20 mph requires a stopping distance of 150 feet, driving 30 mph requires a stopping distance of 200 feet, driving 35 mph requires a stopping distance of 250 feet

“If you have a crash, the greater the speed, the greater the casualty, the greater the severity,” says Tom Vanderbilt, author of the *New York Times* bestseller Traffic: Why We Drive the Way We Do (and What It Says About Us).



When motor vehicles drive above 20 miles per hour, the likelihood of pedestrian death upon impact skyrockets.

The statistics representing the drastic increase in fatality risk relative to seemingly minor increases in speed present a question: **If speeding alone is this dangerous, why does the NYPD Transportation Bureau so thoroughly prioritize traffic movement over traffic safety? If not the NYPD, who is tracking and attempting to stop the onslaught of dangerous driving?**

“People do not actually think that they will be in a crash or that if they drive five miles over the speed limit they could ever be responsible for hurting someone else,” says Tom Vanderbilt. “They just fundamentally sort of don’t get it, that they are

operating this dangerous machine, until it happens.” In New York City, it does happen, regularly, usually unheralded as the preventable public health concern that it is.

According to the New York State Department of Motor Vehicles (DMV), in 2007 the top five human contributing factors to the 55,239 crashes that occurred in New York City were, in order of frequency:

1. Driver Inattention / Distraction: Driver inattention, or distracted driving, was the cause of 10,472 crashes
2. Failure to Yield the Right of Way: Failure to yield the right of way to other cars, or to motorcyclists, bicyclists and pedestrians, whom by law always have the right of way, was the cause of 5,108 crashes
3. Following Too Closely: Following too closely, or tailgating, was the cause of 4,764 crashes
4. Unsafe Speed: Driving at unsafe speeds, or disobeying the speed limit, was the cause of 3,080 crashes
5. Traffic Control Disregarded: Disregarding a traffic control device, like running a red light, was the cause of 2,489 crashes

Moving violations cause crashes. The severity of traffic safety as a public health issue correlates directly with the reasons behind the various threats produced by operating a motor vehicle. The sad truth that in New York City being a pedestrian is the number one cause of injury-related death for children under 14-years-old is encouraged by the moving violations that the NYPD chooses to allow to occur, by failing to enforce against them.

However, there is a notable difference between the actions that cause crashes, and the actions that cause fatal crashes. According to the New York State Department of Motor Vehicles, in 2007 the top three human contributing factors to the total 264 fatal crashes that occurred in New York City were, in order of frequency:

1. Unsafe Speed: Driving at unsafe speeds, or disobeying the speed limit, was the cause of 62 fatalities
2. Driver Inattention / Distraction: Driver inattention, or distracted driving, was the cause of 47 fatalities
3. Failure to Yield the Right of Way: Failure to yield the right of way to other cars, or to motorcyclists, bicyclists and pedestrians, whom by law always have the right of way, was the cause of 34 fatalities

“The numbers are staggering: we’re worried about murder; we’re worried about terrorism; we’ve lost 3,000 people to terrorism in the United States in the past 10 years, obviously we’ve got to worry about that, but in those ten years we’ve lost 400,000 people on our roads. We’re worried about US deaths in Iraq, and that’s 5,000 people and we lose 5,000 in two months, or more than 5,000 in two months on our roads,” says former DOT First Deputy Commissioner Sam Schwartz, “It’s not taken seriously. I’ve never heard anyone in the U.S. say what they are saying in European countries or cities, of zero deaths as a goal.”

The plan of action for New York City traffic crash and fatality reduction is already recorded and built into the yearly reporting of the NYS DMV. It is direct and straightforward, as displayed above: **This is what causes crashes to happen. This is what causes people to die. This is the number one killer of New York City children. This is a public health issue. The time has come for New York City to respond to the threatening behavior and deadly moving violations that are the direct results of its inaction.**



For every fatality there are tens of thousands of New Yorkers living in fear of traffic.

## Recommendations

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### Mayoral Initiative

#### **Mayor of the City of New York: Create an Office of Road Safety in City Hall, in charge of reducing traffic fatalities by December 2010**

The Mayor needs to create an Office of Road Safety to analyze aggregate traffic crash data and, by December of 2010, begin to detect patterns and problem areas in the safety of traffic. The Office of Road Safety would need to have the liberty to make recommendations to improve traffic safety and reduce crashes, ultimately reducing the number of traffic fatalities. The Office of Road Safety would create greater transparency by publishing an annual report assessing fatal and serious injury crashes, their causes and the effect of responsive engineering and enforcement efforts. Led by the Director of the Office of Road Safety, this mayoral appointed office should include representatives from the follow entities:

- » New York Police Department
- » NYC Department of Transportation
- » NYC Department of Health and Mental Hygiene
- » Chiefs of Vehicular Crime Units from District Attorneys' Offices
- » Families of Victims of Traffic Crashes

“You need to have an engaged professional whose job it is to save lives and who personally takes every crash, every fatal, as a real blow and feels it. You need somebody who is really looking for the 300 to get down to 250 to get down to 200, who is really fighting very hard for that,” says Sam Schwartz. Currently, the DOT and the Transportation Bureau of the NYPD come together for monthly meetings called TrafficStat, under the NYPD’s jurisdiction and on their turf. Over the course of a month, the NYPD might increase selective enforcement on cell phone and seatbelt violations while the DOT repaves the intersection of Broadway and Fifth Avenue into a pedestrian plaza. Unbeknownst to one another, these two powerful government bodies improve the safety of traffic, without communication or oversight between their separate activities and mutually reliant approaches. **Still, no matter how many cell phone violations the NYPD distributes, certain streets will remain dangerous thoroughfares without the traffic-calming fixes of the DOT’s engineers. And no matter how many pedestrian plazas or bicycle lanes the DOT installs, cyclists and pedestrians will remain in danger if the NYPD does not make an enforcement push to prevent drivers from endangering those areas.** Without direct responses to every automobile-related casualty in New York from the two agencies which can have an effect by working together, and without the Mayor making the reduction of these crashes and fatalities a priority, the fresh pedestrian plazas will be full of cars and the most dangerous streets may be cell phone free, but still a danger to anyone navigating them.

There should be a person, says Sam Schwartz, who “should be presenting the very latest: ‘Here is how people are getting killed: 10 people get killed in these kind of crashes with trucks not seeing people, another 10 people get killed with trucks making turns, so lets focus on those 20 people we know we are going to lose next year. Let’s try to save some of those people’.” As the Mayor makes steps toward prioritizing the safety of traffic, he must create an office that prioritizes road safety and oversees the communication and coordination of the NYPD and DOT toward an overall goal of traffic crash and casualty reduction. The Department of Health and Mental Hygiene (DOH) should be called into this effort as well. The DOH stands out as distinct from city agencies in its ability to comprehend and reproduce in consumable form statistical analysis of New York City’s public health concerns. With traffic crashes being the leading cause of injury-related death in New York City for children, this is a public health concern that requires their attention.

Similarly, this office should be in direct communication with the District Attorneys’ Offices. When crash investigation is sub par to obtain a prosecution, there needs to be a review of procedure in that investigation. Currently there are two separate departmental investigation teams that look for fixes and solutions to the crashes that occur on New York City streets: the DOT and NYPD Accident Investigation Squads (AIS). The practices and results of these investigation teams are virtually unknown to the public. Is their work reviewed for productivity? Are the results of their investigations checked? Considering the significant importance of crash investigation in obtaining convictions and improving the safety of traffic, the results of the AIS need to become a priority for their overseeing departments. AIS supervisors should be in contact with District Attorneys as to the investigations that have occurred. Convictions that District Attorneys obtain, or fail to obtain, on a basis of investigation, should be tracked and serve as an indicator of a job well done or a need for further training of those investigators. When an investigation provides the source material to obtain justice, it should be a point of pride for officers in the AIS. The conducting of proper investigations is integral to District Attorneys’ ability to obtain convictions and the improved safety of streets, and creating oversight through an Office of Road Safety will ensure that investigations will always be conducted effectively.

By creating an Office of Road Safety, its Director could utilize the analytical skill of the Department of Health to finally produce a real measure of the extent of the problem. By empowering an Office of Road Safety, its Director could set up communication with the District Attorney Offices; crash investigation can become responsive to prosecution, and finally produce justice by the effort of thorough investigation. By authorizing an Office of Road Safety, to prioritize the reduction of traffic-related crashes and fatalities citywide, its Director could track traffic fatalities and their causes and subsequently refocus the efforts of the NYPD and DOT on direct solutions to the problems that allow people to drive with impunity for the law, life and limb, reducing traffic injuries and fatalities dramatically.

## Mayoral Initiative

### Mayor of the City of New York: Change the mission of the NYPD and DOT to prioritize traffic safety by November 2009

Considering the lack of effective communication between the agencies responsible for the current systems of infrastructure improvement and traffic enforcement, and the plateau in traffic fatality reduction of recent years despite the unchanged behavior on the streets, the disconnected government bodies that regulate traffic safety have reached an impasse that requires wide-scale reprioritization. The Mayor needs to change the mission statements of the NYPD and DOT to prioritize the safety of traffic over the efficient movement of vehicles through city streets. Reprioritizing the missions of these organizations, by November 2009, will create a new approach to overcoming everyday bad behavior in traffic and the stagnated reduction in traffic fatalities, and will arrange more effective systems of communication between the Department of Transportation and the Police Department.

**The question is: ‘Who is in charge of prioritizing traffic safety?’ and the answer is written into the missions of the NYPD and DOT: No one is in charge.** According to the New York City Charter, in describing the roles and responsibilities of the NYPD relative to traffic, the Police Department must, “subject to the provisions of law and the rules and regulations of the Commissioner of Traffic<sup>3</sup>, regulate, direct, control and restrict the movement of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the proper protection of human life and health.” Here, the safety of traffic is last on the list of priorities of the NYPD relative to traffic management; here traffic flow and the convenience of the public come before the protection of life and limb. Similarly, the DOT’s only drafted role in the safety of traffic in the New York City Charter comes in 11th and 12th in their listed mission, these being to “prepare analyses of traffic accidents with a view to determining their causes and means for their prevention” and “carry on educational activities for the purpose of promoting traffic safety and free movement of vehicular and pedestrian traffic in the city”. **Despite the under prioritized but noble intention of these roles and responsibilities for the DOT, they are irrelevant because the NYC Charter does not require the NYPD to support or aid in whatever traffic crash the DOT may find means of preventing. The most basic interpretation of the roles and responsibilities of the various bodies of New York City government in charge of traffic safety only lead to the one possible conclusion: that traffic moves speedily forward but no one is at the wheel to drive.** Only reprioritizing the mission statements of the NYPD and DOT can begin to re-appropriate responsibilities between these various agencies, and create a system in which there finally exists a party responsible for prioritizing the safety of traffic.

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<sup>3</sup> The Commissioner of Traffic recognized in the NYC Charter is now the Commissioner of the DOT.



## Section Two: The Enforcement of Moving Violations and the NYPD: Seatbelts, Cell Phones, and Deterring the Least Dangerous

**Dangerous drivers in New York City have little chance of being punished for their behavior. NYPD enforcement practices affect little deterrence against any moving violations, and there is no priority placed on enforcement against the moving violations most likely to cause crashes and fatalities. As the crashes and fatalities resulting from the most dangerous violations increase, summoning activity for these violations decreases.**

### NYPD Priorities

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“It’s important to remind drivers of their responsibility to help keep streets safe for pedestrians, whether that be a police officer enforcing speed, or a crossing guard reminding drivers to yield to pedestrians in the crosswalk,” says Moira Donahue of Safe Kids USA, “Just posting a sign doesn’t always seem to be enough to change driver behavior, but having a third party present seems to create more of an incentive for drivers to drive safely.”

Two Traffic Safety Officers from the 19th Precinct in Patrol Borough Manhattan North are parked where they often park on a tour of duty, on Madison Avenue between 67th and 68th Streets. The officers call this a “Traffic Safety Hot Spot”. To patrol it, the officers stand aside their car and await drivers making an illegal left off 68th Street, a Thru Street, the remnant of a fading Department of Transportation program to ease Midtown congestion by preventing turning off cross-town streets between Third and Sixth Avenue. The Traffic Safety Officers know this intersection; they know the location and direction of the signs that denote 68th Street as a Thru Street, as well as those that denote the intersection as a place illegal to make a Left Turn, and can relay all this information from memory in court. The Traffic Safety Officers stand aside their patrol car and watch the drivers; they are looking for expired inspection certificates, window tints too dark, seatbelts unworn and cell phones in use. These are the offenses they have been instructed to look for.

In 2007, the NYPD issued 195,579 summonses for the use of a cell phone while driving. On March 12, 2009 an organized crackdown on cell phone use yielded 4,000 summonses in a single day. While cell phone use has been shown to be dangerously distracting to drivers, according to the New York State Department of Motor Vehicles, in 2007 only 78 of 79,510 crashes in New York City were caused by cell phone use, only one of which caused a fatality. By contrast, in 2007, speeding was the cause of 3,080 crashes and 62 deaths. **Only 75,599 speeding tickets were issued in 2007, less than half those issued for cell phone use in the same year.** While reining in the distracting use of cell phones while driving should remain a priority to the NYPD, the question of why the NYPD fails to prioritize the most dangerous moving

violations must be addressed. One life-saving answer to this question is to increase the emphasis on the enforcement of moving violations directly relative to their danger to the public.

The Traffic Safety Officers of the 19th Precinct genuinely pushed their summons issuing capabilities to the limit. Pulling over two or three drivers every few minutes, their ability to do the job is not the problem. The issue comes from above, from command, from where these proficient officers are told to focus their efforts: seatbelts and cell phones, they are told. But on New York City streets, cell phones are not really the problem. Former First Deputy Commissioner of the DOT “Gridlock” Sam Schwartz agrees, “I would say a more scientific approach is what is needed. Let’s find out where and why people are dying, and that should be our goal, of reducing that.”

**In 2007:**

- » 195,579 summonses were issued for cell phone use
- » Cell phones were the cause of 78 crashes and one death
- » 75,599 summons were issued for speeding
- » Speeding was the cause of 3,080 crashes and 62 deaths
- » **Speeding caused over 39 times as many crashes as cell phone use**
- » **Less than half the number of summonses issued for cell phones were issued for speeding**

The Traffic Safety Officers of the 19th Precinct, like officers across New York City, are instructed to focus their moving violation summonsing efforts on seatbelts and cell phones. These orders come to officers from the precinct chiefs and sergeants who attend TrafficStat meetings, where the Transportation Bureau Chief sets these priorities. **Why seatbelts and cell phones? Why emphasize summonsing the least dangerous offenses? How is a lack of concern for traffic safety a legitimate deployment strategy for the Traffic Safety Officers of the NYPD?**<sup>4</sup>

The lack of emphasis on speeding is not an issue of training. The Traffic Safety Officers of the NYPD are trained and certified to seek out speeding vehicles, both through plain sight and with use of a radar gun. Despite the fact that speeding caused over 39 times as many crashes as cell phone use in 2007, these officers trained to enforce speeding are instructed to not make speeding their priority. The Traffic Safety Officers are instructed by NYPD Headquarters to have two enforcement priorities: seatbelts and cell phones.

“Leniency towards speeding contributes to more people speeding, and as a result more people die,” says Audrey Anderson, whose son Andre was killed by a speeding vehicle in 2005. Leniency towards any moving violation contributes to more people committing moving violations; however the NYPD fails to focus on the moving violations that most often cause crashes and casualties. **By failing to prioritize the most dangerous offenses in enforcement procedures, unsafe driving is tacitly encouraged. Responsive**

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<sup>4</sup> The NYPD Press Office was contacted to request answers to these questions, among others. They did not respond.

**to the enforcement priorities of the NYPD, New York City drivers come to understand that speeding through a red light is acceptable, as long as it is done with a Bluetooth, while wearing a seatbelt.**

“The mindset of the NYPD is towards the reduction of violent crime, so an argument could be phrased in some Broken Windows sense,” says Peter Moskos, a former police officer and professor of Criminal Justice at John Jay College, “Start looking at cars as part of the overall violation, and say look, ‘your running red lights is equivalent to turnstile jumping because people see violations of the law, and yet it is more dangerous than turnstile jumping because people die from getting hit by cars’.”

A study in the June 2003 issue of the British medical journal *The Lancet* found that traffic tickets can actually save lives. The study analyzed 8,975 licensed drivers who had been involved in fatal crashes in Ontario, Canada in the prior 11 years. The review found that among this population, receiving a traffic ticket lowered the driver’s chance of a fatal crash in the month following the ticket by 35 percent. The study also found that a conviction for a serious traffic violation and points on the offender’s license reduced the driver’s fatal crash risk in the month following the ticket by 50 percent. The researchers concluded that, “more frequent enforcement ... could immediately prevent a large amount of death, disability and health-care demands.”

“I have a theory called the Golf Course Theory of traffic enforcement. My theory is there is very little crime at golf courses. People go in, and you’ve got a nice set of golf clubs, and you put it on the rack outside, and you go inside and have a beer. How come somebody doesn’t walk by and pick up your golf clubs? How come that doesn’t happen? When people enter that environment they tend to behave,” says former DOT Commissioner Lou Riccio, “So what I want to do is create safety zones. You put a big sign up there that says: we will enforce every traffic violation, guaranteed. If you go in and you speed, you do this, you do that, you run a red light, you’re going to be guaranteed to get a ticket. My theory is that you do it in an area, and then what happens, is when people enter that area they become like golfers, they behave how they are supposed to behave. Start it around schools. If you could get everyone entering a school zone to behave properly now, then you expand it to: **You’re entering New York City, behave properly now.**”

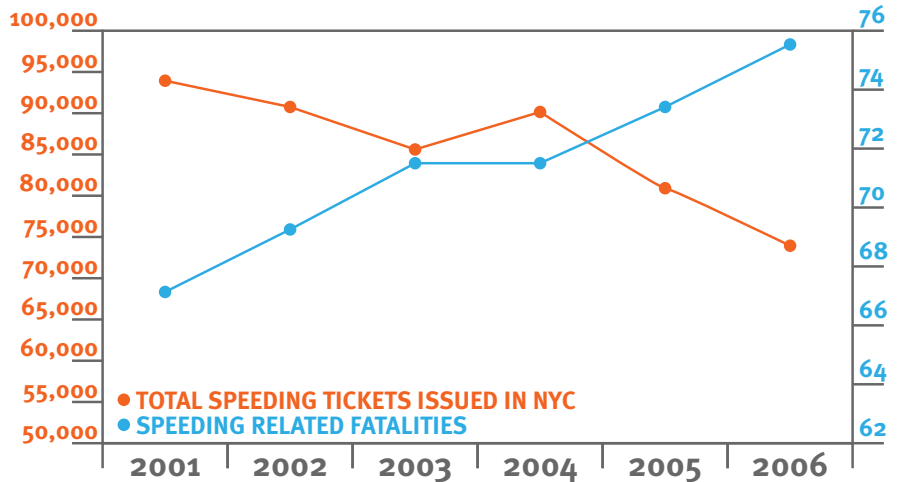
## NYPD Practices

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The dangerous behavior on New York City streets can be attributed to the fact that the NYPD fails to enforce moving violations. “Punishment is a secondary goal of enforcement,” says Richard Retting, a former DOT engineer and former senior engineer at the Insurance Institute for Highway Safety, “deterrence should be first priority.” **However it is impossible to create an environment of deterrence in a city where there is a minor chance of getting caught and punished. Be the cause a lack of staff, or a skewed prioritization of offenses, it is distinctly unlikely to get a summons for a moving violation in New York.**

Despite an increase in the number of fatalities caused by driving at an unsafe speed, the NYPD has issued progressively fewer summonses for speeding:

- » In 2001, speeding was the cause of 67 fatalities
- » In 2006, speeding was the cause of 75 fatalities
- » **The number of fatalities caused by speeding has risen 11 percent between 2001 and 2006**
- » In 2001, the NYPD issued 94,490 tickets for speeding
- » In 2006, the NYPD issued 73,789 tickets for speeding
- » The NYPD issued 20,701 fewer speeding tickets in the year 2006 than they did in 2001
- » **The number of summons issued for speeding has dropped 22 percent between 2001 and 2006**



As speeding-related casualties have increased, speeding summonses issued by the NYPD have decreased

This decrease in enforcement takes a toll on the nature of our streets, and can be seen in the frequency with which drivers' speed. **Terminal Velocity: New York City's Speeding Epidemic**, a recent study by Transportation Alternatives documenting the rate and frequency with which drivers speed on New York City streets, found 39 percent of motorists citywide are driving above the 30mph New York City speed limit. By comparing these findings to the work of the NYPD, it reveals the likelihood of receiving a speeding ticket in New York:

- » Citywide 39 percent of motorists are driving above the 30mph New York City speed limit
- » In 2007, the NYPD distributed 78,557 summonses for speeding, according to the NYS DMV
- » The NYPD distributes an average of 215 speeding summonses each day
- » According to the New York Metropolitan Transportation Council, there are approximately 7 million automobile trips in New York City every day
- » **Approximately 2,730,000 drivers are speeding daily<sup>5</sup>**
- » The likelihood of getting a ticket for speeding in New York City is less than 1 in 12,698<sup>6</sup>
- » **A driver could speed every day and get ticketed only once every 35 years<sup>7</sup>**

<sup>5</sup> 39 percent of 7 million is 2,730,000. Of the approximately 7 million automobile trips made daily in New York City, the 39 percent of motorist found to be speeding on any given day is equal to a total of 2,730,000 drivers speeding daily.

<sup>6</sup> 2,730,000 goes into 215 approximately 0.000079 times, which multiplied by 12,698 people produces approximately one ticketed driver. Of the 2,730,000 drivers speeding daily, the average of 215 speeding summons issued daily by the NYPD are distributed to one in every 12,698 people.

<sup>7</sup> The 365 days in a year goes into 12,698 approximately 35 times. Of the 12,698 drivers who speed unchecked daily for 365 days of every year, it would take 35 years for each to be caught.

Similarly, despite the fact that the disregard of traffic controls (the official term for red-light running) was the cause of 2,489 crashes in 2007, and 12 fatalities, the number of summonses issued for that violation has decreased drastically in recent years:

- » In 2006, the NYPD issued 44,036 summonses for running red lights
- » In 2008, the NYPD issued 38,259 summonses for running red lights
- » The NYPD issued almost 6,000 less tickets in a two-year period
- » **Despite an increase in the number of crashes caused by red light running, the number of summonses issued for red light running has dropped 13 percent between 2006 and 2008**

According to a 2001 study conducted by then New York City Comptroller Alan Hevesi, in which red light running was observed over 12 hour periods at 106 of the most dangerous intersections in New York, 1.23 million red lights are run every workday. However, and yet again, the number of summonses distributed in no way equals the levels at which the violation occurs:

- » **At the 106 most dangerous intersections in New York City, every workday between 7 am and 7 pm, vehicles run through red lights 1.23 million times**
- » Red lights running occurs an average of 28 times every second, or 1,708 every minute of every workday in New York City
- » In 2007, there were a total of 989,530 summonses issued for running red lights by NYPD officers and New York City's 100 red light cameras, according to the NYS DMV
- » **New York City's 100 red light cameras were responsible for 95.5 percent of the red light summonses issued in 2007**
- » There are an average of 2,711 summonses issued for red light running daily by NYPD officers and red light cameras combined
- » **Only 1 out of every 454 red light runners are caught by police or camera<sup>8</sup>**

Yet again, in the case of failure to yield the right of way, which is consistently the number two cause of crashes in New York, failing to yield was the cause of 5,108 crashes and 34 fatalities in 2007, and as these crash numbers have risen, enforcement has declined:

- » In 2005, the NYPD distributed 6,690 tickets for failure to yield
- » In 2007, the NYPD distributed 5,866 tickets for failure to yield
- » **Between 2005 and 2007 the NYPD issued over 800 fewer tickets for failure to yield**
- » In 2005, drivers' failing to yeild was the cause of 25 fatalities and 4,530 crashes
- » In 2007, drivers' failing to yeild was the cause of 34 fatalities and 5,108 crashes
- » Between 2005 and 2007, the number of fatalities caused by drivers failing to yield has risen 26 percent and the number of crashes has risen 11 percent
- » **Despite a 11 percent increase in the number of crashes and a 26 percent increase in fatalities caused by drivers failing to yield the right of way, the number of summonses issued for Failure to Yield has decreased 12 percent between 2005 and 2007**

<sup>8</sup> 1,230,000 goes into 2,711 approximately 0.002204 times, which multiplied by 454 people produces approximately one ticketed driver. Of the 1.23 million red lights run daily, the average of 2,711 summons issued for running a red light issued daily by the NYPD and New York's 100 red light cameras are distributed to one in every 454 people.

A recent survey by Transportation Alternatives attempts to document the frequency with which moving violations occur on city streets. Using volunteer observers to collect data snapshots, the survey recorded the frequency of certain violations at a series of locations. Using the data obtained in the survey, in regards to the occurrence of drivers Failure to Yield, it was found that yet again there is no correlation between the danger of a violation, the frequency of its occurrence, and its rate of enforcement:

- » On average, 676,647 drivers fail to yield to another vehicle, cyclist or pedestrian, every daytime hour
- » 11,278 drivers fail to yield every daytime minute
- » **In New York City drivers fail to yield 188 times every daytime second**
- » There is an average of 8,119,764 instances of daytime drivers failing to yield daily
- » In 2008, the NYPD distributed 5,176 summonses for Failure to Yield, according to the NYS DMV
- » The NYPD issues an average of 14 summonses for Failure to Yield daily
- » The likelihood of a driver being ticketed for Failure to Yield, the number 2 cause of crashes in NYC, is more than 1 in 579,983 <sup>9</sup>
- » **A driver could fail to yield every day and get ticketed only once every 1,589 years** <sup>10</sup>



“There is no question about it: you would have to do this on a consistent basis to be effective. Certain punishment is the most effective behavioral modification technique. That’s the problem with enforcement; it is random,” says former DOT Commissioner Lou Riccio. “What we administer is random punishments, and they may actually exacerbate the problem. If they get caught, they think it’s just the bad luck of the draw, it has nothing to do with their behavior, and therefore they don’t change their behavior.”

The NYPD is the only agency tasked with enforcing traffic laws in New York City.

The extrapolation methods used here are sampling of intersections. Based on the precedent for documenting New York City moving violations set by then Comptroller Hevesi in his 2001 report **RED MEANS “GO”: A Survey of Red Light Violations in New York City and Red Light Camera Usage in Other Major Cities**, which monitored red light running at 106 of the most dangerous intersections to deduce citywide red light violation numbers, the above estimations of violation counts are based on calculated sampling of intersection observations. These low-effort observational studies can be replicated to accurately estimate the prevalence of any moving violation.

<sup>9</sup> 8,119,764 goes into 14 approximately 0.000002 times, which multiplied by 579,983 people produces exactly one ticketed driver. Of the 8.1 million times drivers fail to yield daily, the average of 14 summons issued for failure to yield issued daily by the NYPD are distributed to one in every 579,983 people.

<sup>10</sup> The 365 days in a year goes into 579,983 approximately 1,589 times. Of the 579,983 drivers who fail to yield unchecked daily for 365 days of every year, it would take 1,589 years for each to be caught.

### Mothers Against Drunk Driving

**Since Mothers Against Drunk Driving (MADD) was founded in 1980, alcohol-related traffic fatalities have decreased nearly 50 percent.** Through stringent public education and high visibility police enforcement, MADD has significantly reduced the number of drunk driving crashes that occur on roads nationwide, while at the same time creating a stigma and previously non-existent social taboo around the idea of drunk driving. The basis for the MADD model is fourfold:

- » High visibility police enforcement
- » Stiffer punishments for repeat offenders
- » Technology development
- » Public education and support

“With high visibility law enforcement, you may see officers driving around, or even an officer arresting someone. We want you to know what the police officers are doing. That is what changes behavior,” says Carl McDonald, MADD’s National Law Enforcement Initiative Manager. The combination of law enforcement publicly promoting that which they will no longer tolerate, and public awareness campaigns that shed light on the true danger of the offense, creates a social taboo around dangerous behavior and an environment of deterrence that can save lives. **Imagine the results if Mothers Against Drunk Driving stood alongside Mothers Against Speeding, and Families Against Reckless Driving.** “Change in attitude on not what the offender is doing, but what the police are doing,” says Carl McDonald, “The offender sees the change in police response and thinks, ‘You know, they take that serious here.’ That’s what high visibility enforcement does.”

### The Best Enforcement is Self-Enforcement

**Meet Joseph Rogers, New York City’s Safest Taxi Driver.** Joseph Rogers is a 52-year-old immigrant from Liberia. He is also, according to All Taxi Management, New York City’s safest taxi driver. He has been driving a taxi in New York City for eight years, during which he learned how to make his time driving a model of safety. “You have to make sure you respect the rules of the traffic code,” he says, “that is what makes a safe driver.” He understands that, because of the proliferation of taxi drivers in New York, yellow cabs often define the rules of the road. **“Some other driver who don’t know or follow the rules, they make other drivers drive unsafely,” says Rogers, “Some taxi drivers do it, run red lights or speed, and then other drivers think they can do it too.”** If taxi drivers are speeding, a tourist from Wisconsin speeds to keep up with the pace of the road; if a taxi driver runs a red light, a commuter from New Jersey understands they can get away with unsafe driving as well. Joseph Rogers has an impeccable driving record, and while driving, he displays the importance of safety by making an effort to carefully obey all the rules of the road. He’s never received a ticket for running a red light he says, “because when the lights about to change, I don’t go through

it, I try to be safe. If I know the light is about to change, if it's green and it's about to change, I don't go, I stop." Joseph Rogers has also seen the power of enforcement in his time working on New York City streets. **"For a yellow cab, when they see police, when they know police are around, everybody drives safer," he says, "When you get many police around, yellow cabs respect the rules of the road."**

### **Click It or Ticket**

**In 1984, New York State became a safety pioneer by enacting the first mandatory safety belt use law in the United States.** The program that followed alongside these new legal initiatives was called Buckle Up New York, Click It or Ticket, a statewide zero tolerance enforcement campaign financed by grants from the Governor's Traffic Safety Committees (GTSC), with the following strategies:

- » Outreach and liaison with partners in street safety
- » Conduct yearly enforcement blitzes, and media outreach, including Public Service Announcements, education and earned media
- » Centralize data collection and target low compliance areas

Since the inception of the Click It or Ticket program, New York State has seen safety belt compliance increase to 89 percent, considerably higher than the national average. Their goals and practices of education, alongside zero tolerance enforcement, create a noticeable effect in the behavior of offenders. "You need vigorous enforcement on a continuing basis, or the compliance starts to drop," says John Corlett, New York State AAA Legislative Committee Chairman, "It's got to be part of a comprehensive plan, including education. If drivers perceive that they will be arrested or ticketed, compliance improves."

## **Recommendations**

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### **NYPD Procedure and Operations**

#### **New York Police Department: Move Operation Impact off the sidewalk and into the streets by December 2009**

"Operation Impact" was launched in January of 2003 as an initiative aimed at reducing and preventing crime by deploying approximately 1,500 police officers, predominately young officers fresh out of the Police Academy paired with experienced officers, to areas that exhibited a greater propensity for crime during certain time periods, based on a CompStat analysis. For the newly graduated cadets, Operation Impact serves as part of their field training. In October of 2004, the NYPD credited a nearly 5 percent drop in crime to this program, which in 2003 had generated 364,000 summonses and almost 31,000 arrests. However, as overall crimes rates drop around the city, it is time to consider expanding the breadth of field training to which young officers are exposed. While the crime rates may be high, the crash rates are equally so. By deploying portions of officers within the Operation

Impact program to traffic safety by December 2009, as well as crime control, new officers will:

- » Garner field training in the skills and techniques of traffic safety enforcement
- » View and understand the life-saving importance of the enforcement of moving violations
- » As has been accomplished in high crime neighborhoods, greatly reduce the occurrence of moving violations and increasing the safety of traffic in the targeted area

**“Are you proposing that the kids out of the academy, the cadets, instead of going to some high crime neighborhood, go to some highway? Why don’t you do that? How about First Avenue? How about Queens Boulevard? If you stationed cops on every corner, send them out to Queens Boulevard. We’re going to saturate Queens Boulevard and make everybody behave.”**

**–Lou Riccio**

**Former DOT Commissioner**

#### **NYPD Procedure and Operations**

##### **New York Police Department: Reinstitute accident prone location deployment by December 2009**

The NYPD formerly based deployment of Traffic Safety Officers, and general traffic safety initiatives, on what the NYPD called accident prone locations, or the New York streets and intersections where crashes most often occurred. “Every accident would get a rating: 1 point was an accident; 2 points was an accident with an injury; 3 points was an accident with a fatality. If any location accumulated more than a certain amount of points in a month, that was your accident prone location,” says James McShane, former Commanding Officer of the NYPD Traffic Control Division, “If there is a particular infraction, then obviously it makes sense to reduce the illegal activity that is causing accidents in that intersection.” Each precinct had their own accident prone locations on which deployment and focused summoning efforts were based.

According to the Traffic Safety Officers of the 19th Precinct, accident prone locations are no longer what deployment is based on. A November 27, 1998 article from the *Daily News* reports that total accidents in the city were down 12.2 percent since 1991, with crash fatalities dropping 22 percent in the same period and credits the deployment of officers to accident prone locations as a cause for the success. Then Transportation Commissioner Wilbur Chapman cited the reason for the improvements in the safety of traffic, “The NYPD strategically deployed people to give summonses at accident-prone locations.” Returning to this focus on accident prone locations, a reimplementaion that could easily occur by December 2009, would provide direction and purpose for the NYPD’s Traffic Safety Officers. Officers responding to accident prone locations would come to understand the significant lifesaving abilities of their summoning efforts, and city streets would stand to see a same market drop in crash and fatality rates.

## **NYPD Procedure and Operations**

### **New York Police Department: Allow Traffic Enforcement Agents to write moving violation summonses by December 2009**

Increasing the responsibilities of the qualified and seasoned Traffic Enforcement Agents (TEA) is one step towards better-staffed, more efficient and comprehensive enforcement by December 2009. Allowing TEA to enforce moving violations is also directly responsive to an understaffed NYPD and tough budget times within the New York City government. When an NYPD Traffic Enforcement Agent graduates from Level One to Level Two of the force, “there is additional training involved relative to directing traffic,” says James Huntley, president of CWA Local 1182, the Traffic Enforcement Agents Union, “You are taught how to write a moving violation and how to testify in court to the judge about the person that did that violation.” TEA are civilian members of the NYPD. According to the New York City Charter, the rules and regulations “relating to regulating, directing, controlling and restricting the parking of vehicles and the movement and conduct of vehicular and pedestrian traffic for the facilitation of traffic and the convenience of the public as well as the proper protection of human life and health” are legally able to be “enforced by an employee of the police department who is in a title with the classified city civil service.” Those civil servant employees of the NYPD are New York City’s 3,000 Traffic Enforcement Agents. **Currently, though trained to write moving violations and testify in court as to the written offense, New York’s TEA force is instructed not to. Their skills are to be focused on moving and directing traffic, not traffic safety, they are told by NYPD officials.**

**“I know NYPD can, but we’re the Traffic Division, why not allow our people to do it? We’re equipped, we can make it happen, we can pull people over, we can do the speeding aspects if they want us to, or the seatbelts and the cell phones, and they can go after speeders with their sirens and lights.”**

**—James Huntley  
President, CWA Local 1182**

## State Legislative Reform

### New York State Legislature: Pass legislation for automated speed enforcement in the legislative session beginning January 2010

The use of speed enforcement cameras, which function similarly to red light cameras used by New York City to document offenders, has been employed in towns and cities throughout the United States. The following states currently employ the use of speed enforcement cameras:

- |                 |                 |              |
|-----------------|-----------------|--------------|
| » Arizona       | » Louisiana     | » Ohio       |
| » Colorado      | » Maryland      | » Oregon     |
| » Washington DC | » Massachusetts | » Tennessee  |
| » Iowa          | » New Mexico    | » Washington |

Speed enforcement cameras have also been employed for over 30 years in countries including Australia, Austria, Belgium, Canada, France, Germany, Greece, Italy, the Netherlands, Norway, South Africa, Spain, Switzerland, Taiwan

and the United Kingdom. Former Commanding Officer of the NYPD Traffic Division, James McShane advocated speed enforcement cameras during his tenure at the Police Department, “There are those who say it doesn’t go far enough, but certainly, if you notice speeding radar traps out there where you’re going to get a ticket with a picture of your license plate sent to your house, and it’s going to cost you whatever it’s going to cost you, that’s going to change behavior,” says McShane, “So rather than trying to train lots of cops who can only write so many, if you had the legislation and you had the technology, which we have, you could really have an impact on speeding.”

In 2007, in Montgomery County, Maryland, six months after installation of speed cameras, the proportion of drivers exceeding speed limits by more than 10 mph declined by about 70 percent.

In 2001, within 6 months of the installation of speed cameras in Washington, DC, the proportion of vehicles exceeding the speed limit by more than 10 mph declined 82 percent. “Automated enforcement is a force multiplier, recognize your force is limited and multiply its abilities with automated enforcement,” says Richard Retting, **“It’s crude and almost barbaric to think about chasing people on crowded urban streets for driving fast when we can automatically deter and ticket them. Dangerous driving is reduced 80 percent just by doing that”**



Automated Enforcement Camera



## Section Three: The Adjudication of Moving Violations: There is No God in Traffic Court

The adjudication system that processes all moving violations issued in New York City is plagued with loopholes and easy outs for dangerous drivers. Convenient options for delaying adjudication and an illogical system for assigning points to licenses allow repeat offenders to avoid punishment again and again.

The Department of Motor Vehicles' Traffic Violations Bureau, where all contested summons for moving violations are adjudicated, is very much unlike its criminal court counterpart. In Traffic Court, there is no stately wood paneling and no high ceiling. Nowhere do the walls note that it is in "God We Trust" that justice is administered, and when the accused is sworn in, they are not asked to tell the whole truth and nothing but the truth for the help of God, but merely to "swear or affirm to tell the truth". **The citizen whose summons was adjudicated on April 7, 2009 for driving 78 mph in a 50 mph zone, or another adjudicated the same day for failing to yield to a vulnerable pedestrian, is tried with less God, less judgment and less fanfare than the citizen who spends the night in jail for urinating in public, or hopping the turnstile for a free subway ride.**

There are eight Traffic Violations Bureau Offices in the five boroughs where all contested moving violations written in New York City are adjudicated. Any citizen can plead not guilty to any moving violation, and the Traffic Violations Bureau Offices are where they would come to make a case for their innocence.

On April 7, 2009, in Courtroom Two of the Department of Motor Vehicles Traffic Violations Bureau for Patrol Borough Manhattan North, some 48 summonses were processed. Courtroom Two was one of four courtrooms in operation that day at the Manhattan North Traffic Violations Bureau, Administrative Law Judge William J. Sica presiding. Of the 48 summonses processed that day, 20 yielded convictions, 16 were dismissed and 12 were rescheduled in person. The results of this day's adjudications were about average.

### **According to the NYPD's Traffic Management Center, in the month of September 2008:**

- » A total of 15,650 summonses were adjudicated
- » These summons yielded a 50 percent conviction rate
- » Of the 15,650, a total of 7,827 were found guilty
- » These summons yielded a 50 percent dismissal rate
- » Of the 15,650, a total of 7,823 were dismissed
- » The Traffic Management Center does not keep track of how often the adjudication of summons is rescheduled

### Traffic School Dismissed

The 50 percent dismissal rate of summons is accrued for a variety of reasons, but most often it has something to do with “technicalities”. On April 7, summons were dismissed for reasons such as improperly written tickets, failure of a sick or injured officer to appear a second time, and testimony by an officer in which they failed to state the direction of a street or whether that road is wide enough to accommodate a truck. The dismissals were predominately procedural.

Punishments, too, rarely seem to fit the crime, or common sense. Points assigned to the license of an offending driver can be removed with a stint in a DMV-certified Point and Insurance Reduction Program, where by participating in a 6-hour class, up to 4 points can be removed from an offender’s license. However programs like this have been shown to have a detrimental effect on street safety, as the removal of points makes drivers more likely to be in a crash. A study by the California Department of Motor Vehicles comparing two groups of drivers who received citations during 2000-2001, one group who attended traffic school and had their points dismissed, and a second group who retained one-point moving violations on their license, showed:

- » Prior to their violations, the group who attended traffic school had a lower crash risk than the group that retained a one-point violation on their license
- » **Despite their initial lower crash risk, the group who attended traffic school had a crash rate that was 5 percent higher than the group that retained a one-point violation on their license**
- » When considering the lower crash risk of the group who attended traffic school, their crash rate was estimated to be 10 percent higher than it would have been had they retained points
- » **About 12,300 crashes occur each year because of the 1.2 million drivers in California who receive Traffic School point reductions**

### My Dog Ate the Summons for my Moving Violation

While on April 7, only 12 of the many summons scheduled to be adjudicated that day were rescheduled in person before the judge, many more were likely rescheduled prior to their court date. On this average day, the vast majority of summons rescheduled before the judge were unplanned, and decided upon when violators of Vehicle and Traffic Law were told they could reschedule their adjudication. Every violator is asked prior to adjudication if they are ready to proceed. Reschedulings that occurred before the judge was done predominately to arrange for an interpreter, bring in a witness statement or to obtain a lawyer.

“If it’s known and recognized that you can get a ticket, but if you don’t show up three times, you get it dismissed,” says Joe McCormack, an Assistant District Attorney in the Bronx and head of the Stop DWI Criminal Justice Committee, “then the whole point of writing the ticket in the first place starts to evaporate.”

However, prior to their scheduled adjudication date, **violators have a plethora of options as to how to reschedule their adjudication.** Violators of Vehicle and Traffic Law may reschedule the adjudication of their summons:

- » Via mail, at least ten days before their scheduled hearing
- » Via the internet
- » Via phone, at least one day before their scheduled hearing
- » In person, at the Traffic Violation Bureau Office where the hearing is scheduled, at least one day before the scheduled hearing

While the above policies apply to the first rescheduling of adjudication, second postponements can be arranged, but “also must include a ‘good cause,’ which is the reason you want the hearing rescheduled” and is “subject to approval by a TVB Administrative Law Judge,” according to the NYS DMV website.

“Why are defendants allowed so many adjournments until an officer is unavailable?” asks Nassau County Assistant District Attorney and Vehicular Crimes Chief Maureen McCormick, “you have to have a consequence fairly quickly after the offense for it to have any real effect. It defeats the purpose if it can go on so long that the points expire before they even get on the person’s license.”

This process of doubly delaying the adjudication of a moving violation summons comes into direct conflict with the Department of Motor Vehicles policy for the application of points to a license in regards to violations. If a driver is convicted of a moving violation that carries points with its conviction, points are assigned to that driver’s license retroactively from conviction. In other words, on the date of a conviction for a moving violation, the points assigned to a license begin to count starting on the retroactive date of the

When tickets are frequently dismissed in court, officers are less inclined to issue them.

occurrence of the violation. Points have a shelf life of 18 months, after which they are no longer counted toward the total that determines whether or not driving privileges are revoked.

Continuing to use the hearings of April 7, 2009 as an example, summonses were adjudicated for violations that had been written as long ago as January of 2008. In one instance, a direct example of the problem was displayed:

- » A driver was caught making an improper right turn on September 28, 2007
- » Prior to adjudication, this driver currently had 8 points on his license
- » The 2 points the driver received on his license for being convicted in 2009 are assigned for the day of the violation in 2007
- » The driver was able to delay adjudication until April 7, 2009
- » **Since this is 19 months after the violation was committed, the 2 points the driver received for being convicted in 2009 will never count against them, as they have expired**

- » Considering licenses are suspended or revoked after accumulating 11 points, had this driver received these points on their license prior to their expiration, they would have 10 points on their license, one minor infraction away from a suspended license

The retroactive assignment of points, with points assigned on the day of conviction starting on the day of the violation, allows violators to game the system and never face any detrimental effects of their offense.

## Best Practices

### DMV Points System

**The points system employed by the Department of Motor Vehicles nationwide is one of the most significantly effective deterrents to repeat offenders of traffic crime.** The points system calculates a tally on a basis of offenses for which a driver has been convicted, and in New York State, when that total reaches 11 points, the offending driver's license is suspended. The following are the different offenses that garner points in New York State:

- » Speeding (1-10mph over the speed limit) = 3 points
- » Speeding (11-20mph over the speed limit) = 4 points
- » Speeding (21-30mph over the speed limit) = 6 points
- » Speeding (31-40mph over the speed limit) = 8 points
- » Speeding (more than 40 mph over the speed limit) = 11 points
- » Reckless Driving = 5 points
- » Failure to stop for a school bus = 5 points
- » Inadequate brakes = 4 points
- » Following too closely = 4 points
- » Passing improperly, changing lanes unsafely, driving to the left of center, driving in the wrong direction = 3 points
- » Failure to obey a traffic signal, a Stop sign, or a Yield sign = 3 points
- » Railroad crossing violation = 3 points
- » Failure to yield the right-of-way = 3 points
- » Passenger safety violation, including seat belt and child safety seat violations for passengers under the age of 16 = 3 points
- » Left the scene of an accident that includes property damage or the injury of a domestic animal = 3 points
- » Other moving violations = 2 points
- » Inadequate brakes (vehicle of an employer) = 2 points

While the record of points remains on a driving record permanently, the ability of those points to affect the point total, and therefore the status of license as suspended or not, expires 18 months after the date of the violation. According to the Insurance Institute for Highway Safety, this cataloging of offenses, the point system, is significant to safety, as they found that drivers with speed citations on their record are legitimately more dangerous drivers:

- » During a three-year period, California drivers with no speed citations on their record had an average of 135 police reported crashes per 1,000 drivers

- » Among drivers with one speed citation on their record, the average crash rate was nearly 50 percent higher
- » Among drivers with two or more speed citations, the crash rate more than doubled compared to those drivers with clean records

While this study shows that offenders are more than likely to become dangerous repeat offenders, another study of California drivers shows that the Points System is the one thing that makes dangerous repeat offenders behave. Comparing two groups of drivers who received 1-point moving violation summons, a group with a lower crash risk who received a dismissal in traffic court of their 1-point violation, and a group with a higher crash risk who retained that 1-point violation on their license:

- » Despite an initial lower crash risk, the group who received a dismissal of their 1-point violation had an estimated 10 percent higher crash rate after the dismissal
- » Despite their higher crash risk, the group who retained their 1-point violation on their licenses was 10 percent less likely to get into a crash

### **Punishment Produces Deterrence: Taking Punishment Seriously**

#### **Germany:**

In Hamburg, Germany, when drivers are caught exceeding the 30 mph speed limit in school zones, they have some explaining to do to local schoolchildren.

Drivers caught exceeding the speed limit must submit to immediate questioning by the children who attend the nearby school. The drivers are asked to explain why they were speeding, and if they think, at the excessive speed they were driving, they could stop in time to avoid hitting a child in the road.



New York City school children clock driver speeds outside their school

#### **Los Angeles:**

Carl McDonald of MADD describes being fascinated with driver culture in Downtown Los Angeles. He watched as pedestrians stepped brazenly into the crosswalk and every car always yielded. Upon asking a Los Angelina about the phenomenon, he was told the reason Los Angeles drivers are so concerned with yielding to pedestrians: the fine.

“In Los Angeles, if you’re caught not yielding to a pedestrian in a crosswalk, it’s a \$400 fine,” says McDonald, “everyone knows that so they don’t mess with pedestrians.”

### Department of Motor Vehicles Policy

#### **Department of Motor Vehicles: Distribute points to licenses from the time of conviction, not retroactively from adjudication beginning in January 2010**

According to the New York State Department of Motor Vehicles, “You must be convicted of the traffic violation for the points to be added to your point total, but the calculation of your point total is based on the date of the violation, not the date of the conviction.” This means that points are added to licenses on the date of conviction, but are assigned retroactively to the date of the violation. Considering the abilities to delay adjudication provided by the court system, and the generally large breadth of many months time that passes between a violation and its adjudication, the current system of point assignment is entirely a farce. Violators can delay the adjudication of a violation until after the statute of limitation on the points has expired, not only allowing offenders an easy out from punishment, but also entirely negating the deterrence power of the points system. For the DMV point system to have the effect it intends, beginning in January 2010, points need to take effect on the day of conviction, not the day of violation, when they will act as an inescapable punishment for the violation committed and remain on the license as a deterrent to further dangerous behavior.

### Department of Motor Vehicles Policy

#### **Department of Motor Vehicles: Allow violators only one rescheduling of summons adjudication beginning in January 2010**

“The adjournments. Why are defendants allowed so many adjournments until an officer is unavailable?” asks Nassau County Assistant District Attorney Maureen McCormick, in response to ineffectual system of deterrence provided by the Department of Motor Vehicles. Despite the often-extensive processing time allotted between the date of the violation and the date of that violation’s adjudication, offenders are allowed multiple adjournments and rescheduling of their adjudication. However, if the police officer that issued the violation does not appear in court, the violation is automatically dismissed, except in cases where the officer is reportedly ill or injured, in which case only one rescheduling is allowed. “The issue is that if the cop doesn’t turn up, it’s basically thrown out. If you don’t show up, you get another bite at the apple,” says Edith Prentiss, Vice President of Disabled in Action, “They should put together a list, and unless you’re confined somewhere, a hospital or a prison bed, you don’t get it. Sorry, you’re on your honeymoon; you knew you had this ticket. It should be like jury duty.” One recommendation can close this loophole beginning January 2010: Barring proven medical reasons, allow only one rescheduling prior to adjudication. **Allowing offenders the same single rescheduling that is allowed to the police officer issuing the summons would halt the ability of offenders to game the adjudication system.**

## Section Four: TrafficStat Has Window Tints: Looking Inside for Traffic Data Transparency

The major barometer used by the NYPD and the Mayor's office to measure traffic law compliance is the number of summonses issued by the NYPD. While a reduction in the number of traffic crashes and casualties is surely directly correlative to the relative danger of city streets, the number of moving violation summonses issued in no way dictates the number of moving violations that occur. **Noting a decrease in the number of summonses issued for moving violations is a false statistical victory, for it really only states: Less moving violations were issued.**

Under the leadership of recently retired NYPD Transportation Bureau Chief Michael Scagnelli, a data analysis program called TrafficStat was created. TrafficStat is modeled on the NYPD CompStat program, used for targeted deployment and mapping of crime data. While TrafficStat does not map moving violations data, and unlike CompStat does not publish its findings publicly, it very successfully tracks the adjudication system in which officers must appear to defend the administration of contested summons for moving violations. In these adjudication hearings, when an officer fails to appear in court, or appears but fails to testify thoroughly enough, the summons is dismissed. The advent of TrafficStat developed a system for tracking these dismissals, and created consequences for officers who failed to appear in court or testify to the most exact of their ability.

TrafficStat's systems of analysis are a step in the right direction towards observing a process's results and adjusting for improved function. While TrafficStat fails to observe or respond to moving violation frequency in the city, and fails to satisfy public reporting as its counterpart CompStat does, as a program TrafficStat is highly successful in accomplishing its limited goals. **TrafficStat has made strides towards safer streets, and it is a program the NYPD cannot afford to abandon.**

In 1998, James McShane, former Commanding Officer of the Traffic Control Division, helped develop TrafficStat. It was "a really revolutionary process based on the CompStat model," says James McShane, "The three E's: Engineering, Enforcement and Education, was the way to reduce accidents, to reduce fatalities, and to increase the flow of traffic, because that was really the mission of the traffic division, to increase the flow of traffic in a safe and efficient way."

TrafficStat shares the efforts of CompStat toward inclusion, and with a great deal of success, was able to, "engage the Department of Transportation and bring them to the table, because a lot of things that contributed to, not only the inefficient flow of traffic, but in many cases accidents, were engineering flaws,

design flaws, which we have no control over,” says McShane. Like CompStat, TrafficStat brings together the concerned parties of government responsible for and representative of city streets each week. **However, unlike CompStat, it is unknown what is discussed in these meetings, what statistics are reviewed, and what conclusions are produced, because unlike CompStat, TrafficStat does not intend to be inclusive and is not open to the public.** To have effectiveness equal to CompStat, TrafficStat should be open to the public, making its intended results publically accountable.

**“I think transparency from TrafficStat would give you a lot of information,” says former DOT First Deputy Commissioner Sam Schwartz, “If you can look at your community and see here is where serious crashes have occurred, you could take action.”**

In the Preliminary Mayor’s Management Report for fiscal year 2009, in the field of policing, the following successes are noted toward the reduction of traffic crashes:

- » Traffic fatalities involving motorists or vehicle passengers decreased 11 percent, and fatalities involving bicyclists or pedestrians decreased 8 percent during the reporting period
- » Deaths related to Driving While Intoxicated (DWI) decreased 33 percent during the reporting period
- » The overall number of moving violation summonses decreased 5 percent
- » Summonses for the hazardous violations most likely to cause motor vehicle crashes increased 1 percent
- » More than 66,000 summonses were issued for prohibited use of cellular phones while driving, an increase of 7 percent

Typically, it is these data sets, the calculations of fatality and injury, that serve as a barometer of the success of the traffic safety efforts in enforcement and engineering employed by the NYPD and DOT. But one of these things is not like the others. “Success in traffic safety is measured in terms of lives saved and injuries prevented, rather than by total number of citations written,” writes former Lieutenant Joel Bolton, a program coordinator for the Gulf States Regional Center for Public Safety Innovation, in *Police Chief Magazine*.

The detriment here is not in the reporting, but in the recording of information. Surely if the number of traffic violations that occur daily on New York City streets were recorded, that information would be presented relative to the number of summons issued for moving violations as a direct and accurate barometer of success. However, there is no recording by a city agency of moving violations as they occur on New York City streets. This is one of many holes in the realm of public knowledge and information recording in regards to New York City traffic. However not all of the problems in public information develop from a lack of recording, but in some cases from a lack of information sharing.

“It’s not so much how many tickets are written as how many violations there are, how many times the law is violated,” says former DOT Commissioner Lou Riccio, “The trick is to find where there is not enough enforcement.” However this is not a concern of the City of New York, as it is currently not keeping track of:

- » The number of moving violations that occur daily on New York City streets
- » The streets that are most prone to moving violations
- » The precise GPS location of crashes

New York City is currently recording the following information, none of which is readily available to the public:

- » The number of summonses for moving violations issued weekly on New York City streets
- » The moving violations for which these summonses were issued
- » The results of the adjudication of the moving violation summonses issued
- » What New York City intersections are most accident-prone
- » The conditions that lead to a fatal crash
- » The results of a fatal crash, including the location, charges filled (if any) and punishment incurred

Yearly, the Department of Motor Vehicles releases statewide and county-based reports on Traffic Safety Data compiled by the various reporting agencies in each county. This comprehensive data gathering includes, for every county in New York State:

- » County and statewide statistics on crashes
- » County and statewide statistics on injuries and fatalities of drivers, passengers, cyclists and pedestrians
- » Selected contributing factors in crashes
- » Analyses of crashes by age, alcohol use and persons on probation
- » Summons issued for speeding, impaired driving and seat belt use

**The problem is twofold:**

- » By making no effort to document moving violations as they occur, there is no correlative measure of the success of enforcement, or the ability to create deterrence
- » By not publishing known data on what specific moving violations are summonsed and how and where fatal and serious injury crashes occur, the affected community is left in the dark as to how the current system creates deterrence

### CompStat

**The CompStat program was initiated in 1994 under the leadership of then Police Commissioner William Bratton.** It is often credited for New York City's drastic reduction in street crime, and has been reproduced as a crime reduction model throughout the world. The system gathers crime statistics on a daily basis, and "more important," said former NYPD Commissioner Bratton at a 1996 lecture at the Heritage Foundation, "every week to share with the rest of the department. It was timely, accurate intelligence." Navigating borough by borough, CompStat gathers crime analysts, borough representatives and district attorneys to ask, "Why is it up? Why is it down? What's happening... Large amounts of information were reduced to the simplest form by such computer analysis," said Bratton. The answers to these questions created a system of targeted deployment. However, the system did not only allow the weekly gathering of experts, but the weekly publication of crime statistics on a precinct-by-precinct basis. "Another major element of what we did in this new process at NYPD was inclusion, not exclusion. The NYPD had been run as an exclusive organization; it would exclude people from information. We approached it from the other direction -- inclusion: Give everybody as much information as they need and want." Today this information is available on the Internet. If a community suspects incidents of mugging are on the rise in their neighborhood, and would like to organize a community response, accurate real-time information is readily available.

### London Safety Camera Partnership

**The London Safety Camera Partnership (LSCP) "is a road safety initiative aimed at reducing casualties by speeding and red light running," according to their website, which documents the locations of and technology used in the approximately 600 speed enforcement cameras and 250 red light enforcement cameras managed in London.** In actively and aggressively ticketing offending drivers, London's camera system books photographic evidence of speeders and red light runners, making these tickets virtually uncontestable. Besides the LSCP's notably thorough, zero-tolerance response to violators of the most safety-oriented traffic laws, the system with which camera locations are chosen is significantly responsive to making streets safer. "We judge speed camera compliance on a basis of the reduction of KSIs (Persons Killed or Seriously Injured)," says Tom Duckham, Project Manager for the London Safety Camera Partnership, "We don't look at the number of tickets issued. We look at numbers of KSIs. We don't see the measure of tickets as a good measure as to the effectiveness of tickets. It's not a bonafide result as to the state of compliance." The LSCP chooses camera locations exclusively on the relative safety or danger of an intersection, as dictated by the statistics of that intersection, the number of people killed or seriously injured there. Since the program's inception, London has seen a 58 percent reduction of persons killed or seriously injured at the camera sites.

### **Local Law 23-2008**

**On May 15, 2008 Local Law 23 was unanimously passed in the New York City Council, requiring the New York City Department of Transportation to collect and observe data with the goal of reducing automobile traffic and to “encourage more sustainable means of transportation vital to combating congestion, pollution and improving the City’s long term economic health.”** Local Law 23 prioritizes not general measurement but the direct recording of what matters to the safety of traffic. By the government agencies that develop the lay of city streets keeping quantitative measure of how those streets function, and analyzing that data through the scope of a healthier, safer city, there is a constant recording of effectiveness of street changes alongside their real qualitative effects.

### **The Products and Potential of Inter-Agency Coordination**

**In September 2006, the City of New York released its first-ever study of bicycle crashes, titled *Bicyclist Fatalities and Serious Injuries in New York City, 1996-2005*.** The study, initiated in response to public outcry over cyclist safety, was led by the NYC Department of Health (DOH) in collaboration with the DOT, NYPD and Parks Department. It examined the 3,687 bicycle crashes that occurred between 1996 and 2005. The report found:

- » 92 percent of cyclist fatalities were caused by crashes with motor vehicles
- » 89 percent of cyclist fatalities and 70 percent of serious injuries occurred at or near intersections
- » Although there are many more miles of local roads in NYC, more than half of fatal bike crashes occurred on large, four lane roads
- » The study identified crash clusters with three or more fatalities or serious injuries within a quarter-mile during the 10-year study period

The study’s findings laid out resource priorities for agencies, including:

- » Installing 240-miles of bike lanes and paths by 2010
- » Improving data collection, analysis and reporting of cyclist injuries
- » Expanding the DOT accident investigation squad to ensure timely investigation of fatalities
- » Working with the DMV to improve crash reporting forms
- » Increasing public awareness among drivers and cyclists about safety
- » Working with truck drivers to prevent crashes

By allowing the DOH’s collaboration with the DOT, Parks and Police Departments, City Hall demonstrated its understanding that safe traffic plays a vital role in preventing injury, encouraging active transportation and improving the everyday public health of New Yorkers. While the coordination involved in this project made it powerful, the in-depth product of their efforts also created a roadmap for improving traffic safety for cyclists for years to come.

### Transportation Alternatives Traffic Violation Survey

**A forthcoming Transportation Alternatives report models the process of community reporting of moving violations.** This spring, in four locations around New York City, moving violations were recorded as they occurred. The survey employed New York State DMV 2007 crash data, utilizing the reported contributing factors to crashes that directly related to moving violations as parameters. The nine moving violations that commonly contributed to crashes were observed, in two hours sessions, intermittently over six weeks, by volunteers trained to spot said offenses. Volunteers were instructed to only document moving violations that were absolute and certain, only recording egregious violations. The survey also employed Pedestrian Intercept Surveys, which tracked community members' opinions as to how their quality of life was impacted by the observed intersection and the community's general level of traffic safety. With minimal effort, and the contributions of willing community members concerned with the safety of traffic in their neighborhood, the Traffic Violations Survey was able to:

- » Develop a map and statistical analysis of the locations that specific moving violations occur most egregiously
- » Discover clear trends as to the specific moving violations that impact a neighborhood most prevalently, relative to its population
- » Create a model for community documentation of the safety of traffic

### Zipcar

**The pioneer car-sharing program Zipcar, which allows its members to use a car for their daily or occasional vehicle needs, keeps a stringent watch on the driving history of those who use its cars.** While Zipcar promotes its services as a way to let go of the costs and hassle of the private automobile that is only occasionally needed, their membership approval system is more stringent than the NYS DMV. "All of our drivers have their driving record reviewed," says Joel Johnson, General Manager of Zipcar in New York, "There's a certain number of points you can't exceed, membership won't be extended to that person. No major violations, so anybody whose been caught speeding thirty miles over the limit, you can't become a member."

### FedEx

**The delivery of FedEx Express (FedEx) packages is a model of safe driving, because as a company FedEx trains, retrains and reinforces their drivers to move responsibly and safely through their deliveries, and in particular, when something unsafe occurs, no matter the circumstances, FedEx reviews the incident and implements countermeasures for improved driver reaction in the future.** The men and women who deliver FedEx packages undergo driving training before they start their job, after 60 days on the road, and yearly after that. If one of their drivers gets into a crash, FedEx does post-crash training, in which they review what happened and instruct drivers as to how they could have treated that situation defensively. FedEx is so intent on safety as to go to the extent of publishing a monthly newsletter about safe driving, and which drivers are required to read and mark that time on their

timecard. Never jeopardize anyone's safety for the package; that is reinforced daily with their drivers. While many companies are worried about discipline after a crash or a moving violation, FedEx is concerned about training the driver to treat the situation defensively next time.

### **Former DOT Traffic Engineering Forensic Unit**

**The DOT Traffic Engineering Forensic Unit recorded and analyzed crash information throughout the 1970's and 80's.** According to Richard Retting, who helped lead the unit, the Traffic Engineering Forensics Unit "created a comprehensive database with combined data from police crash reports and medical examiner toxicology reports. The purpose of the program was to develop a complete picture of fatal crashes and contributing factors, with the ultimate goal of targeting traffic engineering and police enforcement countermeasures." The program worked to obtain and record the following information in an electronic database:

- » Records from the Police Department
- » Records from the Medical Examiner
- » Links from the records for each fatality to other fatalities related by:
  - Location
  - Circumstance and condition
  - Victim demographics
  - Time and place of occurrence
  - Type of crash
  - Roadway and environmental conditions
  - Contributing factors
  - Victim toxicology

This database could be searched on a basis of various parameters, including time periods, geographic locations and victim demographics, to make the larger connections between fatality causes. In Richard Retting's term at the DOT, this intense information production and analysis generated an understanding of why each fatal crash occurred and a specific responsive goal to preventing its occurrence again.

## **Recommendations**

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### **NYPD Procedure and Operations**

#### **New York Police Department: Measure traffic safety in incident reduction, not summons issued starting in February 2010**

In the Preliminary Mayor's Management Report for fiscal year 2009, it is noted as a victory that, "The overall number of moving violation summonses decreased 5 percent...Summonses for these hazardous violations increased 1 percent. More than 66,000 summonses were issued for prohibited use of cellular phones while driving, an increase of 7 percent." An increase or decrease in summonsing activity does not indicate a change in the frequency of moving violations, nor in the safety of traffic. The remedy for this skewed prioritization of statistics is displayed in the success of the London Safety Camera Partnership, which refuses to track number of tickets issued and

instead measures success by reduction in the number of persons killed or seriously injured at crash sites. By New York City adopting this attitude by February 2010, to be incorporated into the 2010 Preliminary Mayor's Management Report, and measuring success by crash reduction, a true barometer of the effectiveness of police summoning would be brought.

### **NYPD Procedure and Operations**

#### **New York Police Department: Measure compliance with traffic regulations and the effectiveness of enforcement through sampling surveys by December 2010**

The NYPD currently has no system in place to measure the level of compliance with traffic regulations, nor the relative effectiveness of their enforcement techniques. Based on the precedent set by then Comptroller Alan Hevesi in his 2001 report ***RED MEANS "GO": A Survey of Red Light Violations in New York City and Red Light Camera Usage in Other Major Cities***, the most feasible and effective measure of levels of compliance with traffic regulations in a large urban environment is through sampling techniques. In his 2001 study, Comptroller Hevesi studied red light violations at New York's 106 most crash-prone intersections over high traffic periods. While these observations documented only a small section of the over 11,000 signaled intersections in New York City, the results of these observations provided an accurate sampling of the extent of the problem. Similar observation techniques, sampling populations of roadway relative to specific violations, should be employed throughout New York City by the NYPD by January 2010, to gain some comprehension of the extent of compliance and the effectiveness of current techniques, finally creating an accurate picture of the prevalence of lawlessness that pervades New York's driving culture.

### **NYPD Procedure and Operations**

#### **New York Police Department: Create public access to summoning, violation and crash data starting in January 2010**

Despite the inadequacies in information recording as to the ubiquity of moving violations on New York City streets, even the information currently recorded is inaccessible to the public. If a citizen observes a great deal of vehicles ignoring the stop sign on their residential street, they have no way of accessing information as to whether their local precinct has ever produced a ticket for this offense. Similarly, information about crashes, even those that are fatal, is inaccessible to any members of the public who may be concerned. Moving violation summoning information should be publicly available on a precinct-by-precinct basis, as is done in the CompStat program, so communities have the ability to access information as to how their local precincts are allocating traffic enforcement resources. There should be digital public access to the MV104 Crash Report and the reports of the NYPD Accident Investigation Squad as well. "I think if people were able to look and see how many crashes happened on West Street, for example, crashes that they didn't necessarily know were fatal, that they missed the news story on," says Sam Schwartz, "then if they were able to pull up the information and

find out who it was, it becomes a person to them, and it becomes more of an interest to stop.” Instituting this public information sharing by January 2010 could lead soon after to annual reports assessing fatal and serious injury crashes in New York City and the solutions that will create a decline in these casualties.

### **NYPD Procedure and Operations**

#### **New York Police Department: Use GPS locations to mark crash sites by January 2010**


Sam Schwartz, in discussing the specificity needed to relate engineering fixes to the problems of crash sites, says “right now, if I were looking at crashes along 9A for example, I would have to look under West Street, I would look under 9A, I would look under Joe DiMaggio Highway, I would look under the cross street, I would look under the West Side Highway, 12th Avenue, 11th Avenue.” Despite recent technological advances, and the fact that every modern cell phone is equipped with GPS capabilities, crash sites are still defined by pen and paper, and the discretion of the first responding officer who may prefer to call Route 9A, Joe DiMaggio Highway. It is recommended that NYPD officers use this basic technology to log any and all crash sites with GPS coordinates when filing MV104 crash reports, so nothing is lost in the shuffle of often chaotic and creative city street naming. Sam Schwartz believes that “when we are getting the reports from the state, they are missing a big chunk of the crashes that occur, especially if you’re looking at it on a location basis, so if you went to the state and said how many crashes are on 9A from 57th Street to the Battery, you’d get one number, you ask the police department you’d get a second number, you ask the City DOT you’d get a third number, and so how can we work with such different data sets, and there is not a good system right now”. By relying on GPS technology, DOT engineers and NYPD officials will have a truly accurate mapping and count of the crashes that occur on city streets, beginning in January 2010. Until then, the only crash data that is “really reliable is to go by hand and look over location by location,” says Schwartz, “If we can have a system where a cop is able to press a button and we know his longitude and latitude that would be terrific.”

### **Mayoral Initiative**

#### **Mayor of the City of New York: Utilize 311 to document and map moving violations beginning in January 2010**


How do we document the “victimless crime” of a moving violation before the violator creates a victim? As a pedestrian dominated city, New York has a constant source of information as to the state of its streets, and in the digital age, this information can arrive in real time. Practically every New York street is watched by a residential window, and the majority of New Yorkers have the tool to relay the moving violations they see on their daily commute: a cell phone. By asking New Yorkers to relay moving violations as they occur, and training 311 operators to document these moving violations as they are relayed, a comprehensive map of New York’s most lawless intersections would develop, beginning in January 2010. There would be no legal ramifications for violators

from this practice. Operators would use the NYPD quality of life complaint form, which 311 operators already are trained to use. This information would be transmitted to local precincts. To avoid delaying 911 transfers, only non-emergency, non-reckless driving related offenses would be recorded. If there were a map of moving violations for TrafficStat, as CompStat has borough by borough for crime, the problem areas would become evident. In this city of a million windows, deployment could be based on responsive citizenry. Every moving violation a citizen witnessed could be called in, marked and recorded. Each precinct of the NYPD would know where they are needed without a death having to occur to prove it.



Michael R. Bloomberg  
Mayor

# Police Department City of New York



Raymond W. Kelly  
Police Commissioner

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Volume 16 Number 22

## CompStat

68th Precinct

Report Covering the Week 5/25/2009 Through 5/31/2009

	Week to Date			28 Day			Year to Date*			2 Year	8Year	16Year
	2009	2008	% Chg	2009	2008	% Chg	2009	2008	% Chg	% Chg	% Chg (2001)	% Chg (1993)
Murder	0	0	***.*	0	0	***.*	0	0	***.*	-100.0	***.*	-100.0
Rape	0	0	***.*	1	0	***.*	4	4	0.0	0.0	-33.3	-66.7
Robbery	5	3	66.7	12	16	-25.0	48	64	-25.0	-2.0	-40.0	-80.3
Fel. Assault	0	6	-100.0	5	13	-61.5	22	41	-46.3	-57.7	-72.2	-78.8
Burglary	2	8	-75.0	12	23	-47.8	57	115	-50.4	-53.7	-64.2	-87.6
Gr. Larceny	4	1	300.0	17	22	-22.7	135	153	-11.8	-15.1	-14.0	-29.7
G.L.A.	6	2	200.0	15	10	50.0	72	76	-5.3	-10.0	-61.5	-91.4
<b>TOTAL</b>	<b>17</b>	<b>20</b>	<b>-15.00</b>	<b>62</b>	<b>84</b>	<b>-26.19</b>	<b>338</b>	<b>453</b>	<b>-25.39</b>	<b>-27.78</b>	<b>-49.40</b>	<b>-81.76</b>

The NYPD publishes weekly crime statistics online through the CompStat program. Why are traffic statistics missing?

## Section Five: Driving Away from the Scene of the Crime: Policy versus Practice in the Investigation of Traffic Crashes

The procedures are in place for proper and effective investigations of fatal crashes. But when those procedures are not followed, the results are devastating. For the family of victims, the shirking of police procedure can be the deciding factor in whether or not a killer goes free. **A family already mourning can be denied justice, a dangerous driver is reassured that it is acceptable to behave recklessly and not face consequences from authorities, because the investigation procedures in place do not dictate the investigation happening right every time.**

On September 24, 2005, Andre Anderson was riding his BMX bicycle on Shore Front Parkway in Far Rockaway, Queens when he was hit by an SUV. Andre Anderson was struck from behind and thrown into the air. His body smashed into the pavement, where he died. Andre Anderson was 14-years-old when he was killed.

NYPD Patrol Guide details the proper police procedure in case of a crash that results in death, or results in a serious injury in which a person is likely to die. These procedures include:

1. Detain all drivers, occupants, vehicles involved and witnesses
2. Unless a vehicle operator needs immediate medical attention, all vehicle operators are required to submit to a breath test for alcohol use
3. Obtain the name, address, home and business phone numbers of any person, including witnesses, before anyone leaves the scene
4. Interview all witnesses
5. Request Patrol Supervisor, Precinct Detective Squad and the Accident Investigation Squad of the Highway Patrol to respond
6. Do not disturb the scene until the Highway Patrol Investigator arrives
7. If the scene must be disturbed, mark the position of the body and vehicle before disturbing the scene

On September 24, 2005, Jose Vicens drove his Lincoln Navigator Sport Utility Vehicle on Shore Front Parkway, at Beach 77th Street when he hit Andre Anderson on his bicycle. Jose Vicens was 23-years-old when he killed Andre Anderson. Jose Vicens struck Andre Anderson from behind and threw his body into the air. Andre Anderson's body smashed into the pavement, where he died. Jose Vicens stayed at the scene of the crime.

Contrary to the NYPD Patrol Guide, while investigating the crash, Jose Vicens's vehicle and subsequent death of Andre Anderson, the following police procedures were flouted:

1. The driver and his vehicle were permitted to leave the scene after a short period
2. The driver was not asked to submit to a breath test for alcohol
3. Despite two witnesses being on the scene, no names, addresses, home and business phone numbers were recorded
4. No witnesses were interviewed
5. By the arrival of the Accident Investigation Squad, the scene had been disturbed, and the vehicle and victim's body moved
6. No sketches, photographs or physical documentation of the scene was recorded before the vehicle and body were moved

Jose Vicens was never charged with a crime. The NYPD Accident Investigation Squad was able to determine, from how far Andre Anderson's body flew through the air, that Jose Vicens was speeding. However, Jose Vicens was not ticketed for speeding until well after the crash. When Jose Vicens was finally ticketed for speeding, the ticket was written incorrectly and thrown out in court.

**“First off with the investigation, that is the key part of any crash, because you cannot charge a person with an offense unless the investigators are thorough and it can support a charge.** With my son's case, we discovered that the injuries he sustained were not consistent with traveling at 30 mph, so we know the gentleman was speeding, and even the medical examiner he told us that,” says Audrey Anderson, the mother of Andre Anderson. “However that was not important to the police, whatever the driver says, that is what they write on the paper. If you're doing an investigation, the injuries the person received should be considered, that should be able to assess how fast the person was traveling, and that's why Andre died. He was hit, throw up in the air, and to be thrown, Andre was not a tiny kid, he was 5'9”, pretty heavy. To be thrown up in the air and then landed, you have to be struck at a pretty high speed...It was just a farce. It's so many mishaps in police investigation, and I don't think it's just Andre's case, I think this is the way they handle all cyclist and pedestrian crashes on the streets of New York City.”

New York State Department of Motor Vehicles  
POLICE ACCIDENT REPORT (NYC)  
MV-104AN (7/01)

Precinct: 100  
Accident No: 466  
Complaint Number: [ ]

Accident Date: 9/24/05 Day of Week: SAT Military Time: 1909 No. of Vehicles: 01 No. Injured: 01 No. Killed: 01  
Not Investigated at Scene: [ ] Left Scene: [ ] Police Photos: [X] Yes [ ] No  
Accident Reconstructed: [ ]

VEHICLE 1 - Driver License ID Number: [ ] State of Lic.: NY VEHICLE 2 - Driver License ID Number: N/A State of Lic.: N/A  
Driver Name - exactly as printed on license: VICENS, JOSE Driver Name - exactly as printed on license: ANDERSON, ANDRE  
Address (include Number & Street): [ ] Apt. No.: [ ] Address (include Number & Street): [ ] Apt. No.: [ ]

City or Town: ROCKAWAY BEACH NY Zip Code: 11694 City or Town: FAR ROCKAWAY NY Zip Code: 11691

Date of Birth: 7/2/82 Sex: M Unlicensed: [ ] No. of Occupants: 1 Public Property Damaged: [ ] Date of Birth: 2/18/97 Sex: M Unlicensed: [ ] No. of Occupants: 1 Public Property Damaged: [ ]

Name - exactly as printed on registration: [ ] Sex: [ ] Date of Birth: [ ] Name - exactly as printed on registration: [ ] Sex: [ ] Date of Birth: [ ]

Address (include Number & Street): [ ] Apt. No.: [ ] Haz. Mat. Code: [ ] Released: [ ] Address (include Number & Street): [ ] Apt. No.: [ ] Haz. Mat. Code: [ ] Released: [ ]

City or Town: [ ] State: [ ] Zip Code: [ ] City or Town: [ ] State: [ ] Zip Code: [ ]

Plate Number: [ ] State of Reg.: NY Vehicle Year & Make: 2003+ LEXUS Vehicle Type: SUBV Ins. Code: 100 Plate Number: [ ] State of Reg.: [ ] Vehicle Year & Make: [ ] Vehicle Type: [ ] Ins. Code: [ ]

Ticket/Arrest Number(s): [ ] Violation Section(s): [ ] Ticket/Arrest Number(s): [ ] Violation Section(s): [ ]

Check if involved vehicle is: [ ] more than 95 inches wide. [ ] more than 34 feet long. [ ] operated with an overweight permit. [ ] operated with an overdimension permit. VEHICLE 1 DAMAGE CODES: Box 1 - Point of Impact: [ ] Box 2 - Most Damage: [ ] Enter up to three more Damage Codes: [ ] [ ] [ ]

Check if involved vehicle is: [ ] more than 95 inches wide. [ ] more than 34 feet long. [ ] operated with an overweight permit. [ ] operated with an overdimension permit. VEHICLE 2 DAMAGE CODES: Box 1 - Point of Impact: [ ] Box 2 - Most Damage: [ ] Enter up to three more Damage Codes: [ ] [ ] [ ]

VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER

Reference Marker: [ ] Coordinates (if available): [ ] Latitude/Northing: [ ] Longitude/Easting: [ ]

Place Where Accident Occurred: [ ] BRONX [ ] KINGS [ ] NEW YORK [X] QUEENS [ ] RICHMOND  
Road on which accident occurred: E/B SHORE FRONT PK WY (Route Number or Street Name)

at 1) intersecting street: [ ] (Route Number or Street Name)  
or 2) 109 Feet Miles of BEACH 177 ST. (Miscellaneous Intersecting Route Number or Street Name)

Accident Description/Officer's Notes: 1st TIPPED VEH #1 TRAVELING IN LEFT LANE ON ABOVE ROADWAY IN ABOVE DIRECTION. BICYCLIST TRAVELING IN BETWEEN LEFT LANE & RIGHT LANE. OPER OF VEH #1 STATES THAT HE SWITCHED LANES FROM LEFT TO RIGHT LANE. AT THAT TIME BICYCLIST SWERVED INTO RIGHT LANE - OPER OF VEH #1 THEN CHANGED LANES FROM RIGHT TO LEFT LANE TO AVOID BICYCLIST. VEH #1 DID STRIKE BICYCLIST CAUSING ABOVE DAMAGE AND INJURY. EMS ON SCENE.

	8	9	10	11	12	13	14	15	16	17	18	Names of all involved	Date of Death Only
A	1	1	3	1	23	M	13	6	-	-	-	VICENS, JOSE	-
B	2	1	1	3	14	M	15	2	EMS	7318	ANDERSON, ANDRE	-	
C													
D													
E													
F													

Officer's Rank and Signature: P.O. Yoda  
Print Name: YODA  
Tax ID No.: [ ] NCIC No.: 03030 Precinct: 413 Post/Sector: [ ] Reviewing Officer: [ ] Date/Time Reviewed: [ ]

The MV104 report filed after the crash that killed Andre Anderson provides little information.

## **Doing It Thoroughly is Doing It Right: The NYPD and DOT Accident Investigation Squads**

### **NYPD Accident Investigation Squad**

The NYPD Highway Patrol is a specialized unit of the NYPD Transportation Bureau. The 250-450 police officers of NYPD Highway Patrol are responsible for traffic safety on limited-access highways, as well as accident investigations and advanced driver and radar training for officers. In all instances of suspected drunk driving, the Highway Patrol is responsible for administering preliminary breath tests in the field.

The officers of the Accident Investigation Squad (AIS) are highly trained professional investigators within the NYPD Highway Patrol. Former Brooklyn Assistant District Attorney and current Nassau County Assistant District Attorney Maureen McCormick describes the procedure of the Accident Investigation Squad (AIS) as follows, “As a matter of standard protocol, AIS will do 911 callbacks to find out whether there is any additional information that can be obtained from those people who call in. They’re going to do field sketches. They’re going to come out and do the measurements of the crime scene, and do a hand drawn sketch and go back to the office and clean that up. Part of the protocol is to measure while the crash is on the scene.” The NYPD AIS are part old-fashioned detectives and part highly technical forensic investigators; when they are on the job, it has the potential to be thorough and procedurally complete.

**“How do we treat crash scenes like crime scenes? Until there is at least somebody telling us this is not a crime, it must be presumed to be a crime scene.”**

**– Maureen McCormick  
Assistant District Attorney  
Nassau County**

### **DOT Accident Investigation Squad**

The New York City Department of Transportation (DOT) Accident Investigation Squad (AIS) is a staff of about 10-15. Their responsibilities include investigation at fatal crash sites to assure that nothing that DOT is responsible for maintaining was the cause of the crash. They use field sheets to do an inventory of the area where the crash occurred, noting location and conditions of signals, signs and crosswalks. A typical recommendation could read: “Tree branch obscuring a sign, trim back,” or “Crosswalk fading, repaint.”

Richard Retting, a transportation engineer who served nine years for the NYC DOT under then First Deputy Commissioner Sam Schwartz, helped develop the prior, more thorough, incarnation of this unit, a Traffic Engineering Forensics Unit. Sam Schwartz describes its purpose as to “go out to a fatal crash, and see it from the traffic engineer’s point of view. A team should go out that is comprised of police personnel and traffic engineers, and they look at it through different eyes.” Schwartz says this would often allow engineers

to “sometimes see things that nobody else would see, and then have the broad authority to cut across all of the entities within the Department of Transportation, to close highways, to build a guardrail, to increase the coefficient of friction on the road, whatever it took. If it was signs, if it was street lighting, if it was markings, and that’s what they would do.” This sort of concerned investigation in case of a fatal crash often produced significant results. For example, the Queensboro Bridge formerly carried five lanes of traffic without a center barrier. Yearly about ten people were killed in head-on collisions in the center lane. The DOT Traffic Engineering Forensics Unit noticed this pattern and placed red lights along the center lane of the bridge, and encouraged the NYPD to ticket drivers using this lane. Fatalities from head-on collisions were virtually eliminated on the Queensboro Bridge as a result.

### Overview of NYPD/DOT Investigation Policy

#### **DOT Accident Investigation Squad:**

- » Does not respond to all fatal crashes
- » Only investigates fatal crashes in which engineering or road conditions may have been a factor
- » Uses a field sheet to produce an inventory of road conditions at the intersection, concluding recommendations for visual improvements

#### **NYPD Precinct Officers:**

- » Local precinct officers respond to all reported crashes in their jurisdiction
- » Precinct officers investigate all crashes in which persons involved are still alive and unlikely to die
- » Precinct officers produce an MV104 Police Accident Report, a form authored by the DMV, which notes the minor details of the crash
- » Precinct officers investigations of non-fatal crashes produce no recommendations

#### **NYPD Accident Investigation Squad:**

- » Responds to all fatal/likely to die crashes
- » Only investigates fatal /likely to die crashes
- » Produces an in-depth investigation of all potential factors in the crash

### **If You’re Not Dead, We Don’t Care**

The NYPD and DOT Accident Investigation Squads (AIS) are specialized, highly trained civil servants. **The NYPD AIS has the skills to find the evidence that might send a repeat offender hit-and-run driver to jail. The DOT AIS has the insight to see how a deadly intersection can be re-engineered to allow for safe crossings and make for safe driving. However, these intelligent investigators are only called upon and only permitted to care about the dead.**

“As long as they get there, an investigation is going to be as good as it’s going to be. The AIS is going to do what is necessary to document the scene. Once you have the investigation, the District Attorney can go from there,” says Bronx County ADA Joe McCormack. “The problem is when they don’t go.”

The AIS exclusively investigates cases in which the victim is dead, or likely to die. “The current protocol is ‘likely to die,’” says Maureen McCormick, “In order to get an AIS response, medical personnel must have stated that one of the participants is ‘likely to die.’” When a crash occurs in which the victims are only seriously injured, the first-responders are usually the officers of the local precinct. In cases of a crash in which there are no fatalities, these officers are required only to fill out a Department of Motor Vehicles form, the MV104 Police Accident Report. This one-page document is the entirety of the evidence of the investigation that occurs in non-fatal crashes. These non-fatal crashes can include hospitalized victims, loss of limb or consciousness, but regardless, the checkboxes of the MV104 are the entirety of information that will be recorded in the case of a non-fatal crash.

“In a fatal crash, there is more investigation, there is a little bit more attention to protocol, but it’s in these situations where you don’t know, where someone is injured,” says Mary Beth Kelly, whose husband was killed by an NYPD tow truck driver in 2006, “I’ve read about all these situations where people go on to have months of rehabilitation from the kinds of injuries that occur when that size vehicle comes up against a human being that’s walking or on a bicycle or pushing a stroller, that can impair someone for life, that can cripple someone for life, that can leave someone emotionally traumatized, those cases should be investigated up the whazoo; they have major consequences.”

For years, several of the NYC District Attorneys Offices have been urging the NYPD to expand the Accident Investigation Squad (AIS) response protocol from a crash involving a person who is dead or likely to die to include serious physical injury cases with any indication of criminality. Newly retired Chief of Transportation, Michael Scagnelli was attempting to make this a reality. The issue has always been one of resources. In recent years the Highway Division of the NYPD, which oversees the specially trained AIS, has been forced to undergo dramatic staffing cuts. Over the years there have been many criminal cases that prosecutors contend needed AIS intervention to bring charges or to strengthen cases that were prosecuted without the benefit of collision reconstruction or scene preservation.

Assistant District Attorney Maureen McCormick relayed stories from her time as a Kings County ADA, when the officers responding to two crashes, one that involved the severing of a man’s leg and the other the crushing of a woman’s pelvis, were not enhanced to AIS because of the patrol officer’s interpretation of the NYPD Patrol Guide. The victims were not listed as likely to die in either case and therefore the precincts did not call AIS. Felony assault charges were prosecuted less effectively because of the absence of AIS enhancement. Chief Scagnelli sought to encourage the precincts to notify AIS when there were extremely serious injuries, but without a patrol guide change, notifications are erratic at best.

In another 2005 incident in Bensonhurst, Brooklyn, a street fair was wrapping up for the day and a man crossed the street to get a last slice of pizza. The street had just been reopened to cars and traffic was backed up at the first intersection off the main road. One driver, who had been observed by precinct officers circling the block several times – apparently waiting for the road to be opened, sped past the officers who were still moving the barricades and shouted at them as he sped by. The few cars ahead of him that were stopped to allow the pedestrians in and around the street to proceed safely blocked him. The car went into the oncoming lane, past the stopped traffic, leaving tire marks on the wrong side of the road. The pedestrian, intent only on purchasing a snack, was hit and left unconscious with a severe, traumatic brain injury. The man was rushed to the hospital. In this case the protocol was applied to ascertain whether or not the victim was considered “likely to die” from medical staff before an AIS investigation was conducted. One police officer was dispatched to the hospital to obtain the victim’s condition while the other officers on the scene waited. No AIS investigation was initially conducted because the man was expected to survive. When the District Attorney’s Office received the file a day later, they called AIS directly and requested intervention. An AIS detective proceeded to the scene and determined that the tire marks left by the defendant’s car were acceleration marks – meaning the defendant had actually hit the gas so hard to go around traffic into the oncoming lane that he left black marks in the street. The untrained precinct officers thought the marks were skid marks from the car hitting the brakes and trying to stop. If the car had come up the block too fast and unexpectedly hit traffic and tried to stop by skidding into the oncoming lane it is doubtful that criminal charges could have been sustained. Aggressively accelerating into oncoming traffic is an unequivocally criminal event. The victim never regained consciousness and died in the hospital several days later. Chief Scagnelli commended the detective’s work that allowed homicide charges to be brought against this dangerous driver. Some witnesses were lost in the delay caused by the protocol, but without the AIS scene investigation, no crime would have been charged. It is an example of why the expansion of serious injury cases into AIS purview is an urgent necessity.

## Best Practices

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### **Nassau County is Doing it For Themselves: Supplemental NYPD Crash Addendums in case of Non-Fatal Crashes**

**“In the MV104 you do have a very small space for detail and detail is our friend,” says Maureen McCormick, “In Nassau County, they have separate sets of reports, crime reports, arrest reports, that call for detail when an arrest is made.** I will usually get the detail that you are looking for on the MV104 in separate supplemental police reports.” Police Officers in Nassau County provide a wealth of detailed information in regards to a criminal crash, because they are equipped with the forms to do so. However even in Nassau County, these supplemental forms are used only in situations where an arrest has been made. Statewide, all New Yorkers would benefit from required supplemental addendums to the MV104 in the case of all crashes involving serious injury or fatality, regardless of criminality.

By contrast, in New York City, in the case of any non-fatal crash involving an automobile and another, a cyclist or a pedestrian, the NYPD completes exclusively a DMV authored form, the MV104. Despite the unique urban conditions of New York City, the MV104 is a crash report universal to the entire state of New York. The form is a series of check boxes and number codes, indicating everything from road condition to point of impact, as well as a small lined space for the officer to report on their activities at the scene and witness statements. In regards to this lined space, Adam White, a New York City attorney specializing in traffic crashes and cyclist injuries, says, “One of the things I would change is: give a little more space, how about a little more space to put a little more information in there...when you look at the whole report, it’s such a small portion of the report, to briefly give your assessment of what happened, and typically it is operator vehicle one says X and operator vehicle two says Y, and that fills it all up.” Witnesses and the activities of the officer on the scene are one of the few items of the MV104 that are admissible in court, however the space allotted for them is minimal, and that space is rarely used in a manner helpful to further investigation or prosecution.

Edith Prentiss, of Disabled in Action, has been hit twice by motor vehicles while crossing the street in a wheelchair and has seen the worst of the deficiencies of the MV104. Once the front of her chair was clipped by a car coming around a corner at 181st Street and Washington Avenue, “There was a police car sitting right there, waiting at the light,” she says, “Gee, my police report has no witnesses, no information, no nothing.” The second time she was hit by a car was diagonally across the street from the first crash, “Car coming down Fort Washington Avenue,” Prentiss says, “claimed she couldn’t see me, I’m bigger than a goddamn breadbox, and we were both going the same way. I am in the crosswalk, and she hits me.” **In the MV104 report about the crash, Edith Prentiss, who is disabled and in a wheelchair, is listed as an unlicensed uninsured driver. She was crossing a street at the time of the crash, in her wheelchair, not a vehicle.** “The biggest deficiencies are they frequently don’t take down information as far as what people said, or they only take one side of the story down. Oftentimes my clients are injured or badly injured, sometimes they are unconscious, they never really follow up to find out if there is anything to be said, or often enough times, my client is available and they don’t speak to him or her,” says Adam White, “I would suggest this portion of the report be expanded, and most importantly if the cops get better training, on the importance of filling these things out as accurately as possible and the importance of being a little more thorough in documenting what happened, rather than typically it’s very thin.”

### **Open Lines of Communication between the NYPD Accident Investigation Squad and the Brooklyn District Attorney’s Office**

**The practices of Brooklyn District Attorney Charles Hynes create an assurance system within the practices of the NYPD Accident Investigation Squad.** “In Brooklyn, District Attorney Hynes had a system that required all fatal collision investigations conducted by AIS in the borough to be reviewed before the investigation was marked as closed,” wrote Maureen McCormick,

who formerly headed the Vehicular Crimes Bureau of the Brooklyn District Attorney's Office, "Sometimes this review resulted in additional investigation being conducted. That investigation most often confirmed the crash could not be charged as a crime but occasionally the joint investigation by AIS and the District Attorney's Office allowed criminal charges to be filed." The insistence of District Attorney Hynes on a relationship with the AIS occasionally allows for justice to move forward in a way it may not have without the insight and communication of the District Attorney. Were a relationship required between all New York City District Attorneys' Offices and the various investigations of the AIS, more frequently the answer to a crash would be the applicable filing of criminal charges.

## Recommendations

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### **NYPD Procedure and Operations**

#### **New York Police Department: Expand Accident Investigation Squad purview to include crashes resulting in serious injury as well as fatality beginning in January 2010**

Under current protocol, the NYPD Accident Investigation Squad is called to investigate a crash only in cases of a fatality, or in which a person is likely to die. **Not only does this present a disquieting standard by the NYPD that a crash is only worth their time and resources in case of a fatality, but this also presents a problem in crashes where serious injuries are completely life-long and debilitating, or where the serious injury leads later to death.**

This is a recommendation to use the NYS Department of Motor Vehicles definition of "Serious (Non-Fatal) Injury" to define the serious injury cases in which the Accident Investigation Squad would respond, which are injuries that require a hospital visit, "injuries include amputation, concussion, internal bleeding, severe burns, fracture, and dislocation". For fairness, and with intensions towards the justice of a thorough investigation of all crashes that result in the major life changes that come with major physical debilitation, beginning in January 2010 crashes that result in serious injury should be included in the investigation purview of the AIS.

### **NYPD Procedure and Operations**

#### **New York Police Department: Create supplemental NYPD addendums to the MV104 crash report in case of non-fatal crashes by January 2010**

To supplement the inadequacies of the MV104 Crash Report, the NYPD should produce an addendum form for the documentation of further information in case of a non-fatal crash. "I think what you actually need is an internal separate protocol for any police department that is doing this, like the NYPD, for information gathering when it's a serious physical injury, non-fatal, initially non-criminal crash. There should be a separate sheet for getting that data. 911 callbacks should be part of any type of serious injury investigation. Photographs should be part of any investigation," says Maureen McCormick. Successful prosecutions, as well as usable data for reducing crashes, requires the gathering of information. While the NYPD Accident Investigation Squad is trained and skilled at this documentation, they cannot respond to every

minor crash. By providing a New York City specific, NYPD authored addendum to the MV104 report for use by precinct officers by January 2010, many of the inadequacies in crash reporting would be alleviated.

### **NYPD Procedure and Operations**

#### **New York Police Department: Use cameras for crash scene investigation by January 2010**

Cameras separately operated and monitored by the State and City DOT and the NYPD document blanket views of many city streets. This recommendation is to take advantage of that constantly recorded footage, beginning in January 2010. By using these recordings in the case of fatal and potentially criminal crashes (as determined by the District Attorney) for accident investigation, engineers and officers alike would be able to have a complete understanding of the conditions proceeding a crash. “We really need to replicate the conditions as much as possible to understand,” says Sam Schwartz, “I would say now, with so many cameras, if we could communicate to that massive camera system that is out there, that we now just had a crash at Broadway and Houston, please save the last one hour period, then an engineer can go take a look at it and see what were the actions that proceeded it.” Entirely similar to the manner in which surveillance cameras are used to identify suspects after a bank robbery, these recording of crashes through these cameras can and should serve as a tool in determining criminality in crash investigations.

### **Mayoral Initiative**

#### **Mayor of the City of New York: Improve 911 dispatcher training for crashes beginning September 2009**

An integral part of any crash investigation is 911-callbacks, in which the investigating officer speaks with any 911 dispatchers who may have fielded calls related to the crash, including the drivers of the vehicles involved, victims and any witnesses. The viewpoint of these individuals, especially the witnesses to a crash and witnesses to driver behavior preceding a crash, is integral to in-depth investigation, as well as prosecution. “One of the things that would be beneficial to the prosecutor and the police is better 911 dispatcher training,” says Maureen McCormick, “There is a tendency of the dispatcher to say, ‘Did you see the crash? No? Ok, now move on,’ without necessarily taking witness information.” Dispatchers at 911 need to be trained and instructed to always obtain the 911 callers’ contact information and ask whether they saw the car involved before the crash, by September 2009. Without the ability to communicate with these key observers, investigators lose all knowledge of the circumstances leading up to a crash, as well as any opinions on an incident from uninvolved parties.

## Section Six: Licensed to Kill: The Attempted Prosecution of Traffic Crimes

The final step in the cycle of a dangerous driver becoming a killer driver sits in the inboxes of New York City's five District Attorneys' Offices. **The lack of enforcement that leaves dangerous driving unchecked, the adjudication system, that allows dangerous drivers to hop point-free through the system, and the investigations that produce little admissible evidence, all hinder the applicability of justice when prosecution is being considered.**

On June 22, 2006, Mary Beth Kelly was riding her bicycle home with her husband, Dr. Carl Henry Nacht, on the Hudson River Park Greenway when an NYPD tow truck driver turned off of the West Side Highway, across the Greenway, into an impound lot at Pier 76. Dr. Nacht was struck by the NYPD tow truck and severely injured. He died the next week.

The NYPD driver of the tow truck was not charged with a crime. "And the consequence for him? He was not given a summons. The one consequence was that this driver lost his license for three months. That was it. He drove right up until the time of that DMV hearing. He never showed up for that hearing," says Mary Beth Kelly, "Whether or not this guy got behind a wheel during those three months, we'll never know. That's it, he goes on with the rest of his life... I guess in my heart I would feel better if he just lost his license, or lost it for a few years, or it had an impact on his life at least a quarter of the effect it has had on mine and my kids." Mary Beth Kelly's story is not uncommon. **In fact, it is the most common result when a driver kills a cyclist or pedestrian: No prosecution, no responses, no justice.**

"Getting in a car, you have to understand that you're driving this huge thing that kills people. And then to do something stupid like put your foot on the gas and to call it an accident? It's just crazy. It is an accident; you didn't want to do it. But once you're driving a car, you just have to understand the consequences of what you're doing. You're responsible when you're driving. But without intent you can't really charge people with homicide," says Peter Moskos, a former Police Officer and professor of Criminal Justice at John Jay College. "Drivers should be charged with being careless. People do careless stuff -- like talking on their cell phone -- because they don't take driving seriously. There's lots of careless behavior while driving. The question is what careless behavior led to someone dying. But there is always something."

Ed Figueroa, former President of Amalgamated Transit Union Local 1056, which represents all of the Metropolitan Transit Authority's Bus Drivers in the borough of Queens, describes crashes that involve bicyclists and pedestrians, "Those are the worst accidents. There is no car involved, they're more vulnerable." Cyclists and pedestrians are more vulnerable in crashes. **Cyclist and pedestrians are consistently more likely to die in the case of a crash. This does not change how these cases are prosecuted. A rolling**

**stop that would have resulted in a fender dent between two cars, can result in the death of a pedestrian in the crosswalk. In the eyes of the law a fatality and a bruised bumper are treated the same.**

In the month of October, 2008 there were 17 serious incidents of vehicles striking cyclists or pedestrians reported in the media. There were 13 confirmed fatalities. There were no charges reported:

- » On October 1, 2008, Rodney Bailey of the Bronx drove his Ford Expedition Sport Utility Vehicle away from a parking garage and onto the sidewalk, where he clipped two pedestrians and smashed through the plate glass of a storefront. **The driver was not charged with a crime.**
- » On October 4, 2008, Stephanie Dees and Ann Sullivan were walking south crossing 14th Street and First Avenue when they were both struck by a taxicab traveling west on 14th Street. Stephanie Dees was struck a second time by a taxicabs traveling east. According to witnesses, one of the taxicabs was attempting to beat the yellow light. **Neither driver was charged with a crime.**
- » On October 6th 2008, on Ocean Parkway at Brighton Beach Avenue, a pedestrian was hit and killed. **No charges were reported filed.**
- » On October 7th 2008, a 25-year-old pedestrian was hit at the intersection of Ocean Parkway and 18th Avenue. The pedestrian was taken to Lutheran Hospital in critical condition. The driver fled the scene following the accident. **No charges could be filed.**
- » On October 11, 2008, a pedestrian in his thirties was struck and killed by a Toyota Highlander while crossing Union Turnpike near the Clearview Expressway in Queens. **The driver was not charged with a crime.**
- » On October 14, 2008, Maya Shelgelman, an 80-year-old grandmother, was crossing Brighton Beach Avenue when she was struck and killed by a car driven by Rakhilya Ashurozak. According to witnesses, Ashurozak had been using a cell phone while driving. **The driver was not charged with a crime.**
- » On October 15, 2008, Lida Sargsyan, age 49, was struck by a Toyota Camry while walking on Targee Street below the Staten Island Expressway. She was taken to Staten Island University Hospital with critical injuries. **The driver was not charged with a crime.**
- » On October 19, 2008, a 47-year-old man was struck by a Chevrolet Suburban Sport Utility Vehicle while crossing West 134th Street and Lenox Avenue and dragged to West 135th Street. **The driver, who was driving without insurance and has had his registration suspended three times in the past 11 years, was not charged with a crime.**
- » On October 21, 2008, Arturo Flores, age 35, was struck and killed by a Dodge Caravan while bicycling in Astoria, Queens. **The driver was not charged with a crime.**
- » On October 24, 2008, a pedestrian was struck and killed by an 18-wheeler on the Bowery near Grand Street. The driver fled the scene but was later found. **The driver was not charged with a crime.**

- » On October 24, 2008, a 74-year-old pedestrian was struck and killed by a car at 75th Street and 14th Avenue in Brooklyn. The driver fled the scene. **No charges could be filed.**
- » On October 24, 2008, Bernard Syndor, age 69, was crossing Jewel Avenue and Parsons Boulevard in Queens when his wheelchair was struck by a car. Syndor was taken to New York Hospital Medical Center in critical condition. **The driver was not charged with a crime.**
- » On October 26, 2008, a Honda Pilot Sport Utility Vehicle drove onto the sidewalk and into an Indian Restaurant at West 102nd Street and Broadway. **No charges were filed.**

**During the last fifteen years, from 1994-2008, there have been only 29 indictments of drivers under the charge of Criminally Negligent Homicide, despite thousands of cyclists and pedestrians killed during that period.**

**Are the current laws for prosecuting dangerous drivers adequate? Is justice an option when a driver kills with their car?**



Protesters in Chinatown rally outside the Manhattan District Attorney's office in the wake of a crash that killed two children.

According to the state of Oregon, a “Vulnerable User of the Public Way” is defined as any “pedestrian, a highway worker, a person riding an animal, the operator or user of a farm tractor, a skateboard, roller skates, in-line skates, a scooter, or a bicycle.”

According to the state of Texas, a “Vulnerable Road User” is defined as “a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or

right-of-way, or stranded motorist or passenger; a person on horseback; a person operating equipment other than a motor vehicle, including a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.”

The definitions filed by the states of Texas and Oregon are significant in their honesty. A vulnerable user of the road is significantly more fragile than the vehicles they share the road with. A vulnerable user of the road is considered vulnerable because it is an actuality.

- » In the city of New York, in the year 2007, there were 64,000 reported crashes involving automobiles exclusively and 112 reported fatalities
- » In the city of New York, in the year 2007, there were 14,000 reported crashes involving an automobile and a pedestrian or cyclist and 160 reported fatalities

- » **In case of a crash, a pedestrian or cyclist is more vulnerable, because a vulnerable user of the road, like a pedestrian or cyclist, is 6.5 times more likely to die than any person incased inside an automobile**

It is a constant and unfortunate truth that District Attorneys in New York are operating from a default perspective that only under a very limited, narrow set of circumstances should a case be pursued when someone is killed by a car. They adhere to narrow interpretations of relevant case law to help guide them in determining what a prosecutable case is, and are often unwilling to examine the totality of the circumstances in each specific crash which contributed to the fatality. **Despite the vulnerability of road users not incased in steel, in the case of a traffic fatality in New York City, vulnerable users of the road are infinitely less likely to have their killers prosecuted than any other fatality that results from the actions of another human being.**

## Recommendations

### State Legislative Reform

#### **New York State Legislature: Pass the Hayley Ng and Diego Martinez Law during the January 2010 Legislative session**

The Hayley Ng and Diego Martinez Law intends to protect pedestrians, bicyclists, farm workers and other vulnerable users of the road in New York State. The law defines a “vulnerable user of the public way” as “a pedestrian, bicyclist, highway worker, person riding an animal, tractor operator, or a person skateboarding, roller-skating or riding a scooter.” Under the legislation, any driver who kills or seriously injures a “vulnerable user of the public way” by driving in a careless manner will face a new set of civil penalties, including a traffic safety course, community service and two mandatory court appearances. If those tasks are not completed within a year, the result is a fine of \$10,000 and the suspension of the driver’s license. During the last fifteen years, from 1994-2008, there have been only 29 indictments of drivers under the charge of Criminally Negligent Homicide, despite thousands of vulnerable users killed during that period. Passing the Hayley Ng and Diego Martinez Law during the January 2010 Legislative session will create at least a modicum of justice for these victims, and an environment of deterrence for drivers doing anything but taking care around the vulnerable users of the road.

### Mayoral Initiative

#### **Mayor of the City of New York: Publicize and make victims’ services available by November 2009**

The City of New York, through the NYPD, District Attorneys’ Offices and numerous other agencies provide services to victims of crime. These programs can provide a variety of assistances to grieving or emotionally traumatized persons, like free of charge counseling and financial assistance. Each District Attorney’s Office in the five boroughs of New York has its own unit specializing in providing services to victims of and witnesses to crime. However these programs vary across boroughs wildly. In some counties services are available to only the survivors of domestic abuse and homicide,

which in most cases excludes the survivors of and witness to traffic crashes, and all counties exclude these services to those victims for whom charges could not be brought.

Neither Audrey Anderson nor Mary Beth Kelly was ever informed about the Crime Victims Services offered by District Attorneys' Offices because, despite any interactions with District Attorneys, no criminal charges were brought against the drivers involved, and therefore the services were not available to them. Nor were they ever provided information about the crime victims programs proffered by other city agencies. **If no charges are filed, it does not lessen the mourning process, why should it decrease the availability of services available to victims?** "I imagine if I wasn't told, there are probably a heck of a lot of other people who don't know a thing about it, who really need it," says Mary Beth Kelly, "There needs to be a protocol, like who does what, how its done, how you know that they are aware of it, whether or not there is follow-up on it...there is tremendous trauma in watching something like that happen to a person you love. Even if you're not there, the shock of a violent death occurring to someone you love requires a tremendous amount of help and healing from it. If that's part of what these services proffer, for them to be there, for them to be tested, and for there to be a lack of them being known about and available, in a way compounds the crime, compounds the pain of the loss, that God, when I needed that, that was there, and I had no idea it was something I could have taken advantage of, that's a terrible thing." The Mayor's office needs to coordinate these services, making their availability uniform and provide them, with follow up, to all victims and survivors readily by November 2009.

### **District Attorneys Office Policy**

#### **New York City District Attorneys: Be responsive to the families of victims of traffic by September 2009**

"I was totally ignored by the District Attorneys," says Audrey Anderson, "To be totally ignored, it's a shame, it's a disgrace on the system and it only adds more pain to what you are already going through." The inability to prosecute a crime does not mean that a crime does not leave behind survivors and mourning. **The District Attorneys' Offices need make an effort to be responsive to the families of crime victims; even if they cannot prosecute, they can proffer support in the form of information and clarity in the confusing bureaucracy of the courts.** "There has to be some agency within that office which addresses these victims' families' claims and requests. Don't just ignore them," recommends Audrey Anderson, "I know when there are murders on the street, the families are treated totally different by the District Attorneys and even by the city agencies. They pay more attention to those families...I think it's a state of mind, this no care attitude for people who walk or cycle the street, it's like their lives are of no value. That is the impression I get from everyone I've talked to since my son has died, nobody wants to listen to me."



## Conclusion

**Executive Order: A Mayoral Strategy for Traffic Safety** shows that New York City's traffic justice system currently lacks any structure of effective checks and balances. Drivers are permitted to routinely violate the law, and face repercussion in only the rarest of circumstances. Those drivers who are caught endangering the public safety have a variety of opportunities to escape punishment. Crash investigations are haphazard, and lack the thoroughness to effect prosecution. Prosecution rarely occurs for killer drivers. There is no system in place that documents or responds to these dangerous and deterrence-free conditions.

Driver behavior must change to return order to New York City streets. The most comprehensive solution to the problem of creating deterrence is mayoral acceptance of the problem. New York's traffic safety systems are wrought with holes too complex for one agency alone to mend. The system is broken and the system is instilling fear in children, parents, neighbors and friends, killing dozens every year. New York City needs to establish a policy goal of drastically changing road user behavior and creating the staff to make it happen. By creating an Office of Road Safety, the systems and accomplishments of the DOT, NYPD and the District Attorneys' Offices can be linked and finally rely on and reactive to one another. Adding the in-depth analytical abilities of the Department of Health's Epidemiology Program to this roster would allow for statistical responsiveness to understanding the depth of the issue. It is only through City Hall that this oversight can successfully occur, and only with the pull of the Mayor's Office can this new Office of Road Safety be effectively formed and only then can these necessary agencies be brought to the table to make solutions.

All of the following recommendations, which highlight specific symptomatic items of the larger problem, would be overseen by the Director of the Office of Road Safety. These simple procedures could substantially change how New Yorkers travel, reduce traffic violations and create overall a New York that is a safer, healthier, better place to live.

## All Recommendations

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### Mayoral Initiative

#### **Mayor of the City of New York: Create an Office of Road Safety in City Hall, in charge of reducing traffic fatalities by December 2010**

By creating an Office of Road Safety that can oversee the efforts of the DOT and NYPD, which are often responding to different parts of the same problem, a real reduction in traffic deaths finally has potential as a goal. Not only will mayoral recognition of this serious public health issue create responsive behavioral changes among dangerous drivers, but also the increased focused communications will have a distinct improvement on the safety of our streets.

**Mayor of the City of New York: Change the mission of the NYPD and DOT to prioritize traffic safety by November 2009**

The Mayor needs to revise the mission statements of the NYPD and DOT by November 2009 to broach a skewing of priorities, which place more importance on traffic movement than traffic safety. Correcting the priorities of New York's foremost authorities in traffic can provide new approaches to reducing traffic fatalities, and can arrange effective systems of communication between the DOT and the Police Department. Reprioritizing the mission of these bodies will allow the right responsibilities distributed between these agencies, and work towards a system by 2010 in which both the NYPD and DOT are responsible for prioritizing the safety of traffic.

**Mayor of the City of New York: Utilize 311 to document and map moving violations beginning in January 2010**

By utilizing New York's excellent 311 programming, and the current NYPD quality of life chronic complaint form as a tool for citizens to document non-emergency moving violations as they are seen on city streets, the NYPD and DOT would finally be provided with real-time documentation of moving violations as they occur on city streets, and as they most effect the quality of life of New Yorkers.

**Mayor of the City of New York: Improve 911 dispatcher training for crashes beginning September 2009**

The simple training of requiring 911 operators to retain witness information in case of a crash would provide infinite increase in the District Attorney's ability to prosecute traffic crashes that end in fatalities.

**Mayor of the City of New York: Publicize and make victims' services available to the families of victims of traffic by November 2009**

New York City could drastically improve their relationship with survivors of traffic crime and traffic crime victims' families, regardless of the ability to prosecute, by coordinating service initiatives and setting a comprehensive policy for the informing of and following up with the extensive services offered by a variety of NYC agencies.

**NYPD Procedure and Operations**

**New York Police Department: Reinstitute accident prone location deployment by December 2009**

Readopting the former NYPD policy of deploying officers to locations most prone to accident, rather than at random, or to locations where officers can rack up large amounts of not particularly dangerous offenses, would have the twofold effect of reducing crashes while placing additional emphasis for drivers on the consequences for unsafe driving.

**New York Police Department: Allow Traffic Enforcement Agents to write moving violation summonses by December 2009**

With NYPD deployment resources at a ten-year low, New York City needs all hands on deck for traffic safety. Traffic Enforcement Agents (TEA) are already trained to write moving violations, and the additional forces provided by TEA could buoy the NYPD's enforcement efforts.

**New York Police Department: Move Operation Impact off the sidewalk and into the streets by December 2009**

The great success of Operation Impact combines a field training exercise for NYPD recruits with neighborhood-based saturated deterrence, which is simply transferable to create similar effects on particularly hazardous New York streets. The results of transferring aspects of Operation Impact to traffic safety would have the twofold effect of increasing police officer's understanding of the life-saving priority of traffic enforcement, while creating a zone of traffic in which enforcement is so complete, behavior inherently improves.

**New York Police Department: Create public access to summoning and crash data starting in January 2010**

Summoning information should be publicly available on a precinct-by-precinct basis, as is done in the CompStat program, so communities have the ability to access information as to the most prevalent moving violations in their communities. Similarly, there should be digital public access to the MV104 Crash Report and the reports of the NYPD Accident Investigation Squad. This public information sharing should lead to annual reports assessing fatal crashes in New York City, and the solutions that will lead to the decline in these fatalities.

**New York Police Department: Measure traffic safety in incident reduction, not summons issued, starting in February 2010**

By the NYPD insisting on basing success on site-by-site crash incident reduction, rather than exclusively on statistics provided by number of summons issued, the relative success of the effects of deployment methods would finally have an accurate measurement.

**New York Police Department: Measure compliance with traffic regulations and the effectiveness of enforcement through sampling surveys by December 2010**

The most feasible and effective measure of levels of compliance with traffic regulations in a large urban environment is through sampling techniques. The result of sampling studies which observe a section of the problem, provided an accurate picture as to the extent of the problem overall. Observation techniques which involve sampling populations of roadway relative to specific violations, should be employed throughout New York City by the NYPD to gain some comprehension of the extent of compliance and the effectiveness of current techniques, finally creating an accurate picture of the prevalence of lawlessness that pervades New York's driving culture.

**New York Police Department: Use GPS locations to mark crash sites by January 2010**

Making use of the fantastic advances in GPS technology, the documentation of crash sites could finally have accurate documentation of all New York City traffic crashes relative to their location.

**New York Police Department: Create supplemental NYPD addendums to the MV104 crash report in case of non-fatal crashes by January 2010**

To supplement the inadequacies of the MV104 Crash Report, the NYPD should produce an addendum form for the documentation of further information in case of a crash resulting in serious physical injury. Successful prosecutions, as well as usable data for reducing crashes, requires the gathering of information. While the NYPD Accident Investigation Squad is trained and skilled at this documentation, they cannot respond to every crash. Supplementing the DMV statewide crash report, as is done in the counties surrounding New York City, with an addendum for collecting further information in case of a crash involving non-fatal injuries, would provide the information necessary to learn from every crash.

**New York Police Department: Include crashes resulting in serious injury in the NYPD Accident Investigation Squad purview starting in January 2010**

Crashes involving serious injury often result in death or permanent injury weeks after the actual crash, long after all evidence is washed away. By including crashes involving serious injury in the purview of the Accident Investigation Squad, proper evidence will be collected to respond to deaths or permanent disabilities that do not occur within hours of a crash, and more properly allow justice for those involved.

**New York Police Department: Use cameras for crash scenes investigation by January 2010**

In all crash investigations, the more information the better, and the simple step of photographing all crash scenes would allow for better prosecution and better understanding, from an engineering perspective, of why a crash occurred.

**Department of Motor Vehicles Policy**

**Department of Motor Vehicles: Distribute points to licenses from the time of conviction, not retroactively from adjudication beginning in January 2010**

A major loophole in the adjudication system could be closed, and a majority of dangerous drivers whose licenses should be suspended could be kept off the roads, by simply changing the period at which the DMV does license point calculation. By distributing points, and having those points count, beginning on the drivers' day of conviction, there would no longer be a widespread technique for manipulating point totals to keep dangerous driver on the road.

**Department of Motor Vehicles: Allow violators only one rescheduling beginning January 2010**

To assure more timely justice and prevent further manipulation of the points system, violators should be allowed a single rescheduling of their adjudication.

**State Legislative Reform**

**New York State Legislature: Pass legislation for automated speed enforcement in the legislative session beginning January 2010**

With 39 percent of New York City motorists speeding, and the comparatively negligible number of summonses distributed for the offense, the drastic inability of the NYPD to control speeders needs to be answered with a new tactic. The installation of speed cameras would not only serve to increase traffic safety, but would free up NYPD Highway Patrol and Traffic Safety Officers to focus on the next most dangerous offenses, for which automated enforcement technology has yet to develop.

**New York State Legislature: Pass the Hayley Ng and Diego Martinez Law in the Legislative session beginning January 2010**

By protecting vulnerable users of the road under the law, prosecution will become an option for previously un-prosecutable cases, and create a new behavioral attitude toward drivers understanding they use a potential weapon and must proceed with caution around the vulnerable.

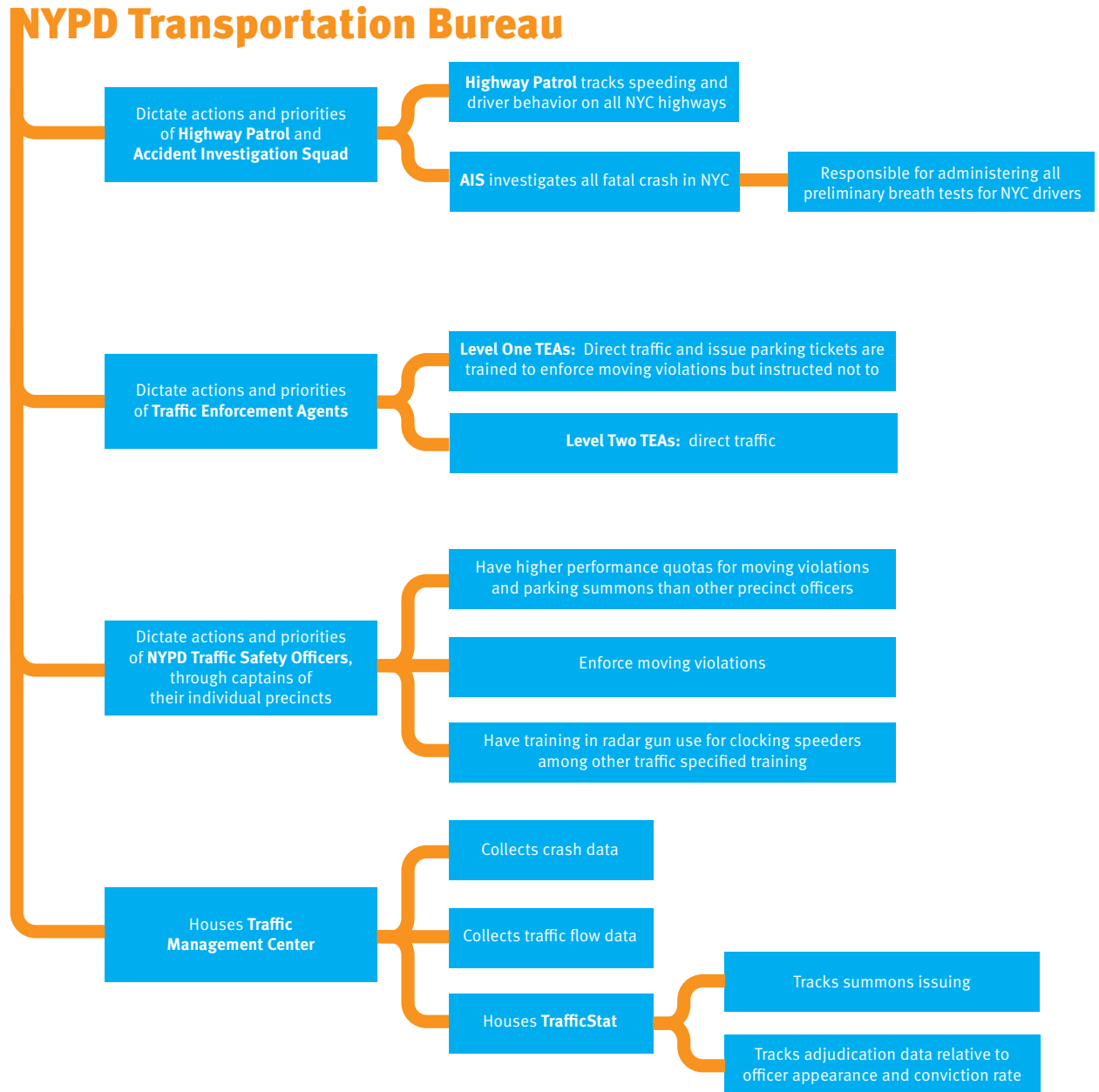
**District Attorneys Office Policy**

**New York City District Attorneys: Be responsive to traffic crime victims and their families by September 2009**

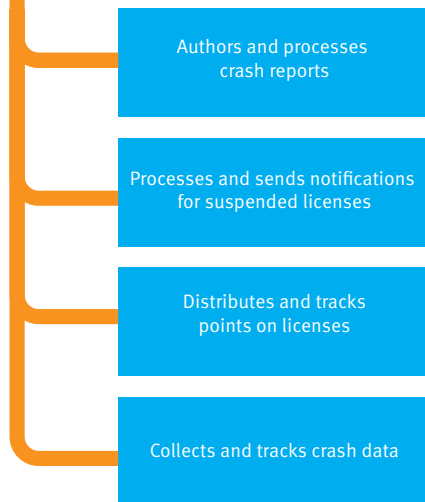
By treating traffic crime survivors and their families as responsive public servants, regardless of an ability to prosecute, the District Attorneys' Offices could solidify a positive relationship with survivors and victims families.

# Appendix:

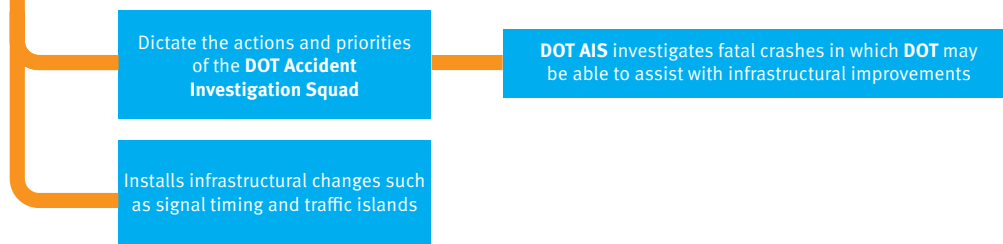
## Powers and Responsibilities: New York City Traffic Management



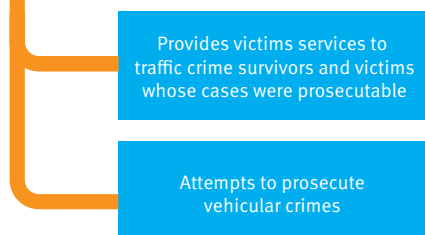
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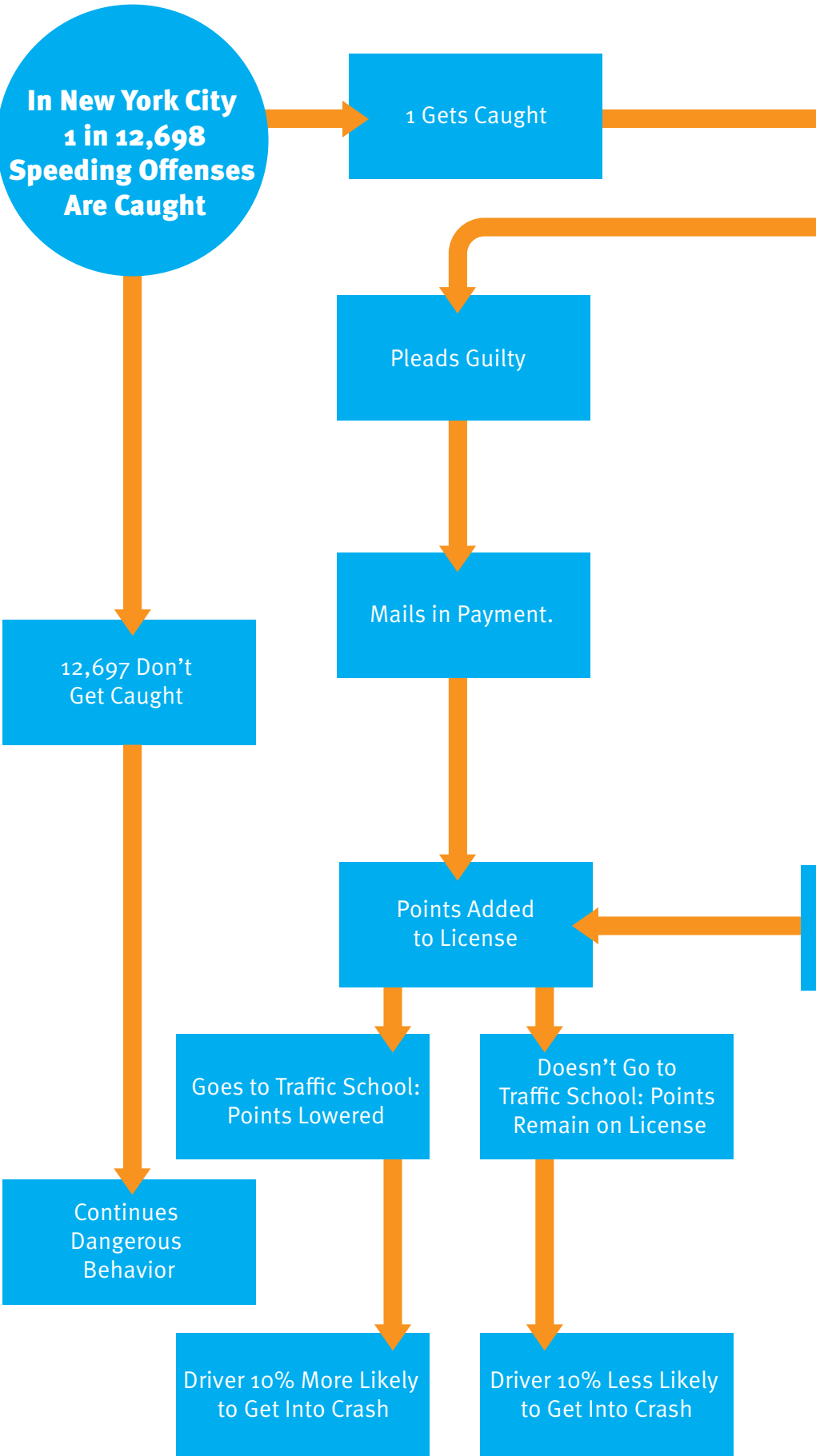
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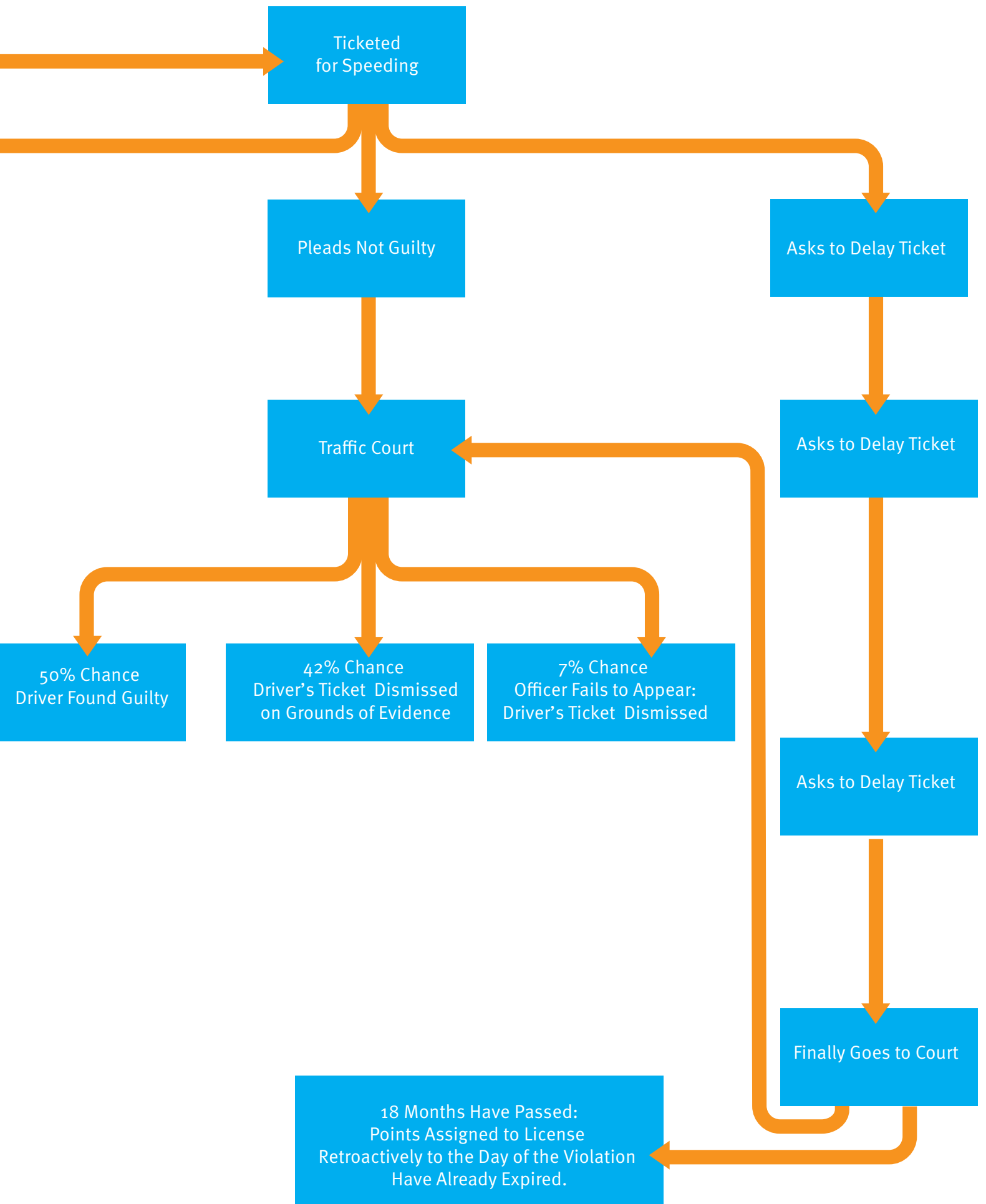


## NYC District Attorneys Vehicular Crimes Offices



**Appendix:**  
**Every Day in**  
**New York City**  
**2,730,000**  
**Drivers Speed**







OUR MISSION IS TO RECLAIM NEW YORK CITY'S STREETS  
FROM THE AUTOMOBILE, AND TO ADVOCATE FOR  
BICYCLING, WALKING AND PUBLIC TRANSIT AS THE  
BEST TRANSPORTATION ALTERNATIVES.