

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEES ON PUBLIC SAFETY AND TRANSPORTATION

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CHAIRPERSON VACCA: We thank you all for coming. This is a joint meeting of the Committee on Transportation with the Committee on Public Safety of the New York City Council, and we are having an oversight hearing today. I please ask anyone who has a cell phone on, to please put it on vibrate so that the hearing is not disrupted, okay? If I can have your attention. Okay. The topic is Oversight Proceeding with Caution, an Examination of the New York City Police Department's Accident Response and Enforcement of Traffic Rules Relating to Cars, Bikes, and Trucks.

Good morning, my name is James Vacca and I'm Chair of the Committee on Transportation, and I'm here with my co-chair today, the Chair of the Public Safety Committee of the Council, Council Member Peter Vallone. And I want to thank all the staff of his committee, my committee, and the Council for helping us to prepare for today's hearing. I want to thank the witnesses who are scheduled to testify and the friends and families of victims, as well as those who have been seriously injured in traffic

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crashes.

Outside, please, if you could tell them to take it further out.

[Pause]

Today we are here to discuss a topic critical to those of us who live, work, and play in our city: street safety. Our streets are important to us. However, statistics we've obtained from the New York City Department of Health and Mental Hygiene from 2000 to 2009 indicate that, at this point, more New Yorkers were killed by traffic than were murdered by guns. In fact, being struck by a car is the most common cause of injury-related death among children younger than 14-years old. Senior citizens are particularly afflicted. Adults over 65 represent only 12% of the city's population, but 38% of all pedestrian fatalities.

Before we go any further, let me state my belief--firmly held belief that driving in our city is a privilege, it is not a right. Motorists who are granted the privilege of driving on our city streets have the responsibility to uphold our laws, to stop at red lights, to drive

1 within the speed limit, to signal when changing
2 lanes, and to always, always yield to pedestrians.
3 I've said this at this committee before and I'll
4 say it again--the pedestrian is always right even
5 when the pedestrian is wrong.
6

7 Many of you might think that drunk
8 driving accounts for a large percentage of these
9 fatalities, and certainly we as a society have
10 focused on drunk driving. However, drunk driving
11 accounts for 8% of all traffic fatalities in New
12 York City. In New York City, speeding accounts
13 for more crashes than driver distraction and DWI
14 combined. Approximately 72,000 pedestrians,
15 drivers, passengers, and cyclists suffered
16 injuries from car crashes since 2005--72,000.

17 There are some people who think
18 that this is the wild, wild West and that they own
19 the streets and everybody else should get out of
20 their way. We have to bring these people to their
21 senses and let them know that we are here to
22 protect the greater good, not their insistence on
23 using our streets as their private speedways.

24 In New York City, you're more
25 likely to lose your life at the hands of a

1 speeding motorist than at a drunk driver; and
2 unless you're just unlucky, if you're that
3 speeding driver, you're probably not even going to
4 get caught. According to the Daily News, a 2009
5 report suggested that a driver could speed every
6 single day for 35 years without getting a ticket.
7

8 Let's have a few statistics on
9 speeding. At 40 miles an hour, a pedestrian hit
10 by a car has only a 30% chance of surviving; at 30
11 miles an hour, those chances improve to 80%; and
12 at 20 miles an hour, a pedestrian struck by a car
13 has a 98% chance of surviving.

14 I'd like to say that this means we
15 should hit the brakes a little bit or hit the
16 brakes a lot. Distracted drivers are the second
17 biggest killer, and I'm thankful for Governor
18 Cuomo and the leadership he's shown in this area.

19 Failure to yield to pedestrians in
20 crosswalks and weaving in and out of traffic lanes
21 are also major factors in pedestrian and cyclist
22 death. More pedestrians are hit crossing when the
23 light is against--more pedestrians are hit
24 crossing with the light than against it; but
25 pedestrians who are struck crossing mid-block or

1
2 against the signal are 56% more likely to be
3 killed or seriously injured.

4 Now that we've gone down all these
5 roads, what actually happens when a pedestrian is
6 struck and killed by a car? Anecdotal evidence
7 suggests that, unless the driver is drunk or
8 distracted, in the overwhelming majority of cases
9 involving fatalities or serious injury, there are
10 no charges filed at all. Even if the driver is
11 ticketed for a moving violation, rarely is an
12 additional penalty applied for actually taking a
13 life. Now maybe I'm missing something, but it
14 seems pretty obvious to me that there is a big
15 difference between running a red light and killing
16 someone while running that red light. Cyclists
17 and pedestrians are being killed and seriously
18 injured all over our city, once every 35 hours in
19 fact, and the drivers are literally getting away
20 with it.

21 In 2010, the New York State
22 legislature passed Diego's and Hayley's Law and
23 Ellie's Law in an attempt to find some type of
24 middle ground between a traffic ticket and
25 criminally negligent homicide. These companion

1
2 piece of legislation established a violation of
3 failure to exercise due care. And I'm thankful
4 that Senator Squadron and Assemblyman Kavanagh for
5 sponsoring the bill, and I think you'll be hearing
6 testimony, at least from Senator Squadron's office
7 today. These laws that require a driver to use
8 due care when operating a motor vehicle have been
9 hampered in its enforcement because of the
10 perception by law enforcement that a police
11 officer must be present to charge someone for
12 violating this provision. I disagree with the
13 interpretation of that law, and we're asking that
14 additional legislative tools be given by the state
15 to allow this law to be enforced in a meaningful
16 way.

17 It seems obvious to me that drivers
18 who speed and kill someone or who run red lights
19 and kill someone or fail to yield to pedestrians
20 and kill someone, it seems to me that these people
21 are failing to exercise due care. It's more than
22 a moving violation. Have no doubt about that.
23 But only a tiny percentage of drivers have been
24 charged under these laws, and here are a few
25 examples that we just took from headlines we saw

1
2 in newspapers. And in the past two to three
3 weeks, more than any other time I can remember,
4 the headlines are ominous, the articles are
5 frightening, and what we see happening on our
6 streets really highlight the need for this
7 hearing.

8 In January, an elderly pedestrian
9 was walking to his car in a Co-op City parking lot
10 and was fatally struck by a motorist. The
11 motorist took someone's life, but in this case, he
12 was not even given a traffic ticket.

13 Last August, a motorist driving
14 with a suspended license struck and killed a 70-
15 year-old cyclist in Rockaway Beach, Queens. The
16 motorist was charged with driving with a suspended
17 license, but faced no charges for taking a man's
18 life.

19 Two weeks ago, a 12-year old girl
20 was fatally struck when she stopped to retrieve
21 the backpack she dropped while trying to cross
22 Delancey Street. The driver said he didn't see
23 her and cops said he didn't run a red light. No
24 criminality was suspected, no charges were filed.

25 None of these drivers faced any

1 charges more serious than your garden-variety
2 traffic ticket. If that. And yet someone's life
3 was changed forever or gone entirely. Why were
4 none of the drivers charged with failure to
5 exercise due care or charged with anything else?
6

7 Just this past weekend, two
8 pedestrians and a cyclist lost their lives at the
9 hands of hit-and-run drivers in three separate
10 incidents. The police are still searching for
11 suspects in all three cases. I want to know what
12 the PD is doing to track down these scofflaws and
13 to bring them to justice. This must involve more
14 than just a traffic ticket.

15 There is something seriously wrong
16 with this picture. Until we live in a city where
17 no pedestrian, cyclist, or motorist, for that
18 matter, dies at the hand of a speeding,
19 distracted, drunk, or reckless driver, one death
20 will be one death too many. We don't accept gun
21 violence as a way to die and we shouldn't accept
22 traffic deaths as a way to die either.

23 [Pause]

24 Is there evidence that we have to
25 do more? I think the evidence is that we must do

1
2 more. The Department of Transportation has tried
3 many strategies from their perspective to slow
4 down traffic, to create an awareness, Albany has a
5 role to play in this matter vis-à-vis red lights,
6 red camera lights that I've supported. We must
7 make sure that speeding is prevented, and
8 prevention means red light cameras at key
9 locations that we identify as being chronic
10 problems.

11 Today, we hope to get the answers.
12 And I must say that we want the police department
13 to know that this should be put on your radar
14 screen, literally and figuratively, and we're
15 committed to getting you resources, if that should
16 be the case--resources you may not now have to
17 fight this problem. But to see what we see every
18 day and to continue to see many people mowed down
19 in their own communities is unacceptable to us--
20 it's a problem that we want addressed.

21 [Applause]

22 CHAIRPERSON VACCA: --nobody's
23 here.

24 [Background Noise]

25 CHAIRPERSON VACCA: Do it?

2 CHAIRPERSON VALLONE: Turn it over
3 to me.

4 CHAIRPERSON VACCA: No, I have one
5 question.

6 CHAIRPERSON VALLONE: Oh.

7 [Off mic]

8 [Pause]

9 CHAIRPERSON VACCA: Okay. I'd now
10 like to turn the chair over to my co-chair,
11 Council Member Peter Vallone.

12 CHAIRPERSON VALLONE: Thank you,
13 it's my privilege to work with the great Jimmy
14 Vacca and thank him and his staff for working with
15 my staff to prepare for this hearing. I want to
16 thank all the advocates who have given us a lot of
17 information that helped us prepare for this
18 hearing, police department also for their
19 cooperation.

20 I'm going to not read my opening
21 statement in the interest of time and I'd like to
22 get to the testimony. And just say quickly that
23 apologize for the room, City Hall hopefully will
24 be open soon, but that's above my pay grade as to
25 when that actually happens, and we have an

1
2 overflow room for those who can't get into here.

3 Many of our Council Members are in
4 Israel on a trip getting firsthand knowledge of
5 the problems that they face over there. I've done
6 that trip, it's very worthwhile. So that's why
7 we're missing a few today.

8 And I just would like to say that
9 the subject of this hearing has been--is probably
10 the source of most of the--a large part of the
11 complaints into our Council offices. Pedestrians
12 walking against the light, bikers endangering to
13 pedestrians, cars endangering our bicyclists,
14 trucks endangering everyone else on the streets.
15 And this hearing we're going to figure out what
16 the police are doing about all of those issues,
17 what more needs to be done, and how we can help
18 when it comes to legislation.

19 Chair Vacca mentioned some of the
20 legislation that exists and some of the new
21 legislation that was passed and how they're not
22 being used. I'm a former prosecutor, what the
23 police are saying is that those were offenses and
24 the law is an offense can only be observed by a
25 police officer, it can't be told to a police

1 officer. And so what we're doing is I'm
2 introducing--there is a law in Albany that will
3 allow police to investigate these certain
4 offenses, and I've introduced a Reso, which I'm
5 asking Chair Vacca to cosponsor with me,
6 supporting that bill in Albany so that the police
7 will no longer interpret the law that way and will
8 be able to investigate these offenses.
9

10 In addition, there is the crime of
11 reckless endangerment and I would like to know why
12 that is not being charged. If someone recklessly
13 creates a substantial risk of serious physical
14 injury, that is a crime right now; that can be
15 investigated right now. When a truck or a car
16 zooms through an intersection and endangers our
17 pedestrians and our bicyclists, in my mind, that's
18 reckless endangerment, that could be investigated
19 without any change in the laws. When a trucker--

20 [Applause]

21 CHAIRPERSON VALLONE: Thank you.
22 Okay. Well you know what, as gratifying as--

23 SERGEANT-AT-ARMS: Quiet.

24 CHAIRPERSON VALLONE: --that is, we
25 can't have that, and what a lot of people do

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2 nowadays is this thing, which won't get you thrown
3 out so that would probably a better way to do it.
4 But when a trucker slams into an overpass, that
5 endangers the lives of the people above and
6 underneath that overpass, and I would like to know
7 why reckless endangerment isn't being charged.

8 So those are some of the things
9 we'll learn during this hearing. We have with us
10 Council Members Garodnick and Lander, and more
11 will be showing up, I assume.

12 MALE VOICE: Dilan.

13 CHAIRPERSON VALLONE: Oh, and Erik
14 Dilan showed up, thank you, Chair of our Buildings
15 Committee. And like I said, I'm not going to read
16 my opening statement, I want to get straight to
17 the testimony. We've been joined this morning by
18 a Deputy Inspector Danny Mulligan, Deputy Chief
19 John Cassidy, Lieutenant Michael Kelly, who is the
20 Commanding Officer of the Accident Investigation
21 Squad, and Deputy Inspector Paul Ciorra, who's the
22 Commanding Officer of Highway District, and also
23 the omnipresent Sue Petito, who's Assistant
24 Commissioner and also legal counsel or something
25 like that. So glad to have you all here, which I

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2 think shows you the importance that you place on
3 this issue by having all of you sitting there, and
4 we appreciate your coming in and the work you've
5 done in this regard already. And we're going to
6 turn the floor over to whichever one of you will
7 be testifying. Thanks.

8 JOHN CASSIDY: Good morning,
9 Committee Chairs, Members of the Council. As the
10 Chair stated, I'm John Cassidy, I'm the Executive
11 Officer of the Transportation Bureau of the New
12 York City Police Department. With me today is
13 Deputy Inspector Daniel Mulligan of the New York
14 City Police Department's Patrol Services Bureau.
15 On behalf of Police Commissioner Raymond W. Kelly,
16 we are pleased to be here today to discuss the
17 police department's response to traffic accidents
18 and our enforcement of traffic laws and rules.

19 The New York City Police Department
20 plays a crucial role in developing effective
21 strategies and targeting enforcement efforts which
22 serve to encourage safe driving, and to hold those
23 who abuse their driving privilege accountable.
24 Working with our city partners, and in particular
25 with the city's Department of Transportation, we

1 saw in 2011 an all time record low in traffic
2 fatalities, which numbered 241--a 39% decrease
3 from the 393 traffic fatalities suffered in 2001.
4 This decrease holds true for traffic injuries as
5 well, with a steady decrease over the last decade
6 of 39%, again, since 2001. But, of course, we
7 know that one death or one injury on the city's
8 roadways is one too many. Therefore, we would
9 like to describe for you the ways in which the
10 police department focuses its attention and
11 resources on issues of traffic safety. We note
12 that our initiatives and strategies are constantly
13 evolving in order to address changing conditions
14 and respond with appropriate measures to improve
15 safety.
16

17 We would first like to describe the
18 structure in place in each precinct for the
19 analysis of our overall traffic safety, including
20 the presence of accident-prone locations. Every
21 patrol precinct has a Traffic Safety Team composed
22 of the Precinct Executive Officer, the Platoon
23 Commanders, the Training Sergeant, and the Traffic
24 Safety Officer. The team is responsible for the
25 development and implementation of the precinct's

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2 Traffic Safety Plan, as well as for amending the
3 plan as conditions change. The primary objectives
4 of the plan are the reduction of accidents,
5 injuries, and fatalities to motorists, bicyclists,
6 and pedestrians, and the efficient flow of traffic
7 through the command.

8 The Traffic Safety Team is tasked
9 with identifying accident-prone locations,
10 determining, to the degree possible, the factors
11 contributing to the accidents, and developing
12 strategies to address problem locations.
13 Corrective actions to address the identified local
14 conditions may include targeted enforcement,
15 public education, the sharing of information with
16 other commands and outside agencies via the
17 Traffic Intelligence Reports, and consultation
18 with the city DOT regarding possible engineering
19 changes.

20 A key member of the Traffic Safety
21 Team is the precinct's Traffic Safety Officer,
22 whose sole function is to monitor and address
23 traffic conditions in the precinct, including
24 ensuring the accurate completion of accident
25 reports and the identification of accident prone

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2 locations. In addition, each patrol borough has a
3 Traffic Safety Coordinator whose role is to
4 coordinate and support the efforts of the precinct
5 Traffic Safety Officers and Traffic Safety Teams.
6 At both precinct and borough levels, the Traffic
7 Safety Officers and Coordinators maintain close
8 working relationships with the DOT'S Borough
9 Commissioners, Precinct Community Councils, and
10 other government agencies.

11 In addition to analysis of accident
12 data, every precinct conducts a weekly Street
13 Conditions Survey in order to observe and report
14 on highway or street conditions requiring
15 correction. Examples of such conditions include a
16 broken traffic light or street light, missing or
17 shifted manhole covers, obstructed roadways,
18 flooding, and obstruction of traffic control
19 devices by trees, signs, or other obstructions.
20 The agency or entity responsible for correcting
21 the condition is notified, with immediate
22 notifications made for serious emergencies.

23 At the most basic level, the work
24 of the precinct's Traffic Safety Team depends on
25 the patrol officers who respond when traffic

1 safety has been compromised by a vehicle accident.
2 Patrol officers are responsible for conducting a
3 preliminary investigation culminating in the
4 preparation of a Police Accident Report. Accident
5 reports are prepared by police officers who, in
6 the vast majority of cases, did not observe the
7 accident, yet are tasked with determining to the
8 best of their ability, through observation and
9 interviews of parties and witnesses, the cause of
10 the accident. It should be remembered that
11 vehicle accidents may be attributable to a variety
12 of causes including unavoidable circumstances,
13 weather, equipment failure, or the negligence of a
14 driver, pedestrian, or bicyclist.
15

16 Officers may assess the potentially
17 self-serving accounts of parties to the accident,
18 and may not be able to make a definitive judgment
19 regarding contributing factors or fault. If they
20 determine that there is probable cause to believe
21 that a misdemeanor or a felony was committed by
22 one of the parties, the responding officers may
23 make a summary arrest, but in many instances, the
24 facts and fault are not sufficiently clear to
25 establish probable cause that a crime was

1 committed.

2
3 In cases where the officers suspect
4 that a crime was committed but are not sure that
5 the probable cause standard has been reached, they
6 will contact the supervisor who will confer with
7 the department's legal bureau, to determine
8 whether an arrest may be made. For accidents
9 which have resulted in a person being seriously
10 injured and likely to die, an enhanced response to
11 the accident is immediately deployed by the
12 Highway District and the Accident Investigation
13 Squad, or AIS. Their role is to utilize their
14 special training to conduct a more comprehensive
15 investigation, employing a variety of techniques
16 in order to establish speed, analyze skid marks,
17 and other physical characteristics of the accident
18 scene, and in essence, reconstruct the accident so
19 that a more definitive cause, possibly resulting
20 in criminal charges, may be determined. It is
21 very important to note that before a case
22 investigation is closed, the local district
23 attorney's office is routinely consulted, with the
24 DA determining whether criminal charges may be
25 brought.

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2 If the DA does not find that
3 criminal charges are warranted, the AIS is still
4 empowered to issue summonses for the traffic
5 infractions its investigation reveals, including
6 speeding, failure to exercise due care, failure to
7 stop at a red light, et cetera, even though under
8 normal circumstances a traffic violation would
9 have had to be personally observed by the issuing
10 officer. This exception to the general rule is
11 made based on the experience and expertise of the
12 AIS. In addition, where a moving violation, such
13 as speeding, has been established by the AIS, it
14 is also their policy to issue a companion summons
15 for the failure to exercise due care, pursuant to
16 Vehicle and Traffic Law Section 1146, since the
17 law was strengthened in October of 2010 to include
18 higher penalties when the operator causes physical
19 injury or serious physical injury.

20 On a citywide level, the department
21 is co-located with the city DOT in the Traffic
22 Management Center, the nerve center for monitoring
23 of traffic conditions through the city's network
24 of closed circuit television cameras. This
25 partnership provides an opportunity to observe in

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2 real time locations where police attention may be
3 needed, and to work together to address both
4 short-term and long-term needs to keep traffic
5 flowing safely in the city. The Traffic
6 Management Center collects and disseminates
7 accident statistics, exchanges accident data with
8 city and state DOT, and coordinates construction
9 projects and their impacts on the city's streets.

10 As you may recall, a critical part
11 of our traffic safety effort is embodied in the
12 Chief of Transportation's weekly TrafficStat
13 meeting, where all of the department's strategies
14 and initiatives are coordinated and monitored.
15 TrafficStat brings together all affected police
16 department commands to discuss in depth the
17 traffic conditions in a particular patrol borough.
18 TrafficStat meetings are led by the Chief of
19 Transportation, Chief James Tuller. Department
20 data is supplemented by the fact-finding and
21 experience of our operational personnel in order
22 to thoroughly analyze local conditions and take
23 steps to improve them, whether it be through
24 targeted enforcement, engineering changes, policy
25 initiatives, public education, or a combination of

1
2 all of these techniques. Representatives of the
3 city and state DOTs, the Taxi and Limousine
4 Commission, the TBTA, New York City Transit, and
5 MTA Bus operations participate in the TrafficStat
6 meeting, and work closely with us to make
7 recommendations, implement suggestions, and
8 institute changes coming out of this dynamic
9 TrafficStat process.

10 Both at TrafficStat and at the
11 precinct level, special attention is paid to
12 ensuring that enforcement efforts are focused on
13 hazardous traffic violations. In 2011, the
14 department issued over one million summonses for
15 moving violations, with more than half of them
16 falling into four categories: Using a cell phone,
17 disobeying a sign, failing to wear a safety belt,
18 and speeding. With specific regard to truck
19 enforcement, our specialized truck enforcement
20 units issued 14,962 moving violation summonses and
21 10,415 Criminal Court summonses to truck operators
22 in 2011. Further, our emphasis on enforcement of
23 the laws and rules applicable to bicyclists
24 resulted in the issuance of 13,743 moving
25 violations summonses and 34,813 Criminal Court

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2 summonses to bicyclists in 2011.

3 We appreciate the opportunity to
4 discuss the police department's continuing efforts
5 to make New York City's roads safe for everyone
6 using them, and we will be pleased to answer your
7 questions at this time.

8 CHAIRPERSON VACCA: Okay. Thank
9 you. I first have to read something into the
10 record concerning a bill that the City Council
11 passed at our last Stated Meeting. We are hearing
12 today a Preconsidered Bill sponsored by Council
13 Member Garodnick, a Local Law to amend the
14 Administrative Code of the City of New York in
15 relation to parking violations issued for the
16 failure to show a valid muni-meter receipt. As
17 you will all likely recall, the Council
18 unanimously passed Intro 301 on this subject and,
19 subsequent to that, at the request of the
20 Bloomberg Administration, some technical
21 amendments were made, which leads to this new
22 bill. There are no substantive changes. If you
23 have any specific questions, feel free to contact
24 Lyle Frank, sitting to my right, who is counsel to
25 our Committee, with any questions.

1
2 I note that at this point no one
3 has signed on to speak on this bill. Do any
4 Council Members wish to be heard? Since no
5 members wish to be heard, is there any testimony?
6 No one has registered for testimony and the record
7 will so indicate.

8 Okay. Thank you, again. I did
9 want to get to some questions. I think that we're
10 talking about reckless endangerment. Council
11 Member Vallone used that term, you used that term
12 in your testimony. Now how often do you charge an
13 individual who's speeding who causes injury to
14 another, how often do you charge them with felony
15 reckless endangerment?

16 CHAIRPERSON VALLONE: A
17 misdemeanor.

18 CHAIRPERSON VACCA: Which is a--

19 CHAIRPERSON VALLONE: It's both a
20 misdemeanor and a felony.

21 CHAIRPERSON VACCA: It could be--
22 right, and I meant misdemeanor felony as the
23 councilman has indicated. But how long--do you
24 use that to address this issue, this problem?

25 [Pause]

2 SUSAN PETITO: Mr. Chairman--

3 CHAIRPERSON VACCA: Identify
4 yourself.

5 SUSAN PETITO: --Susan Petito.
6 Unfortunately, reckless endangerment is not
7 segregated for record keeping purposes in our
8 arrest database and so we can't give you a
9 specific number of reckless endangerment charges
10 connected with speeding or any other particular,
11 even connected with a vehicle. So unfortunately,
12 that data is not available.

13 CHAIRPERSON VACCA: Is that a tool
14 that you could use to address this problem? How
15 do you instruct local commanders regarding the use
16 of the reckless endangerment provisions?

17 SUSAN PETITO: Well reckless
18 endangerment is certainly available as a tool, but
19 the problem is often that, because we can't reach
20 the level of probable cause because the police
21 officer did not observe the incident or there may
22 not be credible testimony or independent testimony
23 evidence regarding that, it may be difficult to
24 reach the probable cause level. That's why
25 responding officers frequently confer with the

2 legal bureau or, you know, often in the case of
3 the Accident Investigation Squad, the district
4 attorney to determine whether or not the probable
5 cause level has been reached.

6 CHAIRPERSON VACCA: Are you
7 satisfied with the priority that local district
8 attorney offices give to reckless driving? Do you
9 think that the DAs recognize the extent of the
10 problem as we do here on this committee today? Is
11 this something that they have worked with your
12 office in trying to address, understanding that
13 there is a concern about the level of this issue
14 being addressed today?

15 SUSAN PETITO: Well if I may, I
16 believe that we have a very good working
17 relationship. The district attorney's offices all
18 have dedicated personnel either at the bureau
19 chief level or specialized people who deal with
20 the criminal charges associated with vehicle
21 accidents.

22 CHAIRPERSON VACCA: We were talking
23 about investigations before and I wanted to go
24 into this, I need to know what type of
25 investigation is made by the police department

1
2 when someone is not killed and when someone is not
3 seriously injured. What is the level of the
4 investigation when someone's not killed or
5 seriously injured?

6 JOHN CASSIDY: Well as I spoke
7 about previously in my testimony, when there's a,
8 what we would call a normal accident in which
9 there is not a death or a serious physical injury
10 with a likely to die, verified by a doctor at the
11 hospital an individual is removed to, the local
12 patrol officers in the precincts respond to the
13 scene, they use observation and inquiry to
14 formulate an accident report, the MV 104 AN, and
15 they fill out the accident report, they obviously
16 tend to whatever issues needed to be tend to, the
17 individuals involved in the accident. And at that
18 point, the accident report itself, you know, goes
19 to the precinct where it's reviewed to make sure
20 that, you know, all of the appropriate information
21 has been entered so it could be a tool utilized in
22 the TrafficStat process and at the command level,
23 you know, to formulate any possible response that
24 might be necessary at that particular location,
25 should it be designated an accident-prone location

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2 or a corridor where accidents are beginning to
3 show a rise. And it's basically a tool, again,
4 you know, for us access information to formulate,
5 you know, strategies to deal with it.

6 But in terms of the accident
7 itself, they make a determination based on their
8 observation and inquiry of the individuals at the
9 scene, witnesses that may be available at the time
10 of the accident or maybe in the area at the time
11 of the accident, and they conduct sort of a small
12 investigation at the location in order to
13 formulate, you know, the details of the accident
14 report and fill in the appropriate boxes, you
15 know, on the report designating exactly what
16 contributed to the accident at that location. But
17 that's the extent of what occurs.

18 CHAIRPERSON VACCA: You know, I
19 have to tell you all that wherever I go in my
20 district and wherever I go in the city, one of the
21 most common complaints is the speed with which
22 people drive. People want four-way stop signs,
23 people want speed bumps, people want speed boards,
24 people want something done about the way people
25 drive. Now there is a unit that I've known about

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2 in the police department for some time called
3 Highway 1. Now Highway 1 is supposed to be
4 addressing speed issues in the city, that's my
5 understanding. I'd like to know the level of
6 manpower in Highway 1. And since you use 2001 as
7 a gate by which you judged fatalities compared to
8 2011, how many people did we have on Highway 1
9 working there in Highway 1 in 2001; how many do we
10 have now? And then I wanted to follow up. But
11 I'd like to know about Highway 1 and the level of
12 manpower there that--since that's the unit that I
13 do know addresses these issues.

14 JOHN CASSIDY: Okay. We'll let me
15 just correct a little misinformation that might
16 have been provided to you by accident. The
17 Highway units are broken down 1, 2, 3, and 5 by
18 borough. So Highway 1 is actually the unit that
19 oversees the Bronx and Manhattan; Highway 2 is the
20 highway unit that's based on Flatbush Avenue and
21 they oversee highway patrol enforcement of the
22 highways in Brooklyn; Highway 3 takes care of
23 Queens; and Highway 5 is Staten Island.

24 So within each one of those highway
25 units, there are officers that are conditions

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2 officers that address, you know, what you're
3 interested in, in terms of they go out and they
4 write the hazardous violations on the highways.
5 The other officers are routine patrol officers,
6 they also are out on the highways writing
7 violations, but their main focus is to respond to
8 accidents on the highways and they're also the
9 preliminary investigators, the techs, as we call
10 them, in accident investigations and they do the
11 IDTU testing.

12 You can differentiate them, but
13 usually the patrol officers, as we will call them,
14 are in the marked units, all right? They're the
15 ones that are visible, you see them when they're
16 out on a highway, we utilize them obviously with
17 their high-rises, et cetera, the scene of
18 accidents for safety, and to make sure that, you
19 know, the motoring public on the highways has a
20 response, you know, should they be involved in an
21 accident, that's sort of their primary duty. But
22 when they are not responding to those accidents,
23 they also, you know, will write summonses for
24 speeding, et cetera. A little more difficult
25 because of the fact that they're visible, you

1 know, because of the marked status of their cars.

2
3 In each one of the highway
4 commands, there are conditions officers. The
5 conditions officer's primary focus is to do
6 enforcement on speed and other designated
7 hazardous violations that have been determined
8 based on an examination of the accident reports
9 that lead us to believe that in that particular
10 stretch of the highway, the reason why we are
11 getting accidents is certain contributing factors.
12 And we put them out there to deal with those
13 contributing factors in order to see to it that we
14 can suppress the amount of accidents along
15 particular roadways.

16 So it would be a combination of
17 Highway 1, 2, 3, and 5 conditions units would
18 basically be doing, Mr. Chairman, what you're
19 asking. So I'll turn that over to--

20 [Crosstalk]

21 CHAIRPERSON VACCA: [Interposing] I
22 appreciate you clarify, I kept talking in terms of
23 Highway 1, that's a Bronx thing, but we have
24 highway units throughout the city and you are--

25 JOHN CASSIDY: Yes.

2 CHAIRPERSON VACCA: --correct. So
3 can you give me the manpower--

4 JOHN CASSIDY: Absolutely.

5 CHAIRPERSON VACCA: Thank you. I
6 should mention we're joined by Council Member
7 Lappin and Council Member Brewer and Council
8 Member Lander--well you were here--Council Member
9 Tish James as well.

10 PAUL CIORRA: Sir--

11 CHAIRPERSON VACCA: Yes.

12 PAUL CIORRA: --sir, Paul Ciorra,
13 CO Highway District. In 2000, Highway Patrol had
14 107 police officers; in 2011, 58, sir.

15 CHAIRPERSON VACCA: So--

16 JOHN CASSIDY: That's Highway 1.

17 PAUL CIORRA: That's Highway 1,
18 sir.

19 JOHN CASSIDY: That's Highway 1.

20 CHAIRPERSON VACCA: Highway 1 is
21 only the Bronx?

22 JOHN CASSIDY: Bronx--

23 PAUL CIORRA: Bronx and Manhattan,
24 sir.

25 CHAIRPERSON VACCA: Bronx and

2 Manhattan. So--

3 JOHN CASSIDY: [Interposing] Would
4 you like all of it?

5 CHAIRPERSON VACCA: Do you have the
6 other stats as well, can you give me the breakdown
7 'cause--

8 [Crosstalk]

9 PAUL CIORRA: [Interposing] Yes,
10 sir. For the Highway District in--

11 CHAIRPERSON VACCA: Yeah.

12 PAUL CIORRA: --total, in 2000, we
13 had 376 officers; in 2011, 211 officers.

14 CHAIRPERSON VACCA: So looking at
15 these numbers, the highway unit--and let me
16 clarify, I asked about the highway unit for a
17 couple of reasons. First of all, you can safely
18 assume I think, or unsafely assume I should say,
19 that people who drive very, very fast on highways
20 are then going on to residential and commercial
21 streets and possibly or probably doing the same
22 thing. Now your Highway unit I heard, Commander,
23 all right, I heard that--and I do know from
24 history that upon request or from an elected
25 official, community board, sometimes those units

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2 go on to residential streets where there's a
3 history of speed racing. But your manpower for
4 this unit's been slashed by 40% since 2001, that's
5 what we're hearing. We are hearing that the
6 manpower that the police department has to address
7 speeding in this city has decreased by 40% since
8 2001. And how are we, as New Yorkers, supposed to
9 feel safer when we hear a statistic like that?

10 JOHN CASSIDY: Basically, the
11 highway patrol, it's true, has been reduced in
12 numbers. In order to make up for that, in years
13 past, the highway patrol did do speed enforcement
14 in the precincts, and what we've done since, you
15 know, the reduction in number of highway patrol
16 officers is that, for the most part, the precinct
17 enforcement of speed is done by the precinct
18 officers. So what they have--what we started in
19 years past was a training program, it started with
20 the task forces that are assigned to each borough
21 and then grew into the precincts as well. Usually
22 the highway safety officers start and then they
23 expanded onto each platoon so that there are radar
24 qualified people on each of the platoons.

25 And then they, you know, the

1 precinct commanding officers we spoke about
2 before, during the TrafficStat process, when they
3 come up, we monitor what type of speed enforcement
4 they're involved in, we see to it that the speed
5 enforcement is designated to locations where the
6 accident reports or the community input seems to
7 indicate that there is a speed issue. And these
8 precinct officers do the radar enforcement in
9 their own precincts. And so that's a way in which
10 we have supplemented, you know, the reduction in
11 manpower that the highway patrol had that, in
12 years past, was the main citywide precinct and
13 highway mechanism by which speed was enforced.

14 CHAIRPERSON VACCA: But I have to
15 respectfully point out to you that the highway
16 people had as their sole function addressing speed
17 issues. If this is referred to a large extent to
18 local precincts, we are asking police officers and
19 local precincts, who've already had their ranks
20 depleted by 7,000 officers since 2001, to now do
21 their normal course of work as well as traffic
22 enforcement, and I would venture to say that
23 they're not going to be doing traffic enforcement
24 full time, that they're going to have other things
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2 to do, so there's been a diminution in the
3 enforcement that we used to see in the city. A
4 40% reduction cannot mean that we're doing more
5 with less because we've had other cuts to the
6 force that, when cumulatively considered, cannot
7 result in more enforcement, cannot possibly result
8 in more speeding enforcement.

9 JOHN CASSIDY: I'll answer that by
10 saying that, first of all, use a statistic, but
11 then expand on that. Speeding last year in 2011,
12 we gave out 76,493 speeding summonses in the city
13 of New York, which is an appreciable number. What
14 we have tried to do, realizing that we are 6,000
15 people short in the last decade in terms of
16 overall strength in the police department and,
17 therefore, you know, many of the police
18 department's units have had to learn how to do
19 more with less. What we have utilized is
20 technology, which is a common part of our own
21 lives today, in that in the ability to access all
22 of these statistics and bring them to you, and the
23 TrafficStat process also allows us, you know,
24 through our various data entries, to begin to
25 narrow down the locations where speed enforcement

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2 is necessary. And while you could certainly make
3 the case that, you know, you could find numerous
4 roads in the city of New York where people would
5 violate, you know, say a 30 mile an hour speed
6 limit in a precinct and DOT compiles those and
7 does provide them to the police department in
8 terms of concerns that they have where we need to
9 target enforcement and works with us in
10 conjunction to deploy our resources. We also use
11 the accident reports and, as I stated before, the
12 community input to determine locations in the
13 precinct where we would--where the speed
14 enforcement would give us sort of the most bang
15 for the buck in terms of making sure that we get
16 the highest speeders and we address the locations
17 where we need to address.

18 CHAIRPERSON VACCA: I have one last
19 question, and then I want to go to my co-chair and
20 my colleagues. Speed guns, who has speed guns?
21 Do local precincts? Does every car have a speed
22 gun and--

23 PAUL CIORRA: No.

24 JOHN CASSIDY: No, what ha--

25 CHAIRPERSON VACCA: How many speed

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guns do we have and--

JOHN CASSIDY: Number I would refer to the Inspector from Patrol Services Bureau. But let me just say this, that there are speed--there are radar devices, not only in highway patrol, but in every precinct. Every precinct has them and every borough has a supplemental supply, should they be sent out for repairs.

Some of the precincts, you know, have more than others based on the fact that they do more speed enforcement because the statistics indicate that they might have, you know, larger corridors that run through them in which speed is more of an issue. So there is, you know, some locations where they--it's not like each precinct has one or each precinct has two, the number does vary, but every precinct does have the equipment and the officers trained to do the speed enforcement. And as far as the numbers, I'll have to defer to Inspector Mulligan from Patrol Services.

DANNY MULLIGAN: As the Chief was saying, every command does have--

[Crosstalk]

2 FEMALE VOICE: [Interposing] Speak
3 into the mic, please.

4 DANNY MULLIGAN: I'm sorry. As the
5 chief was saying, every command does have a radar
6 gun. Unfortunately, I don't have the specific
7 number with me by command, I can get you that
8 information, but it is at least one per command
9 and task force throughout the city. And they're
10 trained by--at least approximately four officers
11 per command are trained in speed enforcement by
12 the highway district. And then during they're
13 routine duties they do enforced speed at specific
14 locations identified by the TrafficStat process.

15 SUSAN PETITO: Mr. Chairman, could
16 I--

17 [Crosstalk]

18 SUSAN PETITO: --add something to
19 the discussion of speeding?

20 CHAIRPERSON VACCA: Yes.

21 SUSAN PETITO: Talking about
22 technology, the city has for several years
23 requested legislation in Albany to authorize speed
24 cameras for the city and that's something that we
25 would love your support and assistance on.

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2 CHAIRPERSON VACCA: You have my
3 support and we've passed legislation and we want
4 more cameras and that is an issue in Albany, but
5 we in the Council and my committee has supported
6 that.

7 I do want to mention we're joined
8 by Council Member Van Bramer and Council Member
9 Eric Ulrich. Okay? Chair Vallone.

10 CHAIRPERSON VALLONE: Thank you,
11 Chair Vacca. I am still amazed by the statistic
12 that you are down close to 45% in highway officers
13 since 2000. As you know, I've been trumpeting the
14 fact that the police force, as a whole, is down
15 from 41,000 to a little over 34,000 right now,
16 which is a 15% or so cut, but you guys are down
17 over 40%, so it sounds like you took even more
18 cuts than the police department as a whole. And
19 Council Member Vacca is exactly 100% correct when
20 he says that transferring your duties to the
21 precincts is next to useless because our precincts
22 are down on average from 300 in about 2000 to 150
23 now, and they are overworked and cannot get to
24 many quality-of-life crimes and absolutely cannot
25 spend their resources enforcing speeding laws.

1
2 And that's, unfortunately, what's happening right
3 now based on your testimony.

4 Just so people aren't fooled, the
5 Administration has said--has trumpeted the 1,500
6 police officers that came out of the academy this
7 year as being able to assist the police
8 department. What they failed to tell you is that
9 2,000 police officers retired this year, so we're
10 down again this year, as we've been down every
11 year for the last ten in the amount of police
12 officers on our streets trying to enforce these
13 rules that keep our roads safe.

14 How has the Accident Investigation
15 Squad been affected manpower wise?

16 PAUL CIORRA: I know it--

17 [Crosstalk]

18 JOHN CASSIDY: Go ahead.

19 PAUL CIORRA: Sir, I'm sorry, in
20 2000, there was 1 lieutenant, 4 sergeants, and 24
21 detectives; we have 1 lieutenant, 3 sergeants, and
22 19 detectives, so we haven't taken as a big hit as
23 the other units, sir. And let me add, though jobs
24 have gone down greatly, the amount of fatalities
25 so...

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2 CHAIRPERSON VALLONE: Well it looks
3 like you didn't take such a big hit because you
4 started out with almost nothing to begin with. So
5 I mean, there's not that many officers on daily
6 duty citywide when you take out--when you factor
7 in shifts and vacation days and things like that.

8 How many would be working on any
9 given shift?

10 PAUL CIORRA: Sir, depending on
11 what day of the week, I have 24/7 coverage, seven
12 days a week, 24/7, there's always at least one
13 detective working, many times at least a
14 supervisor and two, three, four, five. During the
15 week, of course, there's more officers than there
16 would be in the evening.

17 CHAIRPERSON VALLONE: Let's get
18 back to the fact that there aren't, as far as I
19 know, there aren't many, if any, reckless
20 endangerment arrests arising out of these traffic
21 accidents. So let me give you a hypothetical and
22 just tell me what happens in this normal
23 situation. A pedestrian or a bicyclist is injured
24 by a motorist, the injured party has been taken
25 away to a hospital, you don't know the extent of

2 the injuries, and you arrive at the scene and
3 there are witnesses there who said that this
4 motorist, whether it be a truck or a car, blew a
5 stop sign and hit the bicyclist. What happens,
6 you arrive at the scene, what happens?

7 JOHN CASSIDY: At this point, the
8 determination has been made that the person is
9 seriously injured--

10 [Crosstalk]

11 JOHN CASSIDY: --and likely to die?

12 CHAIRPERSON VALLONE: Well I want
13 to--

14 [Crosstalk]

15 JOHN CASSIDY: [Interposing]
16 Because we wouldn't be called otherwise, that's my
17 point.

18 CHAIRPERSON VALLONE: The accident--
19 -

20 JOHN CASSIDY: In other words, just
21 the New York City--just the regular patrol
22 officers will respond to an accident, and when
23 they respond to the accident, if, you know, we do
24 a normal accident report. If the indication is
25 from, say, the ambulance attendant, sometimes it's

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2 very obvious, but if the indication is from the
3 ambulance attendant, gee, this individual is
4 seriously injured and there is a possibility that,
5 you know, may expire from his injuries. At that
6 point, you know, the patrol supervisor is called
7 to the scene by the precinct personnel, and then
8 the patrol supervisor initiates a request for an
9 accident investigation response.

10 CHAIRPERSON VALLONE: So let's
11 start out with first, why is that? Is that
12 policy, is that law, why is the accident
13 investigations team only summoned when there is
14 this likely to die injury?

15 JOHN CASSIDY: That's our policy,
16 it's basically our patrol guide, now an interim
17 order that's updated the patrol guide, and it's
18 basically in--the Accident Investigation Squad
19 responds to fatalities or seriously injured and
20 likely to expire.

21 CHAIRPERSON VALLONE: Why is that?
22 I've learned not to take because that's the way we
23 do things as an answer, why have we determined
24 that that's the way things should be done?

25 JOHN CASSIDY: Well the policy is

1 based on the fact that that level of extensive
2 investigation is required in those circumstances.
3 Where normal circumstances in which persons are
4 not in that condition, you know, the regular MV
5 104, the regular patrol officer responding to the
6 scene, the precinct detective unit doing the
7 follow-up, et cetera, is sufficient, and that's
8 the department's policy. I don't set policy, sir,
9 I just implement policy.

11 CHAIRPERSON VALLONE: Okay. So if
12 somebody were paralyzed for life or if somebody
13 had two broken legs, the accident investigations
14 team would not be brought to the scene?

15 JOHN CASSIDY: They might be
16 brought to the scene initially based on what
17 you're describing, maybe something that an EMS or
18 a doctor at the hospital may determine is a
19 likely, and so a case might be opened under those
20 circumstances. But if there is not a likely to
21 die or a death, then, no, they wouldn't respond.

22 CHAIRPERSON VALLONE: Right, so
23 let's keep it simple, two broken legs, no accident
24 investigations team is coming to the scene. So
25 let's go first with the there is a likely to die,

1
2 investigation team comes to the scene, what
3 happens?

4 JOHN CASSIDY: Well I'll let--
5 basically they respond to the scene. What you
6 have at first is we were talking about before with
7 the Accident Investigation Squad detectives, okay,
8 the ones who do the follow-up and, as I'm sure
9 you're aware, there's a difference between patrol
10 and detectives, with your background, so it's
11 similar in nature. In other words, as I spoke
12 before, the normal highway patrol officer is what
13 we call an AI tech, so what would happen is the
14 sergeant responds to the hospital or to the scene,
15 depending on where the individual is. A sergeant
16 or a lieutenant makes a determination after
17 consultation with the doctors, say at the
18 hospital, to keep it simple, that there is a
19 likelihood. At that point, the accident
20 investigation technicians, who are the uniformed
21 officers that you normally see at these scenes,
22 respond to the location and they begin the
23 examination of the scene. Their job initially is
24 basically documentation of the scene itself. And
25 they are, you know, the normal highway patrol

1 officer is not the Accident Investigation Squad.
2 They begin the documentation process in that, you
3 know, they do the enhanced reports, they do the
4 work ups on the cars, they'll even begin to
5 interview witnesses and they'll give the PDTs to
6 the operators, and at that point they're doing
7 this--

8 [Crosstalk]

9 JOHN CASSIDY: --while the squad is
10 respond--

11 CHAIRPERSON VALLONE: [Interposing]
12 Because not everybody is a former prosecutor, you
13 say PDTs to the operators, you mean--

14 JOHN CASSIDY: [Interposing] Right,
15 they give the alka-sensor test, I think it's
16 commonly referred to, to all operators to see if
17 there's any intoxication. They do observations of
18 the operators to see if there is any indication.
19 Also the patrol officers are there as well, unless
20 it happens on the highways exclusively. At that
21 point, the detectives would arrive on the scene
22 and they would, you know, then begin the
23 investigative process, interviewing witnesses,
24 looking for cameras, checking the paperwork, et
25

2 cetera. And then if you need additional,
3 Lieutenant Kelly can break it down for you to the
4 smallest details.

5 CHAIRPERSON VALLONE: Okay. So
6 first of all, how many times has--and let's say in
7 2011 has the accident investigation team been
8 summoned?

9 [Off mic]

10 MICHAEL KELLY: Can you repeat that
11 question--

12 [Crosstalk]

13 CHAIRPERSON VALLONE: How many
14 times in 2011 was the accident investigations team
15 summoned to the scene of an accident? You have to
16 identify yourself, speak into the mic.

17 [Off mic]

18 MICHAEL KELLY: We had 304 jobs in
19 2011.

20 CHAIRPERSON VALLONE: So there were
21 241 deaths in 2011, so there were only 60 or so,
22 70 likely to dies?

23 MICHAEL KELLY: That did not, yes.

24 CHAIRPERSON VALLONE: That did not,
25 thank God, okay. And in how many of those cases,

2 excluding DWI and leaving the scene, were criminal
3 charges brought?

4 MICHAEL KELLY: Two thousand 11 I
5 had 52 arrests, 17.10% criminal charges. I can
6 tell you that pedestrians--in pedestrian cases
7 where I had 176, I had 28 arrests; bicycle cases,
8 I had 27 [background noise] arrests; occupant
9 cases, operator and passenger 101, I had 22
10 arrests.

11 CHAIRPERSON VALLONE: I'm confused
12 already, so let's just slow down. And let's start
13 from the first, the question was, in how many
14 cases, excluding DWI and leaving the scene, how
15 many arrests arose out of those incidents? And
16 just start slower with those numbers.

17 MICHAEL KELLY: Well I have it just
18 as the criminal charges brought during our cases,
19 I didn't separate.

20 CHAIRPERSON VALLONE: So then so
21 you're not going to be able to answer--

22 MICHAEL KELLY: I won't be able--

23 [Crosstalk]

24 CHAIRPERSON VALLONE: --that
25 question today, but I would like to know the

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answer to that question.

JOHN CASSIDY: Absolutely.

CHAIRPERSON VALLONE: 'Cause obviously DWI or leaving the scene is a separate crime from the actual injuring of the pedestrian or the bicyclists. So let's go to not likely to die now, the accident investigation team is not, is not summoned, but you've got witnesses on the scene and you've got patrol officers on the scene, and the witnesses are saying that this car was speeding, maybe excessive speeding, or this car blew a stop sign, blew a red light and it hit this person causing an injury but not likely to die, what happens?

JOHN CASSIDY: It would be a number of things, depending on the scene itself. First, you know, they would, as I said before, they would arrive on the scene, if there are physical characteristics at the scene that they can work up. In other words, if the speeding was something in which the individual, you know, was forced to utilize his brakes, they would leave skid marks at the location. And I'll let, you know, Mike talk to that, but there's a work up that they can do to

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2 determine speed. Obviously, in today's day and
3 age, again, referring back to technology, you
4 know, we're blessed in some types in some
5 locations with the ability to access cameras,
6 sometime our own cameras, city DOT cameras, and
7 sometimes, you know, cameras from local
8 establishments or cameras that--in the area
9 themselves that prove to be very fruitful in terms
10 of acquiring film that will support, you know,
11 whatever allegations, you know, were made by
12 witnesses at the scene itself.

13 CHAIRPERSON VALLONE: The patrol
14 officers themselves are doing this?

15 JOHN CASSIDY: I thought you said
16 the accident investigations team.

17 CHAIRPERSON VALLONE: Well no, no,
18 we moved to a different height, but where there's
19 not--it's not a likely to die, but you've got a
20 broken leg, you've got an injured pedestrian or
21 cyclist, and you've got to witnesses who say that
22 speeding occurred or stop sign was blown, what
23 happens?

24 JOHN CASSIDY: The patrol officers
25 would be at the scene, they would be involved in

1
2 the process, they would take down the information
3 that whatever the witness' statements are at the
4 location to determine whether, you know, to
5 indicate on the accident report what the witness'
6 statements were, but there is no follow up in that
7 case.

8 CHAIRPERSON VALLONE: So is it safe
9 to say that no reckless endangerment charges have
10 ever arisen in an accident such as the one I've
11 described where there was no accident
12 investigation team at the scene, no likely to die?

13 JOHN CASSIDY: No, unless, like I
14 said, there was something that led to, you know,
15 the officers to consult with the patrol supervisor
16 and they would call the legal bureau and see
17 whether there was something there that would
18 enable them to further enhance that using the
19 precinct detective squad, which would respond,
20 they would also be able to do something similar to
21 what the AIS squad does in terms of getting camera
22 marks and that sort of thing. But, again, you
23 know, the ability to do a skid mark, you know,
24 compilations and such is not within their purview.

25 CHAIRPERSON VALLONE: Well can

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2 somebody tell me how many criminal charges have
3 arisen from accidents which did not involve likely
4 to die? [Pause] I'd like that number, and I'd
5 also like that broken down in the types of
6 criminal charges because, as I said, DWI or
7 leaving the scene is independent of the actual
8 injuries caused to a pedestrian or bicyclist. Do
9 you have any numbers now?

10 MICHAEL KELLY: No, sir, I do not--

11 [Crosstalk]

12 MICHAEL KELLY: --have them with
13 me.

14 SUSAN PETITO: Mr. Chairman, I'm
15 not sure that we can provide those numbers because
16 if there are general criminal charges, as I said,
17 for reckless endangerment, they wouldn't
18 necessarily be tied to whether it was a vehicle
19 accident or whether people were injured, that
20 would require a hand search and a reading the
21 narratives basically. So unfortunately, I doubt
22 that a lot of information specific to vehicle
23 accidents would be available.

24 CHAIRPERSON VALLONE: Yeah, we hear
25 that a lot about the fact that you don't have that

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2 capability, we heard it on parks crimes that you
3 have to read the narrative. I'm still waiting for
4 you to upgrade the system so that we can search it
5 for these type things without having to go through
6 each police report. We've got the most
7 technologically advanced police department in the
8 world when it comes to certain things, but we
9 still have these antiquated police reports, and I
10 brought that up at many hearing, so we can't get
11 this information. Are any of you aware,
12 personally, of any reckless endangerment charges
13 brought as a result of one of these traffic
14 injuries?

15 JOHN CASSIDY: No, sir.

16 CHAIRPERSON VALLONE: Nor am I.

17 And by the way, when I was a DA in Manhattan, I
18 don't remember getting one call ever regarding
19 bringing charges in one of these cases. I know
20 there's a Manhattan DA representative in the
21 courtroom and I'd like to speak to that person
22 later, who will not be testifying.

23 There's a lot of other questions
24 that I have, we'll just go to one more set before
25 we get to the seven or so Council Members who have

1
2 questions, and I've got so many more, but maybe
3 we'll come back if we have time at the end. Truck
4 enforcement, how many--when a truck slams into an
5 overpass, how many times has that happened? Does
6 anyone know or have that figure, first of all?

7 JOHN CASSIDY: No, no, we don't
8 have that.

9 CHAIRPERSON VALLONE: No, okay. My
10 preliminary investigation reveals that I could not
11 find one reckless endangerment charge arising out
12 of a truck slamming into an overpass. Now I can't
13 think of something--well I could think of some
14 things, but that is pretty dangerous. I mean,
15 first of all, that trucker is recklessly
16 disregarding his truck route, he's recklessly
17 disregarding every sign that says don't come on
18 this road, and then he's smashing into an
19 overpass, which is creating a substantial risk of
20 injury to the people on the overpass and under the
21 overpass, and then inconveniencing thousands and
22 thousands of people who can't get to work that
23 day. And yet I have not been able to find one
24 instance of reckless endangerment charged after a
25 truck slams into an overpass. Ms. Petito, since

1
2 you're the attorney, why would that be?

3 SUSAN PETITO: Again, one would
4 need to reach the probable cause standard, and the
5 definition of recklessly is that you were aware of
6 the risk and consciously disregarded it. And I
7 think that truck slamming into overpasses happen
8 for a lot of different reasons, sometimes it's
9 signage that the person didn't see. I mean, I
10 don't know in every instance what the cause is--if
11 the person's intoxicated. There are many, many
12 factors that could go into why a truck driver
13 doesn't know or is not aware of the fact that the
14 truck won't fit under the overpass on that
15 particular roadway. But again, it's an issue of
16 whether we can reach the probable cause standard
17 in an individual case.

18 CHAIRPERSON VALLONE: What you are
19 alleging are defenses, which are properly raised
20 by a defense attorney, and they have nothing to do
21 with probable cause that reckless endangerment was
22 committed. And the fact that it's never been done
23 just, in this case, the fact that it's never been
24 done I think is indicative of a lack of
25 enforcement in general when it comes to criminal

2 charges against motorists of all types and the
3 fact that--

4 [Crosstalk]

5 CHAIRPERSON VALLONE: --not one
6 overpass being smashed into ever led to charges of
7 reckless endangerment just shows the mindset there
8 is not to charge. You slap them with a couple
9 traffic violations and send them on their way, and
10 it's the cost of doing business to these truckers,
11 who either injure someone or smash into an
12 overpass, and that's not the way we need to do
13 this. We need to file criminal charges when
14 appropriate, and if they want to make a defense
15 that they didn't read a sign, they can bring that
16 up in court. That's not the police department's
17 job to come up with their defenses before you
18 issue--you make the arrest.

19 SUSAN PETITO: Well, Mr. Chairman,
20 with respect, it's an element of the crime that
21 the person has to have acted recklessly, which
22 means aware of and consciously disregarding a--

23 CHAIRPERSON VALLONE: Right,
24 they're truckers--

25 SUSAN PETITO: --substantial and--

2 [Crosstalk]

3 CHAIRPERSON VALLONE: --they're
4 aware of the risk when they go onto highways with
5 bridges that are too low. Thank you. So we can
6 continue this, I don't want--but, yes, Letitia was
7 the inventor of that, I think, at least at the
8 Council, at least at the Council, I hadn't seen it
9 before you. But like I said, I have so many
10 questions and I don't want people to think I'm not
11 asking them, but there are at least seven or eight
12 people that want questions, and I want to get
13 fairer to every Council Member.

14 We have been joined by Council
15 Members Levin, Halloran, Koppell, and Gentile, and
16 we're going back to Chair Vacca first.

17 CHAIRPERSON VACCA: Just one thing,
18 why aren't we seizing these vehicles? Are we
19 seizing these cars; are we seizing these trucks?
20 Why don't we just take the vehicles? Do we do it?
21 I'm not aware of seizures because people are
22 speeding and somebody is hurt. Are we at least
23 taking that car away from that person?

24 JOHN CASSIDY: We're back to--are
25 we concentrating on trucks here? I'm--

CHAIRPERSON VACCA: [Interposing]

Well I'll take trucks or cars. I mean, I want to know why aren't we taking these vehicles away who we know have been speeding. And you're telling us that you don't charge anyone unless there's a serious injury or death, but then I'm not hearing that any vehicle is seized. Do we seize any vehicles who just think that this is the wild, wild West and can drive the way they want? Which I said in my opening statement, I want to know, we--these cars should at least be taken away from these individuals who do this, who drive like these streets are their own.

SUSAN PETITO: Mr. Chairman, seizing a vehicle could be done if the vehicle is an instrumentality of crime under our Property Clerk Section of the Administrative Code. We certainly seize vehicles that are unsafe to be operated on the street, we seize vehicles that are unregistered, but for the commission of a traffic infraction, that's not a crime and so there would not be an independent basis to seize the vehicle for the commission of a traffic infraction.

JOHN CASSIDY: In terms of the

2 trucks, just to dovetail onto that, last year 130
3 trucks were seized, you know, alluding back to
4 the--

5 CHAIRPERSON VACCA: For what, for
6 what? For speeding?

7 JOHN CASSIDY: No, for various
8 truck violations--

9 [Crosstalk]

10 CHAIRPERSON VACCA: [Interposing]
11 Oh no, I'm sure--

12 JOHN CASSIDY: --we go after the
13 trucks themselves--

14 CHAIRPERSON VACCA: --no, I'm sure,
15 I'm sure, cars are seized also, they don't pay
16 their parking tickets, they're seized, but I
17 wanted to know how many cars or trucks are being
18 seized because they are speeding through our
19 streets and they are involved in major accidents
20 that may not result in somebody dying, but did
21 result in somebody being seriously hurt.

22 [Crosstalk]

23 CHAIRPERSON VACCA: None. I think
24 we have to look at that and if this is a
25 legislative issue, I'm willing to work with the PD

1 on it, but I think that we have to look at that.
2 I don't get a sense that we are really addressing
3 this with the urgency that a lot of us attach to
4 this.
5

6 SUSAN PETITO: Mr. Chairman, I
7 would strongly disagree with that, obviously. We
8 have described in testimony the extensive
9 resources that the police department devotes to
10 the issue of traffic safety. I think that because
11 there is certainly an impediment in the law to
12 seizing a vehicle which has not committed anything
13 except a traffic infraction, that is something
14 that you could certainly address by legislation,
15 but we do not have the legal basis to serve--to
16 seize a vehicle on that basis.

17 CHAIRPERSON VACCA: Okay.

18 CHAIRPERSON VALLONE: I just want
19 to say that I've already instructed counsel to
20 look into to amending the code, because seizure is
21 apparently under our code, to allow seizure for
22 certain traffic violations such as the ones we're
23 discussing. So we've already put in an LS
24 [phonetic] Request on that, some investigation LS
25 Requests. I mean, that's part of why we're here,

1
2 to see how we can all work together to give you
3 the tools you need to do this enforcement. So
4 first Council Member questions is Council Member
5 Garodnick.

6 COUNCIL MEMBER GARODNICK: Thank
7 you very much, Chair Vallone, and I want to thank
8 you and Chair Vacca for holding this hearing. And
9 also your questions of the police department a
10 moment ago, I thought were particularly revealing
11 and deeply concerning as we sit here in the rather
12 beginning portion of this hearing to hear that the
13 police department truly is not doing active
14 investigations where people are significantly
15 hurt, whether it's broken legs or if they're
16 maimed or disfigured or paralyzed even, unless
17 they are like to die, there is no follow up from
18 the police department. So unless I'm missing
19 that, that's a policy which you all need to
20 revisit because it is a problem to say to New
21 Yorkers that if they themselves or if they have a
22 family member who is in that situation and it is
23 as a result of somebody who is possibly acting
24 criminally, that there is no follow up from the
25 NYPD, that's just not an acceptable answer for

1
2 them.

3 So I just want to give you one more
4 chance to make sure I understand it correctly. If
5 somebody has broken legs or is paralyzed, but is
6 not likely to die, there is no accident
7 investigation team that is sent out there, is that
8 correct?

9 SUSAN PETITO: The Accident
10 Investigation Squad is not deployed, that's
11 correct, however--

12 COUNCIL MEMBER GARODNICK: Okay.

13 SUSAN PETITO: --the patrol
14 officers conduct a preliminary investigation in
15 order to fill out the accident report, determine--
16 try to determine the causation. If it appears
17 that there may be criminal charges, they will
18 confer with the legal bureau to determine whether
19 they have probable cause. So the investigation is
20 certainly not the full investigation that the
21 Accident Investigation Squad would perform, but
22 the patrol officers do make these determinations
23 if they can, and if they need help deciding
24 whether there is probable cause, they will get
25 legal counsel.

1
2 COUNCIL MEMBER GARODNICK: Okay.

3 But from what I understood before, and maybe you
4 can correct that, is that when it's the patrolman,
5 the preliminary investigation that is being done
6 on the scene by non-Accident Investigation Squad,
7 the result is infrequent, if not never, that you
8 would seek criminal charges brought, is that
9 correct?

10 SUSAN PETITO: Well, as I said, we
11 can't give you numbers because our accounting of
12 the arrests does not tie that--the charge, say
13 reckless endangerment, does not tie that charge to
14 whether or not it was committed with a vehicle.
15 So unfortunately, we do not have data to tell you
16 how many times the criminal charges were laid in a
17 nonfatal incident. That does not mean that there
18 weren't any, it means that we cannot give you
19 those numbers.

20 COUNCIL MEMBER GARODNICK:

21 Chairmen, we obviously should have that data and I
22 think that it should be the priority of our two
23 Committees to get it. In terms of deciding
24 whether somebody is likely to die, who is making
25 that determination? Is that just being made by

1
2 the officers on the scene, who is making that
3 determination?

4 JOHN CASSIDY: No, what happens is
5 the individual is removed to the hospital and,
6 unless they're not, but if they're removed to the
7 hospital, the doctor at the hospital confers with
8 the sergeant from the Highway Patrol who responds
9 to the hospital and if he indicates to the
10 sergeant that the injuries are serious enough to
11 indicate that there's a likely to die, then at
12 that point, the determination is made to do the
13 accident investigation job. So it's done by the
14 doctor at the hospital.

15 COUNCIL MEMBER GARODNICK: Okay. I
16 know it was articulated that this is the policy of
17 the police department as opposed to the legal
18 requirement to act one way or another. Is this
19 right? Is this the right way for us to operate?
20 You know, I can ask you, you know, as a human
21 being here, if you had a relative or a friend who
22 found themselves in a situation where they were
23 run over by a truck and were in a position of
24 losing both of their legs, should there not be a
25 more active and aggressive investigation by New

1
2 York City authorities? Would you think, if you
3 were in that situation thinking about a friend or
4 a family member?

5 JOHN CASSIDY: Well I think you
6 framed the question so that the, you know, the
7 answer, unfortunately, is inescapable, but I think
8 that what we're getting passed here and what we
9 just seem to be disregarding is the fact that, you
10 know, our ability to utilize, you know, diminished
11 resources has been brought out in the Council and
12 is well aware of the fact that the police
13 department is down a large number of officers and
14 that has affected all units, probably within the
15 police department, as well as our own. We have
16 utilized the resources at our disposal through the
17 TrafficStat process and through our own, you know,
18 at the Chief of Transportation's office to drive
19 accidents down in the city. There doesn't seem to
20 be any discussion of that at the Council hearing
21 at all. And certainly the questions that you pose
22 are valuable ones that we need to think about, I
23 don't disregard that at all, but it seems the fact
24 that accidents are down or injury accidents are
25 down or injuries are down, those are done by

1
2 utilizing the patrol force that we have, the
3 highway patrol officers that we have, to do
4 targeted enforcement and hazardous violations at
5 various locations so that the accidents that you
6 speak of are not, in fact, occurring because of
7 our efforts. So it's not that we are not doing
8 anything out there, I think it's quite the
9 contrary, we are doing a lot with lot less, and we
10 are doing it, you know, using focused enforcement.

11 Now if, you know, if we had to
12 respond and do a full-blown work up, you know, at
13 an accident scene, then that's a decision that
14 would be made at a higher level, but it would take
15 resources away from other enforcement initiatives.
16 One person can't do two separate jobs at the same
17 time, so you have to understand that what we are
18 trying to do, as I stated before, is we're trying
19 to use the technology and the information at our
20 disposal to utilize the personnel that we have in
21 the most effective way, and I think the statistics
22 bear out the fact that we are accomplishing that,
23 in conjunction with our DOT partners, with
24 technology inside the cars. I recognize that this
25 is not a one person show, you know, the advent of

1
2 seatbelts, the advent of airbags, of the ability
3 of cars to take an impact, and the occupants to
4 suffer less injuries--all of these things are
5 important and working together in all of these
6 various venues is important to driving down
7 injuries and accidents themselves. But we do play
8 a critical role, you know, in seeing to it that
9 this occurs. And so, you know, I would just like
10 to have that, you know, read into the record.

11 COUNCIL MEMBER GARODNICK: Okay.

12 It's in the record. So here's my follow up
13 question for you: At a time when we had more
14 resources for the police department, did you all
15 ever send accident investigation teams to the
16 scene of an incident where there was serious
17 injury, but no likelihood of death?

18 JOHN CASSIDY: No, this has been
19 the standard policy.

20 COUNCIL MEMBER GARODNICK: Okay.

21 JOHN CASSIDY: But again, we also
22 had a higher level of crime in which officers were
23 doing with that higher level of crime. In other
24 words, the dynamic from ten years ago and the
25 dynamic now is, in certain respects, different

1 based on the utilization of resources back then
2 under a different set of circumstances--less
3 technology, you know, less analyzation at the top
4 that occurs now in CompStat, TrafficStat, and all
5 the various stats that are held, in order to focus
6 and refine our personnel, you know, to different
7 missions. So I'm not sure whether the analogy is
8 really something that's valid.

10 COUNCIL MEMBER GARODNICK: So I
11 have just a couple more questions, and I want to
12 encourage you though, there are families of victim
13 members who--

14 JOHN CASSIDY: Yes.

15 COUNCIL MEMBER GARODNICK: --are
16 here and they're going to be testifying, we want
17 to encourage you to stick around and hear that.
18 Obviously, you know, if it's a matter of resources
19 and we should be talking about together,
20 obviously, that is not an exclusive issue of the
21 police department and we are going to be passing a
22 budget ourselves in the next four to five months
23 here. So if that's the point, well then we take
24 the point, but it also sounds like you're pointing
25 to a number of different priorities as well, and

1
2 that even if you did have the resources, that
3 perhaps this might not be it.

4 JOHN CASSIDY: In terms of what
5 you've just suggested, rest assured that the
6 people who sit at this table do respond to the
7 accident scenes themselves quite often. I myself
8 go, the CO goes, we're there at the scene of the
9 catastrophe itself, and so, you know, we don't
10 just sit into an office. So, you know, certainly,
11 you know, we're well aware of the catastrophic
12 nature of what we are discussing, we realize that
13 these are not just numbers on a piece of paper.
14 And in my opening statement when I said that, you
15 know, one injury, one fatality is one too many,
16 you know, I seriously believe that, I mean, that's
17 the reason why I've been doing traffic enforcement
18 for the last ten years of my career. You know, I
19 think that it's extremely important what we're
20 doing here, and I value the information that
21 you've given us and the direction, and the Council
22 has supported the police department in the past
23 and we will look forward to working with you on
24 these issues, that goes without saying. But the
25 idea is that we do know, in fact, you know, are

1 aware of those circumstances on an on-scene basis.

2
3 And again, because I, at the
4 conclusion of this, we actually, because this is a
5 Wednesday, Wednesday is sort of TrafficStat day
6 and I have a TrafficStat meeting with patrol
7 borough of Staten Island at 1300 hours at One
8 Police Plaza and we are bringing them down, you
9 know, to go over their statistics and to refine
10 their process in Staten Island. So in fact, there
11 is that piece of business to take care of
12 following this hearing, but there will be people
13 from the police department, you know--

14 SUSAN PETITO: We will be--

15 JOHN CASSIDY: --left in the room--

16 SUSAN PETITO: Yes.

17 JOHN CASSIDY: --to take that
18 information back.

19 COUNCIL MEMBER GARODNICK: Okay.
20 We think that's important. Let me just ask my
21 last questions here because the Chairman has given
22 me the signal. There was recent state laws that
23 passed which amended the Vehicle and Traffic Law
24 1146, which created a violation as a result of
25 negligent driving. If you cause the injury or

1
2 death of a pedestrian or cyclists, you need to do
3 a number of different things, including driver
4 education, fines, even jail time, and these
5 penalties amounted to a violation and not just a
6 misdemeanor or a felony. It looks like there are
7 very few tickets that are written each year, even
8 though there could be thousands of potential
9 applicable crashes here. My understanding is the
10 department believes that it doesn't have the
11 authority to issue a violation in this situation
12 under the VTL without having personal knowledge of
13 what actually happened there. So my very simple
14 question to you is, is that right, and, if so, is
15 that a policy of the department or is that because
16 you don't believe you have the legal authority to
17 do it?

18 SUSAN PETITO: Well as we discussed
19 in testimony, we do have the ability to issue the
20 summons for the violation VTL 1146, which is the
21 failure to exercise due care. The Accident
22 Investigation Squad issues that summons. They
23 have issued it 46 times in 2011 and there were 12
24 arrests with that charge as well, not necessarily
25 from the Accident Investigation Squad.

1
2 But the issue is a little more
3 complicated than that because it is a traffic
4 violation, notwithstanding the higher penalties
5 that were enacted in 2010, it remains a traffic
6 infraction not a misdemeanor or a felony. Now
7 typically, arrests without a warrant or a summary
8 arrest would only be available to a police officer
9 for a violation level of offense or a traffic
10 infraction when they have reasonable cause to
11 believe it occurred in their presence. Now that
12 is the general rule, that's the policy of the
13 police department, as well as the law regarding
14 arrest.

15 Technically, the law, we have an
16 attorney general opinion and a couple of case law
17 instances where it was made clear that that policy
18 for arrest does not necessarily bind us regarding
19 the issuance of a traffic summons. But as a
20 policy matter, because establishing such a
21 violation after the fact requires a higher level
22 of expertise than the normal patrol officer we
23 would be comfortable expecting them to do, the
24 Accident Investigation Squad is given an exception
25 to the general rule for the department that the

1 violation had to be personally observed.

2 COUNCIL MEMBER GARODNICK: Okay.

3 That said, so the answer then it sounds like is
4 you do believe you have the legal right, you just
5 want to make sure that the right folks are
6 actually issuing that violation, okay. Thank you,
7 and thank you, Mr. Chairman.

8 CHAIRPERSON VALLONE: I know,
9 Council Member, you would have a lot of follow ups
10 to that, we only have this room 'til 1300 hours,
11 at 1 p.m., so I want to make sure that all Council
12 Members get a chance, so if everybody would please
13 limit their questions as much as possible. I know
14 you have a lot more than you're going to be
15 allowed to ask 'cause we have a lot of testimony
16 coming up from advocates when this is done. The
17 order of Council Members is going to be Lander,
18 Dilan, Brewer, Lappin, James, Levin, Mealy. We've
19 been joined by Mealy and Ignizio. And we go now
20 to Council Member Lander.

21 COUNCIL MEMBER LANDER: Thank you
22 very much, and thanks to both chairs for this
23 important hearing and to all of you for your
24 presence today. I'm going to continue on this
25

2 line for just one minute, just to understand the
3 magnitude of those serious injury crashes to which
4 no AIS investigator is getting sent and none of
5 these VTL 1146 tickets are being written or
6 arrests are being made. We have maybe less than
7 two dozen of those investigators, we heard 241
8 deaths, 346 investigations. How many serious
9 injury crashes were there last year?

10 [Off mic]

11 SUSAN PETITO: --serious.

12 JOHN CASSIDY: I don't think we
13 ever broke it down--

14 [Crosstalk]

15 COUNCIL MEMBER LANDER: Since we're
16 on my time here, is it fair to say there were more
17 than 3,000 serious injury crashes last year?

18 JOHN CASSIDY: Yes, it would be
19 safe to say that.

20 MICHAEL KELLY: I would say it's
21 probably more higher--

22 JOHN CASSIDY: Yeah, we--you know,
23 we only have it break it down by injuries, injury
24 accidents themselves, but based on the fact that
25 injury accidents are 39,953 with 55,688 injuries,

1
2 and that can run the scope of any injury at all,
3 including people who just go to the hospital
4 because, you know, they need to, you know, to feel
5 secure that nothing happened to them. If a school
6 bus gets into an accident sometimes we get a spike
7 because, you know, all the kids by school bus
8 policy are required to go to the emergency room to
9 be seen even if there is no injury. So, you know,
10 don't read too much into that number, but it is a
11 big number.

12 COUNCIL MEMBER LANDER: But there
13 are--so there are, by the data, I have more than
14 3,000 crashes led to serious injuries, not, you
15 know, you got to go to the hospital to get
16 checked, and--serious injuries. And we have this
17 enormous gap, so if somebody dies or is likely to
18 die, then one of your 19 investigators goes out
19 and has this VTL 1146 tool as well as other tools.
20 But if not, for thousands and thousands of
21 seriously injured people, basically nothing can be
22 done. An officer is going out who doesn't have
23 the training and who, by your policy, is not even
24 going to try to use just this new lack of due care
25 standard, is that correct? That's what I think

2 you said, and I don't, I mean, it--

3 SUSAN PETITO: [Interposing] Well
4 again, I would not say that nothing is done, I
5 would disagree with that contention, but they
6 would not have--

7 COUNCIL MEMBER LANDER:
8 [Interposing] That officer can't write a lack of
9 due care ticket according to your policies--

10 SUSAN POLLACK: [Interposing] They
11 would not have that available to them, that's
12 right.

13 COUNCIL MEMBER LANDER: --even
14 though they have the legal authority under the
15 state law.

16 SUSAN PETITO: That's right,
17 because our policy is that only the Accident
18 Investigation Squad will issue the VTL 1146.

19 COUNCIL MEMBER LANDER: I just have
20 to say that, you know, it's really unacceptable,
21 it'd be one thing if we had a much larger Accident
22 Investigation Squad, but we don't, you're right,
23 we do have thousands of patrol officers and they
24 have been given a new tool, this lack of due care,
25 and if we can't do some training to enable those

1
2 people to do investigations of serious injuries so
3 that they could, in many cases, more than 46 at
4 least if we have thousands and thousands of
5 serious injuries, there's something wrong with our
6 priorities.

7 SUSAN PETITO: Well I think,
8 Councilman, there's also another point to be made
9 is that, even with those 46 summonses that are
10 written, they are invariably dismissed by the
11 traffic court because the traffic court judges
12 believe that it's inadequate because it wasn't
13 personally observed. So I think that there are
14 certain ways that maybe 1146 could be improved to
15 enable the writing of more summonses if--

16 COUNCIL MEMBER LANDER:

17 [Interposing] And we're all--I think I will
18 absolutely join both chairs and other members in
19 supporting Senator Squadron and Assemblyman
20 Kavanagh in doing that, but I really would beg you
21 to go back and figure out how you're going to
22 apply it better, because if there's only 19 people
23 in the city of New York that can do that and
24 they're only sent where someone dies and we have
25 thousands of people being hit and these serious

1
2 injuries, you've got to find a way that those
3 crashes can be investigated and somebody can be
4 held responsible for what happened. There have to
5 be many more than--I think it's zero, I don't even
6 think it's 46 'cause those seem like they came
7 from the deaths, but it's got to be more than zero
8 cases where those accidents were caused by a lack
9 of due care.

10 And let me just, I guess I want to
11 speak very frankly, I do think there's a mismatch
12 in perception of what and how we want to police.
13 So you're absolutely right that we have cut
14 resources to the PD, but at the same time, you
15 know, stop-and-frisk has grown from 100,000 to
16 600,000. There's a new counterintelligence and
17 surveillance unit that's doing an enormous amount,
18 but I don't hear any evidence that, despite the
19 fact that getting hit by a car is the number one
20 killer of kids age 1 to 12, despite the fact that
21 more New Yorkers have been killed in the Bloomberg
22 Administration by cars than by guns, we've done
23 anything more to step up our level of traffic
24 enforcement. So I appreciate that injuries are
25 down a little bit, but I guess my question is, you

2 know, what aggressive programs on that same scale,
3 recognizing the magnitude of the seriousness here
4 like stop-and-frisk, like the counterintelligence
5 and surveillance programs, what are you doing at
6 that magnitude to step up enforcement of what is
7 the number one killer of children in New York
8 City?

9 JOHN CASSIDY: Council Member, you
10 know, not only are the accidents down, but our
11 enforcement is up across the board. That is what
12 we're doing to address this. You know, we're
13 getting more target--

14 COUNCIL MEMBER LANDER: I'll have
15 to ask--

16 [Crosstalk]

17 JOHN CASSIDY: --enforcement has
18 this violations summonses are going back to the
19 trucks, we're doing more with truck enforcement
20 than we ever have before, bike summonses, I mean,
21 you know, total movers, seatbelts--

22 [Crosstalk]

23 COUNCIL MEMBER LEVIN:
24 [Interposing] So let's talk about the number of
25 summonses, I'm happy to go there actually. I

1 looked at my precincts, across the four precincts
2 I have over the last year, you wrote 6,597 safety
3 belt violations and 439 speeding violations.
4 Citywide, there's twice as many safety belt
5 violations and many more violations for tinted
6 windows than for speeding, and about half as many
7 bike enforcement--bike tickets as speeding
8 tickets, where, you know--and I don't think that
9 many of the 3,000 serious injuries were caused by
10 bike. So what is it that drives what summonses
11 you guys choose to write from a traffic
12 enforcement level?

14 JOHN CASSIDY: Again--

15 COUNCIL MEMBER LANDER: How's that-

16 -

17 JOHN CASSIDY: --what drives it is
18 an analysis. We bring in the patrol boroughs,
19 like we would do today, and we look at the
20 accidents that they're having, the locations that
21 they're having. We literally put up videos of the
22 locations, as well as photographs of the
23 locations, so we can bring it more real to the
24 participants in the room itself as to what's going
25 on. We try to analyze what is causing the

1
2 accidents. Now sometimes we're successful at that
3 and other times, unfortunately, because some of
4 the accident reports are a little less vague than
5 we would like--and we are working on that
6 diligently, to and improve, you know, the type of
7 and quality of information that we get on the
8 accident report--and then we utilize that as a
9 tool to drive that particular precinct and all
10 boroughs enforcement efforts.

11 Now a moment ago you talked about
12 tinted windows on a car and make it sound almost
13 like a tinted window summons was not an important
14 summons. Well tinted windows summons, just to use
15 that as an example as opposed to a speeding
16 summons, is important in two respects. First,
17 it's an officer safety issue because the officers
18 going up on the vehicle cannot discern who is
19 inside the car, especially in the evening. And so
20 it's a problem, you know, in terms of being able
21 to recognize, you know, a gun or something inside
22 the vehicle that may threaten the officer's life.
23 But secondly, also as important tied into traffic,
24 I don't know if you've ever been in a tinted
25 window car, I personally was in one, you know,

1
2 where I was given one when I was transferred and
3 it was a car that was utilized by sort of under
4 covers and so they had it darker than normal.
5 When you drive, you cannot--in the evening, you
6 cannot visually see the people through your side
7 windows. So a person stepping off the curb cannot
8 be seen clearly by somebody unless it's a
9 extremely well lit area by a person driving the
10 vehicle.

11 COUNCIL MEMBER LANDER: Officer, I
12 wasn't asking you to write less tinted window
13 summonses--

14 JOHN CASSIDY: Okay.

15 COUNCIL MEMBER LANDER: --and I
16 appreciate your clarifying for me why it's
17 important, I was asking you to do more to deal
18 with speeding, which I think is endemic in my
19 neighborhood and which isn't getting policed in my
20 neighborhood. Even safety belts, I want everyone
21 to wear their safety belts, I really do, but 15
22 times as many safety belt violations in my
23 precincts as speeding violations, to me doesn't
24 make any sense.

25 And I was interested in what you

1
2 said about each precinct having a traffic safety
3 team and a traffic safety officer. This is the
4 number one call to my office, and yet I never knew
5 that, I can't find any evidence on the website
6 that that even exists. I'm looking, I got your
7 lists the community affairs, community police, and
8 crime prevention, domestic violence, youth
9 officer, auxiliary coordinator, and detective
10 squad for each precinct. There's no number for
11 the traffic safety officer and I've never heard of
12 the traffic safety team. So I'd like to extend
13 kind of an offer which is, I'd love to work
14 closely with my precincts for traffic safety teams
15 to take the data and be part together of analyzing
16 crash locations and targeting enforcement together
17 so we could get it right. I partner with my
18 precincts all the time, we haven't been able to
19 partner on this. And I reach out a hand to say
20 help us do that, help us partner with our
21 precincts and our communities to target
22 enforcement where it needs to go.

23 JOHN CASSIDY: Well next time you
24 go to the community meeting, the executive
25 officer, the number two person in the command, he

1
2 is the head of the traffic safety team. So that
3 captain who will be at the community meetings in
4 many respects is the individual that you should
5 speak to, to begin with. Because he is the one
6 who oversees the traffic safety team and he's the
7 one who comes to TrafficStat, so he has to be
8 extremely familiar with the operation of his
9 traffic safety team because today he will stand
10 before me at a microphone and he will have to
11 explain his enforcement initiatives and he will
12 have to explain to me why there's a spike in a
13 particular type of accident or a particular
14 problem in his precinct that's not being
15 addressed. So they're infinitely familiar from
16 the top down with the information in their
17 precincts in terms of what's going on.

18 COUNCIL MEMBER LANDER: So I mean
19 at a minimum the website should be made to clarify
20 that, but I guess I'm asking for more, and we'll
21 follow up, I really would like to work with my
22 precincts in a more active way on these issues.

23 In the interest of time, I'm not
24 going to be able to ask the questions that I had
25 about the cases of Mathieu Lefevre and Rasha

1 Shamoon, but I really do hope you will stay to
2 hear from their families, and I hope other of my
3 colleagues will ask questions because we need to
4 understand better what happened in those
5 investigations and what the NYPD learned from
6 them, and so I hope my colleagues will ask those
7 questions. I really do appreciate you're being
8 here and working to help make sure we keep New
9 Yorkers safer, thank you very much.

11 CHAIRPERSON VALLONE: Thank you for
12 ending your questions. We were going to Dilan,
13 but I believe he's left.

14 Oh, and I should say that the
15 police department has informed us they won't be
16 speaking about any active investigations, which is
17 why we didn't ask. So you can ask, but you're
18 going to waste the small amount of time you have,
19 and we do want to hear from the advocates.

20 So Council Member Brewer.

21 COUNCIL MEMBER BREWER: Thank you
22 very much. I have some prevention questions. Do
23 you work with DOT? I assume you do, but I want to
24 know how on prevention. In other words, how do
25 you work, other than what I know you have done,

1
2 Janette Sadik-Khan, I'm a big supporter of hers,
3 others are not, but I am, in terms of neck downs
4 and speed bumps, but they often come from the
5 community. I must admit, I don't hear PD, despite
6 all your efforts, to say this is what we need to
7 do to slow down, it often comes from DOT or from
8 the Community Board or from electeds. How do you
9 work with DOT closely on trying to make as much
10 prevention as possible? Now, of course, I would
11 argue that the bike lanes help, others may not, in
12 terms of slowing down traffic. But what do you
13 do, you know, not just looking at the accident
14 areas, obviously when there's an accident, you
15 might focus on that, but how do you do it in a
16 more global way?

17 JOHN CASSIDY: Okay. I'll start
18 with the fact that, as I spoke in my testimony
19 before, the borough commissioner in a particular
20 borough will be present today and will sit to my
21 right--

22 COUNCIL MEMBER BREWER:
23 [Interposing] Your borough commissioner or our--or
24 DOT's?

25 JOHN CASSIDY: [Interposing]

1
2 Whatever borough--the DOT commissioner.

3 COUNCIL MEMBER BREWER: Okay.

4 JOHN CASSIDY: The DOT Commissioner
5 for that borough will sit--

6 COUNCIL MEMBER BREWER:
7 [Interposing] Margaret Forgione, okay.

8 JOHN CASSIDY: No, well depending
9 on the borough.

10 COUNCIL MEMBER BREWER: Right,
11 Staten Island today, yep.

12 JOHN CASSIDY: Will sit to my
13 right--

14 COUNCIL MEMBER BREWER: Okay.

15 JOHN CASSIDY: --along with the
16 state DOT commissioner at the TrafficStat process.

17 COUNCIL MEMBER BREWER: Every
18 Wednesday.

19 JOHN CASSIDY: Every Wednesday.
20 Whatever borough we bring down. So that gives us
21 direct access, not only to them in terms of
22 informing them about particular problems, but they
23 actually sit in the room and witness the dynamic
24 of what occurs during TrafficStat, what issues are
25 discussed by the precinct people when the traffic

1 safety team is at the podium and discusses various
2 problems that are arising in the precinct at
3 certain locations where engineering fixes have
4 been determined to be something that we might like
5 to look into. They set up processes by which they
6 do what we call an onsite, which means that the
7 borough commission will actually set a date with
8 the precinct traffic safety team at the
9 TrafficStat to go out and look at a particular
10 location for a particular fix that they might
11 have, you know, issued a report on saying that
12 this is something that we need. So not only will
13 it generate paper, you know, what we call a
14 Traffic Intelligence Report and send that to the
15 borough commissioners, but they will also be able
16 to access them directly.

17
18 And conversely, the DOT
19 commissioner that present can also bring their
20 concerns to the precincts that they've been trying
21 to get in contact with and that they've been
22 trying to work on something and they haven't been
23 getting the type of cooperation that they need,
24 they bring it to the commanding officer and the
25 executive officer to practice at TrafficStat.

1
2 That's one end of the spectrum, as
3 well as the community involvement, which is
4 critical, it's critical because, you know, the
5 community is out there on a particular block every
6 single day and they know, you know, what's going
7 on on their block and quite often their concerns
8 are valid concerns that really need to be looked
9 at. Maybe not addressed the way that they
10 perceive them to be addressed, maybe in a more
11 comprehensive fashion, but certainly that input is
12 the dynamic that starts the process.

13 On the other end of the spectrum--
14 not to burn up a lot of time--every month I
15 personally meet with DOT personnel at the highest
16 levels in our office or in their offices and we
17 have a number of people that sit around the table
18 from stats people, light sequencing people, DOT
19 people, bicycle types, you know, who run that
20 program for DOT, we bring patrol services, myself,
21 we bring our statisticians and we go over problem
22 locations they bring to my attention at the
23 highest levels what type of implementation they're
24 looking to bring to certain areas, lay out.
25 Recently, we met last Friday, they introduced the

2 Delancey Street plan, laid it out as to how it was
3 going to be implemented, gave us the date of, you
4 know, beginning of June for its implementation,
5 highlighted the intersections where they would
6 need enforcement immediately to set the tone,
7 where they're going to obstruct, you know, going
8 to prohibit left turns, that sort of thing.

9 COUNCIL MEMBER BREWER: Okay.

10 JOHN CASSIDY: And that process is
11 probably a 2, 2 1/2 hour meeting scheduled the
12 second Friday of every single month--

13 COUNCIL MEMBER BREWER:

14 [Interposing] Can we attend?

15 JOHN CASSIDY: That's something
16 that, you know, you'd have to make inquiries--

17 COUNCIL MEMBER BREWER: Okay.

18 JOHN CASSIDY: --that I don't know.

19 COUNCIL MEMBER BREWER: All right.

20 JOHN CASSIDY: But it's basically
21 just our personnel at that location talking
22 amongst ourselves and building those relationships
23 that are critical to going forward, you know, on
24 a--

25 COUNCIL MEMBER BREWER: Okay.

2 JOHN CASSIDY: --case by case
3 basis.

4 COUNCIL MEMBER BREWER: But I know
5 time is of the essence, I could ask a lot more. I
6 know on the West Side of Manhattan where I
7 represent, we do have a West Side traffic study
8 that's in process, and I assume it's out of some
9 of these discussions, so I appreciate that. Just
10 it doesn't come necessarily down to the district
11 service cabinet that all of this is going on, so I
12 appreciate it. Again, more discussion.

13 Second question, Taxi and Limousine
14 Commission, do you know how many accidents involve
15 taxis in terms of in any way shape or form? The
16 reason I ask is they go over 30 miles an hour all
17 the time and I just don't--you don't have that.

18 JOHN CASSIDY: I don't have that
19 statistic, but, you know, the taxi accidents are
20 almost dependent on, as common sense as it may
21 sound, on the precincts that have the highest
22 volume of taxi people using--

23 COUNCIL MEMBER BREWER:
24 [Interposing] Correct, so that would be Manhattan.

25 JOHN CASSIDY: Yes, and in various

2 parts of Manhattan.

3 COUNCIL MEMBER BREWER: Correct.

4 JOHN CASSIDY: Certain parts of
5 Manhattan is less of a problem. But to give you a
6 number, that I couldn't do off the top of--

7 COUNCIL MEMBER BREWER:

8 [Interposing] Okay. 'Cause if you're talking
9 about speeding--

10 JOHN CASSIDY: --my head, but we
11 could get back to you.

12 COUNCIL MEMBER BREWER: All right,
13 I would appreciate it. If you're talking about
14 speeding, that's a common practice. I don't know
15 that they even know that it's a 30 mile number.

16 JOHN CASSIDY: Yes, you know,
17 obviously they're in business to make--

18 [Crosstalk]

19 COUNCIL MEMBER BREWER:

20 [Interposing] I understand that--

21 JOHN CASSIDY: --area.

22 COUNCIL MEMBER BREWER: --I got
23 that, and I understand--

24 JOHN CASSIDY: [Interposing] Their
25 unsafe lane changes, there's a number of

1 violations that are very prevalent--

2 [Crosstalk]

3 COUNCIL MEMBER BREWER:

4 [Interposing] I understand that and I want them to
5 make money, but I also want people to be safe.

6 JOHN CASSIDY: Absolutely, there's-

7 -

8 COUNCIL MEMBER BREWER: Okay.

9 JOHN CASSIDY: --no disagreement
10 there.

11 COUNCIL MEMBER BREWER: Truck lane,
12 in other words, I don't know enough to know if a
13 lot of the trucks are--that are involved in
14 accidents, are they big trucks, small trucks? And
15 the reason I ask is, I just don't know how many of
16 these trucks are legally sometimes on our streets.

17 JOHN CASSIDY: Yes, well--

18 COUNCIL MEMBER BREWER: We don't
19 weigh too many trucks, as I understand it.

20 JOHN CASSIDY: Our truck
21 enforcement efforts in 2011, total number of
22 summons that were issued were 25,000--

23 COUNCIL MEMBER BREWER:

24 [Interposing] That's for all kinds of--
25

2 JOHN CASSIDY: --25,375 summonses.

3 COUNCIL MEMBER BREWER:

4 [Interposing] For all kinds of summonses--

5 JOHN CASSIDY: All types of
6 summonses--

7 COUNCIL MEMBER BREWER: --all kinds
8 of issues.

9 JOHN CASSIDY: --the dimension
10 summonses--

11 COUNCIL MEMBER BREWER:

12 [Interposing] Is that up or down in terms of past,
13 do you have any idea?

14 JOHN CASSIDY: That's up from
15 18,793, so it's 35% increase.

16 COUNCIL MEMBER BREWER: That's a
17 big increase.

18 JOHN CASSIDY: Yes, it is. And we
19 have three different dynamic entities that work on
20 this, and one of them is the highway patrol
21 officers who have a truck enforcement, or as we
22 call them, a motor carrier safety individual
23 assigned to each highway unit, and they're also
24 supplemented by 41 officers who are also trained,
25 not to that higher level, but that they can give

2 out motor carrier safety violations to these
3 trucks.

4 We also have in the citywide
5 traffic task force an entity of motor carrier
6 safety, 14 police officers, two sergeants who go
7 out and address community concerns, and they've
8 worked with a number of the Council Members in
9 terms of conditions that they've had in their
10 precincts.

11 And we also in TED, we have 18
12 traffic agents who are trained to specifically
13 address the over weight over height--and you'll
14 see them in various locations in the city where
15 they set up and they put out their portable scales
16 and they will weigh the trucks that come in at
17 that location.

18 COUNCIL MEMBER BREWER: Yeah, but
19 this is--

20 JOHN CASSIDY: They don't do these
21 type of in-depth--

22 [Crosstalk]

23 COUNCIL MEMBER BREWER: Yeah,
24 there's just a lot of over weight--

25 JOHN CASSIDY: --inspection.

2 COUNCIL MEMBER BREWER: --trucks
3 still though.

4 JOHN CASSIDY: Yes, no, but and if
5 that's the case, then, you know, contacting the
6 precinct who will request, you know, their
7 presence in the precinct--

8 COUNCIL MEMBER BREWER: Okay.

9 JOHN CASSIDY: --and we're happy to
10 come and take care of that. But overall, what
11 we're trying to do is we're trying to do
12 everything from weight them and size them, to do
13 the safety one inspections, which basically--

14 COUNCIL MEMBER BREWER: Okay.

15 JOHN CASSIDY: --is everything from
16 doing a walk around the truck, making sure that
17 the steering linkage, the tires are good, that
18 the--

19 COUNCIL MEMBER BREWER: Right.

20 JOHN CASSIDY: --person is
21 appropriately licensed, he has all the features on
22 the trucks--

23 COUNCIL MEMBER BREWER: Okay.

24 JOHN CASSIDY: --that will prohibit
25 him from--

2 [Crosstalk]

3 COUNCIL MEMBER BREWER:

4 [Interposing] Well I don't know how many are
5 involved in accidents, but I know it's possible
6 and it's obviously not good for our streets to be
7 over weight.

8 JOHN CASSIDY: No, and usually an
9 accident with a large truck is never a--

10 COUNCIL MEMBER BREWER:

11 [Interposing] No, I understand that, it's just not
12 good for the streets. But the final question is
13 bicycles, I am the biggest possible supporter, but
14 I know that there are challenges in terms of
15 enforcement. My question is, since we have more
16 bicycles, we are trying to make it safe for the
17 bicyclists and the pedestrians and the cars. I
18 actually go with my precincts to every single
19 commercial establishments, we meet with the owner,
20 we talk about the laws in an attempt to try to
21 enforce, in a positive way, not summonses--

22 [Crosstalk]

23 COUNCIL MEMBER BREWER: --so is it
24 a focus? And not in a punitive way, you got to
25 educate people, there are language issues, maybe

2 it's only in Manhattan, I don't know, but it's
3 certainly a problem in my area.

4 DANIEL MULLIGAN: We handle that
5 both ways, the NYPD, both by enforcement of
6 bicyclists that are not following the rules and
7 also by education. In 2011, we have 12,204
8 community contacts and that's basically going into
9 bike shops, delivery shops, and speaking with
10 people that are riding bicycles, what's expected
11 of them--

12 [Crosstalk]

13 COUNCIL MEMBER BREWER:

14 [Interposing] But you need to do that in a more
15 community minded way would be my--it was my
16 initiative, I don't think it goes on everywhere,
17 so that would be something to try to initiate to
18 stop the accidents and all kinds of road rage.

19 DANIEL MULLIGAN: Absolutely, we
20 will continue to focus on that.

21 COUNCIL MEMBER BREWER: All right,
22 thank you. Thank you.

23 CHAIRPERSON VALLONE: Thank you,
24 Council Member. I do want to commend you on your
25 truck enforcement. That's an issue that's huge in

1
2 many of our Council district, trucks not being
3 where they're supposed to be rumbling down
4 residential streets, destroying our roads, and you
5 have really stepped up your enforcement, as is
6 evident by the amount of summonses. The truck
7 enforcement unit itself, has that taken any cuts
8 in personnel power?

9 JOHN CASSIDY: I don't have that,
10 but we have lost small numbers of personnel out of
11 there, like the CTF, the Traffic Task Force, at
12 one point, we might have had three or four more
13 officers there than we have now. TED's personnel,
14 I think that they're slated for 20, they have 18;
15 the Highway Patrol, again, you know, based on the
16 numbers that we asserted before, they had a more
17 robust a motor carrier safety unit than they
18 currently have now with one expert in each
19 location. But what they have done to supplement
20 that, as under our attempts to do, you know, more
21 with less, is that they've included in the process
22 where a new officer comes into highway patrol,
23 there is actually like a three-month training
24 period where they go through three months of
25 extensive training in which they receive all

1
2 different kinds of things from shotgun training,
3 high-speed pursuit, radar, et cetera. And they
4 have added a five-day block of motor carrier
5 safety unit training to the new officers. That's
6 the reason why we might have 190 officers, we have
7 41 trained, those are the last 41 that we brought
8 in, we have a number now that are currently being
9 trained, and we have another class that I actually
10 just signed off yesterday on another 15 that are
11 currently going through the process of passing the
12 motorcycle school, et cetera. So a little light
13 at the end of the tunnel.

14 But those new ones are trained in
15 the motor carrier safety. Now they're not at the
16 same level that the original ones were, they were,
17 what we call level safety one, almost federal
18 investigators in terms of the motor carrier, but
19 they are able to do the vast majority of the work
20 on these trucks and the work ups on them. And if
21 they're at the scenes of accidents, where they are
22 employed in their normal duties of doing an
23 accident on a highway or with a truck, they can
24 issue the appropriate summonses for the violations
25 that they observe on those particular trucks. So

1
2 yes, we recognize that as a major problem, we work
3 with the Council and we look forward in the
4 future--I know that a number of the Council people
5 sitting here today have contacted my office and
6 we've depleted resources to them to bring
7 particular problems that they might have. We urge
8 you to work through the precinct and the precinct
9 will attempt to go out and try to mitigate the
10 issue at that location in terms of trying to get
11 compliance. They absolutely can get out summonses
12 for off truck route and that sort of thing. If
13 that doesn't work, then we will, you know, deploy
14 motor carrier safety people.

15 And as a last resort, we also have
16 a program that we've been doing since July of last
17 year in which the trucks, as a parking issue--and,
18 again, not related to accidents, but, you know,
19 finding themselves with the overnight parking in
20 the various commands that you represent, you know,
21 after sufficient warnings and attempting to
22 motivate them through other means, we do have a
23 package that we send out on the overnight with our
24 TED personnel and heavy-duty tows in which we will
25 the exact--

2 CHAIRPERSON VALLONE: [Interposing]

3 And do you attribute that jump in summonses to
4 that training or to more trucks on our street, or
5 what do you see there?

6 JOHN CASSIDY: I think it's just
7 the enforcement, you know, that we've been doing.
8 At one point in the past, you know, we were
9 limiting ourselves, the Citywide Traffic Task
10 Force a year or so ago was the Manhattan Traffic
11 Task Force, and it has since changed in terms of
12 it no longer just is confined within Manhattan
13 itself. And they did on occasion go out and
14 assist other boroughs, but now that they've been
15 given a citywide venue, they're able on a daily
16 basis to go out to different locations and almost
17 a different borough every day and do enforcement
18 out there. So it's sort of like the truck drivers
19 are not used to running into them, let's say, and
20 so the violations that might not have been
21 occurring in Manhattan because they weren't coming
22 into Manhattan, we're now discovering in the outer
23 boroughs--

24 CHAIRPERSON VALLONE: [Interposing]

25 We are very thankful for the extra enforcement and

2 for the recognition that other boroughs outside of
3 Manhattan exist. That's always a good thing.

4 JOHN CASSIDY: Yes, sir.

5 CHAIRPERSON VALLONE: And big
6 problem has been trucks over 53 feet, they've
7 increased tremendously and you guys just started
8 cracking down on that because--

9 JOHN CASSIDY: Absolutely

10 CHAIRPERSON VALLONE: --I don't
11 think they even realize they're not allowed on our
12 city streets, these trucks that are almost--that
13 are huge. Council Member Lappin. Thanks.

14 COUNCIL MEMBER LAPPIN: So here is
15 my question: Why is it so hard to get information
16 from the police department? Why did Mathieu
17 Lefevre's family have to file a FOIL request about
18 their son's death? And that's adding, it's
19 literally adding insult to injury. And I just
20 think it's wrong.

21 And one of the reasons that I
22 wrote, and the Council passed, the traffic stop
23 bill was to try to get some more information
24 available to the public and, as you know, I'm not
25 happy with the way it's been implemented, I've had

1
2 some correspondence back-and-forth with the
3 Commissioner. And so I wanted to ask while you're
4 here today why you won't just put it up in Excel?
5 Having a huge PDF document listing the information
6 of crash data and injuries and fatalities at
7 different intersections across the city, it's just
8 a really, really difficult way to access the data,
9 and with a couple clicks of a mouse, you could put
10 it up in a format that would make a lot of sense.
11 And the Commissioner's comment in a letter that
12 you're afraid that people will manipulate and
13 misrepresent this data, I don't think that there
14 are hundreds of people sitting in their living
15 rooms on their computers eagerly awaiting the
16 opportunity to manipulate this kind of
17 information. We just want to know what it is, we
18 want to be able to look at it, we want to be able
19 to analyze it and track it, and work with you to
20 make our streets safer.

21 SUSAN PETITO: Council Member

22 Lappin, I can answer that question. We are fully
23 compliant with the bill, with the law, and we
24 believe that putting it up as a PDF, which is
25 completely searchable, is compliant with the law.

2 We understand your request, you had a second
3 request, which we will be able to provide archived
4 data for the past months and, but they're working
5 out how that will be done.

6 COUNCIL MEMBER LAPPIN:

7 [Interposing] I do appreciate that, because when
8 you were taking it down every month, it was really
9 irritating 'cause we want to be able to compare
10 month-to-month where it's getting better and where
11 it's getting worse, so I do appreciate that.

12 And I don't--I think I said in my
13 first letter to the Commissioner--I'm sorry,
14 Julie--that--there you are. You know, I know that
15 you probably are complying with the letter of the
16 law, but not with what our intent was, in my view,
17 and Chair Vacca was nice enough to sign on to this
18 correspondence as well. That we really we want to
19 be able to analyze it in a meaningful way. And
20 while putting up a PDF may comply with the law, it
21 doesn't comply with our goal, 'cause we just want--
22 -it's just it's information that we're entitled to
23 and it would be much better for us to use if you
24 put it up in a different format.

25 SUSAN PETITO: Well as I said, we

2 are compliant and we understand that that may be
3 frustrating for individuals who cannot do with the
4 data what they would like to do, but we are very
5 concerned with the integrity of the data itself,
6 and so we determined that this was the best way to
7 make sure that the data would not be
8 misrepresented in any way. Because, again, it
9 drills down to individual accident locations and
10 so there might be instances where people might
11 want to use that data in a way that might
12 misrepresent it, we wanted to ensure--

13 COUNCIL MEMBER LAPPIN:

14 [Interposing] What way? Tell me which way.

15 SUSAN PETITO: I have no idea.

16 COUNCIL MEMBER LAPPIN: So if you
17 have no idea, if you can't--

18 SUSAN PETITO: No, no, I don't--

19 COUNCIL MEMBER LAPPIN: I'm
20 serious, honestly, 'cause I can't figure out why
21 somebody or how somebody--

22 SUSAN PETITO: If someone--

23 COUNCIL MEMBER LAPPIN: --would
24 manipulate this in some evil way, and if you can't
25 think of it, then--

2 SUSAN PETITO: No, no--

3 COUNCIL MEMBER LAPPIN: --by God,
4 let's put it up in Excel.

5 SUSAN PETITO: No, what I'm saying
6 is I don't know how anybody would do it, but one
7 thing that comes to mind is that they could change
8 the number of accidents, the number of injuries,
9 the types of vehicles at a particular accident
10 location in order to make a point of some sort. I
11 think it's, as I said, I have no idea what could
12 actually happen, that's one hypothetical that
13 occurs to me. But the integrity of the data is
14 something that we are concerned about, and,
15 unfortunately, yes, we are not in a position to
16 put it up as an Excel sheet or, you know, in
17 another way.

18 COUNCIL MEMBER LAPPIN: I think I
19 made my point, I want you to reconsider 'cause I
20 really don't think there's any way people are
21 going to use this for evil, I think we're going to
22 use it for good.

23 But you talked a lot about
24 TrafficStat this morning, you talked a lot about
25 some of the interagency meetings that this bill

2 also required, and you mentioned that each
3 precinct has a Traffic Safety Plan, so I'm
4 assuming by the end of today I could get the
5 Traffic Safety Plan for the 19th and the 17th sent
6 to me.

7 SUSAN PETITO: No, I'm not sure
8 about that. We would have to get back to you on
9 that, I'm not sure that that's available.

10 COUNCIL MEMBER LAPPIN: Available
11 or you wouldn't share it with me?

12 SUSAN PETITO: I'm not sure that
13 it's available to be shared with you. Or with the
14 public.

15 COUNCIL MEMBER LAPPIN: Why
16 wouldn't it be?

17 SUSAN PETITO: I don't--this is--no
18 one has requested it so far, so we have to look at
19 that and we'll get back to you about it.

20 COUNCIL MEMBER LAPPIN: Okay. I'm-
21 -

22 MALE VOICE: We will--

23 COUNCIL MEMBER LAPPIN: --just
24 going to close then with what I started with. I
25 don't understand why it's so hard to get

2 information from the police department, it's just
3 infuriating and there's no reason for it. And we
4 all share the same goal of making the city safer
5 and we all want to work--or I want to work with
6 you and with those precincts to that end, and it's
7 just very difficult when you won't share
8 information with us. Thank you.

9 CHAIRPERSON VALLONE: Thank you,
10 Council Member, we know you have a lot more you
11 could ask, but you're foregoing that. And let me
12 say I feel your pain, you wrote the Transportation
13 Data bill, I wrote the Crime in Parks bill and the
14 Crime in Schools bill for the same reason--to get
15 that information. And let me say, none of that
16 information has been changed by these evil
17 geniuses that are out there. And if you were
18 afraid of information being changed once you put
19 it out there, you would never put information
20 other, so we're just not buying that reason, and
21 we'd like that information. Council Member James.

22 COUNCIL MEMBER JAMES: So I
23 congratulate all of you who have written
24 legislation. I've sued NYPD on a number of cases
25 because I recognize that they're an agency that

1
2 will not share information and, unfortunately, is
3 unwilling to do that.

4 In addition to that, my districts
5 put up a website where we mapped crime and we
6 mapped traffic in the 35th councilmatic district
7 only to have it hacked by some individuals and
8 that information is no longer available. We
9 wanted to take matters into our own hands, but,
10 unfortunately, we were thwarted.

11 I want to talk a little bit about,
12 first of all, I want to join with the sentiments
13 that were expressed by Council Member Lander. I
14 recognize that your--that the number of members of
15 NYPD is down, recruitment is down, but at this
16 point in time since agencies all across the city,
17 their numbers are down as well, that you redirect
18 your attention and your focus from stopping and
19 frisking people of color all throughout the city
20 of New York in record numbers and your counter
21 surveillance efforts, again, surveilling innocent
22 members of the Muslim community, and perhaps focus
23 on public safety in the city of New York, it would
24 go a long way.

25 Let me also go on to say that

1 perhaps you should use technology, not to trap
2 people and to create revenue for the City of New
3 York, but use technology to focus on speedways in
4 the city of New York. The number one reason why
5 there are people are causing accidents is because
6 of speeding. Dangerous car crashes in New York
7 City are caused because individuals are speeding.
8 And the question is what devices are currently
9 being used to use technology to identify cars that
10 are speeding, not only in Brooklyn, but all
11 throughout the city of New York and to use that
12 device as a means to find them on the spot as you
13 do when you run a red light?

14
15 JOHN CASSIDY: I think it was
16 alluded to before by the Assistant Commissioner.
17 We support the legislation for speed cameras--

18 COUNCIL MEMBER JAMES:

19 [Interposing] But most of your cameras have--

20 JOHN CASSIDY: --we don't have
21 that, we don't have that ability now, and we would
22 welcome, you know, that technology, you know,
23 being deployed and we would work with the Council
24 and the local Community Boards and the precincts
25 to identify locations where, you know--and DOT--

2 where they would be deployed. We're not against
3 the utilization of technology to accomplish that
4 goal.

5 COUNCIL MEMBER JAMES:

6 [Interposing] So my question is, I was driving in
7 Queens down Queens Boulevard, there was a device
8 that said you are traveling now at 20 miles per
9 hour--

10 JOHN CASSIDY: Yes.

11 COUNCIL MEMBER JAMES: --that
12 device that you currently have, which is--

13 JOHN CASSIDY: Yes.

14 COUNCIL MEMBER JAMES: --operable
15 on Queens Boulevard--

16 JOHN CASSIDY: Right.

17 COUNCIL MEMBER JAMES: --can that
18 capture a picture of those drivers who would speed
19 down Queens Boulevard and other major
20 thoroughfares in the city of New York? Do you
21 currently have that technology, and do you have
22 the legal requirement to fine people and to reduce
23 speed in the city of New York?

24 JOHN CASSIDY: That is something
25 that's utilized by Department of Transportation,

2 those are not, in fact, NYPD devices, a DOT
3 utilizes them. My understanding, and again, this
4 is just, you know, based on conversations with
5 them, is they utilize them on certain corridors in
6 the city as a method of education, and certainly
7 that's probably part of the process. You know, in
8 other words, I don't actually--I have to profess,
9 I don't know, I've heard of the speed enforcement
10 cameras, but I've never actually, you know, seen
11 one up close and personal, just read articles on
12 it.

13 COUNCIL MEMBER JAMES: That's
14 pretty discouraging to me so--

15 JOHN CASSIDY: Why is that?

16 COUNCIL MEMBER JAMES: --because
17 the fact that you just--you're not familiar with
18 it--

19 JOHN CASSIDY: [Interposing] No,
20 I'm familiar with the technology, I'm just saying
21 that what you're saying is the ones that are up
22 there now--

23 COUNCIL MEMBER JAMES: Yes.

24 JOHN CASSIDY: --could they be
25 utilized as a starting point for installing the

2 camera and taking--

3 COUNCIL MEMBER JAMES: Correct.

4 JOHN CASSIDY: --pictures--

5 COUNCIL MEMBER JAMES: Correct.

6 JOHN CASSIDY: --and what I'm
7 saying is, I don't know, I'm assuming that an
8 entire system that's developed, you know, by
9 manufacturers to do that would have to be in
10 place. In other words, they couldn't use that as
11 a starting point, that is strictly an educational
12 device. They also have portable ones, I don't
13 know if you've seen them--

14 COUNCIL MEMBER JAMES: Sure.

15 JOHN CASSIDY: --that are on the
16 highways--

17 COUNCIL MEMBER JAMES: Yes.

18 JOHN CASSIDY: --and they're
19 portable, they put them out there again just to
20 advise motorists, because the feeling is sometimes
21 at different times of the day when traffic is a
22 little bit lighter on a 50 mile an hour roadway,
23 somebody might not realize that they are going
24 over the speed limit. And, again, we're not
25 talking about somebody doing 80 miles an hour,

2 they realize; we're talking about somebody that's
3 doing 60, a little bit more than 60 and there's
4 not a lot of cars around them--

5 [Crosstalk]

6 COUNCIL MEMBER JAMES:

7 [Interposing] I don't mean to interrupt you, but
8 I've got to do speed questions because time is of
9 the essence--

10 JOHN CASSIDY: Sure.

11 COUNCIL MEMBER JAMES: --so I
12 apologize.

13 [Crosstalk]

14 COUNCIL MEMBER JAMES: So my
15 question is, and just following up on what Council
16 Member Brewer indicated, I think that at your--the
17 equivalent of CompStat, what you have for traffic
18 that you're doing in Staten Island at 1 o'clock,
19 is DOT at that meeting, yes or no?

20 JOHN CASSIDY: Yes.

21 COUNCIL MEMBER JAMES: Okay. So
22 have you ever asked DOT whether or not the
23 technology exist, again, to focus on cars that
24 speed down major thoroughfares throughout the city
25 of New York and to capture that and use that as a

2 device, not only for education, but as a means to
3 slow down traffic in the city of New York, have
4 you had that conversation, yes or no?

5 JOHN CASSIDY: Yes.

6 COUNCIL MEMBER JAMES: Okay.

7 JOHN CASSIDY: And we know that the
8 technology exists, the--

9 COUNCIL MEMBER JAMES: Okay.

10 JOHN CASSIDY: --idea is the law
11 has to be passed--

12 SUSAN PETITO: Council Member--

13 JOHN CASSIDY: --that allow us to
14 implement it.

15 SUSAN PETITO: I'm sorry.

16 COUNCIL MEMBER JAMES: Yes.

17 SUSAN PETITO: We need state
18 legislation in order to implement that, and DOT
19 and the police department have sought that
20 legislation--

21 COUNCIL MEMBER JAMES: Okay.

22 SUSAN PETITO: --for many years.

23 COUNCIL MEMBER JAMES: So that
24 would be a conversation that I will have with my
25 state elected officials. Speedways, do you

2 support slow zones?

3 JOHN CASSIDY: Could you be more--

4 COUNCIL MEMBER JAMES:

5 [Interposing] Slow zones is a policy that has been
6 put--

7 JOHN CASSIDY: [Interposing] No,
8 no, what's a speedway?

9 COUNCIL MEMBER JAMES: There are
10 speedways all throughout the city of New York, I
11 consider Eastern Parkway, Utica Avenue--

12 JOHN CASSIDY: [Interposing] You're
13 talking about cars--

14 COUNCIL MEMBER JAMES: -- Nostrand
15 Avenue--

16 JOHN CASSIDY: --okay.

17 COUNCIL MEMBER JAMES: Right. And
18 I have put in a number of requests with civic
19 associations all in Brooklyn, and I'm reading an
20 article in the Brooklyn paper which said the
21 number of slow zone applications from Brooklyn,
22 Bronx, and Queens have multiplied within the last
23 few days, I believe the deadline was last Friday,
24 if I'm not mistaken. Do you support the
25 application or the policy of slow zones in the

2 city of New York along speedways?

3 JOHN CASSIDY: It would really be
4 dependent upon the locations. In other words,
5 couldn't make a blanket statement, but depending
6 on the accidents and depending on the locations,
7 we have supported that in the past at various
8 locations. But it would have to be contingent
9 upon an analysis that shows, A, that that could be
10 deployed without causing like a major disruption,
11 you know, or cause accidents, you know, and also,
12 you know, impact the flow of traffic on certain
13 main corridors, and DOT would have to be
14 sufficiently convinced that they could do that
15 without, you know, you know, affecting the traffic
16 flow along these certain locations. So I'm not
17 sure exactly what their level is, you'd have to
18 discuss that with them--

19 COUNCIL MEMBER JAMES: Okay.

20 JOHN CASSIDY: --but it is a
21 discussion that we could have with them, that's
22 not--

23 COUNCIL MEMBER JAMES:

24 [Interposing] I've had a number of very serious
25 accidents and some fatalities in my district

2 involving cyclists. It concerns me that your
3 highway patrol district and your Accident
4 Investigation Squad only responds to vehicular
5 accidents when there's a serious injury and/or
6 fatality. And oftentimes you investigate, as you
7 indicated, as was described earlier, when one is
8 transported to a hospital and there's a
9 determination that that individual is,
10 unfortunately, will expire. And I believe at that
11 point it's sort of late--

12 JOHN CASSIDY: Or likely.

13 COUNCIL MEMBER JAMES: --it's or
14 likely to die, it's very, very--

15 [Crosstalk]

16 COUNCIL MEMBER JAMES: --late in
17 the investigation because critical evidence is
18 lost, yes?

19 JOHN CASSIDY: No, no, what happens
20 is the patrol officers, when they respond to the
21 scene, they begin the process, as I said before,
22 you know, of cataloging the scene basically, of
23 taking the information, and at that point, if it's
24 been indicated to them, either apparently or by
25 EMS personnel, that individual being removed--fire

1
2 personnel as well could say this person looks like
3 they might be likely. At that point, patrol
4 supervisor is called either to the scene, if the
5 individual is there to make the determination, or
6 to go to the hospital. So if the individual is
7 there, they will come and confer with the EMS
8 personnel and they will begin the job or the
9 supervisor goes to the hospital. But what happens
10 is, when that request is made, the accident
11 investigation technicians, the uniformed patrol
12 officers who do the work up at the scene, the
13 dynamic work up, they do, in fact, respond and the
14 scene is cordoned off and held so that evidence is
15 not lost.

16 COUNCIL MEMBER JAMES: I don't want
17 to talk about truck traffic, I have a problem with
18 truck traffic. My district is near the BQE, major
19 problem, major, major issue enforcement, you've
20 done some enforcement, but obviously, we need to
21 do more, I'll talk to you offline about that. But
22 I want to talk to you about a major problem in my
23 district and that is cyclists who, unfortunately,
24 are pushed off the road by automobiles, by
25 drivers, and nothing, absolutely nothing, is done

1
 2 to investigate those incidents. And I recognize
 3 you're down in person power, but the reality is,
 4 is that they should have the same degree of
 5 attention that others have when they're involved
 6 in very serious accidents. And in some cases, we
 7 have had some very serious accidents and what
 8 happens is--and I applaud all that you do in the
 9 city of New York, every member of NYPD, I wish
 10 that you would stop stop-and-frisk, but when it
 11 comes to cyclists, unfortunately, they are treated
 12 like second and third class citizens in the city
 13 of New York, and that is very, very unfortunate.
 14 Is there a response to that before I end?

15 JOHN CASSIDY: Danny?

16 COUNCIL MEMBER JAMES: Getty.

17 DANIEL MULLIGAN: We constantly
 18 reach out to the community and educate the
 19 community about the bicyclist's rights and also to
 20 bicyclists. Two thousand ten, there were 4,009
 21 bicycle accidents; this year, I believe our
 22 efforts, you know, successful, we're down to
 23 3,794, that's--

24 COUNCIL MEMBER JAMES:

25 [Interposing] So let me stop you because you're

going to cite a number--

DANIEL MULLIGAN: --decrease of about 5%.

COUNCIL MEMBER JAMES: Again, I'm not trying to disrespect you, but what I get from NYPD is a number of numbers. You try to just hypnotize me and the audience with numbers. Your numbers mean nothing to me, with all due respect. The reality is that I have arrived at incidents where cyclists have been pushed off the road and there has not been anyone to respond or take a complaint or file any type of complaint, and that is an issue that really needs to be dealt with. I think the Vehicle and Traffic Laws needs to be elevated, I think there needs to be a specific statute with respect to cyclists, I obviously need--we need more reform in this particular area.

I thank you for all that you have done, I think elected officials should be involved in your discussion because obviously, you know, you guys are not the only--you're not the smartest guys in the room, with all due respect, we do have some ideas, and I think the community should be involved as well.

2 Thank you for this most important
3 issue. And it's unfortunate that this would only
4 last until 1 o'clock, and in this small room, it
5 should have been a longer hearing, no disrespect
6 to the Chairs, I know it's beyond your control.
7 Thank you.

8 CHAIRPERSON VALLONE: Yeah, we
9 tried very hard to get another room. Council
10 Member Levin.

11 COUNCIL MEMBER LEVIN: Thank you,
12 Mr. Chairman. Well, Mr. Cassidy, I have a number
13 of questions, and I just want to let you know I
14 represent Greenpoint--I represent the 33rd
15 District in Brooklyn, which is Greenpoint and
16 Williamsburg, Park Slope, Boerum Hill, I have a
17 continuing growing number of cyclists, a cycling
18 community. I also represent what I would call
19 speedways, I represent McGuinness Boulevard, I
20 represent Flatbush Avenue, I represent Atlantic
21 Avenue. If you go anywhere along those streets,
22 those avenues, at any time, if cars are able to go
23 50 miles an hour, they'll go 50 miles an hour. I
24 was going to talk about speeding for a minute, how
25 many speeding tickets were issued in 2011?

2 JOHN CASSIDY: Seventy six thousand
3 493.

4 COUNCIL MEMBER LEVIN: Okay. You
5 know, I'm just going to ask a very quick question
6 of those that are assembled in the room here. If
7 I could see a show of hands, how many people in
8 this room have received a speeding ticket in the
9 city of New York?

10 [Pause]

11 [Off mic]

12 COUNCIL MEMBER BREWER: --don't
13 have a car.

14 COUNCIL MEMBER LEVIN: How many
15 have received speeding tickets ever, ever?

16 [Crosstalk]

17 COUNCIL MEMBER BREWER: --a car?

18 [Pause]

19 COUNCIL MEMBER LEVIN: Okay.
20 Three, three individuals in this room have
21 received speeding tickets. I am telling you, it
22 is never enforced. It is so rarely enforced. I
23 can tell you I have seen people pulled over all
24 the time for things like left turns, seatbelts.
25 And what I want to know is how are we equipping--

2 are our precincts given directives to issue
3 speeding tickets when they see it? Are they put
4 out there to, with guns, with speed guns to catch
5 people speeding on these speedways?

6 MALE VOICE: --and there's only
7 two--

8 [Crosstalk]

9 JOHN CASSIDY: It's a combination
10 of things and let me put it to you this way. They
11 are put out there and they are doing speed
12 enforcement. Obviously, the numbers show that
13 there are people out there doing speed
14 enforcement. And what you call the speedways, we
15 call corridors. Basically, you know, a large, you
16 know, as you alluded to, you know, main roadways,
17 if you will, that transverse the city from one
18 place to another. You know, the first line of
19 defense in something like that is to work in
20 conjunction with our DOT partners to see to it
21 that, again, unlike a highway, most of these
22 corridors, as you say, are red light controlled.
23 And so, you know, in order to move the flow of
24 traffic, depending on the time of day, during the
25 a.m. rush, the p.m. rush, whether it's an inbound

1
2 or an outbound, a speedway or corridor, as you
3 call it, you know, the lights are sequenced so
4 that the vehicles can move so that we can
5 accomplish our goal of moving the rush hour into
6 the city and out. You know, a total of something
7 like a million people actually move in and out,
8 you know, on an a.m. and p.m.

9 But let me also in regards to the
10 speeding summonses, I mean, you just spoke a
11 moment ago about the fact that you saw a vehicle
12 stop and your explanation was they were giving out
13 a summons for seatbelts, or we were giving out a
14 summons, you know, for some other violation. And
15 I would say to you that a radio car with its
16 lights, with its turrets lights activated with an
17 individual stop for a violation on, say, Eastern
18 Parkway or someplace else, the vast majority of
19 the motorists that are passing that individual
20 have no idea what he's getting a summons for--

21 COUNCIL MEMBER LEVIN: Right, I
22 understand--

23 JOHN CASSIDY: --and they assume
24 that it's for speeding, if they think that
25 speeding is a problem at those locations. So it

2 solves their problem.

3 COUNCIL MEMBER LEVIN: With all due
4 respect, what I'm going to do is I'm going to buy
5 myself a speed gun, my office is on Atlantic
6 Avenue, I'm going to sit outside and I'm going to
7 just ring them up, I'm going to send them over to
8 you guys and let you know how many folks I catch
9 within an hour speeding on Atlantic Avenue past my
10 office. I'm going to move on.

11 I'm not going to ask in too much
12 detail on specific incidents, but I do want to
13 talk about Mathieu Lefevre, Michelle Matson, and
14 Ray Dieter. Of those three individuals, and I'm
15 sure you're familiar with all of those three
16 cases, how many of those cases--or which of those
17 cases were Accident Investigation Squads summoned
18 to, were all three?

19 JOHN CASSIDY: We can't talk about
20 individual cases, that was brought up to the
21 Council before--

22 COUNCIL MEMBER LEVIN:
23 [Interposing] But you can't even refer to how many
24 of those the AIS were summoned to?

25 JOHN CASSIDY: I don't have that

list in front of me.

COUNCIL MEMBER LEVIN: Okay. Well, I noticed something, I'm a little bit outraged at the moment. I was looking through a press account of Ms. Lefevre's--some of the stuff that was released because his mother filed a FOIL request. And I'm looking at the complaint on 10/19 or 10/20/2011, and a summary of the investigation. This very much bothers me because it shows a carelessness that I think is unacceptable. It says while traveling northbound on Morgan Avenue, and it proceeds to say how the vehicle made a right-hand turn while traveling northbound on Morgan Avenue. I live on Morgan Avenue, I live about a mile from where the incident took place. You can't make a right-hand turn traveling northbound on Morgan Avenue onto Meserole there, that vehicle was traveling southbound. There's a glaring error in this report that is in the very first sentence of the summary of investigation. And my concern is, with this incident and with others, is that there is a carelessness that has gone into it that compromises the investigation to its very core, and so I would ask respectfully

2 that when these investigations are concluded, that
3 the NYPD submit to this Council a summary of what
4 happened here, where there were mistakes that were
5 made, where there are inaccuracies, and what we're
6 doing to correct those in the future, 'cause I
7 don't ever want to see this happen again. And
8 thank you, Mr. Chairman.

9 CHAIRPERSON VALLONE: Thank you,
10 Council Member. Council Member Mealy. I know
11 that you have a meeting at one you have to get to,
12 so as long as we leave some others here to take
13 some questions, we only have two or three Council
14 Members left, leave when you need to leave, you've
15 given us over two hours, but as long as there's
16 other people here to take the Council Members'
17 questions, that's fine.

18 JOHN CASSIDY: We'll try to extend
19 it, I'll just--

20 CHAIRPERSON VALLONE: Okay. Thank
21 you.

22 JOHN CASSIDY: --rush back as best
23 I can.

24 CHAIRPERSON VALLONE: Don't hit
25 anybody.

2 JOHN CASSIDY: Absolutely.

3 CHAIRPERSON VALLONE: Okay.

4 JOHN CASSIDY: Luckily, One Police
5 Plaza is not that far away.

6 CHAIRPERSON VALLONE: Okay. Okay.
7 Council Member Mealy.

8 COUNCIL MEMBER MEALY: I want to
9 thank my colleagues for having this important
10 hearing. I had to change my--everything I had
11 prepared for you because you won't be talking
12 about any incidents. But I think about Mr.
13 Theodore Love, who was hit by a police car--well
14 we really don't know as of yet, they say a traffic
15 car, a school agent car, we haven't got any
16 information as of yet. So now I'm still thinking
17 about all the requests that we asked, we're still
18 investigating. So I have to ask, what is the
19 backlog with the 19 investigators in regards to
20 incidents of fatality in the city? Is there a
21 backlog?

22 JOHN CASSIDY: No.

23 COUNCIL MEMBER MEALY: So why is it
24 so long to get a response for the family members
25 when a fatality happen?

2 [Pause]

3 JOHN CASSIDY: --basis.

4 SUSAN PETITO: Yeah. Council
5 Member, I'm not sure what kind of response you're
6 talking about, and we don't generally discuss open
7 cases that are either being investigated--

8 COUNCIL MEMBER MEALY: In general.

9 SUSAN PETITO: --or prosecuted so..

10 COUNCIL MEMBER MEALY: Just in
11 general. If someone have a accident and it's a
12 fatality, how long does it take you to find out
13 what happened? And to get back to the family?

14 SUSAN PETITO: You mean, how long
15 does the investigation take?

16 COUNCIL MEMBER MEALY: That's what
17 I asked.

18 JOHN CASSIDY: Of course, each
19 individual case has its own particular--

20 COUNCIL MEMBER MEALY: Any case.

21 JOHN CASSIDY: --you know, issues.

22 COUNCIL MEMBER MEALY: 'Cause I
23 know this hearing has been focusing on reckless
24 endangerment, so everyone has to play their part
25 of recklessness and we have to find out how can we

2 help these family members. So he's going to speak
3 now?

4 MICHAEL KELLY: Department policy
5 indicates that we don't release anything on an
6 open case, that's throughout the NYPD. We keep
7 the case open until every factor we can possibly
8 find out is included in the case. We try to get
9 toxicology, blood tests, and when we have it all,
10 that's when we close our case. And we're not
11 allowed to release anything until that time.

12 COUNCIL MEMBER MEALY: Okay. Is--

13 MICHAEL KELLY: Now I understand,
14 to further answer your question, families are very
15 upset and there's nothing that I'm certainly going
16 to say that's going to make any of that any
17 better. I give them what I can because they
18 deserve something. We don't keep calling the
19 family because, I thought that was a good idea
20 once and learned that it wasn't. You know, you're
21 not sure, some families need two weeks, three
22 weeks, but we don't give out certainly copies of
23 anything until the case is closed like--

24 COUNCIL MEMBER MEALY:

25 [Interposing] How long does it take a case to

2 close?

3 MICHAEL KELLY: It can take
4 sometimes six months, and there's cases that I
5 have open for over a year. Like if it's a leaving
6 the scene and I'm still looking for somebody and I
7 have something to go on, that can stay open a very
8 long time.

9 COUNCIL MEMBER MEALY: Okay.
10 'Cause Mr. Love was a World War II vet and he
11 walked daily, but you're all main response is no
12 criminality, right?

13 MICHAEL KELLY: For the most part,
14 there is no criminality.

15 COUNCIL MEMBER MEALY: When you
16 issue that, how do you find out if they were maybe
17 drunk, speeding--

18 MICHAEL KELLY: [Interposing] Well
19 it's our--okay.

20 COUNCIL MEMBER MEALY: --let's see,
21 behind the wheel, texting. How do you find that
22 information out? 'Cause the same way this--we
23 still don't know as of yet whether it was a police
24 car, a school safety car, and you--

25 MICHAEL KELLY: [Interposing] We're

2 talking about specific leaving the scene?

3 JOHN CASSIDY: No, you can't--

4 COUNCIL MEMBER MEALY: Or leaving a
5 scene, you can't talk about it. Leaving the
6 scene, anything, but if you say no criminality,
7 after a while, you have to investigate some way or
8 another to see who was at fault, were they
9 speeding, were they texting. How long does that
10 take for the department to give family information
11 or to put it in a report?

12 MICHAEL KELLY: Texting would be in
13 the report right after we dump the phone, so we
14 could get that. Speeding, we need to have some
15 physical evidence at the scene or witnesses to
16 that effect. We look for video cameras to see if
17 we can prove that. We can usually find that out
18 within several weeks, we usually get those
19 questions answered.

20 COUNCIL MEMBER MEALY: Within seven
21 weeks. So what is the process--

22 MICHAEL KELLY: [Interposing]
23 Several weeks.

24 COUNCIL MEMBER MEALY: Several
25 weeks? What is the process of investigations when

2 an accident involving an NYPD vehicle or
3 pedestrian?

4 MICHAEL KELLY: Well usually we'll
5 also notify our Internal Affairs Bureau, just to
6 make sure everything is done as they would like,
7 to ensure everything is done honestly.

8 JOHN CASSIDY: And the Internal
9 Affairs Bureau actually will come out to the scene
10 at the time that the--

11 COUNCIL MEMBER MEALY:
12 [Interposing] They will come out.

13 JOHN CASSIDY: --incident occurs,
14 and they will oversee the Accident Investigation
15 Squad's investigation, you know, from the time
16 that the accident occurs right up to its final
17 determination, that's something that, for obvious
18 reasons, we want to have them included right at
19 the get go, and they are, in fact, included.
20 That's an immediate notification to the IAB and
21 the IAB will send out a response team to that
22 location, and they start right from square one.

23 COUNCIL MEMBER MEALY: Okay. I
24 have about two questions. With all these new
25 bikes coming in, next year we're going to get

2 10,000 bikes, New York, how would you all track
3 the accidents that will occur when these bikes get
4 on the city of New York?

5 JOHN CASSIDY: You want to talk
6 about that--

7 [Off mic]

8 COUNCIL MEMBER MEALY: You don't
9 have a database--

10 COUNCIL MEMBER BREWER: Bike-Share.

11 COUNCIL MEMBER MEALY: Bike-Share,
12 10,000 bikes are coming next year.

13 SUSAN PETITO: Well currently we
14 report accidents involving bicycles in two ways.
15 If it's a vehicle accident with a bicycle, that's
16 reported on a motor vehicle accident report. If
17 it doesn't involve a motor vehicle, if it's a bike
18 and a bike or a bike and a pedestrian, or even
19 bicyclists by themselves, an Aided report is
20 filled out for that accident. So there is a way
21 to track those accidents and we do have the number
22 of bicycle accidents.

23 COUNCIL MEMBER MEALY: But I know,
24 correct me if I'm wrong, I just heard one of my
25 colleagues say that you don't have a database, you

2 don't have any tracking system. So do you all
3 really feel you're all prepared for these 10,000
4 bikes next year?

5 [Pause]

6 SUSAN PETITO: Well we have a
7 database.

8 JOHN CASSIDY: Yeah, we are
9 actually developing something and, you know, in
10 that regard, but it takes a certain amount of
11 meetings that are ongoing and technical
12 individuals involved in this process, but I think
13 that, unfortunately, I can't give you a time
14 frame, but I'll just say soon we will be able to.

15 COUNCIL MEMBER MEALY: Soon these
16 bikes will be here.

17 JOHN CASSIDY: Yes, it'll be by
18 then.

19 COUNCIL MEMBER MEALY: You'll have
20 it by then. Do you know what--will the community
21 be involved in this process? 'Cause we know now
22 bikes are here and who better can tell you how to
23 better serve them are the bike riders. Will they
24 be part of your process?

25 JOHN CASSIDY: The process is just

2 to include them in the motor vehicle accidents.
3 So in other words, you know the accident report
4 that you would fill out when a vehicle is
5 involved, we would be looking to mirror that
6 process.

7 COUNCIL MEMBER MEALY: Okay. I'm--

8 JOHN CASSIDY: That would go into
9 everything that you're looking for.

10 COUNCIL MEMBER MEALY: I just want
11 to say, I think for what the police department is
12 doing, I have to say last night I met with Chief
13 Banks and he brought out a lot of programs to my
14 district, but I'm really disturbed how we can't
15 get any answers from the police department also.

16 And in closing, but my highlight
17 was, the community said they had never seen so
18 many police officers before and there's so many of
19 them. I just hope that the new police officers
20 that we did receive in our communities, I hope
21 they stay and I hope you keep molding them in a
22 way that they know how to deal with people, and I
23 believe the beat officers now is really getting to
24 know the community and it's working in Brownsville
25 and in Bedford-Stuyvesant.

2 JOHN CASSIDY: Chief Banks is a
3 driving force behind that.

4 COUNCIL MEMBER MEALY: I appreciate
5 it, I'm looking forward--

6 CHAIRPERSON VACCA: Thank you.

7 COUNCIL MEMBER MEALY: --to working
8 with them. Thank you.

9 CHAIRPERSON VACCA: Thank you.
10 Council Member Ignizio?

11 COUNCIL MEMBER IGNIZIO: Yes, thank
12 you very much. For those gentlemen who do not
13 know, I represent the South Shore of Staten
14 Island, two of the three largest precincts in the
15 city, and the issue in my district and it's the
16 issue really for today that does not land at your
17 doorstep is the Paul Revere moment of what I'm
18 trying to say today is that the problem, in
19 essence, isn't the police department, the problem,
20 in essence, is we are decreasing and depleting our
21 numbers of police officers to numbers which we
22 will pay for going forward. We cannot have a
23 police force that goes from 41,000 cops to 33,000
24 cops and then say well, you know, we just can't
25 cover that, we just can't do that. The problem

1
2 here is across the street, it's the Mayor and it's
3 the future mayoral candidates that I believe need
4 to see to the fact that we increase the ranks of
5 the NYPD.

6 That being said, I need to ask
7 questions about the way the world is today, not
8 the way I want it. And we don't have a
9 paramilitary organization, you all do, and I
10 respect that you have a paramilitary organization,
11 but when you are having and conducting meetings
12 with the DOT and the NYPD in our districts on how
13 to build a better mousetrap, you have to include
14 those that represent the community as well, that's
15 why we have a representative democracy.

16 Otherwise, we turn over the keys to the kingdom
17 and we say, here you go, you can be the king and
18 you don't need us. But until that's the case,
19 these two committees--and, in my opinion, the
20 Public Safety Committee and the department--and
21 Transportation Committee need to ensure that the
22 concerns of the community are heard through you
23 through their representative, not through, well,
24 you know, we have our community affairs officers
25 there, and God bless them, thank you for them, but

2 they don't get elected, and they don't hear from
3 the people, like we do.

4 So I think a much better
5 partnership needs to be created with regards to
6 this process that I'm hearing is being created
7 with the Department of Transportation, the borough
8 commissioners. In my view, the borough
9 commissioners don't have sufficient authority over
10 their own borough to make the changes that you're
11 talking about potentially making, just within the
12 confines of the City Charter. So is there or can
13 you take back to whomever you need to, be it the
14 Commissioner or any level, an issue whereby the
15 Council Members who represent the district when
16 you're coming to that borough are included in that
17 process?

18 JOHN CASSIDY: We don't actually
19 come to the borough, just--you know, in other
20 words, I'm not sure which meeting you're talking
21 about, the one that I attend, the TrafficStat
22 meeting--

23 COUNCIL MEMBER IGNIZIO: The one
24 you just said was going to be on Staten Island at
25 1 o'clock, which I was invited to.

2 JOHN CASSIDY: [Interposing] Well
3 that's here at One Police Plaza--

4 COUNCIL MEMBER IGNIZIO: Okay.

5 JOHN CASSIDY: --the borough of
6 Staten Island comes down to One Police Plaza, we
7 bring all those other commissioners we talked
8 about--the DOT Commissioner, representatives from
9 Bus, from the TBTA, for the Concerns for the
10 Verrazano Bridge, et cetera. In other words, all
11 the city agencies that impact on traffic sit in
12 the room--

13 COUNCIL MEMBER IGNIZIO: Yes, sir.

14 JOHN CASSIDY: --and what happens
15 is the precinct COs and their XOs go up to the
16 microphone and basically the statistics that they
17 have and that we have, we go over their individual
18 programs.

19 COUNCIL MEMBER IGNIZIO: Yes, sir.

20 JOHN CASSIDY: So the individual
21 programs for those--and the good part about Staten
22 Island is that--

23 COUNCIL MEMBER IGNIZIO: Is
24 everything, I know.

25 JOHN CASSIDY: Is everything,

2 that's true.

3 COUNCIL MEMBER IGNIZIO: Yes.

4 JOHN CASSIDY: The good part, you
5 get the biggest bang for the buck because usually,
6 you know, we operate under a time constraint as
7 well and so usually there's an overview for the
8 borough, but we bring three on average precincts
9 to the podium. So we look for the three precincts
10 that are having the most problems that we envision
11 or they're having certain specific problems that
12 we want to address. In the case of Staten Island,
13 because there's only three, they all get to go to
14 the podium and explain, and we work on them
15 individually.

16 But this is something that
17 basically is the precinct commanders, their XO's,
18 their traffic safety people, and these other
19 commissioners listening to the problems that they
20 feel they have with these various accidents. And
21 you know, they bring with them, obviously, the
22 concerns from the community for various things and
23 that is articulated, you know, at the podium and
24 that, you know, community is concerned about the
25 overnight truck parking, they're concerned about

1 speeding at these locations. So they do, in fact,
2 bring that back, you know, from the community
3 council meetings and the meetings, you know, with
4 the individuals.
5

6 I will bring back your suggestion,
7 you know, based on how you articulate it, but I
8 don't want you to think that, you know, it
9 operates in a vacuum, it doesn't.

10 COUNCIL MEMBER IGNIZIO: Yes, sir.
11 No, I get that point and I appreciate it, but I
12 generally believe that there is a disconnect
13 between the community and its NYPD and the shop
14 that it runs. It runs a, as we heard here, it
15 runs a culture of keeping the information on their
16 side of the ledger and not--you know, despite the
17 comments of--I heard with great fanfare the
18 Bloomberg Administration talk about it's going to
19 be the most transparent government we've ever seen
20 ever. And then in terms of situations whereby the
21 community can be helpful and its representatives,
22 it's well, you know, we're having these meetings
23 and, you know, we'll let you know when we're done
24 and then you can comment on it, but, you know,
25 much like school closure, we're going to close the

1
2 school, you can have a meeting and talk about
3 closing the schools, but guess what, at the end of
4 the day, the school is still closing.

5 All I'm looking for in my
6 community, and I have severe speeding issues and
7 the reason being that we can't have the
8 enforcement that I want is because I don't have
9 the numbers of cops that I want, and that goes
10 back to my previous comments. But what I would
11 like to do is be able to sit in the room with
12 those that are making the decisions on the DOT
13 level and the PD level to have input on what's
14 going on in my community. Nobody knows their
15 community and their district better than the
16 representative of that community, that's why, we
17 have a representative democracy. And I just want
18 to encourage this administration and Commissioner
19 Kelly, who also prides himself on being
20 transparent, to be more transparent and to allow
21 some of the sunshine of government to come into
22 the confines and the halls at 1PP and allow us to
23 have input in this process that you're referring
24 to.

25 But to reiterate what I did say,

2 Mr. Chairman, is the umbrella here is the numbers,
3 the numbers don't lie, you can't go from 41,000 to
4 33,000 and anticipate we have the same resources
5 to deploy in all facets of the NYPD, that needs to
6 be addressed or we're going to have even worse
7 trouble going forward. Thank you very much, and I
8 respect you all very, very much, I want you to
9 understand that. I have differences of the way I
10 would handle the meetings or differences in terms
11 of opinions of how I think we should act
12 collaboratively. But that being said, I respect
13 the work you do every day and I want to appreciate
14 on behalf of my constituents. Thank you.

15 [Crosstalk]

16 CHAIRPERSON VALLONE: Thank you,
17 Council Member. And before you came in, it's
18 worse than--the numbers regarding the depletion
19 there makes it worse than the general numbers,
20 they're down about 45% and they still managed to
21 get fatalities down this year, so they really are
22 doing more with less in certain areas and deserve
23 a lot of credit for that.

24 The last Council Member to ask
25 'cause I know you have to go, is Council Member

2 Halloran. We're not going to put any more on the
3 list so you can get out of here to your meeting.
4 Council Member Halloran.

5 COUNCIL MEMBER HALLORAN: Thank
6 you, Mr. Chair, appreciate it. Thank you for
7 being here, gentlemen and lady. It's important
8 that I thank you for some of the things that
9 you've done in my district. For example, corridor
10 enforcement, we've been very fortunate. I have
11 Francis Lewis Boulevard, Utopia Parkway, the Cross
12 Island Parkway, the Van Wyck Expressway, the
13 Clearview Expressway, the Long Island Expressway,
14 the Whitestone Expressway, Bell Boulevard, and
15 Northern Boulevard all in my district. Highway 3
16 does a fantastic job, and I appreciate their
17 coordinated efforts with my local precincts to do
18 spot enforcement on request. And that is
19 something that I encourage my colleagues to do, to
20 speak to their district highway office and their
21 local precinct, coordinate with the precinct
22 community Council and very frequently were able to
23 get enforcement, spot enforcement for limited
24 durations at those intersections which are
25 problematic. We had several deaths at the

1 intersection of 17th Avenue and Francis Lewis
 2 Boulevard, and we set up enforcement below that,
 3 and I'm sure not, you know, hundreds, but dozens
 4 of summonses for speeding or driving recklessly
 5 were issued, and I'm sure you guys have no short
 6 supply of those locations to go to.
 7

8 I also appreciate the Truck Boot
 9 program, which my Community Board, Community Board
 10 7, advocated for and, in fact, allotted money for.

11 I would also ask you, it wouldn't
 12 be problematic if Council Members put
 13 discretionary money towards those truck boots so
 14 that you could do a broader enforcement of the
 15 truck parking issues that many of the communities
 16 are experiencing where these large tractor
 17 trailers are basically in no parking zones, and in
 18 some cases even no truck zones overnight. And,
 19 you know, certainly we want our deliveries to
 20 happen, but it can't be at the expense of our
 21 local citizens. Would there be any issues with--
 22 Community Boards have funded them, is there any
 23 issue with Council Members issuing discretionary
 24 funding for those boots?

25 JOHN CASSIDY: Well we certainly

2 have boot teams and additional equipment, we would
3 never turn our back on additional equipment or
4 technology, and certainly if it was made available
5 to us, you know, we would utilize it. Right now,
6 you know, we're finding that the heavy-duty tow
7 trucks are making our point in locations where
8 they need to be made. I know you've them seen
9 around the city, they're very large and imposing
10 vehicles, and when they're hooking up these large
11 tractor trailers and trucks and carting them off,
12 it seems to be the type of thing that leaves an
13 impression.

14 The boot is a little less
15 impressive and there's always the possibility that
16 left alone, which it is sometimes, they are
17 extremely inventive in attempting to remove them.
18 But you know, certainly, you know, we would take
19 whatever we were allocated and we would use them
20 to the best of our ability.

21 COUNCIL MEMBER HALLORAN:

22 Appreciate it.

23 SUSAN PETITO: Council Member

24 Halloran--

25 COUNCIL MEMBER HALLORAN: Yes?

2 SUSAN PETITO: --the way to do
3 that, if, you know, we would love, I'm sure, for
4 that to be considered is to write to the police
5 commissioner and just offer the money, that would
6 be terrific.

7 COUNCIL MEMBER HALLORAN: Okay. I
8 appreciate that. You know, we have had that
9 project work in Community Board 7 Queens, and I
10 would like to see, you know, it expanded if
11 possible and certainly, you know, that would be
12 useful.

13 Now I just have three quick sort of
14 questions for you. The first is that the level of
15 coordination between the highway districts and the
16 local commands, is there a back-and-forth flow of
17 information with regards to potential hazardous
18 locations with regards to speeding, reckless
19 driving, things of this nature, such that
20 independent of the Council Member or the Precinct
21 Community Council stepping in and saying there's a
22 problem, do we have a back-and-forth already
23 established so that those commands can share
24 information and, when necessary, obviously, the
25 highway units have the radar and laser guns to

1
2 potentially do that sort of enforcement?

3 JOHN CASSIDY: Most of the back-
4 and-forth takes place in the precincts that have
5 highways running through them. There are, you
6 know, certain precincts, you know, in certain
7 locations that have no highways running through
8 them at all, and so the amount of interaction
9 between the precinct CO in that case and the
10 highway would be limited but, you know, to
11 specific locations where they might have problems.
12 But most of the time, if the precincts do have
13 roadways running through them, as I spoke before
14 about the TrafficStat process, if the accidents,
15 say, are up in Precinct A and Precinct A is at the
16 podium, the TrafficStat, the highway CO that
17 covers that borough, Precinct A is physically
18 present as well. And so, you know, he has to
19 explain because, believe me, the precinct CO will
20 say, hey, listen, the accidents are up on the
21 highway, they're not up in my precinct, so the
22 highway patrol is supposed to be addressing that.

23 So their very familiar with exactly
24 where they're up, where they're down, what kind of
25 effort they're deploying, and they do work

2 together to sort of salvage each other in terms of
3 making sure that, if there is an issue, they
4 address it, and if one can be of assistance to the
5 other, they are to see to it that the accidents
6 are suppressed.

7 So that's the long answer, the
8 short answer is absolutely.

9 COUNCIL MEMBER HALLORAN: Okay.
10 Appreciate that. And, again, Highway 3 has always
11 been very responsive. I appreciate the work that
12 they have done in coordination with the 107, the
13 109, the 111, and the three precincts that my
14 council district overlaps.

15 Just another quick question, AI
16 jobs versus Aided cards. When a police officer
17 arrives, a highway police officer arrives at the
18 scene and there's an injury and it's not a life-
19 threatening injury, all right, or at least
20 theoretically, you know, you don't believe it to
21 be one that requires an AI. Is there ever any
22 follow up to determine if an Aided card was done,
23 if somebody was actually injured in these
24 accidents, did it ever become fatal? I understand
25 that you've compiled statistics in the other

2 direction, meaning--

3 JOHN CASSIDY: Right.

4 COUNCIL MEMBER HALLORAN: --these
5 number of AI jobs were called for, these number
6 wound up being fatals. Do you ever just go back
7 and see, did we not issue an AI when we should
8 have or, you know, maybe we had no way to know,
9 but it wound up becoming that?

10 JOHN CASSIDY: Well just a slight
11 clarification. First, the injury would be
12 recorded on the accident report. An Aided card is
13 only utilized if there is no motor vehicle
14 involved, all right? And then what happens is the
15 individual, as you allude, you know, goes off to
16 the hospital and is not deemed to be likely and at
17 a later time, you know, does expire from it. The
18 hospital, you know, notifies, you know, in other
19 words, we're notified of any death, so the
20 precinct is notified and then, you know, when the
21 detectives respond to the hospital or officers
22 first, they will make the determination that this
23 occurred and then we will have an accident
24 investigation at the scene, unfortunately, after
25 the fact--

2 [Crosstalk]

3 COUNCIL MEMBER HALLORAN:

4 [Interposing] But there is a back--I mean, it does
5 go backward so once a squad says, you know, this
6 is related to--

7 JOHN CASSIDY: Right.

8 COUNCIL MEMBER HALLORAN: --the
9 accident, there will be some form of going back.

10 JOHN CASSIDY: [Interposing] Right,
11 absolutely--

12 COUNCIL MEMBER HALLORAN: Okay.

13 JOHN CASSIDY: --through the
14 medical examiner's office.

15 COUNCIL MEMBER HALLORAN: Okay.

16 And my last question just--and I hate to sound
17 like, you know, the broken record here--is
18 disclosure of data. I don't understand--I'm
19 someone who's very technologically savvy, I don't
20 understand how people can manipulate data in an
21 Excel format in any more readable fashion than a
22 PDF. If I have Adobe Acrobat, I can manipulate a
23 PDF; I can change information in the PDF. None of
24 that changes the data reality that you've got a
25 form, a file, that file can be downloaded, can be

1
2 viewed. To put it into an Excel form so that we
3 can actually sort it, break it down by locations,
4 time of day, that kind of manipulation just seems
5 like common sense to me. To say that you're
6 worried about people manipulating the data,
7 anybody with the Adobe suite can do that to a PDF.
8 So to claim that a PDF is secure is, A, not true,
9 and, B, doesn't sort of speak to the underlying
10 issue of the point of the legislation, which was
11 to get this information into a format we can all
12 kind of use.

13 I introduced legislation requiring
14 all city agencies without FOIL to supply to
15 elected officials upon request any data that's not
16 deemed confidential. Does the department deem
17 traffic incident data confidential or in some way,
18 shape, or form otherwise privileged in some
19 specific way, other than the vague and amorphous,
20 you know, statement that you guys made that you
21 don't want it manipulated?

22 SUSAN PETITO: No, it would not be
23 protected under FOIL if it's statistical or
24 factual tabulations. So no, that would not be
25 confidential under FOIL. And forgive me, I am not

2 technologically savvy, but in preparing for this
3 hearing I made, you know, certain inquiries
4 because I thought that the issue of the PDF versus
5 some other form might come up, and the police
6 commissioner had written to the chair and to
7 Council Member Lappin expressing the concern about
8 the data integrity. And just listening to what
9 you have said, if it is manipulable in Adobe, then
10 why would it need to be in Excel, I guess, if it
11 can be worked with in its current form so--

12 COUNCIL MEMBER HALLORAN:

13 [Interposing] No, no, it's manipulable in Adobe--

14 SUSAN PETITO: --I don't--

15 COUNCIL MEMBER HALLORAN: --because
16 you can change the facts inside, you can't sort
17 with it, you can't--

18 SUSAN PETITO: Okay.

19 COUNCIL MEMBER HALLORAN: --break
20 it down by time of day, things like that.

21 SUSAN PETITO: Okay.

22 COUNCIL MEMBER HALLORAN: But
23 what's manipulable is the actual facts.

24 SUSAN PETITO: Then I apologize, I
25 am not technologically savvy.

2 COUNCIL MEMBER HALLORAN: Okay.

3 That's it, and, again, that's not a criticism per
4 se, other than to say that I think all my
5 colleagues have made the point that open and
6 transparent government means open and transparent
7 government, and if it's not confidential or
8 privileged in some law enforcement capacity, it
9 does not make any sense to me why we can't have it
10 out there.

11 But thank you, appreciate your
12 answers, and appreciate the hard work you do.

13 CHAIRPERSON VALLONE: Like I said,
14 Chair Vacca and I have a lot more follow up
15 questions, but I know that you have your actual
16 job to do, which is keeping our roads safe. And
17 you deserve credit for, as I said, bringing
18 fatalities down, for giving even more summonses in
19 certain cases, and you are actually doing much
20 more with much less. But as I think we made
21 clear, that does not mean we can let certain crime
22 go, such as reckless behavior, which endangers our
23 pedestrians and our bicyclists. And so we look
24 forward to working with you to give you what you
25 need to do a better job and, hopefully, you're

2 aware of our intention that you do actually focus
3 more on these crimes.

4 And I know you have to go, so,
5 Chief Cassidy, thank you for coming down, and all
6 of you, and, hopefully, there will be
7 representatives here to listen to the testimony--

8 SUSAN PETITO: Yes--

9 [Crosstalk]

10 CHAIRPERSON VALLONE: --because the
11 family members who have lost people will be next,
12 on the next panel so I'd ask them to come--well
13 I'll call them while you're leaving because I'm
14 not going to take a break because we want to keep
15 moving, but thank you.

16 JOHN CASSIDY: Thank you.

17 CHAIRPERSON VALLONE: We've been
18 joined by Council Members Gennaro and Foster.

19 And the next panel will be Erika
20 Lefevre and her attorney who we will allow to sit
21 with her, Steve Vaccaro; Teresa Pedroza; and
22 Samira Shamoon, the mother of Rasha Shamoon, who
23 was accused, wrongfully, of not wearing a helmet
24 and of being drunk during an accident and was just
25 found by the court that that actually was not the

2 case. So we look forward to hearing from all
3 those people.

4 MALE VOICE: It's so hot in here.

5 CHAIRPERSON VALLONE: I know.

6 [Pause]

7 [Crosstalk]

8 ERIKA LEFEVRE: I am Erika Lefevre,
9 the mother of Mathieu Lefevre--

10 CHAIRPERSON VALLONE: Can you do
11 that behind us?

12 [Pause]

13 ERIKA LEFEVRE: I have been in New
14 York City three times since October 19th, 2011,
15 and I have noticed the presence of the NYPD, I
16 have seen on every police car in New York City
17 that has the--that is emblazoned with the motto:
18 Courtesy, Professionalism, and Respect.

19 Last October, my 30-year old son,
20 Mathieu Lefevre, a promising artist and living and
21 working in Williamsburg, was run over and killed
22 by a truck driver. The only person the NYPD
23 showed courtesy, professionalism, and respect
24 towards was the driver who ran over my son.

25 The way the New York City treats

1 traffic violence and its victims must be reformed.
2 The driver claims not to have realized he killed
3 my son, even though the driver ran over him with
4 his front driver's side tire, leaving paint from
5 the bicycle and blood on the driver's side of the
6 front bumper, and dragged my son's body and his
7 bicycle 171 feet before leaving them on the side
8 of the road and driving on.

10 We came here in good faith on
11 October 20th, 2011. From the moment we arrived in
12 New York City to learn what happened to our son,
13 NYPD investigators gave us the run around. It
14 took six entire days for the AIS detective to call
15 us, although we had been at the 90th Precinct for
16 two entire afternoons before then. The press
17 printed blame-the-victim articles about the crash
18 that were attributed to unnamed police sources.
19 We led public protests demanding accurate
20 information, but received no response. Our
21 requests to NYPD under the Freedom of Information
22 Law were improperly denied. Months passed while
23 we sat in painful limbo, not knowing how our son
24 died and who was responsible.

25 On January 20th, three months after

1
2 the crash, on the eve of a court hearing to compel
3 the NYPD to respond to our requests, the NYPD
4 finally released its investigative file. We were
5 appalled. The NYPD had failed to bring a working
6 camera to the crash scene so there were no
7 pictures of the scene, although, disturbingly,
8 they gathered pictures of our family protesting
9 its intransigence. Why? They had failed to
10 preserve critical pieces of evidence, like my
11 son's blood and helmet. The NYPD relied on the
12 driver's statements and reactions to the crash as
13 dispositive evidence that he did not know that he
14 had hurt or killed someone--exonerating him of
15 criminal charges. Adding insult to injury, they
16 informed the driver of the results of the
17 investigation immediately on January 1st, but
18 waited three weeks before telling us, the victim's
19 family.

20 Most baffling of all, the NYPD
21 claims their conclusion was based on a
22 surveillance video that contradicts the very
23 sequence of events described in the police report.
24 It's frustrating beyond description to be handed
25 videotape that supposedly shows the death of our

1
2 son, to watch it over and over and over, and yet
3 never see the events the authorities claim it
4 shows.

5 The NYPD's investigation raises
6 more questions than it answers. Why did NYPD
7 gather photos of me protesting at One Police
8 Plaza, but gather none of the scene of the
9 accident of the crime? Why was our son subjected
10 to toxicology tests, but not the driver, whom the
11 NYPD had identified just hours later? Why were we
12 denied timely results of the investigation? Why
13 did the police accept the claimed ignorance of a
14 driver who ran over Mathieu and his bicycle with
15 the front driver's side of his truck, dragging him
16 for more than half the length of a block? Why did
17 police make up a story about how my son died,
18 blaming him for his own death?

19 The case is now in the hands of the
20 Brooklyn District Attorney's office. The DA is
21 conducting an independent review to determine
22 whether the charge of fleeing the scene, or
23 perhaps something more serious, is appropriate.
24 Despite the NYPD's bungling, there is ample
25 evidence of the driver's recklessness for the DA

2 to consider: The driver turned without signaling;
3 failed to exercise due caution while driving--two
4 traffic violations that caused our son's death.
5 He ran over my son and crushed him with a front
6 driver's side wheel; he dragged my son and his
7 bicycle many yards while barreling down Meserole
8 Street against the flow of traffic. No criminal
9 charges.

10 The driver should be charged with
11 knowledge that a collision occurred. We hope the
12 Brooklyn DA will agree. Laws are created to
13 protect, they serve no purpose if they are not
14 enforced.

15 Our son's life is gone, but if our
16 action helps to save even one life on the streets
17 of New York, it will have been worth it. How
18 ironic that our son, who was a kind, generous
19 person, a talented artist, someone who loved life
20 and believed in the generosity and goodness of
21 people should be treated so disrespectfully and so
22 unjustly by the police authorities of New York--a
23 city he loved.

24 The loss of our son is devastating.
25 Our dealings with the NYPD have made that loss

2 even more painful. The NYPD must take traffic
3 crimes seriously, instead of trivializing it. We
4 and the families of other hundreds of people who
5 die in New York City traffic, as we've heard
6 today, each year, we deserve competent and
7 unbiased investigation by the police, or put
8 another way: Courtesy, Professionalism, and
9 Respect. Let us not forget that every human life
10 is precious. Thank you.

11 CHAIRPERSON VALLONE: Thank you.

12 [Applause]

13 CHAIRPERSON VALLONE: What we're
14 going to do before we get to you, I read your
15 testimony and it's very good, but it's general
16 about laws, so let's hear from the family members
17 and then we'll give you a chance to make a brief
18 statement.

19 And I just want to give our
20 condolences on behalf of all of our committees,
21 and our sympathy for your loss and for your
22 treatment, and you should know that what happened
23 to your family members is a large part of the
24 reason that we're having this hearing today, and
25 all the legislation that comes out of this hearing

2 and all of the good that hopefully comes out of
3 this hearing is because of your efforts, so you
4 should know that.

5 So Teresa--is that Teresa? Okay.
6 Thanks. Can you please move the microphone closer
7 to her? Thank you. And turn it on.

8 TERESA PEDROZA: My name is Teresa
9 Pedroza. Last month my beautiful little
10 granddaughter, Dashane Santana, was taken from us
11 by a driver on Delancey Street. She was only 12-
12 years old. Why is this allowed to happen? A
13 witness says the driver was speeding, but the
14 police let him right back behind the wheel, no
15 criminality suspected they said. Dashane had her
16 whole life ahead of her and now she's gone. The
17 driver that hit her is still out there.

18 It should not be this easy to take
19 a life on our streets. It should not be possible
20 to kill someone and expect to face no consequences
21 whatsoever. If it's that easy to drive away from
22 a death you've caused, from the pain you've
23 caused, then why bother driving safely at all?
24 What's stopping drivers from speeding whenever
25 it's convenient for them without regard for the

2 lives of people around them?

3 Dashane was a joyful and talented
4 girl, she loved to dance, she played the flute and
5 piano. She hoped to attend Juilliard someday.
6 Dashane should be here today, she should be living
7 a full and happy life with her family and her
8 friends, but she's not. My granddaughter is gone
9 because it's just that easy for dangerous drivers
10 to end a life on our streets.

11 A city resident is more likely to
12 be killed by a vehicle than a gun or a weapon.
13 One day we lose, you know, the pedestrian lose the
14 right of way. She was already at the median when
15 he took her. You could see the tire marks on the
16 wall, he hit her, she was ready, only one step
17 away from the median, and he just took her, and he
18 ended up 20 feet away. I'm sitting here with a
19 death certificate showing that he dislocated her
20 spinal cord and blunt trauma force. You know,
21 this has to be stopped, we can't let them get away
22 with murder. We can't, we need to do something
23 about this. Thank you for your time.

24 CHAIRPERSON VALLONE: And thank you
25 for your brave testimony.

2 [Applause]

3 CHAIRPERSON VALLONE: Sure. Ms.
4 Shamoon, why don't you come sit up here next to
5 Ms. Lefevre?

6 SAMIRA SHAMOON: Thank you. I am
7 the mother of Rasha Shamoon and I don't want any
8 mother to go through the pain I went through.

9 On August 5th, 2008, our youngest
10 daughter, Rasha, was struck and killed on the
11 intersection of Bowery and Delancey. An SUV hit
12 her while riding her bicycle. Rasha was 31-years
13 old and still had her whole life ahead of her.
14 Rasha was an honors student, and two master
15 degrees, lectured in colleges, was a volunteer, a
16 self-taught musician, an artist, and had a black-
17 belt in karate.

18 Now let's talk about how poorly the
19 NYPD handled the case. After the first call to
20 let us know she was injured, we received no other
21 information from NYPD. The first police report to
22 the newspaper claimed that Rasha was at fault
23 because she ran the red light and was not wearing
24 a helmet. Rasha was an experienced and
25 responsible bicyclist. Her whole bike was covered

1
2 in reflector tape. She would never run the red
3 lights. She always wore her helmet. Even one of
4 the passengers of the SUV that hit her stated he
5 saw her wearing a helmet during his deposition.
6 That never made it in the police report.

7 Now let's talk about the 21-year
8 old driver. He had a history of reckless driving
9 with six violations, as well as a personal injury
10 lawsuit. Did the police check his record before
11 letting him go home? He didn't even get a ticket.
12 The driver only had a breathalyzer test;
13 meanwhile, Rasha had blood drawn from all types of
14 drugs, as well as alcohol--all of which were not
15 present.

16 The police did not bother to
17 question anyone other the driver and his two
18 friends in the car. There were at least nine
19 calls to 911 and several other witnesses. No one
20 else was questioned. Even the statements they got
21 from the driver and his friends were not accurate
22 or complete. During our civil suit we learned
23 that the front seat passenger saw a red light and
24 it had only turned green just as they entered the
25 large intersection. She was not crossing on the

2 red light.

3 Rasha was pronounced guilty at the
4 scene by the NYPD. We want to prove her
5 innocence. We wanted the truth and we found it in
6 the civil court. Last week, last week, a jury
7 heard the evidence and he found the driver 95%
8 responsible for the accident that caused Rasha's
9 death.

10 I did not just lose my daughter,
11 this great country lost her too. She was a good
12 American citizen, an incredible talented, caring,
13 loving, beautiful, and wise soul.

14 And finally, I want to say one
15 thing, one thing. I am Rasha's mother, again,
16 here in this place and Rasha is not here. And the
17 driver, he is driving free in the street of New
18 York and God help the people of New York. Thank
19 you.

20 CHAIRPERSON VALLONE: Thank you,
21 Ms. Shamoon.

22 [Applause]

23 CHAIRPERSON VALLONE: Okay. Mr.
24 Vaccaro, I know you have a short statement, if
25 you--and then--

2 STEVE VACCARO: [Interposing] I'll
3 keep it much briefer even than--

4 CHAIRPERSON VALLONE: Thank you.

5 STEVE VACCARO: --the written
6 version, which I handed up.

7 CHAIRPERSON VALLONE: I have read
8 it and it is helpful.

9 STEVE VACCARO: Thank you. You've
10 heard from the victims' families, and I don't want
11 to take away from the very important message that
12 they have to deliver, but I do have a few
13 practical suggestions that I think that you can
14 take to address these problems.

15 CHAIRPERSON VALLONE: Could you say
16 who you are so everyone knows?

17 STEVE VACCARO: Oh, my name is
18 Steve Vaccaro, I'm an attorney representing Erika
19 Lefevre and other cyclists and pedestrians who
20 have been injured in crashes, I've also served as
21 the chair of Transportation Alternatives East Side
22 Committee for the last two years, and I've been a
23 bicyclist in New York City since high school.

24 You know, at present, as we talked
25 about, AIS is only deployed in cases of fatality

1 or likely fatality. That's against the law.
2
3 Vehicle and Traffic Law 603A specifically states
4 NYPD is required to have an investigation of AIS
5 scale and quality whenever there is either a death
6 or serious physical harm as defined in the Penal
7 Code, it's right there in 603A. So NYPD policy
8 and the Patrol Guide you heard cited, section 217-
9 02, sub. 3, is in violation of that state law.
10 And that's something I would urge the members of
11 these two committees to look into because there
12 has to be an investigation that looks at whether
13 or not there were violations of traffic laws, the
14 forensic investigation that they say only AIS can
15 do, not only in fatality cases, but also in cases
16 of serious physical harm.

17 Number two, there needs to be more
18 transparency and accountability from the AIS.
19 It's clear to me that AIS carries out its work in
20 an unhealthy secrecy and is oversensitive to
21 public scrutiny. As the lawyer for the Lefevres,
22 I received repeated inappropriate requests from
23 AIS officers to stop my clients from publicly
24 criticizing the NYPD. When the NYPD finally
25 granted our FOIL request, we learned that AIS had

1
2 been compiling a dossier of sorts on us. Some of
3 the material AIS collected concerned my own
4 activities on behalf of other clients back in
5 August, which had nothing to do with Mathieu's
6 death in October. Okay, so why did crash
7 investigators gather this material, but this
8 unhealthy preoccupation with people looking at
9 them?

10 As Louis Brandeis famously said,
11 sunlight is the best disinfectant. And you can
12 bring sunlight in two ways. First, have AIS meet
13 with the public. Just as you have precinct
14 community councils, every month there should be an
15 opportunity for people to interface with the
16 officers who are doing this very important work.
17 We have tried through my 19th precinct community
18 council to have AIS officers come and Inspector
19 Whelan can't get them to come to the precinct
20 community council to answer our questions. So
21 there should be a public forum where AIS
22 interfaces with the public.

23 The other point, I certainly
24 disagree and it's been briefed already in a
25 pending proceeding, FOIL requires the disclosure

1
2 of investigative records to family members while
3 the investigation is pending as long as it doesn't
4 interfere with the request. We completely
5 disagree with NYPD's position that nothing can be
6 released until the investigation is over, and it's
7 a matter that's been submitted to a justice of the
8 Supreme Court.

9 My last point is that police
10 officers should be permitted to issue summonses if
11 there's clear evidence, even if they didn't see
12 the traffic violation.

13 So one of my clients, I just want
14 to show, she was hit by a livery on Ashland Place
15 in Brooklyn and this is the picture that she took
16 after the crash. She told the car, you have to
17 stay right there, she took these pictures, the
18 police came. Here's the car with its rear end
19 over the zebra striped median, an illegal U-turn,
20 the car's got its front end in the bike lane, the
21 police came, they did their MV 104, they did their
22 investigation. You don't need forensic training
23 or a degree in rocket science to know that this
24 guy broke the law, but there was no summons issued
25 because NYPD officers, other than AIS, are not

2 allowed to issue summonses based on conduct they
3 didn't see. Clearly this is something that needs
4 to be changed.

5 And if they're looking for
6 resources, I have a final suggestion. Right now,
7 whenever there's a crash, including a crash not
8 involving any injury to any person, but just a
9 fender bender, NYPD is routinely called by the
10 participants in the crash so they can come down,
11 make an MV 104 report, and you have officers'
12 precious time being wasted giving free loss
13 adjustment services to people's private insurers.
14 If there needs to be a prioritization of scarce
15 police resources, move it away from having two
16 officers filling out an MV 104 on a fender bender
17 and towards doing more meaningful investigations
18 and issuing summonses in these types of cases.

19 CHAIRPERSON VALLONE: Thank you.

20 [Applause]

21 CHAIRPERSON VALLONE: Okay. We're
22 only going to allow clapping for the family
23 members and no more, back to the hands. Although
24 that was, like I said, helpful testimony. First
25 of all, I don't disagree with anything you said,

2 and when it comes to that picture, I would argue
3 that's reckless endangerment and that they should
4 have been able to take witness statements and make
5 an arrest right there for reckless endangerment.
6 So I would assume you support the law in Albany
7 and the resolution that we are putting in to allow
8 police officers to take--to issue violations and
9 take--I'm drawing a mental blank--that would allow
10 police officers to do basically what you said--
11 take information at the scene and issue summonses
12 based on other people's words.

13 STEVE VACCARO: Yes, absolutely.

14 CHAIRPERSON VALLONE: And you said
15 that the law requires an AIS type investigation
16 when there's serious physical injury, so--

17 STEVE VACCARO: [Interposing]
18 Serious physical harm is the exact term and it's
19 defined in the Penal Code.

20 CHAIRPERSON VALLONE: Right, again,
21 I'm not disagreeing, I just want to play devils
22 advocate to see where we can go with this. First
23 of all, it just says they shall conduct an
24 investigation in those instances. So it doesn't
25 mean they can't do it in other instances also, so-

2 -and we all agree they should be, but the law does
3 say they shall when there is serious physical
4 harm, but you're saying do an AIS investigation.
5 And I assume they would say the investigation, the
6 police officer shows up and fills out the MV 104
7 is sufficient. Why do you think that's not the
8 case?

9 STEVE VACCARO: It's not sufficient
10 because 603A specifically lists what the
11 investigation has to consist of and one of the key
12 elements that's required under 603A is that there
13 be an investigation of whether there were any
14 violations of the Vehicle and Traffic code that
15 occurred and to issue summonses, okay? So we just
16 heard from the police that by policy, officers
17 other than an AIS officers cannot conduct that
18 investigation, cannot do that. So as long as only
19 AIS can investigate forensically whether a traffic
20 violation occurred as part of an accident, then
21 it's AIS that must respond under 603A, not only to
22 fatality cases, but also to cases of serious
23 physical harm.

24 CHAIRPERSON VALLONE: I appreciate
25 that legal perspective and, in fact, we are going

2 to be writing a letter asking for an explanation
3 why they believe that they are not breaking this
4 law on a daily basis based on what you said. I'd
5 like to hear what their legal department has to
6 say about it.

7 Does any Council Members have any
8 questions for the family members? We have been
9 joined by Council Member Rodriguez and Foster,
10 thank you both for being here.

11 Again, we don't have questions
12 because it's obvious what occurred and we can have
13 a lot of different hearings, well there's a list
14 of hundreds, hundreds of people and Council
15 Members that want hearings on different topics,
16 but we decided to do this joint hearing because of
17 the efforts of the three of you and your
18 representatives and the people in the audience,
19 and because we all believe this is such an
20 important issue and there will be laws arising out
21 of this, letters, there will be changes and it's
22 all because of the work that you've done on behalf
23 of those you love. So I just want to thank you
24 all for coming down and we're here for you if you
25 need us, okay? Thank you.

2 SAMIRA SHAMOON: Thank you very
3 much.

4 STEVE VACCARO: Thank you very
5 much.

6 CHAIRPERSON VALLONE: Next panel
7 will be John Petro from the Drum Major Institute,
8 Paul White from Transportation Alternatives, and
9 Juan Martinez from Transportation Alternatives.

10 [Pause]

11 [Off mic]

12 PAUL STEELY WHITE: Thank you,
13 Chair Vacca, thank you all the Council Members who
14 are here, Chair Vallone. I don't think I've ever,
15 as a citizen or an advocacy staffer, been prouder
16 than I am of my City Council here today. Thank
17 you for holding this hearing.

18 I'm going to be very brief because
19 I know we have some more victims' families who are
20 here today to testify. We've all been waiting-

21 CHAIRPERSON VACCA: Excuse me--

22 PAUL STEELY WHITE: very patiently-

23 -

24 CHAIRPERSON VACCA: --Paul, you got
25 to identify yourself for the record.

2 PAUL STEELY WHITE: Oh, sorry, Paul
3 Steely White, Executive Director of Transportation
4 Alternatives.

5 Just to follow up on the comments
6 that were just made about next actions we might
7 take, the Council might take. I had a very
8 interesting conversation with Inspector Cassidy on
9 his way to the elevator. Six years ago he was
10 part of a multi-agency task force to look at bike
11 fatalities in New York City, DOH was part of that,
12 DOT, other city agencies.

13 There were many unanswered
14 questions here today, all of you said you had more
15 questions than you had time to ask, so one
16 recommendation we have today would be for the
17 Council to empanel a task force consisting of,
18 obviously, NYPD, victims' families, DAs, perhaps
19 others who can look at the status of crash
20 investigation and accountability for reckless
21 driving and what can be done moving forward.

22 Second and finally, one great thing
23 that already happened here today is that, for the
24 first time ever, the NYPD went on the record
25 officially stating that they support speed

2 enforcement cameras. To my knowledge, that's the
3 first time that's ever happened. Can we get NYPD
4 to communicate that to our colleagues, to your
5 colleagues in Albany, to the state legislature?
6 If a uniformed officer accompanies victims'
7 families into the offices in Albany, I'm certain
8 they will finally pass this necessary legislation
9 to deploy speed cameras on our streets. So maybe
10 we can make that happen.

11 CHAIRPERSON VACCA: I think we can.
12 I have to say that the Administration has been
13 very supportive of cameras. I think the DOT has
14 probably taken the lead for the Administration,
15 but if it's the Administration's position, perhaps
16 getting the police department involved and myself
17 and Councilman Vallone I'm sure, and we will pass
18 the resolutions, or home rules, whatever we have
19 to do.

20 PAUL STEELY WHITE: Thank you.

21 JUAN MARTINEZ: Can I? Yeah, thank
22 you. I just wanted to make one--

23 COUNCIL MEMBER BREWER: Identify
24 yourself.

25 JUAN MARTINEZ: Oh, sure thing,

1 Juan Martinez, Transportation Alternatives.

2
3 Number one, thank you very much. Everything has
4 been said, but one very particular point. Very
5 excited to see that you support Senator Squadron,
6 Assemblyman Kavanagh's bill, it's going to be very
7 helpful. But the question that has to be asked
8 first--you know, we are supportive of the bill, we
9 love the bill, want to see it passed, we hope you
10 do everything you can to get it passed, but the
11 question has to be asked of the PD first, is that
12 bill necessary or, as we've seen in Court of
13 Appeals cases, we've seen an attorney general's
14 opinion on the matter, do they already have that
15 authority? If they get to the scene of a crash
16 and there are witnesses there, strong witnesses,
17 can they actually bring that Hayley and Diego's
18 Law, that careless driving violation? Because,
19 even if the bill is passed in Albany and the
20 policy doesn't change, the reality will remain the
21 same. Thank you very much.

22 CHAIRPERSON VALLONE: Thank you.

23 They also did mention that some of their cases
24 were being thrown out, so I still think we should
25 do the law regardless.

2 And, Mr. Petro, you should know
3 that my Valentine's night was spent with your Drum
4 Major report last night, thank you very much,
5 which I read and it's very helpful so you know.

6 JOHN PETRO: Sure, great thing. My
7 name is John Petro, I'm a policy analyst with the
8 Drum Major Institute, and the author of the
9 report, co-author of Vision Zero, how New York
10 City can save over 100 lives a year through safer
11 streets. And I think that's a goal that all of us
12 here can support.

13 And it was interesting for me as a
14 researcher to really take the first comprehensive
15 review of what had happened in New York City as
16 far as street safety and the new policies that
17 have been put out. A couple things I found is
18 that the scope of traffic violence is much greater
19 than anyone had really anticipated. We compared
20 it with gun homicides and found that the scale of
21 traffic violence is comparable to the scale of gun
22 homicides. And I think that's something I've
23 heard repeated here today, and I'm very happy that
24 that message has emerged.

25 But the number of traffic

1
2 fatalities is still unacceptable. One New Yorker
3 is killed every 35 hours just trying to get from
4 Point A to Point B.. I want to point out that all
5 of us in this room are responsible one way or
6 another for preventing traffic fatalities--we all
7 use the roads, but dangerous drivers are the ones
8 that are primarily responsible.

9 Other cities have made great
10 strides in reducing the number of traffic
11 fatalities. We look at other cities in other
12 developed countries and they have traffic fatality
13 rates half of what we have here. So if we were
14 able to make the same changes to create the same
15 type of policy environment to end this culture of
16 acceptance that we have in New York about just
17 simply accepting traffic fatalities, we could also
18 save over 100 lives a year.

19 The most important thing to keep in
20 mind is speed. Speeding is the most dangerous
21 driving behavior. Speeds between 20 and 30 miles
22 per hour are going to keep people safer, people
23 that drive faster than that is going to result in
24 fatalities. And this is why bike lanes reduce
25 fatalities, this is why other DOT policies have

2 been proven to save lives in New York and in other
3 cities that have tried them.

4 But getting more specific to the
5 subject of enforcement, very happy to hear, you
6 know, widespread support for speed cameras.
7 Something to keep in mind though is it's important
8 that these cameras are mobile, otherwise, drivers
9 tend to learn where the locations are, they'll
10 just change their behavior at that specific
11 location.

12 CHAIRPERSON VALLONE: There'll be
13 an app on the phone very soon.

14 JOHN PETRO: Right. So if you have
15 the ability to move the cameras every month to
16 unpredictable locations, drivers then have the
17 expectation that enforcement can occur anyplace
18 anytime. So mobile cameras are actually pretty
19 key.

20 More generally, traffic crashes
21 just need to be treated with the same seriousness
22 as other incidents. And I just want to make a
23 quick parallel to the tragic elevator accident
24 that took place in December. The City's response
25 was strong and swift. In the case of the elevator

1 incident, Department of Buildings quickly
 2 inspected 650 elevators owned or maintained by the
 3 company involved, the Manhattan DA launched a
 4 criminal investigation into the maintenance work.
 5 Why is it that one death in a transportation
 6 incident--and that's what we can call an elevator,
 7 a transportation device--results in this kind of
 8 investigation, where we what saw in the case of
 9 Mathieu Lefevre and other cases, a complete lack
 10 of any type of seriousness about this type of
 11 incident?
 12

13 And I think, you know, that's the
 14 one central point that needs to be taken: There
 15 needs to be a culture change. The citizens, the
 16 policy makers, we need to stop bashing these
 17 safety measures that have been proven to save
 18 lives, and the NYPD needs to treat traffic
 19 fatalities with the same severity that they would
 20 treat a gun homicide, because they happen about
 21 the same scale.

22 And with that, I'll finish my
 23 testimony, thank you.

24 CHAIRPERSON VACCA: I thank you
 25 very much. I do want to add, I think a lot of

2 this is community education and I think of it as a
3 community cooperation. We now have 30 mile an
4 hour speed limit signs, and I'm in favor of 20
5 mile an hour limits where, you know, communities
6 want that, I think it's a good step. But the 30
7 mile an hour speed limit signs are an issue of
8 enforcement. Many people see those signs, they
9 disregard those signs. It's one thing to go 5
10 miles above the limit, we had people going 20 and
11 30 miles above the limit.

12 So I think the discussion we had
13 with the police today shows that we have to look
14 at enforcement. Some people will voluntarily
15 cooperate and some people will gain from
16 education, but there are others who will only
17 cooperate when there is a penalty for not
18 cooperating.

19 JOHN PETRO: We can also design
20 roads that make it nearly impossible to break the
21 30 mile per hour speed limit.

22 CHAIRPERSON VACCA: Well in some
23 cases, certainly, we've looked at that
24 neighborhood by neighborhood. I thank you so
25 much. Heather Vanderberghe, Michelle Matson, Tim

2 Roberts from Senator Squadron's office. Perhaps,
3 Mr. Roberts, you would go first?

4 [Pause]

5 CHAIRPERSON VACCA: Oh, Heather is
6 not here, okay, so...

7 TIM ROBERTS: Testimony.

8 MALE VOICE: Sure.

9 TIM ROBERTS: Thank you.

10 CHAIRPERSON VACCA: Oh yes, and if
11 we can try to stick to three minutes because we've
12 overextended our stay in this room.

13 TIM ROBERTS: I will be very brief.

14 CHAIRPERSON VACCA: And just
15 introduce--

16 [Crosstalk]

17 TIM ROBERTS: My name is Tim
18 Roberts', I'm Senator Squadron's Chief of Staff.
19 Thank you very much to the Chairs of both
20 Committees and to the Council for holding this
21 hearing. I'm here on behalf of Senator Squadron
22 and Assembly member Kavanagh.

23 They introduced Hayley and Diego's
24 Law, which codifies in the Vehicle and Traffic Law
25 1146, after the tragic deaths of Hayley Ng, 4, and

1
2 Diego Martinez, 3, resulting from the careless act
3 of a van driver in Chinatown. The law became
4 effective in October 2010 and imposes stiffer
5 penalties on drivers whose failure to exercise due
6 care results in the injury or death of pedestrians
7 or bicyclists. The penalties for the first
8 offense include a \$750 fine, 15 days of jail time,
9 participation in a driver safety course,
10 suspension or revocation of the driver's license
11 or registration, or any combination of these
12 penalties, and a misdemeanor charge in addition
13 for the second offense.

14 Over the last year, we've been
15 working with advocates to monitor the
16 implementation of the new provisions and ensure
17 that they are being used to prevent careless
18 driving and bring justice for victims and their
19 families when bicyclists or pedestrians are
20 injured or killed by the acts of careless drivers.
21 Currently, police officers in some jurisdictions
22 believe that the law does not permit them to issue
23 VTL 1146 violations unless they personally witness
24 the accident. This obviously drastically limits
25 the ability of an officer to issue a violation in

2 accidents that are clearly the result of careless
3 driving.

4 After consulting with the New York
5 Police Department and district attorneys' offices
6 in New York City, we recently introduced a new
7 bill, S6416 and A9219, that will address the
8 outstanding issue of enforcement. The new
9 legislation gives police unambiguous authority to
10 issue a VTL summons, even if the officer was not
11 present at the time of the accident, as long as
12 the officer has reasonable cause to believe the
13 violation was committed by the driver.

14 There is precedent for this
15 authority in the state Vehicle and Traffic Law in
16 cases where an individual is operating a vehicle
17 under the influence of alcohol or drugs and is
18 involved in the accident. When the responding
19 officer has reasonable cause to believe that the
20 violation was committed by such person but was not
21 present at the time of the accident, they can
22 still make an arrest, that's VTL 1194.

23 We believe that providing law
24 enforcement with this additional tool is one of
25 the surest ways to hold careless drivers

2 accountable for their dangerous behavior. This
3 new legislation will make our original law more
4 effective by ensuring that officers will issue a
5 violation when careless drivers warrants one.

6 We would like to thank
7 Transportation Alternatives, the NYPD, the offices
8 of the Bronx and Manhattan district attorneys for
9 their support in monitoring and strengthening this
10 law. And we look forward to working with advocacy
11 organizations, the NYPD, and departments
12 throughout the state, district attorneys, the New
13 York City Council, and all of our colleagues in
14 Albany to pass the legislation this session.

15 Thank you very much.

16 [Pause]

17 CHAIRPERSON VALLONE: --I'm
18 introducing a resolution supporting that very law.
19 Michelle, is it?

20 MICHELLE MATSON: Mm-hmm. On
21 October 23rd, 2010, my boyfriend James Paz and I
22 were the victims of a hit-and-run. James and I
23 were riding our bikes single file in the
24 designated bike path, we were some distance apart.
25 The car hit me, continued down the road, and then

1
2 the same car hit James. Several eyewitnesses saw
3 the car speeding towards us, they saw the accident
4 as it happened and called 911 to report the
5 license plate. James was comparatively lucky. He
6 sustained five broken ribs, basketball-sized
7 bruises, deep gashes which required stitches, and
8 a broken nose.

9 I was found half a block from the
10 point of impact. I don't know how I got there. I
11 was unconscious and unresponsive. I sustained
12 head trauma, my neck was broken, my lower left leg
13 was completely shattered, and I needed staples in
14 my skull. I was put in the intensive care unit
15 for nearly a week until I was well enough to
16 undergo an operation to stabilize my leg. I was
17 hospitalized for almost a month before I could be
18 released home.

19 Once I got home I wasn't able to
20 care for myself. I couldn't leave the house, I
21 had to undergo six months of physical therapy in
22 order to relearn how to walk. I couldn't work for
23 months and was financially devastated by the
24 accident.

25 Because we had eyewitnesses that

1
2 saw the crash and reported it immediately to the
3 police, the car that struck us was found very
4 quickly. It was abandoned a couple of blocks from
5 the site of the crash. I thought this was good
6 news. I was later told by the detective assigned
7 to our case that the owner of the car claimed to
8 have an alibi. The owner of the car says that he
9 drove--sorry--to a bar and drank at that
10 establishment for several hours. At some point,
11 the car owner claims to have lost his keys and
12 says that he then walked home. Coincidentally,
13 the crash site was several blocks from this man's
14 house. The owner of the car has never been
15 penalized in any way and, frankly, the police
16 don't seem to care about finding anyone culpable
17 for the hit-and-run.

18 There was no police investigation,
19 it was a joke. There was no photos taken, the car
20 was never impounded, there was no criminal
21 investigation whatsoever. All the police did was
22 compile the facts that were most readily available
23 for their police report, which there were
24 inaccuracies about.

25 On October 23rd, James and I were

1
2 mutilated and left for dead. Because the weapon
3 happened to be a car and we both survived the
4 crash, our legal system deems these acts of
5 violence permissible, even acceptable. These
6 kinds of accidents happen with alarming frequency
7 and, by dismissing them without proper
8 investigations, we are allowing if not encouraging
9 terrifying behavior. I believe that I was
10 victimized twice--first by the hit-and-run and
11 secondly by the callous indifference of the NYPD.

12 I ask you, Chair Vallone and Chair
13 Vacca, please do what you can to stop this from
14 happening to anyone else.

15 CHAIRPERSON VALLONE: We will, and
16 thank you for coming down here and your brave
17 testimony. That's another example of what I was
18 mentioning before, the police department playing
19 defense attorney for that driver. If he's got a
20 ridiculous alibi, let him hire an attorney and
21 tell it to a judge. Obviously, if he has a easily
22 provable alibi, like I reported it stolen last
23 week and I was with these ten people for the last
24 few hours, fine. But a ridiculous alibi like that
25 should have been arrested, he can make that case

2 to the court, didn't happen, and that's
3 outrageous. So again, we're thankful that you're
4 here and you're fine now and for your testimony.
5 Thank you.

6 Okay. Next panel will be--what's
7 the first name? Christine Berthet, it looks like.

8 [Off mic]

9 CHAIRPERSON VALLONE: Thank you.
10 Serge Lore, David Solnick, and Nicole Bergman.

11 MALE VOICE 2: One more.

12 MALE VOICE 3: I don't know if she
13 filled out, I'll find out. The--

14 COUNCIL MEMBER BREWER: Christine.

15 [Pause]

16 CHAIRPERSON VALLONE: If any of
17 those people in the room, please--

18 [Off mic]

19 CHAIRPERSON VALLONE: Oh, yeah.
20 Okay. Why don't we start with you, Christine?

21 [Pause]

22 [Off mic]

23 CHAIRPERSON VALLONE: Oh, who,
24 whoever.

25 CHRISTINE BERTHET: Oh, yeah. Here

2 it is.

3 CHAIRPERSON VALLONE: If you could
4 please try to just keep--

5 CHRISTINE BERTHET: Yes.

6 CHAIRPERSON VALLONE: --it to about
7 three minutes, thank you.

8 CHRISTINE BERTHET: My name is
9 Christine Berthet, I'm the co-founder of CHEKPEDS,
10 a pedestrian safety advocacy group on the West
11 Side. And thank you for having this hearing, you
12 have no idea, I've been waiting for this hearing
13 for five years, I'm so happy that you have it,
14 it's very painful.

15 First, NYPD has earned the
16 admiration of police department all over the
17 world, and we are very proud of the NYPD and its
18 officers and what they are doing, thankful for
19 their dedication. However, I want to talk about
20 something, the elephant in the room in a sense.
21 Pedestrian and bicyclists represent 71% of all
22 traffic fatalities and serious injuries, but the
23 enforcement is not focused on protecting them. I
24 don't think the unit, which is called the Traffic
25 Unit, thinks their job is to move the traffic, to

1
2 move the cars. They don't think their job is to
3 protect the pedestrian and protect the vulnerable
4 users or protect the occupants. And so I think
5 one thing that need to be addressed in a very
6 fundamental way is maybe the name or the goal of
7 changing the goal of this unit and saying what is
8 their primary goal. We need to make sure that
9 they have that.

10 You know, according to--oh, and one
11 thing that you heard is they are focused on the
12 highways and, you know, how many highways do we
13 have versus how many streets and arterials in New
14 York City? All the killings and all the killings
15 are happening in the streets, but they have a huge
16 amount of people focused on the highway. So there
17 is to be a focus on arterials, which is where most
18 of the pedestrian and bicycle accidents happen, in
19 enforcement and prevention.

20 According to the DOT, 27% of
21 serious crashes result from a failure to yield to
22 pedestrian, and still in 2011, less than 1% of
23 moving violations were given for failure to yield.

24 According to NYPD, 1,251
25 pedestrians were injured or killed in just the

2 months of December 2011, and in the same months,
3 the NYPD reports show that 89% of the crashes were
4 caused by careless or illegal driving. However,
5 they gave citation of 1146 only in 1% of those
6 occurrences. And even if you factor what we just
7 learned, what we just learned is that only 14%, so
8 14% would have been involved.

9 And finally, DOT reports that 47%
10 of pedestrian fatalities occur on two-way streets.
11 On these same streets, you can see traffic agents
12 regularly waving cars into platoons of pedestrian,
13 which have the walk sign.

14 CHAIRPERSON VACCA: [Interposing]
15 You're going to have complete.

16 CHRISTINE BERTHET: Okay.

17 CHAIRPERSON VACCA: You have to
18 finish up.

19 CHRISTINE BERTHET: So we suggest
20 that the NYPD division change its name to Street
21 Safety Division and that it focus its training on
22 enforcement policy, what cause traffic crashes and
23 harm pedestrians, cyclists, and vulnerable users.
24 The NYPD should report separately summonses
25 related to VTL 1146, and launch a press campaign

2 on their enforcement against drivers.

3 I have another suggestion, but you
4 can read it yourself.

5 CHAIRPERSON VALLONE: We do have
6 the testimony, and for anyone we have at least--

7 CHRISTINE BERTHET: Yes.

8 CHAIRPERSON VALLONE: --ten people
9 waiting, so that's why we--we don't want to be
10 rude--

11 CHRISTINE BERTHET: Okay. Sure.

12 CHAIRPERSON VALLONE: --but we want
13 to get to everybody, so just make sure your
14 testimony fits in within three minutes, except
15 you, Nicole, you can--

16 [Pause]

17 NICOLE BERGMAN: Mic on. I'm
18 Nicole Bergman. On Saturday, September 4th, 2010,
19 I received a call from my boyfriend, Stefanos',
20 cell phone. A police officer was on the other end
21 of the line. The officer told me that Stefanos
22 was biking, had been hit by a car, and that the
23 injuries were very serious, but he had no
24 additional information. The officer asked about
25 family and I informed him all of Stefanos' family

1
2 lived in Greece. At essentially the same time,
3 two police officers came to my door to tell me the
4 same thing--that Stefanos might die, that the
5 crash was serious, and that they had no further
6 information. Shock and panic set in, and I didn't
7 know what to do. When I inquired what the next
8 steps were, the officers informed me that it would
9 depend on what they heard from the officers at the
10 scene of the accident. Soon after, they received
11 that call and I was informed that Stefanos was not
12 likely to die. That meant I was supposed to go to
13 the hospital. And thankfully, the officers drove
14 me--for which I remain grateful.

15 Stefanos was young, 29-years old,
16 and healthy before the crash. He was a doctoral
17 candidate at NYU and was supposed to start
18 teaching at Columbia University on Tuesday,
19 September 6th. He was transported to the hospital
20 with a trauma center so the doctors can give him a
21 chance by performing emergency brain surgery. The
22 doctors were very clear: This was the best they
23 could do, but they could not do much. Although he
24 was young and healthy, his injuries were very
25 serious. There was a lot of bleeding and swelling

1
2 in his brain.

3 Six hours later, it appeared clear
4 that the surgery hadn't saved him. His condition
5 continued to decline, he was in a comatose state,
6 on life support, and his pupils were fixed and
7 dilated. But the doctors said we should give him
8 24 hours, all we were waiting for was a change in
9 his eyes. He remained on life support for three
10 days, during which time his mother flew in from
11 Greece. Stefanos was the only child of Eleni
12 Tsigrimanis, and his father passed away when he
13 was 18.

14 There was never any change in his
15 eyes, and his body began breaking down showing
16 early signs of brain death, he could no longer
17 regulate his own blood pressure or temperature,
18 his lungs collapsed. We made arrangements for
19 donation of his organs. He was declared dead on
20 Tuesday, September 7th, however, not unplugged
21 from life support until September 9th so the organ
22 donor organization had time to make arrangements
23 for transplants.

24 More than two weeks later, I
25 received a call from a police officer who had just

1
2 received the paperwork explaining that Stefanos
3 had died. The officer expressed his condolences,
4 and said they were beginning their investigation.
5 The police officer had interviewed the driver over
6 the phone, who had since returned to his home
7 state of Florida, and had not been informed that
8 Stefanos had passed away. He also informed me
9 that he had asked the driver for photos of his
10 car. Later on, I found out that the police
11 traveled to the scene of the crash where they drew
12 diagrams of the scene, canvassed for video, and
13 tried to follow up with witnesses. Of course, at
14 this point the whole idea of conducting an
15 investigation seemed beyond pointless. In my
16 state of grief at the time, I didn't have the
17 capacity to express my rage at this.

18 On September 4th, 2010, I lost the
19 man I was going to spend the rest of my life with.
20 My life changed forever. I had the rug pulled out
21 from beneath my feet and I am still trying to
22 recover.

23 All I expected from the
24 investigation was closure and understanding of how
25 it happened, and that two-week delay cost me that.

1
2 The story behind the accident doesn't ring true to
3 me. In addition, the concept of starting an
4 investigation on whether or not a victim is deemed
5 likely to die by first responders is ridiculous,
6 especially considering the nature of Stefanos'
7 injuries. He was bleeding internally, how could
8 they know how serious it is? Who made the call
9 that he was not likely to die? And is it only the
10 accidents where victims are likely to die that get
11 treated seriously? I was later on told by the
12 brain surgeon at the hospital that with the type
13 of damage done, even in the extremely unlikely
14 chance that Stefanos survived, Stefanos would have
15 been in a vegetative state--no consciousness, no
16 memory, no more higher function, nothing.

17 If the story of the crash had been
18 based on more than the word of the driver, and if
19 the police had proceeded with a serious
20 investigation regardless of what seems to be an
21 arbitrary designation of likeliness of death, I
22 could have some peace of mind, but as it is, I'm
23 left wondering and unable to rid myself of these
24 feelings of injustice and grief.

25 Thank you.

2 [Applause]

3 CHAIRPERSON VALLONE: Thank you,
4 Nicole, and I think, as you state, this
5 exemplifies the absurdity of that policy where
6 they only investigate on death or likely to die,
7 which may, in fact, be a violation of the law.
8 And as you said, if it had just been a broken leg,
9 it wouldn't have meant that that driver's behavior
10 was any different and should not escape the
11 consequences of his reckless behavior. But as I
12 said, hopefully we can make a difference here
13 today, thank you.

14 NICOLE BERGMAN: Thank you.

15 [Pause]

16 CHAIRPERSON VACCA: I have to tell
17 you that some of the testimony I've heard today is
18 the most riveting I've heard since I'm in the
19 Council. And I don't want you to think that what
20 we've heard is falling on deaf ears, I want you to
21 know that we are upset over your loss.

22 NICOLE BERGMAN: Thank you.

23 CHAIRPERSON VACCA: Ben Shepard,
24 Ellen Jaffe, Al Cinamon, David Dartley, and Jack
25 Brown.

2 [Pause]

3 CHAIRPERSON VACCA: Is everyone
4 here that I called?

5 MALE VOICE: One is.

6 CHAIRPERSON VACCA: I think one
7 gentleman is, maybe the others are not here any
8 longer, so let me call additional people. Joseph
9 Sharkey, are you here, Joseph Sharkey? Yes, I see
10 him. Adam White.

11 MALE VOICE: Yes.

12 CHAIRPERSON VACCA: Okay. Joanna
13 Oltman Smith, is not here. Oh, you are here.
14 Come on.

15 [Crosstalk]

16 [Pause]

17 CHAIRPERSON VACCA: We have four,
18 right?

19 MALE VOICE: This will be the last
20 two.

21 [Crosstalk]

22 CHAIRPERSON VALLONE: --three
23 minutes.

24 CHAIRPERSON VACCA: All right,
25 three minutes each, please. And, sir, would you

2 want to start first, sir?

3 [Off mic]

4 CHAIRPERSON VACCA: Yes, introduce
5 yourself, please.

6 AL CINAMON: Yes, thank you. My
7 name is Al Cinamon, I've been a driving instructor
8 for--

9 [Crosstalk]

10 CHAIRPERSON VALLONE: [Interposing]
11 Al, hit the button on the microphone.

12 AL CINAMON: That on? Okay. My
13 name is Al Cinamon, I've been a driving instructor
14 licensed by New York State for almost 50 years. I
15 teach the prelicensing class and the point
16 reduction program, and I'm going to dispense with
17 my prepared remarks, because I must say, Chairman
18 Vacca's opening remarks said it all, I thought you
19 were reading from what I had here.

20 I do want to say this though. We
21 hear about education and enforcement today, and I
22 don't understand, I feel like my job is becoming
23 irrelevant as an instructor when I read the
24 articles about crashes and no charges are filed,
25 no criminal intent. Then what's the point of

2 testing and having classes? What's the point of
3 having a road test where if you hit a pedestrian
4 it's grounds for failure, but if you have a
5 license, it's okay? I don't understand all that.

6 I understand that ignorance and
7 thoughtlessness doesn't rise to a level of
8 criminality, but then I thought the Hayley Diego
9 law would solve that, the Ellie's Law would solve
10 that, but apparently nothing has changed.

11 Another point I want to make is
12 just that the point reduction program right now is
13 a voluntary program. If we're so interested in
14 education, maybe it should be made a mandatory
15 program, because I'll tell you, if you were to sit
16 in any of my classes you would be amazed to learn
17 how little drivers know about the basic rules of
18 the road. I mean, none of them ever heard of
19 basic speed law, few could tell you what a yellow
20 line means, they just don't know. They do need to
21 be retrained, if they ever were trained to begin
22 with. I'm not sure how that comes about.

23 But I would just, if there's any
24 influence you could exert, that that program
25 should be made mandatory. Thank you.

2 CHAIRPERSON VACCA: I thank you
3 and, as someone who encourages people to take that
4 course, but I have to tell you I think that most
5 people who take that course probably are pretty
6 good drivers who want the insurance reduction, but
7 somehow I don't know if that reaches the people
8 that we have to reach, and I wanted your opinion
9 on that.

10 AL CINAMON: Well they're not there
11 to learn anything, that's for sure. They're
12 there, if we didn't offer the carrot of the
13 insurance reduction and the point reduction, I'd
14 be there alone, I would have nobody to talk to.

15 CHAIRPERSON VACCA: Thank you. Mr.
16 White, do you want to go next?

17 ADAM WHITE: Sure, thank you.
18 Thank you, Chairperson Vacca and everybody else
19 and Chairperson Vallone.

20 First I want to thank all the
21 members of all the family members who have lost
22 loved ones for speaking and to show that the
23 deaths of their loved ones were not in vain,
24 hopefully will lead to some policy changes by the
25 NYPD.

1
2 I'm a personal injury attorney, I
3 represented the Shamoon family and obtained a
4 verdict that offset the findings by the NYPD in
5 the accident that put all the fault on Rasha
6 Shamoon and the jurors came back and found
7 otherwise.

8 But I'd like to call, if part of
9 the purpose of this hearing is for you to put
10 together a list of policy deficiencies of the
11 NYPD, I wanted to call attention to this panel a
12 particular deficiency that I've noticed over my 15
13 years of representing injured bicyclists and
14 pedestrians, especially bicyclist. The NYPD, they
15 talked about an MV 104 accident report and as if
16 that's the only accident report that they issue.
17 There was some mention of an Aided report. And I
18 had my own personal experience, I've had numerous
19 clients who've come to me who were in serious
20 accidents, were seriously injured as a result of
21 negligent drivers turning in front of them,
22 turning at them, opening doors, and the
23 bicyclists, luckily, well swerving to avoid the
24 door, but wind up getting seriously injured. The
25 police show up at the scene, my client is

1
2 typically in a stretcher and can't really say
3 much. The offending vehicle is at the scene, they
4 do a preliminary investigation, they find out
5 there was no contact--and that's the buzzword, no
6 contact--and they make a determination, they have
7 a policy, and I literally spoke to a commanding
8 officer by Tillery Street, where I had my own
9 accident and there was no contact and they, said,
10 listen, there's no contact, no contact equals in
11 police speak, the other vehicle was not involved.
12 Literally not involved. And, therefore, if the
13 other vehicle is not involved we only have to put
14 together an Aided report, which basically states
15 the bicyclist fell and was taken to the hospital.
16 There's no information about the offending
17 vehicle.

18 And what happens in these
19 situations, not only is that person deprived of
20 obtaining compensation, just and fair
21 compensation, oftentimes, my clients are
22 uninsured, they go to a hospital, they have
23 serious injuries, I wind up getting the Aided
24 report, there's no information on the offending
25 vehicle that opened their door or swerved and they

1
2 avoided them, and they are left literally with no
3 recourse and no way of paying their hospital
4 bills. Either they'll wind up left with a
5 substantial hospital bill, which typically gets
6 absorbed by the public hospitals of the city of
7 New York--Bellevue, Lutheran, Kings County
8 Hospital--or they wind up coming after these
9 individuals. Or, furthermore, they're also
10 deprived by not having the no-fault information
11 from the offending vehicle.

12 The police become, not only the
13 investigation, they become the investigation, the
14 judge, and the jury, and by not giving this
15 information, the people rely on the cops for
16 getting them, they're deprived of treatment, of
17 any further treatment.

18 And so if you were going to put
19 together a list of questions or policies, the
20 question is, why did the police have this policy
21 that if there's no contact, how does that mean
22 that other vehicle was not involved and they only
23 have to put together an Aided report? Thank you.

24 JOE SHARKEY: Thank you, my name is
25 Joe Sharkey, I am a volunteer with Time's Up,

1
2 we're an environmental direct action group and a
3 community group with strong bicycle advocacy
4 tendencies. We have a prepared statement, but
5 I've given that to you.

6 We are here in solidarity with the
7 survivors and the victims of vehicular violence in
8 New York City. And I'm going to dispense with our
9 prepared remarks, but I do want to make a point.
10 The NYPD over and over, as we saw today, claims
11 that they do not have the manpower to effectively
12 enforce traffic or pursue these cases to the
13 satisfaction of the survivors. And I just want to
14 point out that this is a cultural problem within
15 the NYPD. The NYPD continues to put resources,
16 not only towards surveilling people who attempt to
17 find the truth about an accident, but they
18 continue to put resources towards harassing
19 innocent people, cyclists, on a monthly basis and
20 now a bimonthly basis, I'm afraid to report.

21 And if the NYPD can--the NYPD puts
22 out a task force, a detail to Critical Mass bike
23 rides, which are a community bike ride with the
24 purpose of creating a safer street for cyclists
25 and educating cyclists in how to have the

1 confidence to ride in the streets of New York.

2 And the NYPD hampers those efforts through

3 harassment and intimidation and continues to do so

4 on a monthly basis, and now they have expanded

5 those efforts to include, not only on the last

6 Friday of the month, which is traditional critical

7 mass, but now the first Friday of the month. And

8 it's disturbing to see that there is this callous

9 culture in the NYPD towards cyclists and

10 pedestrians alike, always taking the side of

11 motorists and going so far as to harass and follow

12 cyclists on a regular basis.

13
14 And I would encourage the Council,
15 before providing the NYPD with any more resources,

16 to, in whatever way they can, ask the NYPD to

17 reallocate the resources that they have from, for

18 example, stop-and-frisk, as Council Member James

19 pointed out, and I would add from policing and

20 harassing Critical Mass cyclists towards spending

21 time and money and manpower in pursuing justice

22 for victims of vehicular violence and effective

23 enforcement that will actually make our streets

24 safer. Thank you.

25 [Pause]

2 JOANNA OLTMAN SMITH: Hi, I'm
3 Joanna Oltman Smith, and I just wanted just kind
4 of a every person's words to be on the record
5 here, I'm not representing any one. I just wanted
6 to say that I'm one of the lucky pedestrians and
7 cyclists in New York City that nothing horrible
8 has happened to yet, and this is how I feel about
9 what's going on.

10 Everyone who steps off the curb in
11 New York City should be very concerned with New
12 York Police Department's inability to properly
13 enforce moving violations and the life-threatening
14 state of lawlessness this creates on our streets
15 for all our citizens.

16 As a mother, I especially feel the
17 statistics regarding traffic-induced injury to and
18 death of children are totally appalling and
19 unacceptable. My children and I on a daily basis
20 need to dodge reckless drivers blatantly ignoring
21 the New York City traffic laws. Of most concern
22 to us are the drivers who fail to yield to us;
23 those who block crosswalks at intersections,
24 forcing us to walk in vehicle travel lanes; and of
25 course, those traveling over our already too high

30 mile an hour speed limits.

My sons and I recently did a little third-grade math analysis of traffic data on NYPD's website. We were really surprised to find that more than seven times more summonses are written for tinted windows on cars than for not giving right-of-way to pedestrians. We tried to figure out why and were left to presume that, because tinted windows endanger the lives of police officers, they warrant enforcement; whereas, other moving violations are only to keep the rest of us safe, and, therefore, they are less important.

We also learned that police are 33 times more likely to give a driver a summons for endangering himself by not wearing a seatbelt than for endangering my family and others by blocking our crosswalks with their vehicles. What a sad lesson for our children.

Simply put, the NYPD's accident investigations are inadequate and your enforcement priorities do not meet the needs of my family or the citizens of New York City. Safe streets are our right, not a privilege. Thank you.

2 CHAIRPERSON VACCA: Thank you.

3 Thank you, panel. We have our last panel is
4 Richard Rosenthal and John Lawrence.

5 CHAIRPERSON VALLONE: By the way,
6 I'm one of those lucky bikers who hasn't been hit
7 yet either. So I don't know what's more
8 dangerous, when I take my 10-speed or the Harley,
9 I can't figure out which one I risk my life with
10 more on these streets.

11 [Pause]

12 CHAIRPERSON VACCA: Mr. Lawrence--

13 JOHN LAWRENCE: Okay. I'll go--

14 CHAIRPERSON VACCA: --would you go
15 first, please? Yes.

16 JOHN LAWRENCE: I'll go as fast as
17 I can but--

18 FEMALE VOICE: [Interposing] You
19 have to press the button.

20 JOHN LAWRENCE: Hit the button, oh-
21 -

22 CHAIRPERSON VACCA: Hit the button
23 and introduce yourself, please?

24 JOHN LAWRENCE: Yeah, I'm John
25 Lawrence, okay, I'll go as fast as I can, but we

1
2 weren't allotted much time to speak. And maybe in
3 the future we could have a follow-up where victims
4 could come forth to--'cause we have a lot of
5 ideas, I have lots of ideas.

6 About six years ago, I was walking
7 across Northern Boulevard in Queens when I heard a
8 squeal of brakes or screeching and I thought it
9 was from far away. Next thing you know, I'm on
10 the ground. I was struck by a car. Fortunately,
11 there were witnesses, people came to my aid and,
12 fortunately, we had a very good EMS system in New
13 York, and I was in the hospital, you know, and
14 examined. I had to spend an entire day in the
15 hospital because I was judged to be not that badly
16 hurt.

17 This whole incident has given me a
18 lot of thinking and I've done a lot of thinking
19 about this. Like I said, I was lucky because I
20 was not seriously injured, but it wasn't until
21 after I got home that I--first of all, I was not
22 issued a traffic report. I had to go down in
23 person, I'm hurting, this has to be done quickly,
24 'cause I want to file it with the insurance
25 company. I had to go down to the police precinct

1
2 myself, and then they wouldn't accept personal
3 checks or cash or credit card. You had to go--
4 then from there I had to walk half a mile down to
5 buy a money order to pay for this. And to add
6 insult to injury, the insurance company wouldn't
7 reimburse me for that, I had to pay out there.

8 Okay. A traffic report should be
9 issued immediately. And then on the traffic
10 report it should say who in words, in written out
11 words, not in a code, who the insurance company
12 is.

13 Okay. There are other things.
14 Driving is a privilege, it is not a right. I
15 learned that over 50 years ago in high school
16 driver training, it's a privilege, not a right.
17 We have since end of World War II, we have come to
18 reverse it, we have come to regard driving as a
19 right, and not a special privilege.

20 We have abandoned our mass transit,
21 even in New York we've done very little building
22 of public transit in New York. Okay, so we need
23 to get back to where people don't have to drive or
24 don't feel that they have to drive everywhere.

25 Also our streets were laid out

1 before the automobile, we have extremely long
2 blocks, that encourages what we call jaywalking,
3 which by the way, there was no such a concept of
4 jaywalking before the invention of the automobile,
5 people could walk across anywhere they wanted to.
6 Okay, we've lost our rights, not gained any
7 rights.
8

9 We must emphasize driver
10 responsibility. I drove a taxicab in New York for
11 eight years, I always yielded the right-of-way to
12 a pedestrian and never had a problem, okay? So
13 what's the big deal? You slow down, you yield the
14 right-of-way. Pedestrians are supposed to have
15 the right-of-way.

16 Also, many crosswalks are not
17 clearly marked. Traffic lights are geared for
18 cars, we give the cars the right--we give the cars
19 a head start, and we give the pedestrians the
20 flashing light before we ever give a yellow light.
21 And then on the yellow, I'm beginning to wonder.
22 When I was a kid growing up in New York, we didn't
23 have yellow lights, we had red and green lights.
24 You know, a green light, then a red light would
25 come on, and the driver knew to stop. Now you

2 have a yellow light and they rush like hell to
3 beat the light, okay?

4 We must end no-fault insurance, at
5 least regarding pedestrians. It only encourages
6 reckless driving. You're not holding the driver
7 responsible. If somebody accidentally hits you
8 with a sledgehammer, do you file a complaint with
9 the Department of Labor? No, you can sue the
10 person, but you have no recourse in New York.

11 And that's basically what I want to
12 say, but I would like to see a follow up so we can
13 speak more about this. You know, just--

14 CHAIRPERSON VACCA: Thank you.

15 JOHN LAWRENCE: --again, just begin
16 with the victims.

17 CHAIRPERSON VACCA: Thank you so
18 much.

19 JOHN LAWRENCE: Okay.

20 CHAIRPERSON VACCA: Sir, introduce
21 yourself.

22 RICHARD ROSENTHAL: How do you do,
23 I'm Richard Rosenthal. If I have any celebrity in
24 the cycling community, it is because I'm the
25 creator of the expression, one less car, which is

1 used by bike advocates worldwide.

2 When you gentleman write your
3 report of this meeting, I hope you will not use
4 the word accident. It seems to me that accident
5 is something that is unavoidable. In every
6 instance that you will see in the notes that have
7 been distributed to you, the fatalities resulted
8 from avoidable actions. Let's call them
9 occurrences, incidents, as I say in the concluding
10 sentence: If it was avoidable, it was not an
11 accident.
12

13 And furthermore, in the matter of
14 language applicable to what we're discussing
15 today, insofar as I know, but I've only lived here
16 since 1965, not one cyclist, not one pedestrian
17 has ever been killed by a car, a truck, a
18 sanitation truck, a taxi. Unfortunately,
19 thousands have been killed by drivers, by drivers.
20 So, beginning today, the press, the police, you,
21 let us no longer say killed by a car, it's killed
22 by a driver.

23 I would like the record to carry
24 the names of some several people who have been
25 killed. These were compelling, touching, sad, sad

2 stories of current vintage, but in 1997, Dr.

3 Rachel Fruchter, age 57--

4 CHAIRPERSON VALLONE: [Interposing]

5 Can I just give you a little advice? You've got
6 two and a half pages left and a minute and a half
7 to do it, so you might want to get to the best--

8 [Crosstalk]

9 RICHARD ROSENTHAL: [Interposing]

10 No, sir, I have about three paragraphs that are
11 all shortened. I'm off script--

12 CHAIRPERSON VALLONE: Okay. So--

13 [Crosstalk]

14 CHAIRPERSON VALLONE: --you get to
15 the good parts.

16 RICHARD ROSENTHAL: I'm off script,
17 sir.

18 CHAIRPERSON VALLONE: Not the good
19 parts, the parts important to you.

20 RICHARD ROSENTHAL: I would like to
21 see the name of Dr. Rachel Fruchter is here today,
22 57, a graduate of Oxford, Rockefeller University,
23 biochemist, professor of obstetrics, researcher,
24 gynecological cancer and epidemiology researcher,
25 quite killed, no fault of her own, no ticket

1
2 issued.

3 Let's look at the death of Andre
4 Anderson, 14-years old, killed cycling near his
5 home in Far Rockaway, killed by Jose Vicens, 23,
6 driving an SUV. Andre was hit from behind and
7 killed. No ticket, no, no ticket for this
8 gentleman.

9 Here's 58-year old Jerome Allen,
10 according to Anthony Tasso Jr., who killed him
11 while driving a SUV without a legitimate license.
12 Mr. Allen probably must have been cycling at the
13 same speed as Lance Armstrong and then,
14 deliberately, I gather, swerved into him, because
15 we are, after all, a suicidal breed.

16 And I think lastly I would put to
17 you, just so the record has the name of Dr. Carl
18 Nacht, 57, killed by police tow truck, which was
19 crossing his path, a Vehicle Law 1143, the driver
20 of a vehicle about to cross a roadway shall yield,
21 et cetera. Thank you, gentlemen, for your work
22 today.

23 CHAIRPERSON VACCA: Thank you,
24 thank you. There being no further speakers, I'd
25 like to thank everyone for their attendance. I

1
2 especially want to thank our speakers who were
3 extremely powerful. And to those who have lost a
4 loved one, you're in our thoughts and our prayers
5 today, very much so.

6 Without further to do, on behalf of
7 Chairperson Vallone and myself, this hearing is
8 now adjourned.

9 [Applause]

10 [Off mic]

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature *Tammy Wittman*

Date February 29, 2012