

**NYC DEPARTMENT OF TRANSPORTATION TESTIMONY
HEARING BEFORE THE CITY COUNCIL
COMMITTEE ON TRANSPORTATION
August 15, 2018**

Good morning, Speaker Johnson, Chair Rodriguez, and members of the Transportation Committee. I am Margaret Forgione, Chief Operations Officer at the New York City Department of Transportation. With me today are Director of Traffic Operations Policy Juan Martinez and Assistant Commissioner for Intergovernmental and Community Affairs Rebecca Zack. Together with Chief Thomas Chan and our NYPD colleagues, I am pleased to be here today to testify on behalf of Mayor de Blasio about the City's essential, effective speed camera program, and how the New York State Senate's failure to re-authorize and expand the program makes our streets more dangerous.

Essential and Effective

Speeding is a leading cause of traffic fatalities in New York City. Deterring speeding is critical because the faster a vehicle is moving, the harder it is for the driver to avoid a crash. In fact, a driver at 40 miles per hour needs 300 feet to perceive, react and brake to an unexpected event—twice as far as a driver at 25 miles per hour, who only needs 150 feet. A pedestrian who is struck by a vehicle travelling at 30 miles per hour is twice as likely to be killed as a pedestrian struck by a vehicle travelling at 25 miles per hour.

Speed cameras provide predictable and consistent enforcement of the speed limit, which encourages drivers to maintain a safer speed. At a school with a fixed camera, speeding violations drop by 63 percent. That change in behavior directly leads to safety improvements. DOT analysis shows that through December 2016, there were 17 percent fewer pedestrians, motorists, and cyclists injured in traffic crashes at schools with fixed cameras each year, and 21 percent fewer fatal and severe injuries, annually.

For instance, major streets with speed cameras in every borough saw dramatic safety improvements since their arrival:

- On Ocean Parkway, speeding declined 63 percent and 32 percent fewer people were injured.
- On 10th Ave in Manhattan, speeding declined 83 percent and 26 percent fewer people were injured.
- On Forest Ave in Staten Island, speeding declined 27 percent and 35 percent fewer people were injured.
- On Union Turnpike, speeding declined 80 percent and 43 percent fewer people were injured.

- On Grand Concourse, speeding declined 83 percent and 22 percent fewer people were injured.

These reductions mean an average of 540 fewer people were injured, 28 people avoided severe injuries and ten people avoided deaths at those locations each year. These safety gains were achieved despite the fact that we are restricted from enforcing the law through the use of speed cameras at night, on weekends, and at all other times school is not in session.

We can evaluate the effectiveness of a program by how well it changes behavior in the long-term. Speed cameras have passed that test with flying colors: During the two year period between the start of the program in 2014 and 2016, just over 80 percent of vehicles that received one violation from the speed cameras did not receive another. That means drivers got the message and were deterred from speeding in the future by one \$50 ticket. It is remarkable how much these cameras achieve.

Fairness

In order for the speed camera program to be effective it must be fair. We had this in mind from the moment we began designing the program. We focused entirely on the safety benefits that these cameras could provide. Our contractor is paid a flat fee per camera purchased, unlike some other jurisdictions where similar vendors are paid a commission based on the number of violations issued. We do not and would not enter such an arrangement, because it distorts the purpose of the program—to increase safety.

DOT experts selected locations for 100 fixed cameras after a rigorous review of crash histories, an evaluation of the speeding data, and the roadway geometry at each school. Additionally we operated 40 mobile speed cameras, which we relocated daily in order to increase deterrence around the City.

Each violation is reviewed by a trained City employee to confirm the integrity of the violations that we issue. These technicians inspect the video or photographic evidence carefully. Additionally, our camera systems undergo a daily self-test of their functions and an annual calibration check by an independent lab.

Additionally, the Department of Finance adjudicates all violations which vehicle owners claim were erroneously issued. Those administrative law judges will not uphold a violation unless the evidence demonstrates that the vehicle cited was speeding in a school speed zone during school hours. Less than 0.05 percent of all speed camera violations are overturned at hearing. We consider this fact a testament to the accuracy of this technology and the thoroughness of our manual review.

Legislative Status

Now I will turn to the current situation in Albany and the safety implications for all New Yorkers of the Senate's inaction. In 2013, after years of advocacy, the State granted New York City the authority to pilot an automated speed enforcement program to deter speeding around 20 schools. The first speed camera violation was issued in January 2014. In April 2014, in order to bolster Vision Zero, the City secured an expansion of the pilot to a total of 140 school locations.

The point of the pilot was to prove whether the program works, and whether the City could be trusted to run the program fairly. At this point, the results speak volumes. Accordingly, over the past several years an impressive coalition has advocated for an expansion of the speed camera program that would allow us to deter speeding at more schools, during more hours.

All legislative efforts involve compromise. Through a sincere and multi-year effort to address the professed concerns of the Senate majority, the proposed expansion shrank to a relatively modest increase in the number of schools, some increased flexibility on placement of speed cameras near a school while also adopting reasonable new placement considerations, and a four-year extension of the program. As you may know, the Assembly has repeatedly passed this bill in multiple forms over the past two years. But the New York State Senate leadership declined to allow the bill to come up for a vote—despite the fact that a bipartisan majority of Senators have committed to vote for the bill if allowed the opportunity.

Accordingly, DOT is now required to shutter this successful program. On July 25th we stopped speed camera enforcement at 120 of the 140 schools, and as the Mayor announced Monday, we are still collecting data even though license plates are not recorded. As he noted, in just over two weeks, more than 130,000 vehicles have already been spotted dangerously exceeding speed limits by the cameras. When our remaining authority to deploy cameras at 20 schools across the City expires in fifteen days, we will be forced to stop issuing violations altogether. In a few weeks school will resume, and unless the Senate's leadership reconvenes, we will not be able to use one of the most effective safety tools the City has ever had to protect our families. Proven safety programs that are saving lives should not be held hostage to politics.

Legislation

Now, I will briefly comment on the bills before the committee today.

Intro. 322, by Chair Rodriguez, would require DOT to develop a checklist of best practice elements for arterial street design projects and post a list of such projects with explanations if particular elements are not utilized.

The elements proposed in the bill for inclusion in such a required checklist are consistent with current DOT best practices. Under Vision Zero, every street design project is considered for opportunities to enhance safety, and every project includes ADA compliance. Our toolkit includes, but is not limited to, all the elements specified in the bill and we consider all elements for inclusion depending on the usage, existing conditions, and amount of street width available.

In these ways, DOT's existing design process accomplishes the goals of the proposed legislation. However, enacting the reporting requirement in the bill would add cost and delay to delivery of Vision Zero projects and other mobility projects, by consuming project staff time with their completion. The accumulation of such requirements would reduce the quantity of projects we are able to undertake.

Furthermore, weighing street design safety elements to employ in any project is individualized, complex and dependent on any number of site-specific factors. Intricacies of these decisions cannot be conveyed in a quantifiable checklist, which would be misleading because it would not reflect how DOT is maximizing safety at any given location using our engineering judgment. For these reasons DOT respectfully opposes the proposed legislation.

Intro. 971, by Council Member Lander, would provide that after a vehicle receives its fifth speed camera or red light camera violation, owners must complete a required traffic safety program—and that their vehicle may be subject to impoundment until they do so.

This Administration also supports escalating sanctions for camera violations, up to and including taking the worst offending vehicles off the road. The Mayor has called for legislation at the State level to that effect, and we welcome this proposal. The Council Member's bill raises legal issues that require further review, as well as presenting operational questions. That being said, we are very interested in continuing to work with the Council Member to focus on addressing the most dangerous drivers.

But of course when it comes to camera enforcement, our top priority and focus must be on renewing and expanding the City's authority to operate the speed camera program that we know has been very effective at reducing speeding and saving lives. Fortunately, for most drivers, as we noted, even the first \$50 ticket has a strong deterrent effect.

Intro. 972, also by Council Member Lander, would require the Mayor's Office of Operations, in collaboration with NYPD and other appropriate agencies the Mayor may identify, to study driving behavior to identify patterns associated with crashes, injuries and fatalities, propose recommendations based on its findings, and report on implementation of any recommendations.

The Vision Zero Task Force is currently developing a variety of research initiatives which are intended to address many of the goals of this bill, including an exploration of factors that may best predict dangerous driving. This involves reviewing what data can be feasibly obtained. The proposed legislation would require us to analyze certain data, such as that held by private insurance companies, which is not at the disposal of City government. We support this legislation in concept and are happy to work further with bill sponsor on this proposal.

And finally, Intro. 1061, by Council Member Gjonaj, would require DOT to install a radar speed display sign, or "speed board" adjacent to every school location in the City with more than 250 students.

Speed boards cannot compare to speed cameras if our goal is safer driving citywide. They are by no means a practical substitute for speed cameras, which evidence shows have a far superior long-term deterrent effect. They are two different tools for different situations.

While mobile boards can be helpful in temporary situations such as work zones, speeding reductions are modest and short-lived. At a cost of over \$26,000 per fixed speedboard installation, placing them at up to approximately 1,600 locations, as required by the bill, would cost over \$46 million. These funds that would be much better allocated for more effective street treatments and programs selected through our data-driven approach. Entertaining this proposal distracts from the crucial importance of renewing and expanding the City's speed camera program. For these reasons, DOT opposes this legislation.

Conclusion

In closing, I would like to discuss the status of the Vision Zero initiative generally. In 2013, the year before Vision Zero began, 299 people were killed in crashes. In 2017, that number declined to 222 people, a record low. This year we are on track for even fewer unnecessary deaths. However, much more still needs to be done and I fear this trend will not continue if New York drivers realize that enforcement of the speed limit is less consistent and predictable.

I can assure you the City is doing more safety work of all kinds across the five boroughs than ever before: traffic signals, stop signs, speed bumps, pedestrian islands, bike lanes, public education campaigns, and much more. NYPD is issuing more speeding and other hazardous violations than ever. Our sister agencies—TLC, BIC, the MTA, and DCAS are implementing dozens of initiatives to prevent crashes involving the fleets they manage or regulate.

The speed camera program complements these safety measures and protects people in a way the other interventions simply cannot. If that were not the case, the City would not be pressing so hard to reauthorize and expand the program.

Finally, I would like to say “thank you” to the large and broad coalition who have fought so hard in our state capital for the renewal and expansion of speed cameras: street safety advocates, school children, seniors, medical professionals, law enforcement, labor, disability advocates, civic associations and of course, those who have lost loved ones to traffic crashes. Together with you, this Administration and our allies in Albany will not stop fighting for this vital, life-saving program.

And thank you to Speaker Johnson and so many of your colleagues for your strong support of these efforts. We urge the Senate to reconvene and pass this commonsense and essential legislation without delay. Thank you for the opportunity to testify before you today and I would be happy to take questions after you hear from Chief Chan.

**STATEMENT OF CHIEF THOMAS CHAN
CHIEF OF TRANSPORTATION
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON TRANSPORTATION
COUNCIL CHAMBERS, CITY HALL
AUGUST 15, 2018**

Good Afternoon Speaker Johnson, Chair Rodriguez and members of the Council. I am Chief Thomas Chan, the Chief of Transportation for the New York City Police Department (NYPD). On behalf of Police Commissioner James P. O'Neill, I am pleased to testify before your committee today on the topic of speed cameras.

After over four and a half years of Vision Zero, New York City has seen roadway fatalities dramatically decline, bucking the national trend of increased fatalities. The speed cameras installed in 140 school zones throughout our city are a vital part of our city's commitment to Vision Zero. Over the last several years, I have traveled to Albany with Department of Transportation (DOT) Commissioner Trottenberg and other traffic safety stakeholders to advocate for the expansion of speed cameras in our city. Speed cameras are a valuable force multiplier for the NYPD. These cameras reduce speeding, keep our streets safe, supplement NYPD resources, and protect our city's children, seniors, and families. It is unfortunate that cameras in 120 of these zones are no longer operable – the current state of affairs jeopardizes the safety of children attending schools in these zones and other pedestrians.

Since July 25th, when most of the cameras became inoperable, the Department has directed additional resources in the impacted school zones – specifically in zones where schools are in session for the summer. Between the period of July 25th to July 27th, there was a 33% increase in speeding summonses issued by patrol officers in these zones. Additionally, every precinct maintains a Traffic Safety Team. This summer, these teams have been instructed to focus on speeding and other hazardous violations in school zones. Working in partnership with DOT, we deployed focused resources to zones whose cameras have historically issued the most summonses. Over the last few weeks, our Traffic Enforcement Agents (TEA) have also been instructed to concentrate on hazardous parking violations and double parking in these school zones to ensure pedestrian safety. TEAs, and our auxiliary officers, have also been supplementing the work of our crossing guards throughout the city to help pedestrians safely cross the street.

The Department has also engaged in significant outreach. Personnel from our School Safety Division and NYPD Transportation Bureau Outreach Team have been visiting schools and distributing flyers on tips and best practices for pedestrian safety. Additionally, the Transportation Bureau has engaged in a recent social media campaign that emphasizes the dangers of speeding and reckless driving as well as the penalties and fines for engaging in such conduct.

The Department is committed to conducting this additional enforcement. I want to note, however, that while I have the complete confidence of our personnel, these efforts will not completely replace the workflow of the automated camera system. Last year, the 140 school zone speed cameras issued 1.3 million speeding summonses. Comparatively, even with our focused efforts under Vision Zero, NYPD patrol officers issued approximately 150,000 speeding summonses citywide last year. Moreover, on average, it takes an NYPD patrol officer ten minutes to issue a speeding summons whereas the cameras can capture and record the violation automatically.

In order to get to our goal of Vision Zero, we need to continue all of the progress that has been made over the last four and a half years. Speed cameras are a critical component of this initiative and we strongly urge the reauthorization, and expansion, of these life-saving tools.



Wednesday, August 15, 2018

Thank you for the opportunity to testify today. My colleagues and I would be happy to answer any questions you may have.



Emergency Hearing on Dangerous Driving, Speed Safety Cameras and DOT Complete Streets Checklist

Introduction 322, 971, 972 and 1061 (2018), and Resolution 268 (2018)

Testimony before the New York City Council Committee on Transportation

Testimony by Marco Conner, Legislative & Legal Director, Transportation Alternatives

Thank you Council Members, Speaker Johnson and Committee Chair Rodriguez for convening this important emergency hearing. For 45 years Transportation Alternatives has advocated on behalf of New Yorkers for safer, more inclusive and more livable streets. With more than 150,000 people in our network and over 1,000 activists throughout all five boroughs we fight to promote biking, walking, and public transportation as alternatives to the car.

We would like to express our gratitude to this Council, the Committee on Transportation, the NYC Department of Transportation, the NYPD and other City agencies for your hard work investing in Vision Zero, which has resulted in historic reductions in the number of people killed, even as traffic fatalities have increased nationwide.

Still, however, the loss of life on our streets is unacceptable. Since 2001, more than 5,000 New Yorkers have lost their lives in traffic on city streets. Every day 200 people are injured. Much more can and must be done. Traffic violence is a public health crisis, and Transportation Alternatives strongly supports the legislation of today's hearing as critical means to reduce dangerous driving, prevent the loss of life and achieve Vision Zero by 2024.

Resolution 268-2018 (Speed Cameras, Escalating Fines, Physician Reporting)

Transportation Alternatives strongly supports resolution 268, which calls upon the New York State Legislature to pass, and the Governor to sign, legislation to (1) renew and expand the use of speed safety cameras in New York City, (2) provide for the escalation of penalties and consequences for multiple motor vehicle violations, particularly for notices issued from red light and speed cameras, and (3) legislation to require physicians to report medical conditions or incidents that indicate a driver is at high risk of suddenly losing consciousness or vehicle control.

Speed safety cameras save lives. While speeding is a leading cause of traffic fatalities, New York City's speed camera program has, for the past four years, reduced speeding, reduced injuries and saved lives. At the average camera location speeding is down 63% and fatalities are down 55%. But because of state law these cameras have been restricted to just 140 school zones even though our city has more than 2,000 schools, along with other severe restrictions that prevent the cameras

from operating outside of school hours when New Yorkers are at the greatest risk, and prevent them from being placed at the most dangerous locations.

And unforgivably, this June, the New York State Senate ended session without passing legislation (S6046-C/A7798-C) to renew and expand this life-saving program, even as the Assembly passed it in two different pieces of legislation (A7798-C and A11189), the Governor has promised to sign the bill, and as there are 35 Senate cosponsors to the bill - more than the majority needed for passage. This Council is doing its job. The State Senate must do theirs immediately.

On September 5, 1.1 million schoolchildren will start their school year. It is critical that this Council sends a strong united message to the New York State Senate Majority, making it clear that the blood of children and New Yorkers killed in crashes they are preventing us from stopping, will be on their hands, and that they must reconvene and pass S6046-C before September 5.

Intro 322-2018 (Complete Street Checklist)

Transportation Alternatives strongly supports Intro 322, which would create a checklist of proven street safety and accessibility measures that the DOT must consider when reengineering or repaving any arterial street in New York City, and, critically, the DOT must publish online any reason for not including a particular design element.

The DOT has done tremendous work in recent years and is setting a national standard for saving lives on city streets. But it remains clear that much more must be done, and as a city we must prioritize saving lives, inclusivity and diverse mobility over the movement of cars. The majority of the crashes that killed 222 people last year occurred on arterial streets and were caused predominantly by behaviors like speeding and failing to yield. These behaviors are too often enabled by street design that prioritizes driver speed and convenience, while the safety and experiences of pedestrians and cyclists too often relegated to an afterthought. A standardized street design is needed so that safety can be ensured by default. Once built, these streets are not subject to the shifting winds of politics.

The complete streets checklist will be an important step towards creating transparency and for the public to know when, for example, a proven safety element is sacrificed in order to preserve one or more parking spots. Furthermore, in order to be truly equitable and effective, street design and safety measures must be consistent across neighborhoods. No part of the city can be left behind.

Vision Zero is built upon three pillars: Education, Enforcement, and Engineering. The third arguably holds the opportunity to save the most lives, because once improvements are literally set in stone, they last for decades, consistently guide driver behavior, and do not require constant monitoring in order to ensure compliance. Without comprehensive arterial road design, New York City simply cannot achieve the goal of eliminating traffic deaths and serious injuries. New York must fundamentally shift how we view our streets and allocate space for different modes of travel. A Vision Zero street will prioritize the highest-capacity modes of transportation, like walking, biking, and public transit, over the single-occupancy car.

The Complete Street Checklist shows how streets can be re-engineered to prevent dangerous driving and encourage multi-modal usage, it aims to pave a practical way toward creating a city where crashes are preventable and deaths and serious injuries can be eliminated. The checklist aims to create complete streets. A complete street in the age of Vision Zero in NYC has the following three core functions:

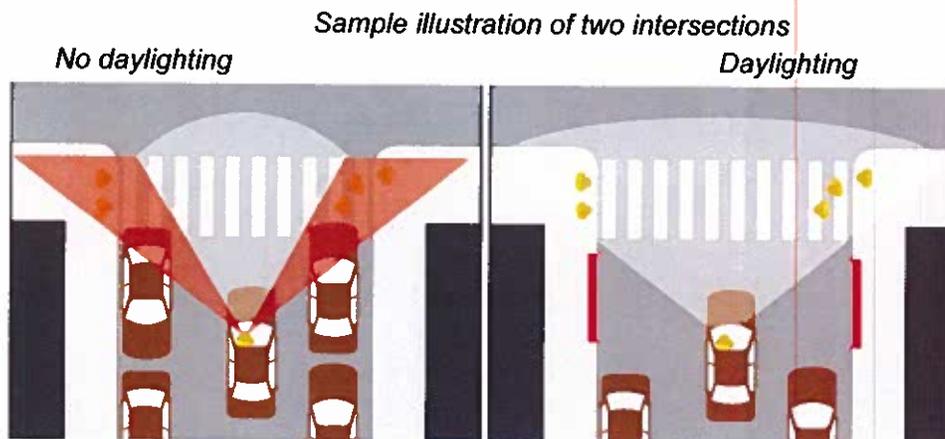
1. Discourage speeding by design
2. Encourage walking, biking, and/or public transit use
3. Provide accessibility to all, regardless of age or physical ability

By employing the safety elements of this checklist, our city can cement a lasting legacy of safety into our streets. That legacy will encourage more people to walk and ride bikes, make bus service more efficient, and enhance the mobility of the elderly and disabled. If the safety elements of the checklist are applied universally, the number of preventable crashes could fall to zero.

Recommendations to Intro 322

We recommend at least two additional critical elements to the ten elements Intro 322 proposes to add to Section 19-182.2(b) of the NYC Administrative Code, namely daylighting intersections and protected intersections:

- Recommendation 1: **Daylighting intersections**
 - Daylighting is a simple street design element that increases vital sightlines for all road users by prohibiting the parking of motor vehicles within ten feet of an intersection or crosswalk. These daylighted road segments can be further equipped with bike corrals to create much needed bike parking for New Yorkers, including the increasing fleet of dockless bike share.



- **Recommendation 2: Protected intersections**
 - Protected intersections utilize elements already increasingly implemented by the NYC DOT, but which are underutilized, including pedestrian islands and ideally concrete barriers to reduce vehicle turning speeds and eliminate or reduce turning conflicts between motor vehicles and bicyclists.

Sample illustrations of protected intersections



Intro 971-, 972- & 1061-2018 (Impounding Vehicle of Repeat Dangerous Drivers, Dangerous Driving Study, and Speed Radar Display Signs)

Transportation Alternatives strongly supports these three bills. In particular, we were all reminded of the urgent need for intro 971 to impound the vehicle of repeat dangerous drivers when, in March 2018, Joshua Lew, 1, and Abigail Blumenstein, 4, were killed in a crosswalk in Brooklyn by a driver with multiple speeding and red light violations.

A car is a 4,000+ lbs lethal object capable of causing death in a split second, particularly when traveling at high speeds. If an operator repeatedly endangers others through the dangerous instrument that a car is, our City must be able to impound that vehicle and require a safe driving course for the owner.

Speed radar display signs can cause drivers to reduce their speeds, and they need to be deployed wherever they can limit risks to life and limb, especially near our city's schools. It is important to note, however, that radar speed display signs can never be a replacement for speed safety cameras, and we can not allow those who deny the life-saving efficacy of speed cameras to use any other safety element as an excuse for not reauthorizing and expanding the use of speed safety cameras in our city.

Recommendation to Intro 971 (expand the types of offenses leading to warning and impounding)

- Expand the types of offenses to be counted towards the four and five violations that trigger a warning and subsequent action, including speeding and right of way summonses issued by NYPD officers and traffic agents.

Thank you.

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Testimony to the NYC Council Transportation Committee
Bernadette Karna, Families for Safe Streets Member
August 15, 2018

Good afternoon Chairman Rodriguez and members of the Transportation Committee. My name is Bernadette Karna. I am a member of Families for Safe Streets and a survivor of a hit and run crash. On June 8, 2016, a reckless driver hit me as I crossed the street in the crosswalk with the light. The driver dragged me 50 feet and then fled, leaving me for dead.

Two years later, I was traumatized again when I learned that police had positively identified the vehicle that struck me, but dropped the investigation because the vehicle owner denied involvement. *That owner had been involved in two other crashes in the prior year alone*, but police just took his word for it and dropped the investigation.

Let me give you some idea of my first trauma. While in the ambulance, I thought I was going to die. I couldn't breathe, as I drifted in and out of consciousness. While in the ER, the pain from the insertion of the chest tube was unbearable. I laid in the ICU recovery room for days attached to various tubes and monitors. I was overwhelmed and in constant pain. My ribs were crushed, requiring surgical fixation with metal plates, and I had numerous other fractures to my back, shoulder, knee and foot. I was in physical therapy for nearly two years and unable to work for twenty months.

The day after my crash, a detective was assigned. I was hopeful that the driver would be found and prosecuted. But police never reported back, forcing us to pursue a Freedom of Information Request for 20 months before I learned the truth.

What I learned is that the City has a network of video cameras that captures millions of license plates of vehicles each day, called the Lower Manhattan Security

Initiative, or LMSI. LMSI cameras caught the license plate of the car that hit me. But because no one could identify the driver, the police just took the owner's word for it when he said he didn't do it. *Even though he admitted that no one else had use of his vehicle, making this his third crash in a single year.*

What I also learned was that *it is the NYPD's official policy to end the investigation when a vehicle owner denies involvement in a hit-and-run, even when a video or an eyewitness positively identifies the vehicle.* The policy was applied in my case and I will share evidence of that in my written testimony.

There are parallels to the crash caused by Dorothy Bruns, who struck and killed two children and injured their mothers in Park Slope earlier this year. Bruns had a previous hit-and-run, eight moving violations caught on enforcement cameras, and a seizure disorder, but no one took any steps to get her off the road before she killed those toddlers. *Why does the City collect all this information on reckless driving but fail to use it to prevent reckless driving?*

Please enact Intro 971 and 972, which allow the City to analyze together all the information it has to identify and intervene with reckless drivers to get them off the road *before* they injure and kill.

Surviving a crash is traumatic, exhaustive and life-altering. When a vehicle is identified as being involved in reckless driving, whether it is a camera-based violation or a hit-and-run, if we give the vehicle owner an *automatic pass* or a slap on the wrist, they'll just do it again. Either the owner must take responsibility, or the owner must identify the responsible driver. That is what Intro 971 and 972 would do — give the City

the tools to intervene and change driver behavior *before* the next devastating injury. *Before* the next death.

Every six minutes, another person in New York City is injured in a motor vehicle crash. The clock is ticking. Please pass Intro 971 and 972 before the next person is hit.



**American
Heart
Association.**

Testimony of the American Heart Association

Before the New York City Council Committee on Transportation

Regarding

Int 0322-2018 - A Local Law to amend the administrative code of the city of New York, in relation to a street design checklist

August 15, 2018

Greg Mihailovich, Director, Grassroots Advocacy
American Heart Association, New York City

Thank you, Chair Rodriguez and the members of the Council Committee on Transportation, for the opportunity to testify before you here today in support of Int 0322-2018 – the street design checklist bill.

The American Heart Association is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke, of which approximately 80% of diagnoses are preventable.ⁱ Accordingly, AHA prioritizes increasing physical activity and physical fitness across the population because engaging in daily physical activity reduces the risk of obesity, coronary heart disease, stroke, hypertension, diabetes, and some types of cancer.ⁱⁱ Promoting active transportation -- the opportunity to bike, walk, or roll to work, school, or around the community -- through policy, systems and environmental change is one of the leading evidence-based strategies to increase physical activity across the lifespan.ⁱⁱⁱ Having a checklist of street design elements that enhance the safety of all road users would not only reduce injury and death from traffic violence, but also improve health equity for all New Yorkers.

Vulnerable populations, including people of lower income, people of color, the elderly, children, and people with disabilities, are often disproportionately affected by incomplete and unsafe streets.^{iv} Pedestrian fatality rates are higher in these communities^{v vi} and many also suffer from higher rates of obesity, diabetes, and heart disease. The American Heart Association recommends at least 30 minutes of moderate-intensity aerobic activity at least five days a week for overall cardiovascular health, and an average of 40 minutes of moderate-to-vigorous-intensity three or four days a week to help lower blood pressure and cholesterol. Providing safe active transportation options for these underserved communities would provide an opportunity for daily physical activity and result in better health outcomes for all New Yorkers.

As members of the NYC Council's Transportation Committee, you are especially familiar with the concept of "transit deserts" and the first mile/last mile problem many communities face. Having NYC streets adhere to a safe street design standard would allow many New Yorkers to safely opt for a brisk walk or to use bike share to get to work or school and help them get their recommended amount of physical activity each week. Not only would New Yorkers be safer with a safe streets design standard, we would be healthier as well.

¹ Centers for Disease Control and Prevention, Preventable Deaths from heart Disease & Stroke

<http://www.cdc.gov/vitalsigns/HeartDisease-Stroke/index.html>

² Spengler JO. Promoting Physical Activity through Shared Use of School and Community Recreational Resources. Research Brief. Active Living Research, Robert Wood Johnson Foundation, April 2012. Available at: http://activelivingresearch.org/files/ALR_Brief_SharedUse_April2012.pdf

³ Nazelle A, Nieuwenhuijsen JM, Anto, et al. Improving health through policies that promote active travel: A review of evidence to support integrated health impact assessment. *Environ Int.* 2011. May; 37(4): 766–777.

⁴ Sandt L, Combs T, Cohn J. Pursuing equity in pedestrian and bicycle planning. U.S. Department of Transportation Federal Highway Administration.

https://www.fhwa.dot.gov/environment/bicycle_pedestrian/resources/equity_Paper

⁵ Governing. America's poor neighborhoods plagued by pedestrian deaths.

<http://www.governing.com/gov-data/pedestrian-deaths-poor-neighborhoods-report.html>

⁶ National Complete Streets Coalition. Dangerous by Design 2014.

<https://www.smartgrowthamerica.org/app/legacy/documents/dangerous-by-design-2014/dangerous-by-design-2014.pdf>

**Testimony to the NYC Council Transportation Committee
Joan Dean, Families for Safe Streets Member
August 15, 2018**

My name is Joan Dean. I am a member of Families for Safe Streets, an advocacy group comprised of victims of traffic crashes in New York City. My Grandson, Sammy Cohen Eckstein, was killed by a reckless driver in 2013 in front of his building in Brooklyn. He was 12 ½ and was preparing for his Bar Mitzvah. Sammy was kind, smart, charming, handsome, and mature beyond his years. He loved to argue with me, so I told him he was going to be a lawyer when he grew up. But, sadly, he didn't get a chance to do that. I miss him every day.

Our family has been devastated by this loss. I have had to watch my daughter, who many of you have met, become a different person and watch her husband and daughter continue to suffer. Though they may appear strong on the outside, inside I know they all still struggle just to get through each passing day.

The year Sammy died, two other students from MS 51, Sammy's school, were also killed by traffic violence. We wanted to make sure this didn't happen to anyone else and joined with others to fight for change. Families for Safe Streets was instrumental in Albany's passage of the new 25mph speed limit Legislation. And after its passage, a child was hit in the same location as Sammy, and that child survived because the driver obeyed the new speed limit.

Families for Safe Streets has been leading the fight for Street Safety Cameras in school zones for three years. We created a coalition of 300 schools, health care providers and community organizations to support Legislation for 250 cameras and to extend the program until 2022. The bill has bipartisan support in the Legislature with 43 Assembly Sponsors, 35

Senate sponsors and the support of Governor Cuomo. Unfortunately, the existing limited program of 140 cameras was shut down on July 25 because of the inaction in the New York State Senate.

In New York City School Zones, where speed cameras were deployed, speeding has dropped 63% and pedestrian fatalities are down by 55%, and injuries have fallen 23%. Furthermore, 81% of vehicle owners ticketed in school zones do not receive a second violation in the same location within at least two years.

We urge the City Council to pass Resolution 268 calling upon the New York State Legislature to pass, and the Governor to sign, (1) S.6046/A.7798, which would authorize the expanded use of speed cameras in New York City; (2) legislation that would provide for the escalation of penalties and consequences for multiple violations issued by red light and speed cameras; and (3) legislation that would require physicians to report medical conditions or incidents that indicate a driver is at high risk of suddenly losing consciousness or vehicle control. We also strongly support the Intro 971, 972 and 322 – because more is needed to get dangerous drivers off the road, redesign our streets to prevent crashes, and save others from the horror our family has endured. I want to thank the New York City Council for helping us save lives and being a leader in street safety.



**Testimony of Adriana Espinoza
New York City Program Director
New York League of Conservation Voters**

**City Council Committee on Transportation
August 15th, 2018**

Good morning. My name is Adriana Espinoza, and I'm the Director of the New York City Program at the New York League of Conservation Voters (NYLCV). NYLCV represents over 30,000 members in New York City and we are committed to advancing a sustainability agenda that will make our people, our neighborhoods, and our economy healthier and more resilient. I would like to thank Chair Rodriguez for the opportunity to testify before the Committee on Transportation in support of Intro 322 of 2018.

One of NYLCV's top priorities is ensuring that New Yorkers have access to sustainable, low-carbon modes of transportation. We believe that pedestrian safety and smart street design are crucial to achieving this goal. With safe and well-designed streets, New Yorkers can more easily pursue sustainable modes of transportation and reduce dependency on high-emissions vehicles. That is why we strongly support Intro 322 to deploy more Vision Zero (VZ) Street Design Standards on arterial streets.

This proposal will advance New York City's street safety initiatives, of which NYLCV has voiced strong support. The Mayor's Vision Zero Plan to end traffic casualties calls for the adoption of "new street designs and configurations to improve safety." With 2017 data from the NYC Department of Health and Mental Hygiene showing that 58% of fatal pedestrian crashes occurred on arterial roads, it is clear that the city must address arterial street safety to achieve Vision Zero.

The legislation would also encourage the proliferation of green infrastructure such as street trees and bioswales, which would help enhance the city's air and water quality.

While Intro 322 provides a comprehensive list of standards that must be considered when redesigning major streets, it does not mandate that NYC DOT implement any of these specific elements, leaving the City's experts to make the best decisions on a project-by-project basis. We believe a thorough and transparent review of VZ design standards will help these measures become the norm in arterial street redesign projects, and keep city agencies accountable to the public.

I'd like to thank the Committee on Transportation for your ongoing support for transit issues that concern our members, and I look forward to continuing this work in the future. Thank you for your time.

Statement of Steve Vaccaro to New York City Council Transportation Committee
in Support of Intro 972 and 973
August 15, 2018

Thank you Chairman Rodriguez and members of the Transportation Committee for the opportunity to speak. Our law firm, Vaccaro & White, has represented hundreds of New York City crash victims, including Sammy Cohen Eckstein's family, Ally Liao's family, and Bernadette Karna, who you have already heard from today. I am also speaking on behalf of StreetsPAC, which I founded in 2013 with fellow safe streets activists to support elected officials who work to keep our streets safe.

Intro 971 and 972 offer a new public health paradigm for dealing with habitually reckless drivers, to replace the current ~~instead of the~~ criminal justice paradigm we have relied on, which is not working. The bills are a supplement, not a replacement, for the camera-based automated enforcement program that we are working to renew at the state level, but they also stand alone and should be enacted independently from what happens in Albany.

Our current criminal justice paradigm for changing the behavior of habitually reckless drivers has at least two problems. *First*, we have to rely on a capricious and irresponsible state legislature to authorize it.

Second, even when the cameras are issuing violations, there is a hard core of 25,000 habitually reckless drivers who commit 5 or more violations in a year and are not deterred by the \$50 fine per violation. *One driver racked up 49 violations in a single year.* This is shown in the graph at the back of my testimony.

Similarly, the criminal justice approach to another kind of reckless driving — hit-and-run — is usually ineffective, even when there is positive identification of the vehicles involved. As Bernadette Karna explained, the cameras of New York City's Lower Manhattan Security Initiative captured the license plate of the vehicle that struck her. Likewise, the vehicle driven by Dorothy Bruns was identified as involved in a hit-and-run six months before she killed two children in Park Slope in March of this year. *But there were no consequences for those hit-and-runs because even though police could identify the vehicle, they could not identify the driver.* A letter from our law firm to NYPD Chief of the Department

Terence Monahan, detailing just a handful of these consequence-free hit and run cases, is attached to my testimony.

The fact is, the City has vast amounts of data from its speed cameras, its red light cameras, and its LMSI cameras, showing vehicles involved in reckless driving, but there are no consequences for drivers because we are using a criminal law paradigm that requires identification of the driver. *It doesn't work.*

In just over two weeks since the speed camera program was de-authorized, the cameras detected more than 132,000 incidences of speeding in school zones. Without reauthorization the state program, those drivers will face no consequences. But even when the state program is re-authorized, the historical data show that over 3% — roughly 4,000 drivers — would not be deterred by five \$50 fines in the course of a year.

And there are no consequences whatsoever for most of the drivers of positively-identified vehicles involved in hit-and-runs.

Intro 972 changes the paradigm. The bill calls for a study on how to identify dangerous drivers to be channeled into the intervention and remediation program established by Intro 971. But we already know how to identify those drivers. Look at the data from the three camera systems the City is already operating. Have the police report the license plate number and owner of vehicles positively identified as involved in hit and runs, instead of burying that information without using it. *Identify the vehicles involved in habitual reckless driving, and make the owners of the vehicles come forward and either admit they were the responsible drivers, or tell us who the responsible drivers were.* Intro 972 should be amended to specifically refer to data from the City's LMSI and other camera systems, and to information from police accident reports, as data to be used to identify habitually reckless drivers.

Once we identify the drivers, boot the cars until they participate in an education program that teaches them the consequences of their reckless behavior. This public health approach is superior to the current criminal justice approach, for at least three reasons:

First, the data show that for about 25,000 drivers, a \$50 slap on the wrist is not enough to deter five or more dangerous violations a year, and without state re-authorization there is not even a slap on the wrist. And we know there are *no consequences* for most hit and run drivers.

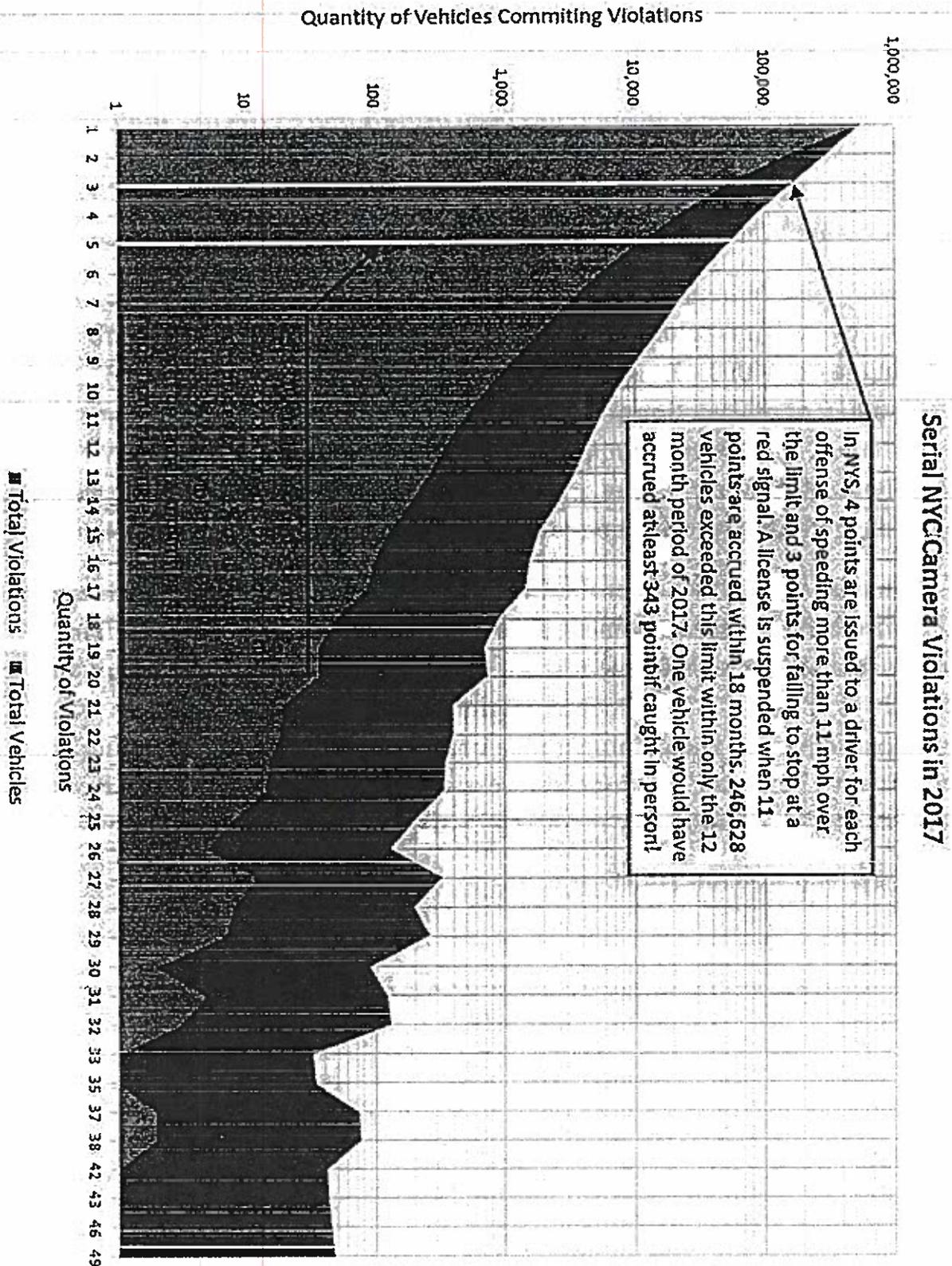
Second, in-person education has been *proven more effective than criminal prosecution and conviction*, in a pilot diversion program run at the Red Hook Community Justice Center. And no one can deny that booting the cars used to habitually commit these violations is a highly effective form of deterrence.

Third, this public health approach addresses the criticisms of the current approach, however misguided. Some critics claim that camera-based enforcement has nothing to do with safety, and is just a revenue grab. Other critics point out that the burden of prosecution for traffic offenses often falls disproportionately on people of color. *The intervention and remediation program under Intro 971 resolves both of these criticisms because it not punitive*. It is direct intervention to keep the dangerous driver off the road and it is educational, to reform behavior.

Some have asked whether the City can constitutionally enact this legislation using enforcement cameras, without state approval. *The answer is yes*. The second attachment to my statement is a memo of law prepared by our firm that lays out the City's authority to run such a program and recoup all of the costs from program participants. The administrative costs associated with the booting and impoundment of the cars, the in-person sessions, and every other expense of the program can be constitutionally recouped by the City without state authorization.

Thank you for your consideration.

Graph prepared by Will J. Farr (@wjfarr) from publicly-available speed and red light camera enforcement data



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BY EMAIL (terence.monahan@nypd.org)

August 10, 2018

Chief Terence Monahan
Chief of Department
New York City Police Department

Dear Chief Monahan,

This responds to your request at our meeting of July 8, 2018 for specific case information that speaks to the Department's handling of nonfatal hit-and-run collisions.

As we discussed, hit-and-run collisions are a public health crisis in New York City. There were 46,000 hit-and-runs in 2017, 5,000 of which resulted in injury. The NYPD only makes arrests in about 1% of these cases.

In our experience, as a law firm representing hit-and-run crash victims, the NYPD does not consider arrest or meaningful investigation of nonfatal hit-and-run cases unless there is positive identification of the driver, even when the vehicle is positively identified by license plate number. As far as we can tell, the NYPD does not notify the DMV or any other agency of the license plate number of a vehicle that is used in a hit-and-run, unless it is one of the tiny handful of cases in which the driver is also identified. As a result, the vast majority of hit-and-run drivers never face consequences, unless they kill their victim (triggering a CIS investigation) or are fortuitously identified by face through a fast-moving windshield by the victim or a passerby.

Below, we provide the details of several hit-and-run crash cases our firm has handled that illustrate this reality. We also supply information concerning other violations committed by these positively-identified hit-and-run vehicles. This information demonstrates a clear pattern of hit-and-runs and driving misconduct that should be made a focus of law enforcement attention.

The connection between hit-and-runs and other dangerous driving behaviors received widespread attention when Dorothy Bruns, the driver criminally charged for the death of two children in a March 5, 2018 crash in Park Slope, was revealed to have had eight prior camera-based moving violations in the preceding 21 months and a reported hit-and-run six months prior that was never investigated. Similarly, in the cases below, vehicles positively identified as involved in hit-and-run collisions often incur multiple camera-based moving violations before and afterwards, and the DMV records of the owners of such vehicles can include a history of driving incidents. This association suggests that the current system for handling nonfatal hit-and-run crashes and camera-based violations does not deter some drivers from reckless driving and may embolden reckless drivers to yet-worse conduct.

We appreciate the commitment from you and the entire Department to Vision Zero, and your desire to improve the handling of hit-and-run investigations. We hope the below cases help you to craft policy and programmatic changes to more effectively respond to these crashes.

In particular, we recommend the following changes in hit-and-run cases:

- The victim of a hit-and-run crash should be entitled to request, and receive copies of, both an accident report (MV-104AN) and a criminal complaint report from the NYPD Omniform system.
- When the victim of a hit-and-run collision leaves the scene for medical attention before police arrive, the victim should still be entitled to give a report of the accident and the crime to police.
- Officers should include all pertinent information in accident reports, including the name and contact information of all witnesses and any positively-identified license plate number of the vehicle, including partial plate numbers.
- Criminal complaints of hit-and-run crashes should not be automatically closed without investigation, even if the victim cannot positively identify the driver of the vehicle.
- The investigating detective should be required to obtain a video and still image search from the LMSI database for the hit-and-run crash site and the fleeing vehicle.
- The NYPD should treat a hit-and-run vehicle as the instrument of a crime. When the vehicle is positively identified through reliable evidence, such as an eyewitness account or video, the vehicle should be inspected and evidence gathered as quickly as possible, as would happen with any criminal evidence.
- The owner of a vehicle used in a hit-and-run is a criminal suspect and should be promptly questioned in accordance with NYPD procedures for criminal suspects.
- When an investigation reveals reliable information concerning the vehicle involved in a hit-and-run, but does not establish probable cause to charge an individual, the incident details and license plate number should be reported to the Department of Motor Vehicles and stored in an easily accessible manner by the Department so that the information is available for any subsequent investigations involving the vehicle or its owner.

We want to work with the Department to help ensure that hit-and-runs are adequately investigated and the perpetrators held accountable. We look forward to discussing the Department's handling of nonfatal hit-and-run cases with you further.

Sincerely,



Blythe Austin
Of Counsel
Law Office of Vaccaro & White
Member of Families for Safe Streets

Steve Vaccaro
Adam White
Law Office of Vaccaro & White

Enclosure: Hit-and-Run Case Summaries

Hit-and-Run Case Summaries

██████████, Precinct 017, ██████████

██████████ was hit while crossing the street in a crosswalk with the light. The driver dragged her 50 feet, then fled the scene. ██████████ was knocked unconscious in the collision and sustained massive trauma to her trunk, back, knee and foot. She spent ten days in the hospital and more than a year afterwards in rehabilitation.

LMSI surveillance footage showed the crash and identified the vehicle's license plate. ██████████ contacted the vehicle's owner by phone. The vehicle's owner, ██████████, told ██████████ that no one else had access to his vehicle at the time of the collision, but that he was sure he had not hit ██████████. ██████████ attorney then called ██████████ to request that any further inquiries of ██████████ be made in the lawyer's presence.

██████████ contacted ██████████ at the NYPD legal bureau, who advised that there was no probable cause to arrest the owner of a vehicle positively identified in a hit-and-run unless the driver admitted to the crime or a witness could identify the driver. Pursuant to this policy, ██████████ closed the case merely because the owner denied involvement and ██████████ could not identify the driver of the vehicle that struck her. The NYPD never inspected the vehicle or interviewed the owner in person.

A DMV search shows that the vehicle's owner, ██████████, was involved in motor vehicle accidents on ██████████ and ██████████, both less than a year prior to ██████████'s vehicle hitting ██████████. We do not believe ██████████ ever checked ██████████ driving record as part of his investigation.

The NYPD failed to provide ██████████ with the results of its investigation, and so ██████████ was forced to use her own no-fault insurance to pay for her injuries, rather than the no-fault insurance of the vehicle. ██████████ advised ██████████ that she must make a FOIL request to obtain the vehicle plate number from the NYPD, which she did. After a seven month wait, she received the NYPD investigation records with the vehicle plate number.

██████████, Precinct 084, ██████████

██████████ was riding her bicycle when struck by a white truck making an illegal left-hand turn from ██████████, which is an intersection surrounded by NYCHA buildings. ██████████ sustained multiple fractures to her clavicle and sternum, a punctured lung, and multiple lost teeth. She spent three days in the ICU.

██████████ left the crash site in an ambulance before the NYPD arrived at the scene. When we requested an accident report from the 84th Precinct, we were told that the NYPD does not issue accident reports for hit-and-runs when the victim leaves the scene. We called the 84th Precinct multiple times to ask that someone prepare an accident report.

On ██████████, five days after the crash and after ██████████ was released from the hospital, ██████████ called ██████████ to interview her. ██████████ told ██████████ that she should loosen up her front brakes so that she would not go over the front of her handlebars. He then issued an accident report. This was the only contact the NYPD had with ██████████. As far as we know, the NYPD never conducted a meaningful investigation, investigated the crash site or interviewed any NYCHA staff.

Our office undertook its own investigation and located a white truck that matched [REDACTED] description of the vehicle that struck her, parked around the corner from the crash site. The vehicle had damage consistent with the point of impact between [REDACTED] bicycle and the hit-and-run vehicle. Our office told [REDACTED] about this investigative lead, but to our knowledge the lead was never pursued.

[REDACTED] Precinct: 084, [REDACTED]

[REDACTED] was hit by a white van while riding a bicycle [REDACTED]. He fractured six ribs and his collarbone. [REDACTED] saw the driver pull over and remain at the scene for several minutes after the crash, then flee.

[REDACTED] of the 84th Precinct pressured the paramedics to allow him to question [REDACTED] at the scene, but they insisted that [REDACTED] needed immediate treatment and transported him to the hospital. [REDACTED] then left [REDACTED] damaged and unsecured bicycle at the scene. The bicycle was promptly stolen before any of [REDACTED] friends could retrieve it.

[REDACTED] prepared an accident report based solely on one witness's account and without any information from [REDACTED]. The report said that [REDACTED] hit the rear side of the van while trying to change lanes and that the van driver did not know a collision had taken place. Our office later contacted the same witness. The witness told us that she saw [REDACTED] bicycle bag get pulled into the wheel well of the van, not that [REDACTED] had hit the rear side of the van when changing lanes. Also, the witness saw the van pull over and remain at the scene for five minutes prior to fleeing.

[REDACTED] told [REDACTED] that "it wasn't a hit-and-run" because the driver likely did not realize he had hit [REDACTED]. Later, [REDACTED] went to the 84th Precinct to make sure that the NYPD knew that the driver had stopped at the scene for several minutes before fleeing. The officer she spoke to told her that there was nothing that the NYPD could do to investigate the crash and that it was the job of insurance companies to track down and check nearby cameras, as "we [the NYPD] don't do that."

[REDACTED] Precinct: 083, [REDACTED]

[REDACTED] was riding her bicycle when hit from behind by a speeding driver, who immediately fled the scene. [REDACTED] suffered a brain subdural hematoma and fractured shoulder and ankle. She spent several days in the hospital.

Our office conducted an investigation of the crash and identified witnesses and video footage showing [REDACTED] was hit by a vehicle that lost its passenger side mirror in the collision. We retrieved the mirror ejected by the hit-and-run vehicle and matched it to a [REDACTED] parked a few blocks from the scene, which had a missing mirror and a dented fender consistent with the crash shown in the video and with eyewitness accounts. The vehicle, [REDACTED], received five red light and speed camera tickets in [REDACTED], the year after the crash. We provided the vehicle information and evidence to [REDACTED] of the 83rd Precinct and requested that he investigate.

[REDACTED] did not investigate. After more than one month and numerous inquiries, [REDACTED] told us that he would interview the vehicle's owner "if [he] had the time." After a subsequent report in the [REDACTED] detailing [REDACTED] refusal to investigate, an inquiry was made of the vehicle's owner, who refused to provide a statement under advice of counsel. [REDACTED] then closed the case.

██████████ said that he would not investigate the incident because, he claimed, ██████████ said at the scene that he could not identify the driver. Our office told ██████████ that ██████████ could identify the driver; nonetheless, the NYPD did not do any follow up investigation. We do not believe that the NYPD ever interviewed the vehicle owner. When our office contacted the owner, he told us that a man named ██████████ was driving the vehicle at the time of the crash. The vehicle, ██████████, received eight red light and speed camera tickets in ██████████, the years closest to the crash for which public data is available.

 VIDEO COLLECTED				Crime/Condition VEHICLE AND TRAFFIC LAWS	Command 017-17TH PRECINCT Date of This Report 06/26/2016
Date of UF61 06/08/2016	Complaint No. 2016-017-02069	Date Case Assigned 06/09/2016	Case No. 2016 - 945	Unit Reporting SQUAD	Follow-Up No. 5

Topic/Subject (VIDEO COLLECTED) LMSI VIDEO	Activity Date 06/21/2016	Activity Time 11:30
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Complainant's Name PIETREFESA, BERNADETTE		Address REDACTED		Apt No. R
Nickname/Alias/Middle Name				
Sex FEMALE	Race WHITE	Date of Birth 05/05/1966	Age 50	
Home Telephone	Business Telephone	Cell Phone REDACTED	Beeper #	E-Mail Address

Person Interviewed Last Name, First M.I.		Address		Apt No.
Nickname/Alias/Middle Name				
Position/Relationship	Sex	Race	Date of Birth	Age
Home Telephone	Business Telephone	Cell Phone	Beeper #	E-Mail Address

Details
Summary of Investigation:
1. On June 21, 2016, at approximately 1130 hrs I did respond to LMSi in regards to this investigation. At the location I was able to obtain a video fo the collision that PO Sirignano had prepared for me.
2. The video shows the white vehicle striking the victim as she was crossing from the W/S of 3 avenue to the E/S of the avenue at the intersection of East 41 street. The vehicle then goes north to East v42 street then E/B on East 42 street. It then goes to the FDR service road and then S/B on the FDR drive.
3. I was unable to upload a copy of the video to the ECMS system as the video files are not compatible.
4. Case is active.

ATTACHMENT	
No	Description

Locations Of The Camera That Captured The Collected Video						
Video Collected YES						
1	Activity Address Location NYC	Street	City MANHATTAN	State NY	Zip	Apt #
	Cross Street		Intersection of 3 AVENUE and EAST 42 STREET - NORTH EAST CORNER		Premise Type STREET	

Reporting Officer:	Rank DT3	Name REDACTED KOLENDA		Tax Reg. No. REDA	Command 242-17 DET SQUAD
Reviewing Supervisor:	Manner of Closing	Date Reviewed 06/28/2016	Date of Next Review	Name RED MURONEY	Supv. Tax No. REDA

CIS (hit & run)

SR SIRIGNANO, ROBERT Reply all
 6/16/2016
 KOLEND, CHRISTOPHER; DOHERTY, MARYCHR; CONRY, SEAN; PENU

GSV8376 (matches vide... Event Detail - LPR 2.pdf
Even

Show all 3 attachments (1002 KB) Download all

Chris,

Attached is what we have located in regards to your 6/8/2016 hit and run accident at West 41 & 3rd Avenue.

- Your perp in white GMC traveled 3rd Ave (accident location), right on 42nd, down to FDR south, to Brooklyn Bridge (Brooklyn bound).
- We tracked the vehicle on below listed cameras. Video is ready for pickup.

DOT FDR @ 42 nd St	0552-0553
Pfizer 42 nd street PTZ	0552-0553
Argus 7 2694 FDR NEC & 42 nd Cam 1	0552-0553
DOT FDR @ 23 rd 152.3	0553-0554
DOT FDR @ 10 th 148.21	0553-0554
DOT FDR @ 6 th 148.58	0553-0554
DOT WRB SE NDR & FDR 97.111	0553-0555
DOT FDR @ Grand 148.4	0554-0555
DOT FDR @ Jackson 148.34	0554-0555
DOT South St & Montgomery 96.16	0554-0555
DOT MHB 20 Manhattan 156.8	0555-0556
DOT FDR South @ Catherine 96.25	0555-0556

- LPR results (Brooklyn Bridge, (Brooklyn bound) (queried 0555-0600) display (3) white suburban type vehicles, one matching vehicle description from camera footage. (See attached photos and PDF's)
- Registered owner:
 Alrick Joseph
 524 W 152nd Street
 New York, NY 10038
 DOB 11/3/1966
 NY plate: GSV-8376



Executed: 6/10/2016 07:39

Executed by: NYPDFINEST
ISIRIGNANO931230



New York City Police Department LPR



Source: LPR Date/Time: 6/8/2016 05:57:43 Asset: FCU Brooklyn Bridge Brooklyn Bound FLPR01-F2
 Original Narrative:
 Not Available



DMV records (as of scan on 6/8/2016)

Registered Owner #1

Name: JOSEPH M L ALRICK
 Gender: M Birth Date: 11/3/1968
 Address: 524 W 152ND ST 21 NEW YORK NY 10031

Vehicle Details

Plate Number: GSV8376 Year: 2007 Make: GMC
 Model: YUK VIN: 1GKFK13087J113354 Registration Type:
 Color: WHI Body: LL Plate Category:
 Plate Description:

 INTERVIEW TELEPHONE				Crime/Condition VEHICLE AND TRAFFIC LAWS	Command 017-17TH PRECINCT Date of This Report 07/19/2016
Date of UF61 06/06/2016	Complaint No. 2016-017-02069	Date Case Assigned 06/09/2016	Case No. 2016 - 945	Unit Reporting SQUAD	Follow-Up No. 8

Topic/Subject (INTERVIEW TELEPHONE) PHONE INTERVIEW - JOSEPH ALRICK	Activity Date 06/26/2016	Activity Time 19.30
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Complainant's Name PIETREFESA, BERNADETTE		Address REDACTED		Apt No. R
Nickname/Alias/Middle Name				
Sex FEMALE	Race WHITE	Date of Birth 05/05/1966	Age 50	
Home Telephone	Business Telephone	Cell Phone REDACTED	Beeper #	E-Mail Address

Person Interviewed Last Name, First M.I.		Address		Apt No.
Nickname/Alias/Middle Name				
Position/Relationship	Sex	Race	Date of Birth	Age
Home Telephone	Business Telephone	Cell Phone	Beeper #	E-Mail Address

Details

Summary of Investigation:

- On June 26, 2016, at approximately 1930 hrs I did receive a call from Joseph Alrick. Myself and Det. Castro had visited his residence earlier in the afternoon.
- I explained to Mr. Alrick that I was investigating an incident in which it appeared that his vehicle had been involved. I asked him if he was registered owner of white Chevrolet Yukon NY # GSV-8376. He stated that he was the owner of the vehicle. I then asked him if he was the exclusive driver of the auto. He again stated that he was. I then asked him if he had been driving the car on the morning of June 8, 2016. He stated that he was and that he was the only driver of the vehicle. He stated that the car had been used by an old girlfriend from time to time in the past. However he stated that he had been the exclusive driver of the car for approx. the past two years.
- I then asked him if he had been involved in any type of accident on 6/8/2016. He stated that he had not. He then stated that there is no damage to his car. I then explained that I believe that his car may have been in a collision with a pedestrian on 6/8/2016 at approx. 0530 hrs. He asked where and I stated in midtown. He stated that it was not possible that he was there at that time. He stated that he takes the FDR drive south 145 street to Brooklyn where he is employed. He also stated that he was pastor and that he would never lie.
- He then stated that he would come down and speak with me in regards.
- A short time later I did receive a phone call from a person named Julie Clark. She stated that she was an attorney and that I would need to have her present for any more communication with her client.
- Case is active.

Activity Address Location NYC	Street 167 EAST 51 STREET	City MANHATTAN	State NY	Zip 10022	Apt #
Cross Street 3 AVENUE and LEXINGTON AVENUE		Intersection of			Premise Type

Reporting Officer:	Rank DT3	Name REDACTED KOLENDA		Tax Reg. No. REDA	Command 242-17 DET SQUAD
Reviewing Supervisor:	Manner of Closing	Date Reviewed 08/25/2016	Date of Next Review	Name REDAC BLACK	Supv. Tax No. REDA

				GENERAL INVESTIGATION		Crime/Condition VEHICLE AND TRAFFIC LAWS		Command 017-17TH PRECINCT Date of This Report 09/28/2016	
Date of UF61 06/08/2016		Complaint No. 2016-017-02069		Date Case Assigned 06/09/2016		Case No. 2016 - 945		Unit Reporting SQUAD	
Complainant's Name PIETREFESA, BERNADETTE		Address REDACTED						Apt RE 3A ~	
Nickname/Alias/Middle Name									
Sex FEMALE		Race WHITE		Date of Birth 05/05/1966			Age 50		
Home Telephone		Business Telephone		Cell Phone REDACTED			Beeper #		E-Mail Address
Activity Address Location NYC			Street 167 EAST 51 STREET			City MANHATTAN	State NY	Zip 10022	Apt #
Cross Street 3 AVENUE and LEXINGTON AVENUE				Intersection of				Premise Type	
Activity Date 08/31/2016						Activity Time 18:00			
Topic/Subject: NYPD LEGAL BUREAU									
Summary of Investigation: 1. On August 31, 2016, at approximately 1800 I did contact the NYPD legal bureau in regards to this investigation. The purpose of the call was to ascertain if there was any probable cause to arrest the suspect Joseph Alrick in regards. 2. I did speak with Elizabeth Moehle of the unit in regards. She is a civilian attorney assigned to the legal bureau. I did go over the facts of the incident and subsequent investigation in regards. I explained that I had been given information by LMSI in regards to the unk. vehicle which had struck the victim. The owner of the possible vehicle was interviewed by me via telephone. An in person interview was attempted but the male Joseph Alrick was not at home when I did attempt to speak with him. I then stated that the video in my opinion was inconclusive. It depicted a similar vehicle however the plate was not readable. The suspect / registered owner Alrick did immediately retain counsel the same day after speaking with me. The victim can not make an identification and there are no known eyewitness accounts of the incident which include a description of the driver or the plate of the vehicle. 3. I was informed at that point that there is no PC against the registered owner of the vehicle. In order for that to occur the driver of the vehicle would have to admit to such. Or there would need to be some other witness to state and identify the driver and that they did in fact observe the male driving the vehicle. Either one or both of those elements must be present in order to effect an arrest. 4. In essence there is no legal right or authority to arrest Joseph Alrick in regards to this investigation. 5. Case is active.									
Reporting Officer:		Rank DT3		Name REDACTED KOLENDA			Tax Reg. No. REDA		Command 242-17 DET SQUAD
Reviewing Supervisor:		Manner of Closing -		Date Reviewed 09/29/2016		Date of Next Review		Name REDA BLACK	Supv. Tax No. REDA

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STEVE VACCARO
ADAM D. WHITE

GAIL S. MILLER
PETER W. BEADLE
BLYTHE P. AUSTIN
OF COUNSEL

May 15, 2018

To: Brad Lander, Nell Beekman, Annie Levers

From: Steve Vaccaro, Blythe Austin

Re: Proposed Intervention Against Dangerous Driving

This memo summarizes our research on New York City's authority to impound vehicles associated with dangerous driving as a public safety measure, and continues our discussions on this topic.

Introduction and Summary. This memo addresses both a systemic citywide problem and a specific tragedy. On March 5, 2018, driver Dorothy Bruns drove through a red light and ran over a pregnant woman and two children. The children were killed. Bruns had a history of dangerous driving. In the 19 months prior to the crash, Bruns' vehicle received eight camera-based speeding and red-light violation tickets. In September 2017, Bruns hit a pedestrian and then fled the scene. Nonetheless, because camera-tickets do not affect a vehicle owner's license in New York, and the NYPD generally does not document or follow up on nonfatal hit and run cases, Bruns had a "clean" operator's license when she killed the two children.

Amidst the ensuing public outrage, Councilmember Lander and many others asked whether the City can prevent traffic deaths by directly intervening with drivers for whom dangerous driving (or ownership of a vehicle that is engaged in dangerous driving) has carried no practical consequences. We conclude that the City can intervene.

Such an intervention could take many forms. Our legal analysis focuses on a hypothetical program that uses a variety of data to identify vehicles and/or drivers that are consistently associated with dangerous or unlawful driving¹ and then requires the vehicle

¹ Sources of data could include, for vehicles driven dangerously, NYPD hit-and-run complaint reports (including reports that identify the vehicle but not the driver) and Notices of Liability for automated speed camera and/or red light camera violations, and, for dangerous drivers, MV104AN Accident Reports attributing dangerous conduct to the driver, convictions under the City's Right of Way Law, unusual driving activity of vehicles registered to people with suspended licenses, and convictions of professional drivers by TLC/OATH tribunals.

owner/driver to undergo traffic safety counseling, which may include conversations with the owner and/or a traffic safety education course that includes exposure to the human toll of dangerous driving. As a public safety measure, the City can lawfully impound the owner's vehicle temporarily until the person completes this counseling.

The City has the power to enact such a program. By default, the City has authority from New York State to enact laws and use its police powers to protect its citizens. "The constitutional home rule provision confers broad police power upon local governments relating to the welfare of its citizens." *New York State Club Ass'n, Inc. v. City of New York*, 69 N.Y.2d 211, 217 (1987). These powers are limited only by state preemption doctrine and the U.S. and New York constitutions. As explained below, an intervention program along the lines discussed here does not pose preemption or constitutional issues.

The State has not preempted traffic safety counseling or vehicle impoundment. We have previously discussed whether Vehicle and Traffic Law (VAT) §§ 1111-A and 1180-b preempt the City's use of red light and speed camera infraction information as a basis for identifying and intervening against vehicle owners, aside from the issuing of Notices of Liability to impose the monetary penalties provided for in §§ 1111-A(e) and 1180-b(e). §§ 1111-A(e) and 1180-b(e) are substantively identical and read as follows (emphasis added):

(e) an owner liable for a violation...of this article pursuant to [a local law or ordinance/a demonstration program] established pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be [set forth in such local law or ordinance.../ promulgated by the parking violations bureau of the city of New York]. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such [local law or ordinance/parking violations bureau] may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

These provisions do not preempt driver safety counseling or the impoundment of vehicles likely to be used for dangerous driving. We provide statutory and common law support below.

VAT §§ 1111-A and 1180-b do not create field preemption to preclude any City action. "Field preemption occurs when the State Legislature has explicitly or implicitly stated its intention to be the sole arbiter in a certain area of local law." *People of New York v. Urena*, 54 Misc.3d 978, 980 (Queens Co. Ct. 2016). Where, as here, a statute does not explicitly preempt local law, courts look at whether preemptive intent may be inferred from the nature of the subject matter being regulated and the purpose and scope

of the State legislative scheme. *See Vatore v. Commissioner of Consumer Affairs of City of New York*, 83 N.Y.2d 645 (1994).

The language and structure of these statutes show that the legislature did not intend §§ 1111-A(e) and 1180-b(e) to preempt a City response to red light and speed camera violations, particularly when read in conjunction with subsections (f) of the statutes. Sections (e) cap the monetary penalties for camera tickets at \$50 (or \$75 if the ticket is paid late). Sections (f) prohibit the City from transforming a camera-ticket violation into a conviction on the owner's operating record or a factor that affects the owner's auto insurance. If the legislature intended the \$50/\$75 fine in sections (e) to be the sole possible response or penalty for traffic camera violations, then sections (f) is redundant and nonsensical. However, *sections (e) cap only monetary penalties and do not limit other responses or forms of penalty*. Read together, sections (e) and (f) create specific limitations on the City's response to camera violations: monetary penalties cannot exceed \$50/\$75 and the penalty cannot impact the vehicle owner's operating record or insurance coverage. The statutes do not prohibit the City from responding to camera violations in other ways.

Applying these well-established preemption principles, a NYS Supreme Court has already ruled that §§ 1111-A and 1180-b do not preempt the field with respect to municipal action based on camera-tickets. *See Guthart v. Nassau County*, 55 Misc.3d 827, 833 (Sup. Ct. Nassau Co. 2017) ("The court finds nothing in the subject statute [§ 1111-B(e), which is substantively identical to §§ 1111-A(e) and 1180-b(e)] to indicate preemption under either conflict or field preemption.").

A dangerous driver impoundment/intervention program does not conflict with state law. "Conflict preemption occurs when a local law prohibits what a State Law explicitly allows, or when a State Law prohibits what a local law explicitly allows." *Matter of Chwick v. Mulvey*, 81 A.D.3d 161, 168 (N.Y. App. Div. 2010). In other words, a City statute conflicts with state law when it "render[s] illegal what is specifically allowed by State law." *People v. De Jesus*, 54 N.Y.2d 465 (1981).

As discussed above, §§ 1111-A and 1180-b implicitly give vehicle owners certain rights, inasmuch as the statutes explicitly limit the penalties for camera tickets. Violations cannot result in monetary penalties above \$50/\$75 or impact the owner's operator record or insurance. For speed camera violators, VAT § 1180-b(5)(ii) provides owners with an additional privacy right by limiting the City's use and dissemination of the recorded speed camera images themselves.

The driver counseling and vehicle impoundment proposal does not violate any of the statutory limitations of § 1111-A or § 1180-b. It imposes no monetary penalty.² It

² The City may choose to defray the cost of the counselling and impoundment program by charging vehicle owners impoundment and storage fees and a traffic safety education fee. The *Guthart* court upheld

does not impact the dangerous vehicle owner's operating record or insurance. And its criteria incorporate the owner's past receipt of Notices of Liability for speed camera violations, not the recorded photographs themselves, as a factor to define dangerous vehicles. Thus, the proposal does not pose conflict preemption issues.

The City has a superseding right from the State to regulate the right of way. The State legislature has delegated to the City authority supersede State law (including the VAT) and to directly legislate and regulate the right of way. VAT § 1642 provides that "local laws, ordinances, orders, rules, regulations and health code provisions shall supersede the provisions of [the VAT] where inconsistent or in conflict with respect to the...right of way of vehicles and pedestrians." This explicit grant of power by the State to local governments further bolsters the City's authority to regulate dangerous driving.

There is a clear and undeniable link between traffic crashes, speeding and the running of red lights, which impacts the right of way. In its 2016 report for NYS on speed cameras ("*New York City Red Light Camera Program: Program Review 2014-2015*"), the Department of Transportation says: "in New York City, about half of fatal traffic crashes occur at intersections." The report links these intersection crashes with speeding. "Crashes caused by motorists who violate traffic signals are highly associated with fatal and severe injury high speed right angle crashes...Motorists who are speeding are much more likely to run red lights, because vehicles which are travelling faster need more time and take a longer distance to come to a complete stop...Speeding drivers are therefore more likely to find themselves unable to come to a complete stop without 'stopping short' and risking a rear end crash." Furthermore, speed camera-tickets are issued for speeding near schools during school hours, where the presence of large numbers of children crossing streets demands heightened driver sensitivity to pedestrian right-of-way. Thus, evidence-based action by the City to educate drivers who receive camera-tickets for running red lights and/or speeding would safeguard the right of way against fatal and injurious crashes at intersections.

Safety-based vehicle impoundment is constitutionally permissible. The City may temporarily impound vehicles associated with dangerous driving, as long as the impoundment complies with constitutional due process and reasonable seizure standards. The applicable standards are set forth in *Krimstock v. Kelly*, 306 F.3d 40, 55 (2d Cir.

imposition of additional payments beyond the statutorily-scheduled \$50/\$75 amounts, so long as those payments were "administrative charges" reflecting the costs of administering the program, rather than additional penalties, writing: "there is nothing in the language of the [red light camera] statute itself that abrogates the existing and long-standing authority holding that a municipality may impose fees reasonably related to the cost of administering and/or enforcing its own regulations and programs." *Guthart*, 55 Misc.3d at 827.

2002),³ and are already applied by the City in connection with other, longstanding vehicle impoundment programs through what are known as “*Krimstock* hearings.”⁴

Krimstock hearing standards apply when the City wishes to retain an impounded vehicle throughout forfeiture proceedings. These standards require the City to provide the vehicle’s owner with the option to request a prompt hearing (a “*Krimstock* hearing”) at which to challenge the government’s continued retention of the vehicle. “At such a hearing, the [City] must establish that probable cause existed for the defendant’s initial warrantless arrest [at which the vehicle was seized], that it is likely to succeed on the merits of the forfeiture action” and “that retention is necessary to protect the [City’s] interests in the financial value of the vehicle and/or in protecting the public from continued unsafe and illegal driving.” *County of Nassau v. Canavan*, 802 N.E.2d 616, 625 (2003), *Ferrari v. County of Suffolk*, 845 F.3d 46 (2d Cir. 2016). At the hearing, an innocent co-owner of a vehicle may refute the City’s showing and reclaim the vehicle from the City if he or she “can demonstrate by a preponderance of the evidence that he or she: (i) is a registered and/or titled co-owner; (ii) was not a participant or accomplice in the underlying offense and did not permit or suffer the vehicle to be used as a means of committing crime or employed in aid or furtherance of crime; and (iii) continued deprivation would substantially interfere with his or her ability to obtain critical life necessities, such as earning a livelihood, obtaining an education, or receiving necessary medical care.” *Property Clerk of Police Dept. of City of New York v. Harris*, 9 N.Y.3d 237, 248 (2007) (citations omitted).

The City could adapt its existing *Krimstock* hearing practices to provide owners of impounded vehicles with the option to request a hearing at which to challenge the impoundment. At the hearing, the City would present its reasons for impoundment, *i.e.* the data points that made the vehicle subject to the dangerous vehicle program, and link the impoundment to public safety. The owner could challenge the impoundment by demonstrating, by a preponderance of the evidence, that he or she did not permit, suffer, participate in, or act as an accomplice in any of the dangerous driving that made the car subject to the dangerous vehicle program and that traffic safety counseling would pose a substantial hardship. If the owner meets this burden, he or she need not attend traffic safety counseling or pay any administrative fees. This approach would comport with constitutional requirements for vehicle impoundment.

³ There is an important legal distinction between temporary impoundment and forfeiture. As the Second Circuit observed, “the City’s authority to seize property may be broader than its authority to cause the forfeiture of the property.” *Krimstock v. Kelly*, 306 F.3d 40, 55 (2d Cir. 2002). Thus, a temporary impoundment may require even less than a full *Krimstock*-style hearing to meet due process standards.

⁴ This memo assumes that the City program will provide notice and the opportunity for a hearing to vehicle owners both before and promptly after dangerous vehicle impoundment. An impoundment and intervention program that did not provide a pre-impoundment notice an opportunity to be heard may also be lawful but would subject the program to heightened constitutional scrutiny.

Vehicle impoundment to protect public safety is not a penalty. Courts do not view vehicle impoundment done for public safety to be a penalty. The driver counseling and vehicle impoundment proposal is civil and nonpunitive in nature, which further ensures that a dangerous driver impoundment/intervention program would not be vulnerable to a preemption or constitutional challenge.

Both federal and state courts have written extensively about vehicle impoundment for public safety as a permissible, nonpunitive measure, even when done outside the confines of a narrowly tailored statute such as the one proposed here. *See South Dakota v. Opperman*, 428 U.S. 364, 368-69 (1976) (“In the interests of public safety and as part of what the Court has called “community caretaking functions,” automobiles are frequently taken into police custody....***The authority of police to seize and remove from the street vehicles impeding traffic or threatening public safety is beyond challenge***” (emphasis added, citations omitted)), *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973) (“Local police officers, unlike federal officers, frequently investigate vehicle accidents in which there is no claim of criminal liability and engage in what, for want of a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.”), *People v. Tardi*, 28 N.Y.3d 1077, 1078 (2016) (“The officers’ decision to tow the vehicle was [] consistent with a community caretaking function” because “the vehicle would have been left unattended independently in the complainant’s private parking lot, which had a history of vandalism.”).

Ultimately, “whether a statutory scheme is civil or criminal is first a question of statutory construction [based on] the statute’s text and structure.” *Smith v. Doe*, 538 U.S. 84 (2004). In *Smith*, the Supreme Court concluded that Alaska’s retroactive sex offender registry system was a civil, nonpunitive regime because its stated primary purpose was “protecting the public from sex offenders” and did not have any overly punitive effect. The Court continued: “If...the intention of the legislature was to enact a regulatory scheme that is civil and nonpunitive, we must further examine whether the statutory scheme is so punitive either in purpose or effect as to negate the State’s intention to deem it civil.” To analyze whether a civil statute has an overriding punitive purpose, “only the clearest proof will suffice to override that [civil] intent and transport what has been denominated a civil remedy into a criminal penalty...***Where a legislative restriction is an incident of the State’s power to protect the public health and safety, it will be considered as evidencing an intent to exercise that regulatory power, and not a purpose to add to the punishment.***” *Id.* (emphasis added) To examine whether a statute is so punitive in effect as to negate a legislature’s civil intent, courts examine each of the law’s effects, including “[w]hether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of *scienter*, whether its operation will promote the traditional aims of punishment—retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is

assignable for it, and whether it appears excessive in relation to the alternative purpose assigned.” *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168-169 (1963).

Smith, Opperman, Dombrowski, and Tardi demonstrate the near-incontestable authority of municipalities to temporarily impound vehicles based on the clear, evidence-based public safety concerns that naturally arise when a driver has multiple camera-tickets, hit-and-runs and/or right of way violations associated with their operator’s license or vehicle.

Enactment of a dangerous driver impoundment and intervention program would rest comfortably within the City’s authority under *Smith* and the other cases cited. The City’s aim would be to protect the public from dangerous driving, which is a civil and nonpunitive intent. While the program could place some burdens on the owners of dangerous vehicles, *e.g.* mandatory traffic safety counseling and a temporary deprivation of the owner’s vehicle, these effects are not so onerous as to transform the proposed program from a civil scheme to protect public safety into a criminal or punitive punishment on vehicle owners. The civil nature of the program further secures it from preemption and constitutional challenges.

* * * *

We hope this memo provides a framework for the City Council to create a lawful, innovative and non-punitive intervention program to prevent needless traffic deaths and injuries. The actual legislation should be crafted with preemption and constitutional limitations in mind. We are confident that the program suggested here does not pose preemption or constitutional issues and that the City may enact such a program in order to protect the safety and welfare of New Yorkers.

FOR THE RECORD



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Greg Berman, Director

**Center for Court Innovation Testimony
New York City Council
Committee on Transportation
Emergency Hearing
August 15, 2018**

Good Afternoon, Chairman Rodriguez, this testimony is submitted on behalf of the Center for Court Innovation. We thank you for the opportunity to provide testimony regarding the Center's Driver Accountability program, an innovative response to driving-related offenses.

In 2015, the Red Hook Community Justice Center launched the Driver Accountability Program, with the goals of improving traffic safety and increasing accountability amongst dangerous drivers in Southwest Brooklyn. The program seeks to raise participants' awareness of their dangerous behaviors and empower them to make concrete changes to reduce those behaviors. The Justice Center developed the program curriculum as part of a traffic violence working group, in partnership with Councilmember Brad Lander, the Brooklyn District Attorney's Office, the New York Police Department, Families for Safe Streets, and Transportation Alternatives.

The Driver Accountability Program is a group-based intervention available to individuals who are arrested or receive summonses within the Justice Center's catchment area, which includes the 76th, 78th, and 72nd precincts. It is offered as a condition of a guilty plea or other disposition (such as an ACD or dismissal) on both misdemeanor and summons cases, for a range of driving related offenses such as: VTL 1212 (Reckless Driving); VTL 1192 (Driving While Intoxicated); VTL 511 and 509 (Driving with a Suspended or No License); AC 19-190 (Failure to Yield to a Pedestrian) and others. It can also be mandated in conjunction with other sanctions, such as community service, defensive driving classes, Peacemaking (our onsite community mediation program), or mandatory payment of outstanding fines owed to the Department of Motor Vehicles.

The Driver Accountability Program uses the principles of restorative justice to address the dangerous behaviors that are the primary cause of pedestrian fatalities. Rather than sitting passively through a lecture or presentation, participants are required to actively engage in a series of exercises and discussions led by our trained group facilitators. After a brief introduction, participants complete a questionnaire that requires them to rate and describe their driving beliefs and behaviors, a practice that initiates meaningful self-reflection. Participants are then asked to share their answers, which provide a framework for a discussion about what constitutes dangerous driving and why.

Incorporating victims' voices is a critical component of the program. Participants watch a film created by the Taxi & Limousine Commission ("TLC"), "Drive Like Your Family Lives Here," which includes testimonials from people who have lost loved ones due to unsafe driving. Group facilitators then lead a discussion about the video and the importance of thinking broadly about one's place on the roads and in the community.

In the latter part of the session, program participants are required to identify two to three driving behaviors that they are committed to changing moving forward. For each behavior, the group identifies concrete steps that can be taken to effectuate that change, including alternative behaviors and decision-making skills that can be harnessed in those critical moments of judgment. The focus of this portion of the group is to empower the participants to become agents of their own change—an important element of the Driver Accountability Program's restorative justice approach.

To date, the Red Hook Driver Accountability Program has served over 600 participants. Last year alone, the program served 277 participants with a 97% completion rate. Building on the success in Red Hook, the Center for Court Innovation recently expanded the Driver Accountability program to its operating projects in Staten Island, at the Staten Island Justice Center, and more recently, to the Brooklyn Criminal Court through its downtown operating program, Brooklyn Justice Initiatives. Thus far, the Staten Island program has served over 400

participants, and Brooklyn Justice Initiatives has enrolled approximately 60 participants since its launch earlier this summer.

Based on a recent evaluation, initial findings indicate that participants who completed the Red Hook program were 40% less likely to be rearrested for traffic-related offenses than drivers who had been arrested on similar traffic-related offenses and had not gone through the program. In addition, with support from Council Member Brad Lander's office, the Justice Center has embarked on a study to evaluate the impact of Red Hook's program on participants' driving beliefs and behaviors one month after program completion.

Feedback from program participants has been overwhelmingly positive. Many participants comment on the value of open dialogue about their driving behaviors and the importance of brainstorming concrete steps to change future conduct. They also appreciate hearing from those who have been victims of dangerous driving through the TLC video. Participants have described their experience in the program as "enlightening", having transformed their perspectives about driving. Many say that after the class, they have come to view driving as a privilege and responsibility. One participant spoke with his group facilitator in the weeks following his class, sharing how his views and approach to driving has changed dramatically:

I'm definitely working on speeding and dangerous driving in general – I have to stop that. Not only am I putting myself in danger but other people on the road... I was aware of what I was doing; it was only a matter of not thinking of the consequences. I always thought, 'I know what I'm doing,' but you don't really know what you're doing if you're not thinking of the consequences.

The Center for Court Innovation is grateful for the support it has received for the Driver Accountability program since its inception, including valuable input and support from Families for Safe Streets, and Transportation Alternatives, as well as Council Member Lander, the Brooklyn District Attorney's Office, and the New York Police Department. We look forward to continuing our success in making safer streets for all, and we thank you for the opportunity to offer testimony on this important issue.

August 15, 2018

New York City Council Hearing

Testimony of Hindy L. Schachter, Families for Safe Streets

My name is Hindy Schachter. I am a lifelong New York City resident. As a senior citizen driver, cyclist, and pedestrian I see the need for safe streets from multiple perspectives, but each vantage requires putting an end to traffic violence and achieving vision Zero. Reaching this goal will enhance travel for motorists, cyclists and walkers alike. But to achieve this aim New York needs extensive street redesign. Action is necessary on large arterial streets labelled dangerous such as Atlantic Avenue in Brooklyn, Grand Concourse in the Bronx, Hylan Boulevard in Staten Island, Upper Amsterdam Avenue in Manhattan and so many more. But as I will show later, we also need action in many other locales including recreational spaces. What kind of action? We need streets designed to discourage speeding and encourage safe behavior which often means narrower corridors, protected bike lanes, extended curbs, better visibility, and pedestrian refuge islands.

I started riding a bicycle on the streets of Manhattan in the 1970s. My first cycling forays came well before the advent of bike lanes or share-the-road signs. Often as I pedaled with my husband, Irving Schachter, a driver would open his window and yell, "Get off the street. You belong on the sidewalk." As my husband could easily ride 25 mph, the drivers were not responding to our lack of speed; they simply refused to share the road. We became members of Transportation Alternatives because we wanted to educate motorists and change driving culture. From our first forays we both believed change was possible; I continue to believe that change can and will come today.

My husband was also a lifelong New York City resident. He was a driver, a cyclist and a pedestrian who felt comfortable in all three roles. He was a runner who won age group awards in New York Road Runner races. In 2013, he completed his first New York City marathon at the age of 74. In summer 2014, he set aside time each week for three Central Park runs as preparation for the upcoming November race.

On Sunday August 3, 2014, he and I set out to run in the park. We ran five miles together at my pace—his warm up. At E. 69th Street and East Drive I left; my exercise time was over. He planned to complete 13 additional miles at a faster pace. He was almost finished with an 18 mile run when a 17 year old cyclist veered at speed into the runner's lane and collided with Irv. A moment was all it took to end a life still primed for athletic accomplishment.

One way to analyze this tragedy is to focus on the cyclist's individual flaws, particularly his lack of concern with the consequences of entering a pedestrian only lane. Such an approach has merit in that it reminds everyone that the cyclist's action was not an accident—entering the lane at speed was a deliberate (and wrongheaded) choice. But focusing on the individual alone will not solve the problem of traffic crashes. The underlying cause of our current traffic crash epidemic is faulty street/road design and a culture that minimizes the need to hold accountable people who kill and maim on the road. And let us not forget that although my husband died because of a cyclist's error, this type of crash is an extremely infrequent occurrence. Almost all traffic deaths come because of the actions of motorists and street redesign will be particularly effective at changing driver behavior.

I testify before you today to honor my husband's memory by tackling the problem of faulty street design. Such a campaign means working to create a city in which his death and the death

of so many other collision victims will be unthinkable. To this end I ask the City Council to pass a law requiring the New York City Department of Transportation to implement Vision Zero safety measures every time the agency does work at a particular location; when a street gets fixed it always has all the measures we know save lives such as pedestrian islands and protected bicycle lanes.

Several years ago the city designated 100s of streets as Vision Zero Priority Locations and yet no work has been done to improve most of these places. What are we waiting for? Every delay can only enable additional tragedies. A simple line separated the pedestrian's lane in Central Park and the lane used by the man whose action killed Irving. Better designed separation might well mean that I would not have to give testimony today. The only outcome of stretching the process of street redesign is the strong probability that more people will share my horrible experiences, the likelihood that additional people will lose a beloved partner.

The time to act is now. We need streets that put the brakes on excessive speed. The only speed we want is from a City Council primed to end traffic violence in a speedy manner by passing a law to mandate Vision Zero improvements every time street improvement work is done at a given location .

August 15, 2018

**Emergency Hearing on Dangerous Driving
New York City Council, Committee on Transportation**

Thank you Council Members, Speaker Johnson and Committee Chair Rodriguez for convening this important emergency hearing.

It has been just three months since I lost my son. He was killed by a reckless driver.

Speed cameras save lives. What more is necessary to know? Casting a Senate vote to save lives should be the most simple thing to do. It is just one day of travel to Albany and one vote to cast, and you will save lives and help prevent the terrible pain of losing a loved one, like I lost my son, Giovanni.

This is about our children and our families - the most precious in our lives. Yet for some reason that is beyond comprehension the Republican State Senate leaders have refused to even vote on this. This is inexcusable. They need to do their job and make sure the State Senate passes the speed camera bill before kids return to school in September.

I thank this Council in your efforts to pass the legislation proposed today. We need all of this, and we need speed safety cameras to save lives.

- Raul Ampuero, father of Giovanni and member of Families for Safe Streets

On behalf of our 24,000 thousand members, including nearly 2,500 school crossing guards, Local 372, NYC Board of Education Employees; District Council 37 | AFSCME strongly urges the state legislature to return to Albany and reauthorize the School Zone Speed Camera program in New York City.

This program has been an integral component in the City's Vision Zero efforts to eliminate traffic fatalities. The NYC Department of Transportation has found that speeding dropping by 63% at intersections with speed cameras and the vast majority of drivers caught by the cameras do not reoffend. Across the political spectrum, political leaders universally agree that school speed zone cameras deter speeding and save children's lives, making it all the more reprehensible that the legislature failed to renew the program after it was held hostage in unrelated political negotiations. Instead, the program expired on July 25 and the cameras were shut off.

Our number one priority is the safety of our children. Across the City, Local 372 school crossing guards are on the ground, tasked with ensuring children safely cross the street, both to and from school. School crossing guards can tell you first hand the noticeable difference between when the cameras are active and when speeders have free reign, and why a car's speed is so critical. The faster a car is speeding, the quicker reactions need to be. The quicker reactions need to be, the more likely an accident is to occur. And the fast a car speeds, the deadlier an accident is to a pedestrian crossing the road. When drivers speed through a school zone, a school crossing guard's job becomes increasingly dangerous and crossing the street becomes a perilous game of Russian Roulette. Increasing this risk to our children on their daily walk to their school is simply unacceptable.

President Shaun D.Francois I and local 372 supports the City Council's current efforts at making sure our streets are safe for everyone. However, we ask that the state legislature return and reauthorize the school speed zone cameras, for which there is no alternative. School crossing guards need the program's assistance for the most important responsibility of all: protecting the safety of our children.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 8/15/10

(PLEASE PRINT)

Name: Chief Thomas Chan

Address: _____

I represent: NYPD Chief of Transportation

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Marco Conner

Address: _____

I represent: Transportation Alternatives

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: CHRISTOPHER

Address: 342 W 38

I represent: CHEK PEDS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 8/15/16

(PLEASE PRINT)

Name: Oleg Chernyavsky

Address: _____

I represent: Executive Director Legislative Affairs (NYSP)

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Edith Prentiss

Address: _____

I represent: Disabled in Action

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Bernadette Pietrefesa

Address: _____

I represent: Families

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 971/972 Res. No. _____

in favor in opposition

Date: 8/15/18

(PLEASE PRINT)

Name: Steve Vaccaro

Address: 17 Battery Place #204 NY 10004

I represent: Cash Victims, StreetsPAC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Special Council Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Edith Prentiss

Address: 735W 186ST 4E NY NY 10037

I represent: IFAC (trans for ALL)

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 372 Res. No. _____

in favor in opposition

Date: 8/15/18

(PLEASE PRINT)

Name: Greg Michalovich

Address: _____

I represent: American Heart Association

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Steve Vaccaro

Address: _____

I represent: Waccaro Self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JRaul Ampuero

Address: _____

I represent: La Familia Safe - Locals

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Adriana Espinoza

Address: _____

I represent: My League of Cons. Voters

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Rebecca Park Asst Commissioner

Address: 55 WATER ST

I represent: NIC-DT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Margaret Furman

Address: 1st Deputy Commissioner

I represent: NIC-DT

Address: 55 Water

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: _____

Address: 55 WATER ST

I represent: NIC-DT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Joan Dean

Address: _____

I represent: Families for safe streets

Address: _____ (FSS)

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Hindy Schachter

Address: River Puccio

I represent: Families

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆