



Office of the New York State Attorney General Letitia James
Office of Special Investigation

January 19, 2023

Report on the Investigation into the Death of Delroy Morris

SUMMARY

On July 8, 2015, the Governor issued Executive Order 147, which appointed the Attorney General the special prosecutor “to investigate, and, if warranted, prosecute certain matters involving the death of an unarmed civilian . . . caused by a law enforcement officer.” After the incident described in this report, in which a police officer caused the death of Delroy Morris on July 25, 2020, the Governor issued Executive Order 147.40, confirming the Attorney General’s authority to investigate the death of Mr. Morris.¹

In summary, on July 25, 2020, at 9:21 pm,² a man called 911 to report that a man had been shot at Wythe Avenue and Metropolitan Avenue in Brooklyn. NYPD Officers Angelo Martino (driver) and Jonathan Galindo-Sanchez (passenger) of the 90th Precinct responded to the call in a marked NYPD radio motor patrol vehicle (“RMP”). Traveling westbound on Metropolitan Avenue at 23 mph, PO Martino drove through a steady red light at the intersection with Driggs Avenue and fatally struck Mr. Morris,³ who was operating a motorcycle and traveling southbound on Driggs Avenue. Mr. Morris had the green light and was driving between 37 mph and 49 mph. Mr. Morris was ejected from his motorcycle and died from his injuries.

The investigation by the Office of the Attorney General (“OAG”) included

- interviews of
 - o The NYPD accident reconstructionist for this incident, from the Collision Investigation Squad (“CIS”)
 - o A member of NYPD’s technology group
 - o Three NYPD officers responsible for driver training
 - o The NYPD supervisor of the officers involved in the incident
 - o Five civilian witnesses who saw the incident as it occurred⁴

- and review of
 - o Civilian security video
 - o NYPD radio transmissions
 - o 911 calls
 - o Reports by members of CIS
 - o Reports by the NYPD supervisor of the officers involved in the incident
 - o A report by the commander of the NYPD Force Investigation Division
 - o A report of the NYPD Use of Force Review Board

¹ Executive Orders 147 and 147.40 are attached as Exhibit 1. Executive Law 70(b) superseded Executive Order 147 and took effect on April 1, 2021. Because this incident occurred prior to April 1, 2021, OAG’s authority falls under Executive Order 147.

² All times in this report are approximate, except where noted.

³ Mr. Morris was born September 14, 1982, and was 37 years old when he died.

⁴ Officers Martino and Galindo-Sanchez, through their counsel, refused OAG’s interview request.

- A Department of Motor Vehicles hearing transcript
- Mr. Morris’s medical records from Bellevue Hospital
- Mr. Morris’s autopsy and toxicology reports.

Based on this investigation, OAG concludes that the evidence does not establish that the driver, PO Martino, committed a crime. PO Martino was responding to an emergency call, with turret lights activated. As he drove through the red traffic light, he was not speeding and had activated his brakes prior to entering the intersection. He was not impaired by alcohol and was not using his department issued phone or tablet. Under the law as interpreted by New York’s courts, OAG would not be able to prove beyond a reasonable doubt that PO Martino committed the crime of criminally negligent homicide, and, therefore, OAG will not present this case to a grand jury for consideration of criminal charges.

FACTS

A. Collision

On July 25, 2020, at 9:21 pm, MG⁵ called 911 and said he had just been attacked by “people with guns” and that a man had been shot at Wythe Avenue and Metropolitan Avenue in Brooklyn.⁶ The radio dispatcher transmitted a call for a “10-34,” meaning a person shot. Officers Martino and Galindo-Sanchez of NYPD’s 90th Precinct responded to the call in an RMP. NYPD paperwork, reviewed by OAG, indicates that PO Martino was driving the RMP and PO Galindo-Sanchez was in the passenger’s seat, operating the vehicle’s radio communications. A recording from a civilian security camera at 268 Metropolitan Avenue (“Camera 1”) shows PO Martino driving westbound on Metropolitan Avenue towards the intersection of Driggs Avenue, with the RMP’s turret lights activated (the surveillance video has no audio).⁷ As PO Martino approached the intersection, the video shows that a black Ford F-150 pickup truck, which was stopped at the red light, pulled over to the right – possibly to let the police car pass because the driver heard or saw the oncoming police car. The video then shows that PO Martino drove through the red light at the intersection.

A frame-by-frame analysis of Camera 1 shows that PO Martino applied the brakes of the RMP several times prior to entering the intersection.

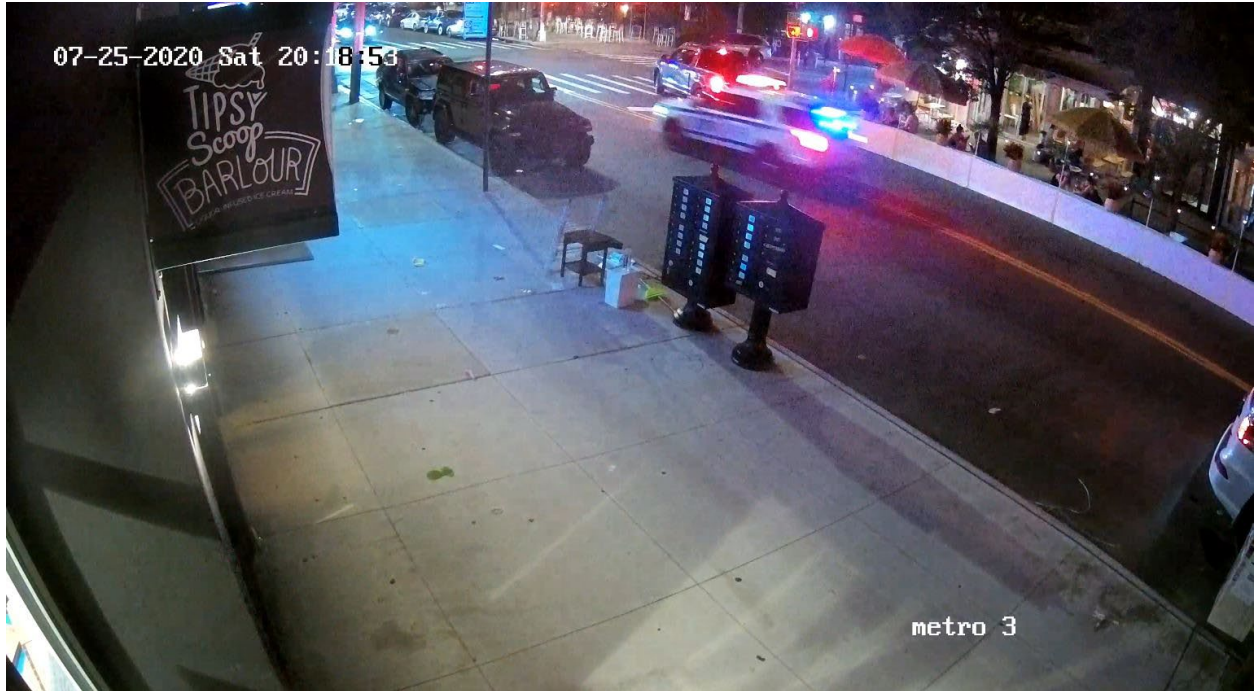
⁵ The caller is referred to by his initials to maintain anonymity.

⁶ The 911 call recording, reviewed by OAG, can be accessed [HERE](#)

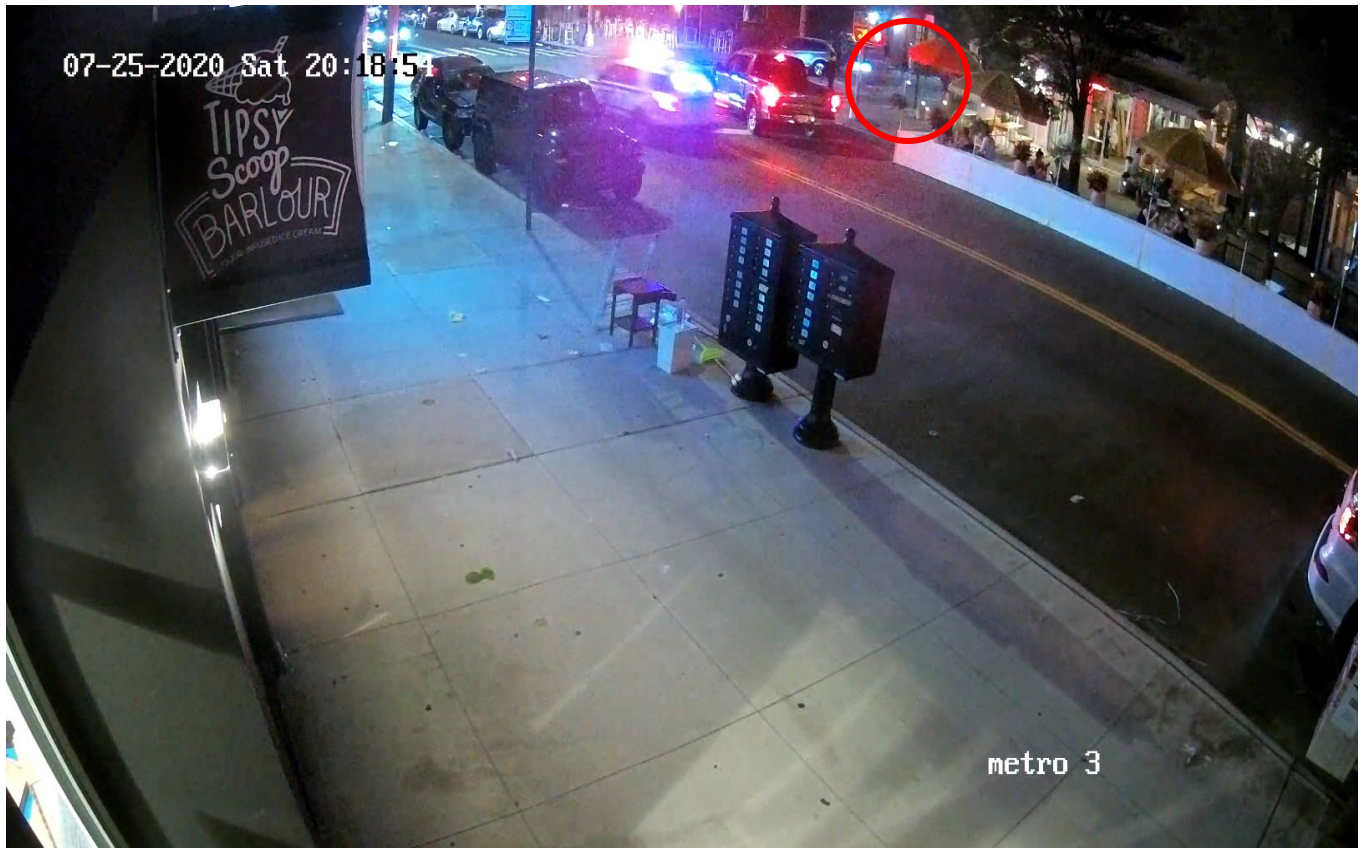
⁷ There is no body worn camera (“BWC”) video or dashboard camera video of this incident. Although the officers were equipped with BWC, they did not activate them. Officers are not generally required to activate BWC while in a patrol car. See https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/body-worn-cameras-patrol-guide.pdf. Because BWC are worn on the chest, if the officers had activated them while in the car, the video would likely have shown only the area around the steering wheel and the dashboard. The RMP in this case was not equipped with a dashboard camera. Camera 1 footage is available [HERE](#). As mentioned below, there was a second camera at the same address (“Camera 2”). The time stamps shown on the recordings from Cameras 1 and 2 are both about an hour and 5 minutes behind the actual time.



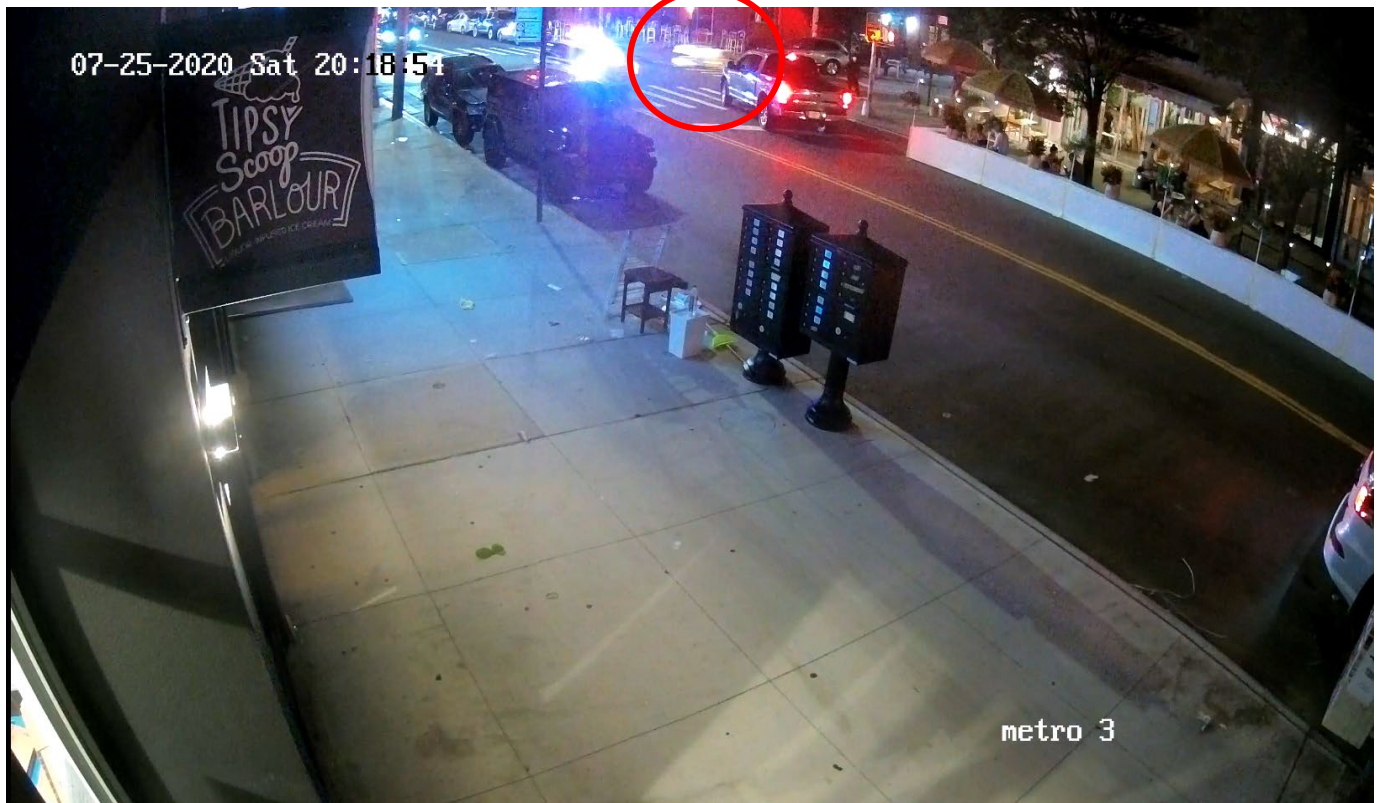
Still frame from Camera 1, showing the police car approaching Driggs Avenue with its brake lights activated.



Still frame from Camera 2 showing the police car approaching Driggs Avenue with its brake lights activated.



Still frame from Camera 2 showing motorcycle approaching Metropolitan Avenue



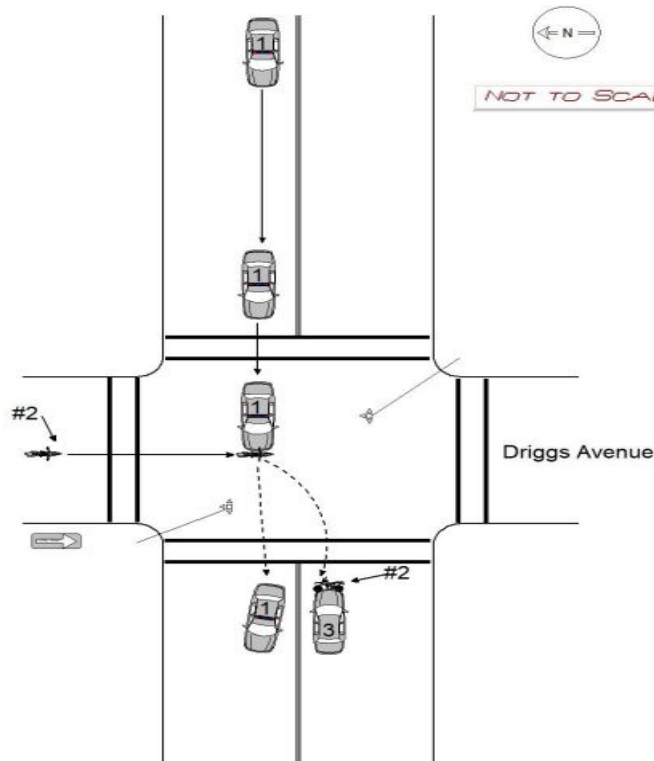
Still frame from Camera 2 showing motorcycle approaching Metropolitan Avenue

A second security camera at 268 Metropolitan Avenue (“Camera 2”) shows Mr. Morris traveling southbound on Driggs Avenue (from the right, from the point of view of PO Martino), operating a 2006 Honda CBR motorcycle.⁸ According to the electronic records of the Intergraph Computer Aided Dispatch (ICAD) system,⁹ at 9:25 pm, the RMP struck the motorcycle’s left side, causing Mr. Morris to be ejected from the motorcycle towards the northwest corner of the intersection, and causing the motorcycle to slide westbound, where it went under the front end of a Mercedes stopped in the eastbound lane of Metropolitan Avenue awaiting the traffic signal.

The diagram below, which was created by members of NYPD’s Collision Investigation Squad, shows the RMP as “1,” the motorcycle as “2,” and the Mercedes as “3.” In the diagram, the RMP’s line of travel, westbound, is from top to bottom.

⁸ Camera 2 footage is available [HERE](#) .

⁹ ICAD is the NYPD’s portion of an improved Computer-Aided Dispatch (CAD) system designed to unify computer aided dispatch among NYPD, the Fire Department, and the Fire Department’s Emergency Medical Services Bureau. See <https://comptroller.nyc.gov/reports/letter-audit-report-on-the-implementation-of-the-computer-aided-dispatch-system-by-the-new-york-city-police-department/>



As a result of the collision, Mr. Morris sustained head trauma, a fractured pelvis, and a fractured leg. He was transported to Bellevue hospital where he was pronounced dead the following morning at 4:04 am.

At 12:04 am, about two and half hours after the collision, PO Martino submitted to a portable breath test administered by PO Cunningham of NYPD's Collision Investigation Squad that showed a .000% blood alcohol level.¹⁰ NYPD's Patrol Guide, Section 217.06 requires that if a police officer is involved in a fatal motor vehicle collision, unless the driver is removed from the scene for medical attention, "the patrol supervisor is to administer a Preliminary Breath Test (PBT) to the officer, if qualified to do so. If not qualified, the patrol supervisor will request the response of a qualified Highway Unit supervisor to administer the PBT."¹¹ PG 217.06 does not specify the time frame within which the PBT must be administered. Lieutenant Timothy Fox was the patrol supervisor on duty that night and arrived on scene minutes after the collision. According to his training records, Lt. Fox had not been trained in the administration of the PBT prior to July 2020 and was therefore unable to breath test PO Martino.

¹⁰ The results of the portable breath tests are attached as Exhibit 2

¹¹ PG 217.02(4) requires all civilian drivers to "remain at the scene pending the administration of a hand held Preliminary Breath Test (PBT) by a qualified member of the service assigned to the Highway District Collision Technician Group, Highway District Collision Investigation Squad, or authorized Highway Unit member."

Sergeant Klubnick, assigned to the Information Technology Bureau of the NYPD, conducted an audit of PO Martino's department issued phone and tablet for use at the time of the collision which yielded negative results.¹²

OAG spoke to five civilian eyewitnesses.¹³ Three of those interviewed, JN1, JN2, and SN, were in the Mercedes that was struck by the motorcycle.¹⁴ The other two witnesses, VV and JB, were in a Jeep stopped behind the Mercedes. JN1, the driver of the Mercedes, was stopped at a red light, facing eastbound on Metropolitan Avenue. He saw a vehicle stopped at the red light across the intersection on Metropolitan Avenue, and saw the RMP, with its emergency lights activated, coming up from behind that vehicle. He saw a vehicle (which evidence indicates was the pickup truck referred to previously) move to the right to allow the RMP to pass. According to JN1, as soon as the RMP got around the stopped vehicle and entered the intersection, a motorcycle traveling on Driggs Avenue struck the front of the RMP. The motorcycle then hit the front bumper of his Mercedes. JN1 did not realize the motorcyclist was not still on the motorcycle until he stepped out of his car and took a closer look. JN2, JN1's wife, was sitting in the rear right passenger seat. She too saw the vehicle stopped opposite their red light, when the RMP traveled around the vehicle and into the intersection. At the same time, she said, a motorcycle entering the intersection from Driggs Avenue, "like a bat out of hell," struck the front of the RMP. It then hit the front of the Mercedes. The third passenger, SN, sitting in the rear driver's side passenger seat, witnessed the collision as well, and saw the RMP approaching the intersection from a distance. SN said that, after the collision, the officers in the RMP immediately left their car and rendered aid to the motorcyclist. JN1, JN2, and SN all said they heard emergency sirens as the RMP drove through the intersection, though they could not recall if the siren was a "wail" or "yelp."

Like the passengers in the Mercedes, VV, the driver of the Jeep, saw the RMP, with its emergency lights activated, pass a stopped vehicle opposite her red light and enter the intersection where it struck a motorcycle. The motorcycle then slid under the Mercedes in front of the Jeep. VV saw two officers immediately leave the RMP and render aid to the injured motorcyclist. VV's son, JB, who was sitting in the front passenger seat of the Jeep, said that while "giving aid" to the motorcyclist, the officers appeared to be "in shock," and that "It was an accident, it wasn't like they wanted to do this." Both witnesses said the Jeep's windows were down and the radio was at a low volume and said they did not hear emergency sirens.¹⁵

OAG interviewed Lieutenant Timothy Fox, PO Martino's and PO Galindo-Sanchez's supervisor. He told OAG he was responding to the call of "shots fired" when he heard the radio broadcast

¹² There is no evidence one way or the other whether PO Martino was using a personal cell phone at the time.

¹³ The civilian witnesses are referred to by their initials to maintain anonymity.

¹⁴ A fourth witness, JN3, seated in the front passenger seat, was not interviewed by OAG.

¹⁵ JN1, JN2, and SN said they heard sirens; VV and JB said they did not. OSI does not have other evidence showing which perception or recollection is correct. However, as explained, *infra*, failure to activate the police siren is not reckless conduct. Flynn v. Sambuca Taxi, LLC, 123 A.D.3d 501, 502 (2014).

regarding a collision at Driggs and Metropolitan Avenues. He arrived around one to two minutes later and saw both officers administering aid to Mr. Morris. He secured the scene and called the Collision Investigation Squad to respond.

Lt. Fox said his duties as a supervisor require him to fill out the collision report and the police accident report (PAR)¹⁶ when an RMP is involved in an accident. In the PAR Lt. Fox wrote that PO Martino told him that he was

“responding to an emergency 911 call with emergency turret lights and sirens on. As he slowed down at the intersection traveling west bound on Metropolitan Avenue [he] made sure the intersection was clear of vehicular and pedestrian traffic.... [He] proceeded through the intersection when Vehicle 2 [Mr. Morris’s motorcycle] suddenly drove in front of Vehicle 1 [the RMP] causing Vehicle 1 to collide with Vehicle 2.”¹⁷

B. NYPD Collision Investigation Squad (“CIS”)

CIS investigated and reconstructed the collision. OAG interviewed CIS Detective Jared Vazquez and reviewed reports by Det. Vazquez and collision technician PO Matthew Grilo. According to the interview and the reports, PO Grilo arrived on scene at 11:45 pm. He examined the scene, took photographs, and drafted vehicle mechanism reports and diagrams of the scene. The RMP, which was still at the scene, in the westbound lane of Metropolitan Avenue, had damage to the front bumper, grill, hood, and push bars. Mr. Morris’s motorcycle was lying on its right side, underneath the front of the Mercedes in the eastbound lane of Metropolitan Avenue, with heavy damage to the left side from the impact of the RMP. The Mercedes sustained damage to its front bumper.¹⁸ A survey of the roadway and intersection revealed minor scrape markings in the middle of the intersection leading to the final resting location of the motorcycle. There were no tire braking or skid marks in the road. PO Grilo noted that all the traffic signals were in proper working order and that there were no defects in the roadway. The weather at the time of the collision was clear and the roadway was dry.

There is no posted speed limit on Metropolitan or Driggs Avenue; at the time of the incident, the citywide speed limit on streets where there is no posted speed limit was 25 miles per hour.¹⁹

Det. Vazquez analyzed the RMP’s Automatic Vehicle Locating (AVL) system, which tracks, among other things, a vehicle’s location and speed, using data from global positioning system

¹⁶ Both reports are attached as Exhibits 3A and 3B.

¹⁷ An NYPD internal review process, involving a review by the Force Investigation Division, a proceeding by the Use of Force Review Board, and a final decision by the Police Commissioner, determined not to discipline PO Martino, though it did require him to attend driver retraining.

¹⁸ The photographs depicting the damage to the vehicles are attached as Exhibits 4A, 4B, 4C, and 4D.

¹⁹ http://www.nyc.gov/html/bxcb10/downloads/pdf/25MPH_Speed_Limit.pdf

satellites, to determine the RMP's speed before the collision. The AVL system clocked the RMP at 23 mph prior to the collision with Mr. Morris' motorcycle.

In an interview with OAG, Detective William Chu of NYPD's Strategic Technology Bureau explained that the purpose of the AVL is to keep track of NYPD vehicles. The AVL is programmed to send updates on the car's location and speed either every five minutes, or every 30 meters if the car is motion, or whenever the course of the car changes by at least twenty degrees. It is therefore not possible to say the RMP's speed was 23 mph precisely at the moment of impact. Additionally, according to Det. Chu, while the AVL data²⁰ appear to show that the RMP slowed prior to entering the intersections in the preceding few blocks, the data do not indicate whether the RMP slowed just before the collision. However, the AVL report indicates the RMP's speed as 23 mph at 259 Metropolitan Avenue. Although 259 does not appear to exist as a building address, Woodhull Wine Bar, at 255 Metropolitan Avenue, is just east of Driggs Avenue, and the Butcher's Daughter, at 263 Metropolitan Avenue, is just west of Driggs Avenue, indicating that the AVL recorded the RMP's speed as 23 mph very close to the intersection.

CIS downloaded the RMP's event data recorder ("EDR") for analysis. Det. Vazquez said the EDR did not record an "event," which means that the collision occurred at a speed less than that required to produce a recording and that the collision failed to trigger the deployment of the airbag.

Mr. Morris's motorcycle did not have an EDR. Det. Vazquez used civilian security video from a camera at 247 Driggs Avenue to calculate Mr. Morris' speed as he approached the intersection of Driggs Avenue and Metropolitan Avenue ("Camera 3").²¹ Det. Vazquez located an observable start and end point of Mr. Morris's path on the video and, at the scene, measured the distance between the start and end points to be 136 feet. Because Mr. Morris's motorcycle is slightly obscured by headlight washout in the video, creating some uncertainty as to when it reached the start point of the calculation, Detective Vazquez made three time-distance calculations, for three start points, with three resulting speeds, the lowest being 37 mph (12 mph in excess of the un-posted 25 mph speed limit) and the highest being 49 mph (24 mph in excess of the un-posted 25 mph speed limit). It is important to note, however, that the end point Det. Vazquez used to measure Mr. Morris's speed was approximately 100 feet before the point of collision, and therefore these calculations do not necessarily reflect the motorcycle's speed at the moment of impact – it could have sped up or slowed down somewhat in the intervening 100 feet. Det. Vasquez conducted these speed calculations only for the motorcycle, not for the RMP.

²⁰ AVL dot map is attached as Exhibit 5.

²¹ Camera 3 footage can be viewed [HERE](#).

According to Det. Vasquez, at the speeds they were probably traveling, neither PO Martino nor Mr. Morris would have had enough time to see and evade the other. When asked how much time it would have taken Mr. Morris to cover the distance from his green light to the center of the intersection, Detective Vasquez said, in sum and substance, “By the time you see his [Mr. Morris’s] headlights, he’s already in front of you.”

C. Medical Examiner’s Report

Dr. Amanda Krausert of Office of Chief Medical Examiner of the City of New York performed the autopsy on Mr. Morris on July 27, 2020, and issued a report, which was reviewed by OAG. Dr. Krausert identified a number of grievous injuries sustained by Mr. Morris, including blunt injuries to his head and torso, and blunt injuries to his legs and arms. She identified the cause of death as “blunt injuries of head and torso,” and determined the manner of death to be an “accident (motor vehicle collision).”

D. Training

OAG interviewed Commanding Officer Lieutenant Mary Boykin, Administrative Supervisor Sergeant Gary Traverson, and Curriculum Coordinator Officer William High of the Police Academy Driver Education and Training Unit (“DETU”). PO High told OSI that DETU trains new recruits at Floyd Bennet Field over four days for a total of twenty-eight hours. Part of the training includes Emergency Vehicle Operator Course (EVOC) training which teaches first responders the necessary skills to safely operate an emergency vehicle. Recruits are trained to slowly approach an intersection and look both ways for vehicular and pedestrian traffic. If officers are responding to an emergency call and driving through a steady red light, they are trained to deploy their lights and sirens, come to a stop before the cross walk and then clear each lane through the intersection. Written training materials concerning emergency responses instruct officers that

“VTL 1104 mandates that the driver of an authorized emergency vehicle must drive with due regard for the safety of all persons and property. This means that as an emergency vehicle operator YOU are taking on the responsibility to ensure that every effort is made to respond in a safe manner and ‘not endanger life or property’, (as per VTL 1104).”

Recruits must pass the driver’s practical examinations, though they are given several opportunities. If they continue to fail the exams, they are permitted to resign or are fired. When asked whether the training regarding intersections and red-light safety are mandatory practices, PO High responded that these instructions are not found in the Patrol Guide and are guidance for safe driving rather than mandates.

Lt. Boykin told OAG that when an officer is involved in an on-duty accident, the precinct's accident review board determines whether the operator was at fault in the accident. Even if there is no such finding, a supervisor can decide to send the officer back to DETU for retraining.

According to PO Martino's personnel records, reviewed by OAG, he was qualified to operate an RMP on October 19, 2017, and received his emergency vehicle operation training on January 5, 2018.

E. Testimony at the DMV Hearing

On April 21, 2021, Administrative Law Judge Thomas Gagola of the Department of Motor Vehicles, held a hearing to determine whether PO Martino had violated any section of the Vehicle and Traffic Law. Present at the hearing were PO Martino, his attorney, and his union representative; an attorney for and a representative of Mr. Morris's estate; a witness to the incident (J.N.); and Mr. Morris's sister. The court and both attorneys examined the witnesses.

J.N. testified that the police officer activated his lights and sirens and "approached the intersection kind of slow, I guess looking." He testified that the motorcycle appeared to him to be moving "kind of fast" but the RMP was "coming around that first vehicle (stopped at the light) kind of slow because not only did he have to pass that first vehicle, but then he had to get into the intersection."

PO Martino testified that he put his lights and sirens on about 5 blocks before the intersection of Metropolitan and Driggs Avenues. He said he proceeded slowly through the intersection, "looked for any pedestrians or vehicles coming my way or in front of me," and, when he saw that the intersection was clear, proceeded into the intersection. In response to a question from the court whether he was able to avoid the collision, PO Martino responded, "I saw a split second in the corner of my eye. I slammed on the brakes and cut the wheel to the left like they taught us in EVOC training in the academy and just a split second too short." When PO Martino was asked by his attorney how he approached the intersection of Metropolitan and Driggs, he testified that he "slowed down and proceeded with caution."²²

LEGAL ANALYSIS

Under Penal Law 125.10, "A person is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person."

²² The administrative law judge found that PO Martino did not violate any provision of the Vehicle and Traffic Law.

“Criminal negligence” is defined in Penal Law Section 15.05(4): “A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.”

In a series of decisions, the New York Court of Appeals has required prosecutors to establish “criminal negligence” in vehicular cases resulting in death with evidence not clearly implied in the statutory definition. Under these decisions, proof of the defendant’s failure to perceive a risk is not sufficient to convict him or her of criminally negligent homicide, even if the failure is a “gross deviation” from a reasonable standard of care. Rather, the prosecutor must also prove that the defendant committed an “additional affirmative act” or engaged in “risk-creating behavior” amounting to “seriously blameworthy carelessness.” People v Cabrera, 10 NY3d 370 (2008); People v Boutin, 75 NY2d 692 (1990).

In Cabrera, the Court reversed a conviction of criminally negligent homicide based on the defendant driver’s excessive speed, saying “it takes some additional affirmative act by the defendant to transform speeding into dangerous speeding; conduct by which the defendant exhibits the kind of seriously blameworthy carelessness whose seriousness would be apparent to anyone who shares the community’s general sense of right and wrong.” Cabrera, 10 NY3d at 377, citing Boutin, 75 NY2d at 696 (internal quotation marks omitted; emphasis added). The Court continued:

“Thus, in the cases where we have considered the evidence sufficient to establish criminally negligent homicide, the defendant has engaged in some other ‘risk-creating’ behavior in addition to driving faster than the posted speed limit (*compare* People v Haney, 30 NY2d 328 [defendant was speeding on city street and failed to stop at red light before killing pedestrian crossing street with green light in her favor]; People v Soto, 44 NY2d 683 [defendant, who was speeding and drag racing on city street, struck and killed driver stopped at red light]; People v Ricardo B., 73 NY2d 228 [defendant was drag racing at between 70 and 90 miles per hour on a busy metropolitan street, ran a red light and struck vehicle crossing intersection with light in its favor]; People v Loughlin, 76 NY2d 804, 807 [intoxicated defendant was speeding on obstructed street under construction in residential neighborhood in Queens]; People v Maker, 79 NY2d 978, 980 [intoxicated defendant drove at speeds of 50 to 100 miles per hour in 35 miles per hour zone in Manhattan, disobeying several traffic signals]; People v Harris, 81 NY2d 850, 851-852 [‘defendant, while legally intoxicated, drove his motor vehicle in the dark of night from a public highway into an unfamiliar farmer’s field, accelerated at times to a speed approximating 50 miles per hour, intermittently operated the vehicle without headlights, and suddenly and forcefully drove through a hedgerow of

small trees and shrubs, not knowing what obstacles and dangers lurked on the other side’]; People v Ladd, 89 NY2d 893, 894-895 [intoxicated defendant driving on wrong side of a foggy road at 4:30 A.M.], *with* People v Perry, 123 AD2d 492, 493 [4th Dept 1986], *affd* 70 NY2d 626 [no criminal negligence present where defendant was driving approximately 80 miles per hour in a 55 miles per hour zone ‘on a rural road, on a dark night,’ struck a utility pole, and killed two passengers; defendant's ‘conduct . . . d(id) not constitute a gross deviation from the ordinary standard of care held by those who share the community's general sense of right and wrong’ (citations omitted)]). The question [is whether the conduct] constituted ‘not only a failure to perceive a risk of death, but also some serious blameworthiness in the conduct that caused it’ (Boutin, 75 NY2d at 696).”

Cabrera, at 377-378, *emphasis added*.

In People v Badke, 21 Misc3d 471, (Suffolk Co. Ct. 2008), the court examined the sufficiency of the evidence presented to the Grand Jury for the charge of criminally negligent homicide. The evidence was that defendant drove at excessive speed with passengers in his car, collided with another vehicle, and caused the deaths of three passengers. The court dismissed the criminally negligent homicide charges as legally insufficient, stating, “criminal negligence requires some additional affirmative act by the defendant to transform speeding into dangerous speeding, that is, conduct by which the defendant exhibits the kind of seriously blameworthy carelessness whose seriousness would be apparent to anyone who shares the community’s general sense of right and wrong.” 21 Misc3d at 476.

Research does not disclose a reported New York case in which a police officer was criminally charged for killing or injuring another driver while responding to an emergency in a marked vehicle with lights and sirens activated.

Under New York case law, it is doubtful that Officer Martino would even be subject to civil liability, much less a criminal charge, as the Court of Appeals has required “conscious indifference to the outcome” as a requirement for liability in civil cases involving officers responding to emergencies, citing provisions of the Vehicle and Traffic Law (VTL), which exempt police officers from violations of the VTL when responding to emergency calls.

VTL Section 1104 (b) (2) permits the driver of an emergency vehicle engaged in an emergency operation to “Proceed past a steady red signal, a flashing red signal or a stop sign, but only after slowing down as may be necessary for safe operation.” VTL 1104 (b) (3) permits such a driver to “Exceed the maximum speed limits so long as he does not endanger life or property.” Under VTL 1104 (e), the exemptions of VTL 1104 (b) “shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all

persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.”²³

In Saarinen v. Kerr, 84 NY 2d 494 (1994), the Court considered a case in which a police officer injured a civilian in a high-speed chase and said:

“[A] police officer's conduct in pursuing a suspected lawbreaker may not form the basis of civil liability to an injured bystander unless the officer acted in reckless disregard for the safety of others. This standard demands more than a showing of a lack of ‘due care under the circumstances’—the showing typically associated with ordinary negligence claims. It requires evidence that ‘the actor has intentionally done an act of an unreasonable character in disregard of a known or obvious risk that was so great as to make it highly probable that harm would follow’ and has done so with conscious indifference to the outcome.” (Saarinen at 501, citations omitted, emphasis added).

The Court went on to say that Vehicle and Traffic Law 1104

“... represents a recognition that the duties of police officers and other emergency personnel often bring them into conflict with the rules and laws that are intended to regulate citizens’ daily conduct and that, consequently, they should be afforded a qualified privilege to disregard those laws where necessary to carry out their important responsibilities. Where the laws in question involve the regulation of vehicular traffic, the exercise of this privilege will inevitably increase the risk of harm to innocent motorists and pedestrians. Indeed, emergency personnel must routinely make conscious choices that will necessarily escalate the overall risk to the public at large in the service of an immediate, specific law enforcement or public safety goal. Measuring the ‘reasonableness’ of these choices against the yardstick of the traditional ‘due care under the circumstances’ standard would undermine the evident legislative purpose of Vehicle and Traffic Law § 1104, i.e., affording operators of emergency vehicles the freedom to perform their duties unhampered by the normal

²³ VTL 114-b, defines emergency operation to include “responding to... the scene of a ... police call.” Although drivers of other kinds of emergency vehicles must have sirens and/or lights activated to qualify for these exemptions, police officers are not so required, VTL 1104 (c). Failing to activate sirens and lights does not demonstrate recklessness for police officers engaged in emergency operations, yet evidence that officers utilized sirens and lights is relevant to establish non-recklessness. See, e.g., Martinez v. City of Rochester, 164 A.D.3d 1655, 1656, (2018) (evidence of lights and sirens and of reduced speed established officer did not act with “reckless disregard”); Hodder v. United States, 328 F. Supp. 2d 335, 345 (E.D.N.Y. 2004) (an officer’s decision to use lights and sirens and to proceed cautiously showed that the officer drove reasonably and without “reckless disregard”). See also Flynn v. Sambuca Taxi, LLC, 123 A.D.3d 501, 502 (2014) (failure to activate the police siren is not reckless conduct); and Roach v. City of Frederickson, 882 F.2d 294 (8th Cir. 1989) (high speed pursuit of a minor traffic offender outside the officer’s jurisdictional limits, without activation of siren in violation of state law, did not rise to level of gross negligence).

rules of the road [T]he possibility of incurring civil liability for what amounts to a mere failure of judgment could deter emergency personnel from acting decisively and taking calculated risks in order to save life or property or to apprehend miscreants.” (Saarinen at 502)

In Frezzell v. City of New York, 24 N.Y.3d 213 (2014), also a civil case, the Court said,

“This approach [in Saarinen v. Kerr] avoids judicial second-guessing of the many split-second decisions that are made in the field under highly pressured conditions and mitigates the risk that possible liability could deter emergency personnel from acting decisively and taking calculated risks in order to save life or property or to apprehend miscreants.” (Frezzell at 217, internal quotation marks and citations omitted.)

In Ferrer v. Harris, 55 N.Y.2d 285, 292 (1982), the Court of Appeals said an emergency situation, which leaves little or no time for reflection, “itself may be a significant circumstance which should enter into the determination of the reasonableness of the choice of action pursued.” See also, Gonzalez v. Zavala, 88 AD3d 946 (2d Dept. 2011) and Nurse v. City of New York, 56 AD3d 442 (2d Dept. 2008).

Based on the AVL report, which indicates PO Martino’s speed in the intersection to be 23 mph (less than the speed limit of 25 mph), there is no evidence that PO Martino was speeding at the time of the collision. Although PO Martino submitted to a portable breath test nearly 3 hours after the collision, he registered a .000 of blood alcohol and there is no evidence he was impaired by alcohol at the time of the accident. Security video from Cameras 1 and 2 show the RMP’s turret lights were activated, and several witnesses said the sirens were activated as well. Although he refused OAG’s request for an interview, PO Martino testified under oath at a DMV hearing, in which he was questioned by Mr. Morris’s attorney, and said that he slowed as he approached the traffic signal and looked for oncoming vehicular or pedestrian traffic as he proceeded through the intersection. This testimony is corroborated by security video which shows the RMP’s brake lights activated as it approached the intersection. According to an NYPD report, PO Martino was not using his department-issued cell phone or tablet prior to the collision. Other than driving through the red light, which VTL 1104 authorizes, with qualifications, when responding to an emergency call, there does not appear to be any conduct which could be considered risk-creating.

For these reasons, the OAG has concluded that criminal charges are not warranted in this case.

RECOMMENDATIONS

OAG recommends officers be breath tested as quickly as practicable after an officer involved motor vehicle collision.

PO Angelo Martino was not offered a portable breath test (PBT) to test for the presence of alcohol in his blood until nearly two and a half hours after the motor vehicle collision he was involved in occurred. As noted above, NYPD's Patrol Guide, Section 217.06 requires that if a police officer is involved in a collision which results in death, the patrol supervisor should administer the breath test if he is qualified to do so. If not qualified to administer the PBT, the patrol supervisor should request a qualified Highway Unit officer to administer the PBT. Here, Lt. Fox, the patrol supervisor who arrived at the scene minutes after the collision, was not so qualified and was unable to breath test PO Martino. PO Cunningham, from CIS, who did not arrive on scene until two hours after the collision, administered the PBT.

It is not uncommon for alcohol use to be a factor in motor vehicle collisions. In fact, in New York State, slightly more than 30% of fatal car crashes are alcohol related.²⁴ Civilian drivers are often breath tested on scene by NYPD and close in time to the collision to determine if they were driving impaired or intoxicated by alcohol, even if they don't necessarily exhibit signs of impairment or intoxication. This same standard should be applied to police officers involved in car accidents, most especially when it is a collision resulting in a fatality.

OAG recognizes that there is an absence of evidence that PO Martino was impaired or intoxicated, such as bloodshot, watery eyes; an odor of alcohol; or an unsteady gait, which are indicators for immediate testing. However, in general, alcohol is metabolized in the body at an average rate of 0.015 g/100mL/hour, which means one's BAC level is reduced by 0.015 per hour. For men, this is usually a rate of about one standard drink per hour.²⁵ Consequently, the delay of two and half hours in administering a PBT to PO Martino would have had a significant effect on the results of the breath test.

Here, although proper procedure was followed when a member of CIS breath-tested PO Martino, because the patrol supervisor was not qualified, the result was that the PBT was not administered until hours after the collision occurred. OAG therefore recommends that all patrol supervisor be trained in the administration of the PBT so that any police officer (or civilian) involved in a motor vehicle collision, at a minimum, be breath-tested on scene as soon as practicable to determine with greater accuracy whether they were operating their police car while impaired by alcohol.

²⁴<https://troopers.ny.gov/impaireddriving#:~:text=In%20New%20York%20State%20slightly.minutes%20associated%20with%20drunk%20driving>

²⁵ <https://www.alcoholrehabguide.org/alcohol/how-long-alcohol-stay-system/>

OAG recommends officers be required to attend driver education and training on a more regular basis.

When recruits enter the NYPD academy, they participate in a number of training modules to instruct them in the various skills required to execute the duties of an NYPD law enforcement agent. For example, all NYPD officers begin their firearms training at the Firearms and Tactics section of the police academy and must continue their training through a semi-annual qualification cycle.²⁶ Although only about a quarter (27%) of all officers report that they have ever fired their service weapon while on the job,²⁷ because of the potential lethality of a firearm, NYPD mandates their officers to requalify and recertify two times a year.

In contrast, most officers drive their NYPD vehicles whenever they are on shift. As part of their duties, they are also quite often responding to emergency situations. Although, as described in this report, VTL Section 1104 permits emergency drivers, exercising due regard, to violate some sections of the VTL, such as driving through a steady red light or driving above the speed limit, the potential for fatal car crashes when a police car is responding to an emergency call cannot be overstated. According to the National Safety Council, in 2020, 180 people died in crashes involving emergency vehicles. The majority of these deaths were occupants of non-emergency vehicles (56%) and crashes involving police vehicles accounted for the most deaths (132).²⁸

As noted in this report, NYPD recruits receive driver education and training when they enter the academy for a total of twenty-eight hours over the course of four days. Although a superior can recommend that an officer be sent to DETU for retaining (such as after an officer is involved in a motor vehicle collision), officers are not otherwise required to participate in any retraining or refresher courses involving driver training or emergency vehicle operations after they graduate from the academy.

OAG therefore recommends that NYPD implement more rigorous drivers training recertification, particularly the emergency vehicle operator course (EVOC), and mandate that any officer whose job responsibilities may include operating an NYPD vehicle while responding to an emergency situation participate in EVOC field training and requalify for such certification every five years.

²⁶ <https://www1.nyc.gov/site/nypd/bureaus/administrative/training-firearms-and-tactics.page>

²⁷ <https://www.pewresearch.org/fact-tank/2017/02/08/a-closer-look-at-police-officers-who-have-fired-their-weapon-on-duty/>

²⁸ <https://injuryfacts.nsc.org/motor-vehicle/road-users/emergency-vehicles/>

EXHIBIT 1

No. 147.40

EXECUTIVE ORDER

In view of the request of Attorney General Letitia James, my order and requirement, embodied in Executive Order Number one hundred and forty-seven, dated July 8, 2015, is hereby amended to include an additional paragraph to the penultimate paragraph as amended by Executive Order Numbers 147.1 – 147.39 to read as follows:

Further, the requirement imposed on the Special Prosecutor by this Executive Order shall include the investigation and, if warranted, prosecution:

(f) of any and all unlawful acts or omissions or alleged unlawful acts or omissions by any law enforcement officer, as listed in subdivision 34 of section 1.20 of the Criminal Procedure Law, arising out of, relating to, or in any other way connected with the death of Delroy Morris on July 26, 2020, in Kings County.

...

EXHIBIT 2

Dräger

Dräger Mobile Printer

Location

Metropolitan Ave + Driggs Ave

Alcotest 7510

Device-No. : ARFJ-0099

Printer-No. : ARFK-5147

Rec.Ref.Nr. : 447

Sample-No. : 421

MM.DD.YYYY hh:mm:ss

07.26.2020 00:04:20

Surname:

Martino

First Name(s):

Angelo

Date of Birth:

01/26/92

Operator:

PO Cunningham

Subject Analysis

0.000 g/210L

Signature



EXHIBIT 3A

POLICE ACCIDENT REPORT (NYC)

MV-104AN (7/11)

Precinct
094
Accident No.
MV-2020-094-000632

Complaint
Number **2020-094-002213**

AMENDED REPORT

1	Accident Date Month 7 Day 25 Year 2020	Day of Week SATURDAY	Military Time 21:25	No. of Vehicles 3	No. Injured 0	No. Killed 1	Not Investigated at Scene <input type="checkbox"/> Reconstructed <input checked="" type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	19 -
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2	VEHICLE 1				<input checked="" type="checkbox"/> VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN						20 -
2	VEHICLE 1 - Driver License ID Number Driver Name - exactly as printed on license MARTINO, ANGELO, V Address (Include Number & Street) City or Town State Zip Code				VEHICLE 2 - Driver License ID Number Driver Name - exactly as printed on license MORRIS, DELROY Address (Include Number & Street) City or Town State Zip Code						21 7

3	Date of Birth Month Day Year Sex M Unlicensed <input type="checkbox"/> No. of Occupants 2 Public Property Damaged <input type="checkbox"/>	Date of Birth Month Day Year Sex M Unlicensed <input type="checkbox"/> No. of Occupants 1 Public Property Damaged <input type="checkbox"/>	22 19
4	Name - exactly as printed on registration NYPD Address (Include Number & Street) City or Town State Zip Code	Name - exactly as printed on registration MORRIS, DELROY Address (Include Number & Street) City or Town State Zip Code	23 7

4	Plate Number 379317 State of Reg. NY Vehicle Year & Make 2017 FORD Vehicle Type SW/SUV Ins. Code 99999	Plate Number OH State of Reg. OH Vehicle Year & Make 2006 HONDA Vehicle Type MOTORCYCLE Ins. Code	24 5
5	Ticket/Arrest Number(s)	Ticket/Arrest Number(s)	25 1

6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.	25 1
7	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	ACCIDENT DIAGRAM 1. 2. 3. 4. 5. 6. 7. 8. 9.	26 1
1	Vehicle By Towed: To	Vehicle By Towed: To	DIAGRAM ATTACHED ON SUBSEQUENT PAGE 6 RIGHT TURN (OPP DIR)	27 1
	VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER		Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	28 1

Reference Marker	Coordinates (if available) Latitude/Northing: 40.714825 Longitude/Easting: -73.95882	Place Where Accident Occurred: <input type="checkbox"/> BRONX <input checked="" type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND Road on which accident occurred METROPOLITAN AVENUE (Route Number or Street Name) at 1) intersecting street DRIGGS AVENUE (Route Number or Street Name) or 2) <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of _____ (Milepost, Nearest Intersecting Route Number or Street Name)	29 1
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Accident Description/Officer's Notes **AT TIME PLACE AND OCCURENCE DRIVER 1 OF VEHICLE 1 STATES HE WAS RESPONDING TO AN EMERGENCY 911 CALL WITH EMERGENCY TURRET LIGHTS AND SIRENS ON. AS HE SLOWED DOWN AT THE INTERSECTION TRAVELING WEST BOUND ON METROPOLITAN AVENUE, DRIVER 1 STATES HE MADE SURE THE INTERSECTION WAS CLEAR OF VEHICULAR AND PEDESTRIAN TRAFFIC. DRIVER 1 FURTHER STATES HE PROCEEDED THROUGH THE INTERSECTION WHEN VEHICLE 2 SUDDENLY**

	8	9	10	11	12	13	14	15	16	17	18	BY	TO	Names of all involved	Date of Death Only
A	1	1	1	1	28	M	-	-	-	-	-			MARTINO, ANGELO, V	
B	1	3	1	1	26	M	-	-	-	-	-				
C	2	1	6	3	37	M	12	13	2	35B	7202			MORRIS, DELROY	07/26/2020
D	3	1	4	1	62	M	-	-	-	-	-				
E	3	3	4	1	56	M	-	-	-	-	-				
F	3	6	X	1	62	F	-	-	-	-	-				

Officer's Rank and Signature LT Print Name in Full TIMOTHY J FOX	Tax ID No. [REDACTED]	NCIC No. 03030	Precinct 090	Post/Sector	Reviewing Officer SGT ANTONIO DEJESUSLUGO	Date/Time Reviewed 07/27/2020 22:51
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DMK/FOX

USE COVER SHEET

P

POLICE ACCIDENT REPORT (NYC)

MV-104AN (7/11)

Precinct
094
Accident No.
MV-2020-094-000632

Complaint
Number **2020-094-002233**

AMENDED REPORT

19
-

1	Accident Date Month: 7 Day: 25 Year: 2020	Day of Week SATURDAY	Military Time 21:25	No. of Vehicles 3	No. Injured 0	No. Killed 1	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	20	
							Reconstructed <input checked="" type="checkbox"/>				-

2	VEHICLE 3				<input type="checkbox"/> VEHICLE <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN				21
VEHICLE 3 - Driver License ID Number		State of Lic. NY		VEHICLE - Driver License ID Number		State of Lic.			
Driver Name - exactly as printed on license		Address (Include Number & Street)		Driver Name - exactly as printed on license		Address (Include Number & Street)			
City or Town		State NY Zip Code		City or Town		State Zip Code			

3	Date of Birth Month: [] Day: [] Year: []	Sex M	Unlicensed <input type="checkbox"/>	No. of Occupants 4	Public Property Damaged <input type="checkbox"/>	Date of Birth Month: [] Day: [] Year: []	Sex	Unlicensed <input type="checkbox"/>	No. of Occupants	Public Property Damaged <input type="checkbox"/>	22
2	Name - exactly as printed on registration					Name - exactly as printed on registration					-
Address (Include Number & Street)		Apt. No.		Address (Include Number & Street)		Apt. No.					
City or Town		State NY Zip Code		City or Town		State Zip Code					

4	Plate Number	State of Reg. NY	Vehicle Year & Make	Vehicle Type SW/SUV	Ins. Code 328	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	23
4	Ticket/Arrest Number(s)					Ticket/Arrest Number(s)					3
Violation Section(s)					Violation Section(s)						

6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	VEHICLE 1 DAMAGE CODES	1	2	3	4	5	25
1	VEHICLE 1	Box 1 - Point of Impact	1	2	3	4	5	8
7	VEHICLE 2	Box 1 - Point of Impact	1	2	3	4	5	1
1	VEHICLE 2	Box 2 - Most Damage	1	2	3	4	5	1

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

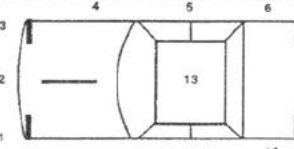


Diagram Attached on Subsequent Page
6 RIGHT TURN (OPP DIR)

Cost of repairs to any one vehicle will be more than \$1000.
 Unknown/Unable to Determine Yes No

Reference Marker	Coordinates (if available) Latitude/Northing: 40.714825 Longitude/Easting: -73.95882	Place Where Accident Occurred: <input type="checkbox"/> BRONX <input checked="" type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND	29
		Road on which accident occurred METROPOLITAN AVENUE (Route Number or Street Name)	-
		at 1) intersecting street DRIGGS AVENUE (Route Number or Street Name)	-
		or 2) <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of _____ (Milepost, Nearest Intersecting Route Number or Street Name)	-

Accident Description/Officer's Notes **DROVE IN FRONT OF VEHICLE 1 CAUSING VEHICLE 1 TO COLLIDE WITH VEHICLE 2. DRIVER VEHICLE 3 STATES THAT HE WAS STOPPED AT THE INTERSECTION FACING EAST BOUND ON METROPOLITAN AVENUE WHEN HE NOTICED VEHICLE 1 TRAVELING WEST BOUND ON METROPOLITAN AVENUE WITH HIS LIGHTS AND SIRENS ACTIVATED AND NOTICED VEHICLE 2 TRAVELING SOUTH BOUND ON DRIGGS AVENUE THROUGH THE INTERSECTION CAUSING VEHICLE 1 AND VEHICLE 2 TO COLLIDE AND**

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17	18	BY	TO	18	Names of all involved	Date of Death Only
	3	6	X	1	55	F	-	-	-	-	-					

Officer's Rank and Signature LT Print Name in Full TIMOTHY J FOX	Tax ID No.	NCIC No. 03030	Precinct 090	Post/Sector	Reviewing Officer SGT ANTONIO DEJESUSLUGO	Date/Time Reviewed 07/27/2020 22:51
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USE COVER SHEET
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POLICE ACCIDENT REPORT (NYC)

MV-104AN (7/11)

Precinct	094
Accident No.	MV-2020-094-000632

Complaint Number	2020-094-002233
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AMENDED REPORT

19
-

1	Accident Date Month: 7, Day: 25, Year: 2020	Day of Week SATURDAY	Military Time 21:25	No. of Vehicles 3	No. Injured 0	No. Killed 1	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	20
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2	VEHICLE - Driver License ID Number				VEHICLE - Driver License ID Number				21
2	Driver Name - exactly as printed on license				Driver Name - exactly as printed on license				-
2	Address (Include Number & Street)				Address (Include Number & Street)				22
2	City or Town State Zip Code				City or Town State Zip Code				-

3	Date of Birth Month: , Day: , Year:	Sex	Unlicensed <input type="checkbox"/>	No. of Occupants	Public Property Damaged <input type="checkbox"/>	Date of Birth Month: , Day: , Year:	Sex	Unlicensed <input type="checkbox"/>	No. of Occupants	Public Property Damaged <input type="checkbox"/>	23
4	Name - exactly as printed on registration				Name - exactly as printed on registration				-		
4	Address (Include Number & Street)				Address (Include Number & Street)				23		
4	City or Town State Zip Code				City or Town State Zip Code				-		

5	Ticket/Arrest Number(s)	Ticket/Arrest Number(s)	24
5	Violation Section(s)	Violation Section(s)	-

6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.	25
7	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	ACCIDENT DIAGRAM 1. Rear End, 2. Sideswipe (same direction), 3. Left Turn, 4. Right Angle, 5. Right Turn, 6. Right Turn (opposite), 7. Head On, 8. Sideswipe (opposite)	26
7	Vehicle Towed: By To	Vehicle Towed: By To	DIAGRAM ATTACHED ON SUBSEQUENT PAGE 6 RIGHT TURN (OPP DIR)	27
7	VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER		9. Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input type="checkbox"/> Yes <input type="checkbox"/> No	28

Reference Marker	Coordinates (if available) Latitude/Northing: 40.714825 Longitude/Easting: -73.95882	Place Where Accident Occurred: <input type="checkbox"/> BRONX <input checked="" type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND Road on which accident occurred METROPOLITAN AVENUE (Route Number or Street Name) at 1) intersecting street DRIGGS AVENUE (Route Number or Street Name) or 2) _____ <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of _____ (Milepost, Nearest Intersecting Route Number or Street Name)	29
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Accident Description/Officer's Notes	CAUSING VEHICLE 2 TO CRASH INTO VEHICLE 3. DRIVER OF VEHICLE 2 WAS EJECTED FROM HIS VEHICLE CAUSING SERIOUS PHYSICAL INJURY TO HIS HEAD AND OTHER PARTS OF HIS BODY AND WAS UNCONSCIOUS ON SCENE. DRIVER OF VEHICLE 2 WAS UNABLE TO GIVE A STATEMENT. DRIVER OF VEHICLE 2 WAS IMMEDIATELY REMOVED TO BELLEVUE HOSPITAL BY MEANS OF A FDNY EMS AMBULANCE. HIGHWAY UNIT COLLISION INVESTIGATION SQUAD RESPONDED TO SCENE. *****	30
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8	9	10	11	12	13	14	15	16	17	BY	TO	18	Names of all involved	Date of Death Only

Officer's Rank and Signature LT	Tax ID No.	NCIC No. 03030	Precinct 090	Post/Sector	Reviewing Officer SGT ANTONIO DEJESUSLUGO	Date/Time Reviewed 07/27/2020 22:51
Print Name In Full TIMOTHY J FOX						

USE COVER SHEET
P

POLICE ACCIDENT REPORT (NYC)

MV-104AN (7/11)

Precinct
094

Accident No.
MV-2020-094-000632

Complaint
Number **2020-094-002233**

AMENDED REPORT

19
-

1	Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	20 -
	Month	Day	Year	SATURDAY	21:25	3	0	1	Reconstructed <input checked="" type="checkbox"/>			

2	VEHICLE						<input type="checkbox"/> VEHICLE <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN						21 -	
	VEHICLE - Driver License ID Number						VEHICLE - Driver License ID Number							22 -
	Driver Name - exactly as printed on license						Driver Name - exactly as printed on license							
	Address (Include Number & Street)						Address (Include Number & Street)							
City or Town						City or Town						23 -		
State						State								

3	Date of Birth	Sex	Unlicensed <input type="checkbox"/>	No. of Occupants	Public Property Damaged <input type="checkbox"/>	Date of Birth	Sex	Unlicensed <input type="checkbox"/>	No. of Occupants	Public Property Damaged <input type="checkbox"/>	24 -		
	Month	Day	Year			Month	Day	Year					
	Name - exactly as printed on registration						Name - exactly as printed on registration						
	Address (Include Number & Street)						Address (Include Number & Street)						
City or Town						City or Town						25 -	
State						State							

4	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	26 -	
	Ticket/Arrest Number(s)					Ticket/Arrest Number(s)						
Violation Section(s)						Violation Section(s)						27 1
1						1						

6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.					Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.					Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.					28 1
	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes					VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes					ACCIDENT DIAGRAM 1. Rear End 2. Left Turn 3. Right Angle 4. Right Turn 5. Head On 6. Sideswipe (same direction) 7. Left Turn 8. Right Turn 9. Sideswipe (opposite)					

Vehicle Towed: _____ By _____ To _____						Vehicle Towed: _____ By _____ To _____						DIAGRAM ATTACHED ON SUBSEQUENT PAGE 6 RIGHT TURN (OPP DIR)						29 -
VEHICLE DAMAGE CODING: 1-13. SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER												9. Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input type="checkbox"/> Yes <input type="checkbox"/> No						

Reference Marker	Coordinates (if available)	Place Where Accident Occurred: <input type="checkbox"/> BRONX <input checked="" type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND											30 -
	Latitude/Northing: 40.714825	Road on which accident occurred METROPOLITAN AVENUE (Route Number or Street Name)											
	Longitude/Easting: -73.95882	at 1) intersecting street DRIGGS AVENUE (Route Number or Street Name)											

Accident Description/Officer's Notes **AMEND DETAILS ***** TIME OF DEATH ADDED FOR DRIVER OF VEHICLE #2**

8	9	10	11	12	13	14	15	16	17	18	BY	TO	Names of all involved	Date of Death Only

Officer's Rank and Signature LT	Tax ID No.	NCIC No.	Precinct	Post/Sector	Reviewing Officer	Date/Time Reviewed
Print Name in Full TIMOTHY J FOX		03030	090		SGT ANTONIO DEJESUSLUGO	07/27/2020 22:51

USE COVER SHEET

P

Right Turn (opp dir) : MV-2020-094-000632

Reporting Officer : LT TIMOTHY J FOX

Reviewing Officer : SGT ANTONIO DEJESUSLUGO Reviewed Date : 07/27/2020 22:51

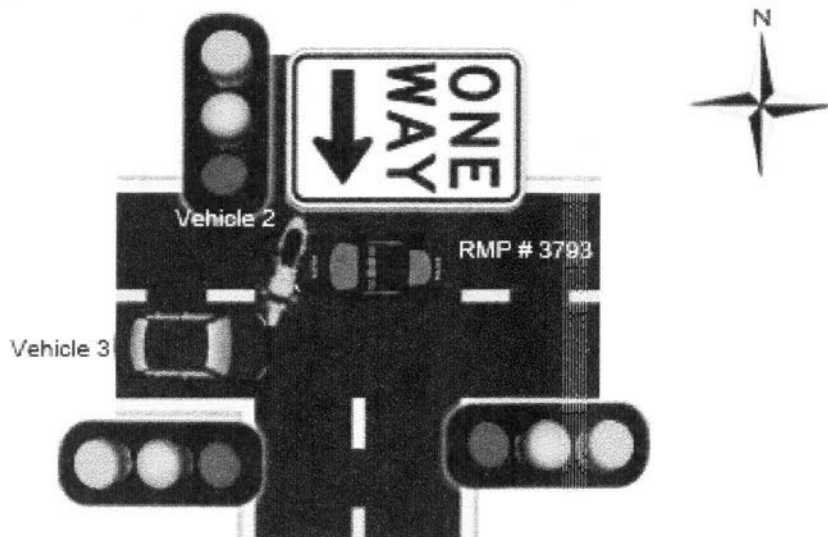


EXHIBIT 3B

This form is 8 1/2" x 14". Three (3) completed copies of this form are required.

INSTRUCTIONS: This report is to be prepared by the investigating supervisor and Executive Officer, Precinct of occurrence. Original copy will be forwarded with photos contained in a Jewelry Security Envelope (see PG 217-06) to Personnel Safety Desk, 1st Copy to Patrol Boro, 2nd Copy to Operator's Personnel Folder at Command, with a copy of the Police Accident Report (MV104AN) attached to each copy forwarded.



**COLLISION REPORT —
POLICE DEPT. VEHICLE**
PD 301-153 (Rev. 08-14)

PATROL BORO COLLISION NO.

PART A (PREPARED BY INVESTIGATING SUPERVISOR)

PBBN # 281

DATE OF COLLISION 07/25/20	TIME OF COLLISION 2125	PCT. COLL. NO. 2020-094-632	PCT. OF OCCURRENCE 094	DEPT. VEHICLE NO. 379317	TYPE OF VEHICLE Ford Explorer	FSD COLL. NO.
OPERATOR'S RANK AND NAME Police Officer Martino		TAX REG. NO.	APPOINTMENT DATE 07/05/17		COMMAND 90 Precinct	
DATE AND TOUR WORKING 07/25/2020; 1500X2335		ATTIRE <input checked="" type="checkbox"/> UNIFORM <input type="checkbox"/> CIVILIAN	DATE OF BIRTH	OPER. MEAL 1800	NO. HRS. ON PATROL 6	
RECORDER'S RANK AND NAME Police Officer Galindo-Sanchez		TAX REG. NO.	APPOINTMENT DATE 07/05/17		COMMAND 90 Precinct	
LOCATION OF COLLISION - STREET NAME OR HIGHWAY ON Metropolitan Avenue			<input type="checkbox"/> MILES <input type="checkbox"/> N <input type="checkbox"/> E <input type="checkbox"/> FEET <input type="checkbox"/> S <input type="checkbox"/> W OF STREET NAME OR HIGHWAY <input checked="" type="checkbox"/> AT INTERSECTION WITH Driggs Avenue			

STATEMENT OF OPERATOR OF DEPT. VEHICLE

Operator of Dept vehicle states he was responding to a radio code 10-34 (male shot) at the corner of Wythe Avenue and Metropolitan Avenue at time of incident. Operator further states he had his turret lights and sirens activated as he was traveling westbound on Metropolitan Avenue. As he approached the intersection of Driggs Avenue against a red light, operator states he slowed down, made sure the intersection was clear and then proceeded. However, as he went through the intersection, a motorcyclist traveling at a high rate of speed struck his RMP.

CIVILIAN OPERATORS NAME (NON DEPT. VEH) Morris, Delroy	ADDRESS	TELEPHONE NO.
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STATEMENT OF CIVILIAN OPERATOR

Unable to make statement. Removed to Bellevue Hospital.

NAME OF WITNESS	ADDRESS	TELEPHONE NO.
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STATEMENT OF WITNESS

Witness states he observed the police vehicle with lights on and sirens activated enter the intersection at Metropolitan and Driggs Avenue going west bound. Witness further states he observed the motorcycle going southbound on Driggs Avenue collide with the police vehicle. Witness states that he thought both vehicle were going fast. Witness states that the motorcycle was going with the green light from his perspective.

INVESTIGATING SUPERVISOR WILL ELICIT THE FOLLOWING INFORMATION FROM OPERATOR:

ASSIGNMENT TYPE:

- CRIME IN PROGRESS PAST CRIME CANVASS OTHER (DESCRIBE)
 PRIORITY EMERGENCY NON-PRIORITY ROUTINE PATROL

WAS VEHICLE IN PURSUIT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	VEH. EMER. EQUIP. USED AT TIME OF COLLISION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TYPE OF EQUIPMENT Lights/Sirens	IF SIREN USED ON CONSTANT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
SEAT BELTS USED? OPERATOR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO RECORDER <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	PRIOR TO COLLISION, DID OPERATOR PERCEIVE ANY HAZARDS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	TYPE OF HAZARDS	

ACTIONS TAKEN WHEN HAZARDS PERCEIVED

INVESTIGATING SUPERVISOR'S OBSERVATIONS

TRAFFIC CONTROL DEVICE AT LOCATION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TYPE OF DEVICE Stop Light	WAS DEVICE FUNCTIONAL? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
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DID OPERATOR'S ACTIONS CONTRIBUTE TO COLLISION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DID RECORDER'S ACTIONS CONTRIBUTE TO COLLISION? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	OPERATOR AT FAULT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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VIDEO OBTAINED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	COLLISION VIDEO INVOICE NUMBER	COLLISION PHOTOS ENVELOPE NUMBER
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PRELIMINARY STATEMENT OF INVESTIGATING SUPERVISOR - MUST INCLUDE STATEMENT REGARDING DEPT. VEHICLE OPERATOR'S ACTIONS. (THIS IS NOT A FINAL AGENCY DETERMINATION)

Above listed operator was responding to a priority radio run (10-34 male shot) at the time of the incident. He was using vehicle's lights and sirens while going westbound on Metropolitan Avenue. Operator states that he slowed down upon entering the intersection at Driggs Avenue but as he finished going through the intersection, a motorcyclist traveling south bound on Driggs Avenue, struck the RMP's front bumper. Operator states that the motorcyclist was going with the green light but was going at a high rate of speed. Based on interviews with all parties involved and a review of all circumstances involved, the investigating supervisor does not find fault with the Dept vehicle operator.

RANK Lt	NAME (PRINT) Fox, Timothy	TAX NO.	CMD 090	SIGNATURE <i>[Signature]</i>	DATE 07/28/20
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PART B (Prepared by the Executive Officer, Precinct of Occurrence, under the supervision of the Precinct Commanding Officer)

OPERATOR INFORMATION	GLASSES <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NO. OF DEPT. VEH COLLISIONS	NO. OF DEPT. VEH COLLISIONS AT FAULT	NO. OF NON-DEPT. VEH. COLLISIONS	DATE INITIALLY RECEIVED LIC
NO. OF TIMES ATTENDED DEF. DRIVER TRAINING COURSE	1	DID COLLISION OCCUR ON OVERTIME TOUR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NO. OF CONSECUTIVE TOURS PRIOR TO COLLISION TOUR	0	HOW MANY WERE OVERTIME TOURS? 0
TYPE OF DEPARTMENT VEHICLE QUALIFIED TO OPERATE	<input checked="" type="checkbox"/> RMP/SEDAN <input type="checkbox"/> TRUCK	<input type="checkbox"/> 2 WHEEL SCTR. <input type="checkbox"/> 3 WHEEL SCTR	<input type="checkbox"/> MCY <input type="checkbox"/> VAN	<input type="checkbox"/> OTHER (Specify)	OPERATOR QUALIFIED TO DRIVE VEH. INVOLVED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

IF OPERATOR IS NOT ASSIGN. TO PCT. OF OCCUR., NAME OF SUPV. NOTIFIED: Lt. FOX	DATE OF PRECINCT VEHICLE COLLISION SAFETY REVIEW BOARD MEETING: 8/22/20
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BOARD RECOMMENDATION - MUST INCLUDE EXPLANATION FOR RECOMMENDATIONS MADE BELOW

Undesignated does not find Umos at fault. Umos was responding to an emergency call taking all safety precautions. Umos did slow down at intersection to ensure there was no incoming vehicular traffic. Umos also used emergency turret lights and sirens. No further action is required at this time.

NYPD OPERATOR AT FAULT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CIVILIAN OPERATOR AT FAULT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NEITHER AT FAULT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	BOTH AT FAULT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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RECOMMENDATIONS	<input type="checkbox"/> TO BE REINSTRUCTED	<input type="checkbox"/> TO BE RETAINED	<input type="checkbox"/> GROUNDED	<input type="checkbox"/> TOURS	<input type="checkbox"/> DISCIPLINARY ACTION	<input checked="" type="checkbox"/> NO FURTHER CORRECTIVE ACTION
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RANK Capt.	NAME (PRINTED) Hardell, Maria	TAX NO. 942949	CMD 094	SIGNATURE <i>[Signature]</i>	DATE 8/22/20
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**PART C: Final Agency Determination By
Commanding Officer Precinct of Occurrence**

RANK Capt.	NAME (PRINTED) Fahcy	TAX NO. 917079	CMD 094	SIGNATURE <i>[Signature]</i>	DATE 08/24/20
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POLICE ACCIDENT REPORT (NYC) MV-104AN (7/11)

Precinct 094
Accident No. MV-2020-094-000632

Complaint Number 2020-094-002233

AMENDED REPORT

Accident Date: 7/25/2020, Day of Week: SATURDAY, Military Time: 21:25, No. of Vehicles: 3, No. Injured: 1, No. Killed: 0, Not Investigated at Scene: [], Left Scene: [], Police Photos: []

VEHICLE 1: Driver License ID Number, State of Lic., Driver Name - exactly as printed on license: MARTINO, ANGELO, V, Address (Include Number & Street), City or Town, State, Zip Code

VEHICLE 2: Driver License ID Number, State of Lic., Driver Name - exactly as printed on license: MORRIS, DELROY, Address (Include Number & Street), City or Town, State, Zip Code

Date of Birth, Sex, Unlicensed, No. of Occupants, Public Property Damaged, Name - exactly as printed on registration, Address (Include Number & Street), City or Town, State, Zip Code

Plate Number, State of Reg., Vehicle Year & Make, Vehicle Type, Ins. Code, Ticket/Arrest Number(s), Violation Section(s)

Check if involved vehicle is: [] more than 95 inches wide; [] more than 34 feet long; [] operated with an overweight permit; [] operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES: Box 1 - Point of Impact, Box 2 - Most Damage, Enter up to three more Damage Codes. VEHICLE 2 DAMAGE CODES: Box 1 - Point of Impact, Box 2 - Most Damage, Enter up to three more Damage Codes.

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

Reference Marker, Coordinates (if available), Latitude/Northing: 40.714825, Longitude/Easting: -73.95882, Place Where Accident Occurred: [] BRONX [X] KINGS [] NEW YORK [] QUEENS [] RICHMOND, Road on which accident occurred: METROPOLITAN AVENUE

Accident Description/Officer's Notes: AT TIME PLACE AND OCCURRENCE DRIVER 1 OF VEHICLE 1 STATES HE WAS RESPONDING TO AN EMERGENCY 911 CALL WITH EMERGENCY TURRET LIGHTS AND SIRENS ON. AS HE SLOWED DOWN AT THE INTERSECTION TRAVELING WEST BOUND ON METROPOLITAN AVENUE, DRIVER 1 STATES HE MADE SURE THE INTERSECTION WAS CLEAR OF VEHICULAR AND PEDESTRIAN TRAFFIC. DRIVER 1 FURTHER STATES HE PROCEEDED THROUGH THE INTERSECTION WHEN VEHICLE 2 SUDDENLY

Table with columns: A, B, C, D, E, F, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, BY, TO, 18, Names of all involved, Date of Death Only. Rows include MARTINO, ANGELO, V and MORRIS, DELROY.

Officer's Rank and Signature: LT, Print Name in Full: TIMOTHY J FOX, Tax ID No., NCIC No.: 03030, Precinct: 090, Post/Sector, Reviewing Officer: SGT ANTONIO DEJESUSLUGO, Date/Time Reviewed: 07/27/2020 22:51

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

C Last Name MORRIS First DELROY M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____	Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Highway Dist. at Scene? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Name: DT3 ROBERT GACH Shield No. 3142
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ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. 1 _____	Vehicle No. 2 _____
Expiration Date _____	Expiration Date _____
VIN _____	VIN _____

WITNESS (Attach separate sheet, if necessary)

Name	Address	Phone
_____	_____	_____

DUPLICATE COPY REQUIRED FOR:

<input type="checkbox"/> Dept. of Motor Vehicles (if anyone is killed/injured)	<input type="checkbox"/> Motor Transport Division (P.D. vehicle involved)	<input type="checkbox"/> NYC Taxi & Limousine Comm. (if a Licensed taxi or limousine involved)	<input type="checkbox"/> Other City Agency (Specify) _____
<input type="checkbox"/> Office of Comptroller (if a City vehicle involved)	<input type="checkbox"/> Personnel Safety Unit (if a P.D. vehicle involved)	<input type="checkbox"/> Highway Unit _____	_____

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)	OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle 1 -Operator's First Name ANGELO	Last Name MARTINO	Rank POM	Shield No. 23305	Tax ID. No. _____	Command 090 PRECINCT
Make of Vehicle FORD	Year 2017	Type of Vehicle CAR/SUV	Plate No. 379317	Dept. Vehicle No. 379317	Assigned To What Command 090

Equipment in Use At Time of Accident

Siren
 Horn
 Turret Light
 4-Way Flasher
 High-Level Warning Lights
 Traffic Cones
 Headlights

ACTIONS OF POLICE VEHICLE

<input checked="" type="checkbox"/> Responding to Code Signal 10-34S	<input type="checkbox"/> Complying with Station House Directive
<input type="checkbox"/> Pursuing Violator	<input type="checkbox"/> Routine Patrol
<input type="checkbox"/> Other (Describe) _____	

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT (NYC)
MV-104AN (7/11)

Precinct
094
Accident No.
MV-2020-094-000632

Complaint
Number **2020-094-002233**

AMENDED REPORT

1	Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	19
	Month	Day	Year	SATURDAY	21:25	3	1	0	Reconstructed <input checked="" type="checkbox"/>			20

2	VEHICLE 3						<input type="checkbox"/> VEHICLE <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN						21
	VEHICLE - Driver License ID Number			State of Lic. NY			VEHICLE - Driver License ID Number			State of Lic.			
Driver Name - exactly as printed on license						Driver Name - exactly as printed on license						23	
Address (Include Number & Street)						Address (Include Number & Street)							
City or Town						City or Town							
State NY						State							
Zip Code						Zip Code							

3	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged	Date of Birth	Sex	Unlicensed	No. of Occupants	Public Property Damaged	23
	Month Day Year	M	<input type="checkbox"/>	4	<input type="checkbox"/>	Month Day Year		<input type="checkbox"/>		<input type="checkbox"/>	
Name - exactly as printed on registration						Name - exactly as printed on registration					
Address (Include Number & Street)						Address (Include Number & Street)					
City or Town						City or Town					
State NY						State					
Zip Code						Zip Code					

4	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	Plate Number	State of Reg.	Vehicle Year & Make	Vehicle Type	Ins. Code	24
	[REDACTED]	NY	2018 ME BE	SW/SUV	328						
Ticket/Arrest Number(s)						Ticket/Arrest Number(s)					
Violation Section(s)						Violation Section(s)					

8	Check if involved vehicle is:			Check if involved vehicle is:			Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.						25
	<input type="checkbox"/> more than 95 inches wide;			<input type="checkbox"/> more than 95 inches wide;			Rear End						
1	<input type="checkbox"/> more than 34 feet long;			<input type="checkbox"/> more than 34 feet long;			Left Turn						26
	<input type="checkbox"/> operated with an overweight permit;			<input type="checkbox"/> operated with an overweight permit;			Right Angle						
<input type="checkbox"/> operated with an overdimension permit.			<input type="checkbox"/> operated with an overdimension permit.			Right Turn							
VEHICLE 1 DAMAGE CODES			VEHICLE 2 DAMAGE CODES			Head On							
Box 1 - Point of Impact	1	2	Box 1 - Point of Impact	1	2	Sideswipe (same direction)							
Box 2 - Most Damage	2	2	Box 2 - Most Damage	1	2	Left Turn							
Enter up to three more Damage Codes	3	4	5	3	4	Right Turn							
Vehicle Towed: To			Vehicle Towed: To			Sideswipe (opposite)							
VEHICLE DAMAGE CODING:			VEHICLE DAMAGE CODING:			ACCIDENT DIAGRAM							
1-13. SEE DIAGRAM ON RIGHT.			1-13. SEE DIAGRAM ON RIGHT.			DIAGRAM ATTACHED ON SUBSEQUENT PAGE							
14. UNDERCARRIAGE			14. UNDERCARRIAGE			6 RIGHT TURN (OPP DIR)							
15. TRAILER			15. TRAILER			9.							
16. OVERTURNED			16. OVERTURNED			Cost of repairs to any one vehicle will be more than \$1000.							
17. DEMOLISHED			17. DEMOLISHED			<input type="checkbox"/> Unknown/Unable to Determine <input type="checkbox"/> Yes <input type="checkbox"/> No							
18. NO DAMAGE			18. NO DAMAGE										
19. OTHER			19. OTHER										

Reference Marker	Coordinates (if available)	Place Where Accident Occurred:	<input type="checkbox"/> BRONX <input checked="" type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND
	Latitude/Northing:	Road on which accident occurred	METROPOLITAN AVENUE
	40.714825	(Route Number or Street Name)	
	Longitude/Easting:	at 1) intersecting street	DRIGGS AVENUE
	-73.95882	(Route Number or Street Name)	
		or 2) _____	<input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of _____
		Feet Miles	(Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes **DRIVE IN FRONT OF VEHICLE 1 CAUSING VEHICLE 1 TO COLLIDE WITH VEHICLE 2. DRIVER VEHICLE 3 STATES THAT HE WAS STOPPED AT THE INTERSECTION FACING EAST BOUND ON METROPOLITAN AVENUE WHEN HE NOTICED VEHICLE 1 TRAVELING WEST BOUND ON METROPOLITAN AVENUE WITH HIS LIGHTS AND SIRENS ACTIVATED AND NOTICED VEHICLE 2 TRAVELING SOUTH BOUND ON DRIGGS AVENUE THROUGH THE INTERSECTION CAUSING VEHICLE 1 AND VEHICLE 2 TO COLLIDE AND**

8	9	10	11	12	13	14	15	16	17	18	BY	TO	Names of all involved	Date of Death Only
3	6	X	1	55	F	-	-	-	-	-			[REDACTED]	

Officer's Rank and Signature	Tax ID No.	NCIC No.	Precinct	Post/Sector	Reviewing Officer	Date/Time Reviewed
LT [Signature]	[REDACTED]	03030	090		SGT ANTONIO DEJESUSLUGO	07/27/2020 22:51
Print Name						
In Full TIMOTHY J FOX						

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____	Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Last Name _____ First _____ M.I. _____ Address _____ Date of Birth: Month _____ Day _____ Year _____ Telephone (Area Code) _____ Highway Dist. at Scene? <input type="checkbox"/> Yes <input type="checkbox"/> No Name: _____ Shield No. _____
--	---

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. _____	Vehicle No. _____
Expiration Date _____	Expiration Date _____
VIN _____	VIN _____

WITNESS (Attach separate sheet, if necessary)

Name _____	Address _____	Phone _____

DUPLICATE COPY REQUIRED FOR:

<input type="checkbox"/> Dept. of Motor Vehicles (if anyone is killed/injured)	<input type="checkbox"/> Motor Transport Division (P.D. vehicle involved)	<input type="checkbox"/> NYC Taxi & Limousine Comm. (if a Licensed taxi or limousine involved)	<input type="checkbox"/> Other City Agency (Specify) _____
<input type="checkbox"/> Office of Comptroller (if a City vehicle involved)	<input type="checkbox"/> Personnel Safety Unit (if a P.D. vehicle involved)	<input type="checkbox"/> Highway Unit _____	

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)	OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle	Operator's First Name	Last Name	Rank	Shield No.	Tax ID. No.	Command
Make of Vehicle	Year	Type of Vehicle	Plate No.	Dept. Vehicle No.	Assigned To What Command	

Equipment in Use At Time of Accident

Siren
 Horn
 Turret Light
 4-Way Flasher
 High-Level Warning Lights
 Traffic Cones
 Headlights

ACTIONS OF POLICE VEHICLE

<input type="checkbox"/> Responding to Code Signal	<input type="checkbox"/> Complying with Station House Directive
<input type="checkbox"/> Pursuing Violator	<input type="checkbox"/> Routine Patrol
<input type="checkbox"/> Other (Describe) _____	

POLICE ACCIDENT REPORT (NYC) MV-104AN (7/11)

Precinct 094
Accident No. MV-2020-094-000632

Complaint Number 2020-094-002233

AMENDED REPORT

1 Accident Date: Month 7, Day 25, Year 2020. Day of Week: SATURDAY. Military Time: 21:25. No. of Vehicles: 3. No. Injured: 1. No. Killed: 0. Not Investigated at Scene: [] Reconstructed: [x]. Left Scene: [] Police Photos: [x] Yes [] No.

2 VEHICLE - Driver License ID Number, State of Lic., Driver Name, Address, City or Town, State, Zip Code.

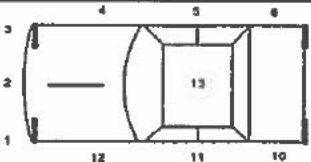
3 Date of Birth, Sex, Unlicensed, No. of Occupants, Public Property Damaged.

4 Address (include Number & Street), Apt. No., Haz. Mat. Code, Released.

5 Plate Number, State of Reg., Vehicle Year & Make, Vehicle Type, Ins. Code.

6 Ticket/Arrest Number(s), Violation Section(s).

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



8 ACCIDENT DIAGRAM: Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. 6 RIGHT TURN (OPP DIR). Cost of repairs to any one vehicle will be more than \$1000. [] Unknown/Unable to Determine [] Yes [] No.

9 Reference Marker, Coordinates (if available): Latitude/Northing: 40.714825, Longitude/Easting: -73.95882. Place Where Accident Occurred: [] BRONX [x] KINGS [] NEW YORK [] QUEENS [] RICHMOND. Road on which accident occurred: METROPOLITAN AVENUE. (Route Number or Street Name). at 1) intersecting street DRIGGS AVENUE. (Route Number or Street Name). or 2) [] N [] S [] E [] W of [] Feet [] Miles. (Milepost, Nearest Intersecting Route Number or Street Name).

10 Accident Description/Officer's Notes: CAUSING VEHICLE 2 TO CRASH INTO VEHICLE 3. DRIVER OF VEHICLE 2 WAS EJECTED FROM HIS VEHICLE CAUSING SERIOUS PHISICAL INJURY TO HIS HEAD AND OTHER PARTS OF HIS BODY AND WAS UNCONSCIOUS ON SCENE. DRIVER OF VEHICLE 2 WAS UNABLE TO GIVE A STATEMENT. DRIVER OF VEHICLE 2 WAS IMMEDIATELY REMOVED TO BELLEVUE HOSPITAL BY MEANS OF A FDNY EMS AMBULANCE. HIGHWAY UNIT COLLISION INVESTIGATION SQUAD RESPONDED TO SCENE.

Table with columns: 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, BY, TO, 18, Names of all involved, Date of Death Only.

11 Officer's Rank and Signature: LT [Signature]. Print Name in Full: TIMOTHY J FOX. Tax ID No. [Redacted]. NCIC No. 03030. Precinct 090. Post/Sector [Redacted]. Reviewing Officer: SGT ANTONIO DEJESUSLUGO. Date/Time Reviewed: 07/27/2020 22:51.

19 -
20 -
21 -
22 -
23 -
24 -
25 -
26 -
27 1
28 1
29 -
30 -
USE COVER SHEET P

ALL INVOLVED

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

Last Name			First			M.I.			Last Name			First			M.I.		
Address									Address								
Date of Birth			Telephone (Area Code)			Date of Birth			Telephone (Area Code)								
Month	Day	Year	()			Month	Day	Year	()								
Last Name			First			M.I.			Last Name			First			M.I.		
Address									Address								
Date of Birth			Telephone (Area Code)			Date of Birth			Telephone (Area Code)								
Month	Day	Year	()			Month	Day	Year	()								
Last Name			First			M.I.			Highway Dist. at Scene? <input type="checkbox"/> Yes <input type="checkbox"/> No								
Address									Name:								
Date of Birth			Telephone (Area Code)			Shield No.											
Month	Day	Year	()														

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. _____	Vehicle No. _____
Expiration Date _____	Expiration Date _____
VIN _____	VIN _____

WITNESS (Attach separate sheet, if necessary)

Name	Address	Phone

DUPLICATE COPY REQUIRED FOR:

<input type="checkbox"/> Dept. of Motor Vehicles (if anyone is killed/injured)	<input type="checkbox"/> Motor Transport Division (P.D. vehicle involved)	<input type="checkbox"/> NYC Taxi & Limousine Comm. (if a Licensed taxi or limousine involved)	<input type="checkbox"/> Other City Agency (Specify) _____
<input type="checkbox"/> Office of Comptroller (if a City vehicle involved)	<input type="checkbox"/> Personnel Safety Unit (if a P.D. vehicle involved)	<input type="checkbox"/> Highway Unit _____	

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)	OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle	Operator's First Name	Last Name	Rank	Shield No.	Tax ID. No.	Command
Make of Vehicle	Year	Type of Vehicle	Plate No.	Dept. Vehicle No.	Assigned To What Command	
Equipment in Use At Time of Accident						
<input type="checkbox"/> Siren	<input type="checkbox"/> Horn	<input type="checkbox"/> Turret Light	<input type="checkbox"/> 4-Way Flasher	<input type="checkbox"/> High-Level Warning Lights	<input type="checkbox"/> Traffic Cones	<input type="checkbox"/> Headlights

ACTIONS OF POLICE VEHICLE

<input type="checkbox"/> Responding to Code Signal	<input type="checkbox"/> Complying with Station House Directive
<input type="checkbox"/> Pursuing Violator	<input type="checkbox"/> Routine Patrol
<input type="checkbox"/> Other (Describe) _____	

Right Turn (opp dir) : MV-2020-094-000632

Reporting Officer : LT TIMOTHY J FOX

Reviewing Officer : SGT ANTONIO DEJESUSLUGO Reviewed Date : 07/27/2020 22:51

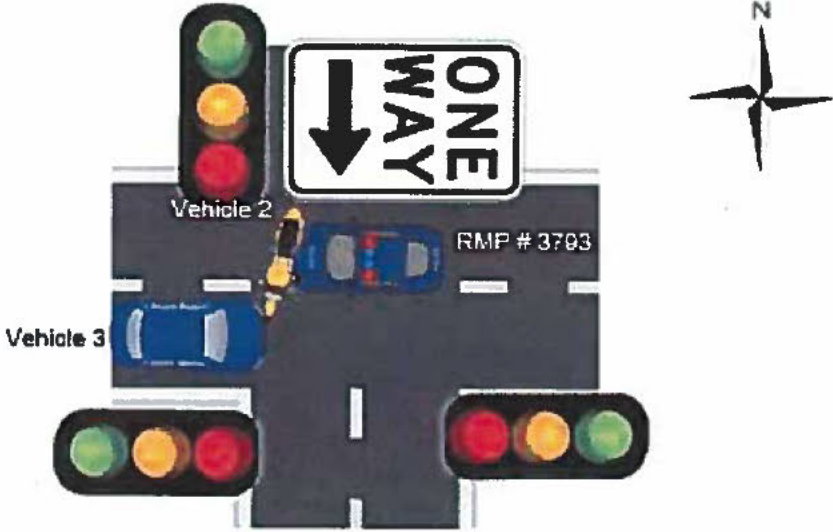


EXHIBIT 4A



EXHIBIT 4B



EXHIBIT 4C



EXHIBIT 4D



EXHIBIT 5

