



**Office of the New York State Attorney General Letitia James**

**Office of Special Investigation**

December 29, 2022

# Report on the Investigation into the Death of Chatuma M. Crawford III

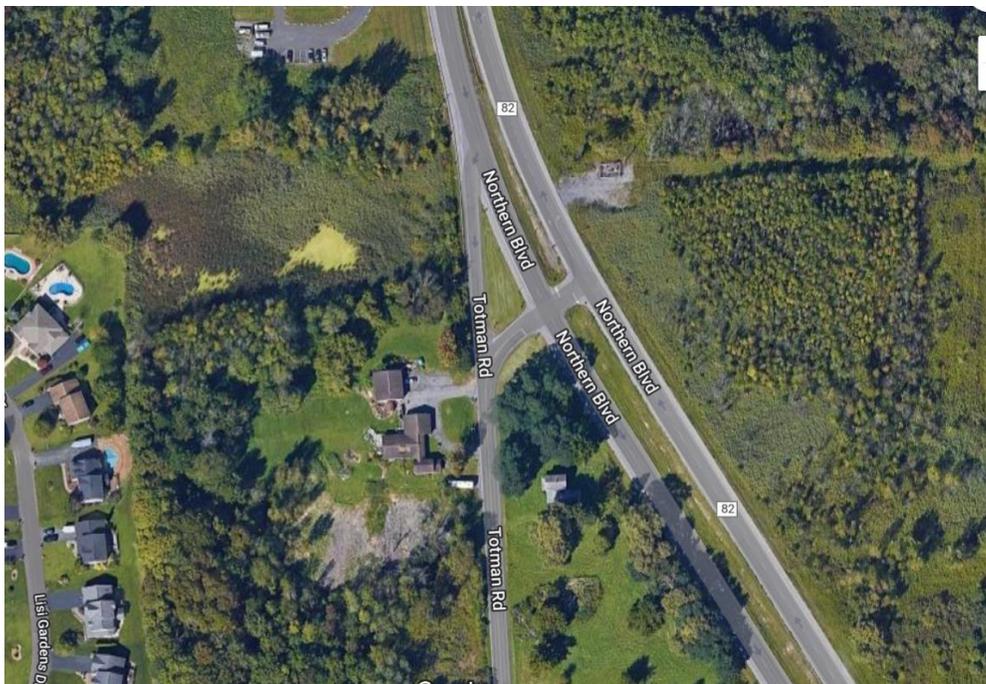
## SUMMARY

New York Executive Law Section 70-b (“Section 70-b”) authorizes the Office of the Attorney General (“OAG”), acting through its Office of Special Investigation (“OSI”), to investigate, and if warranted, prosecute offenses arising from any incident in which the death of a person is caused by a police officer, whether on or off duty. When OSI does not seek charges, Section 70-b requires the issuance of a public report. This is the public report regarding the death of Chatuma M. Crawford III.

At 7:08 P.M. on December 17, 2021, off-duty Town of Cicero Police Department (“CPD”) Patrol Officer Michael Aregano<sup>1</sup> struck 20-year-old Chatuma M. Crawford III (dob: 6/12/2001) with his fiancée’s Toyota Highlander SUV while traveling on Northern Boulevard in the Town of Cicero, killing him. Based on its investigation, OSI will not seek charges against Officer Aregano because the evidence does not show that he committed a crime.

## STATEMENT OF FACTS

Northern Boulevard and Totman Road intersect in the Town of Cicero, a suburb in northern Onondaga County. Northern Blvd. is a four-lane, two-way roadway that generally runs north/south; a grass median divides the northbound and southbound lanes. Totman Rd. is a two-lane roadway that also generally runs north/south. This incident occurred in the left driving lane of the southbound side of Northern Blvd., just south of the Totman Rd. intersection. A map of the area is below:



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<sup>1</sup> As noted above, Officer Aregano was off duty at the time of the collision. According to CPD records, his last day of patrol duty at CPD was October 28, 2021, and he officially retired from CPD on December 31, 2021. Because he was still employed by CPD as a patrol officer at the time of the collision, he will be referred to as “Officer Aregano” throughout this report.

The speed limit in the location where the collision took place is 55 miles per hour (“mph”). The speed limit for southbound traffic changes from 45 mph to 55 mph at the Totman Rd. intersection, and the 55-mph speed limit sign is located just south of that intersection.

There were no streetlights or other ambient sources of light in the area where the collision took place. Nor were there any overhead or other fixed surveillance cameras at or near the intersection of Northern Blvd. and Totman Rd., so there is no video footage of the collision.

### **A. The Collision**

Around 7:00 P.M. on December 17, 2021,<sup>2</sup> Officer Aregano and his fiancée (“CW-1”)<sup>3</sup> left their house in Cicero in her 2018 black Toyota Highlander SUV and began driving to Syracuse for 7:30 P.M. dinner reservations. According to Officer Aregano and CW-1,<sup>4</sup> Officer Aregano drove the SUV while CW-1 was seated in the front passenger seat. In separate interviews with OSI, Officer Aregano and CW-1 both said that, as they were driving to dinner, CW-1 was speaking to her friend on Officer Aregano’s cell phone, which was in the center console on “speaker phone” mode.

According to their statements, a few minutes after they left for dinner, Officer Aregano was driving south on Northern Blvd., in the left driving lane, just past the intersection with Totman Rd., when he and CW-1 observed a car stopped on the right shoulder of the southbound lane. Both Officer Aregano and CW-1 noticed that, although the car was stopped, its engine was running and its headlights were on. According to Officer Aregano, he looked to his right as he drove past the car and noticed a person near the car’s driver’s side. Officer Aregano said he looked ahead as he drove by the stopped car.

According to Officer Aregano, as he was driving, he hit something “out of nowhere.” Officer Aregano said he was unable to react, or do anything to avoid the collision, because he did not see anything in the road prior to the impact. According to Officer Aregano, he heard a “bang,” but was not sure what he hit. Officer Aregano further said that, due to the impact, and thinking he may have seen a figure, he realized that he must have hit a person, so he immediately braked and stopped the SUV. After stopping, Officer Aregano immediately called 911 and then tried to locate the pedestrian and help direct traffic.

According to CW-1, they “struck something” as Officer Aregano drove by the stopped car. CW-1 said she had been looking out the front windshield at the time of the collision and had not seen anything in the road before the impact, which she described as unexpected and extremely alarming. CW-1 said she was not sure what they had struck, but that Officer Aregano must have realized they had hit a person after the collision because he immediately started screaming that they had struck a person. According to CW-1, Officer Aregano immediately applied the brakes and stopped the SUV. Officer Aregano then called 911 and they got out of the SUV to try to look for the person. After they stopped their vehicle, CW-1 said she noticed a woman who was screaming and running from the location of the stopped car to their location.

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<sup>2</sup> All times are approximate, except where otherwise noted.

<sup>3</sup> To protect their privacy, civilian witnesses are referred to as “CWs” in OSI reports.

<sup>4</sup> Officer Aregano and CW-1 were interviewed on the night of the collision by NYSP investigators and, separately, by OSI personnel. This account is based on those interviews.

At the time of the collision, there was another driver (“CW-2”) directly behind Officer Aregano’s SUV. According to CW-2, she was behind Officer Aregano’s SUV from the time it turned onto Northern Blvd., and both vehicles were driving south on Northern Blvd., in the left driving lane, prior to the collision. CW-2 estimated that both vehicles were traveling approximately 50 mph and noted that it was very dark because the sun had set and there were no streetlights in the area.<sup>5</sup> As they passed the intersection with Totman Rd., CW-2 noticed a car stopped on the right shoulder of Northern Blvd. As Officer Aregano’s SUV passed that car, CW-2 noticed that the SUV hit something and saw debris in the road. CW-2 said she immediately stopped her car and saw heavy front-end damage to Officer Aregano’s SUV. According to CW-2, she did not know what Officer Aregano hit, but called 911 and provided her contact information before leaving the scene.

## **B. Eyewitness Account**

Mr. Crawford’s girlfriend (“CW-3”) was present at the scene and witnessed the fatal collision. According to CW-3,<sup>6</sup> she had been seeing Mr. Crawford, whom she referred to by his nickname, “Maliek,” for the past three to four years.

CW-3 said she and Mr. Crawford went to a birthday party on Totman Rd. in Cicero on December 17, 2021, traveling together in her 2015 black Kia sedan, and arriving around 6:00 P.M. The couple argued during the party and at some point, Mr. Crawford decided to leave. With Mr. Crawford driving and CW-3 in the passenger seat, they headed east on Totman Rd. toward the intersection with Northern Blvd. According to CW-3, Mr. Crawford got mad as he drove, then stopped and placed the car in park and got out on Totman Rd. near the Northern Blvd. intersection. CW-3 said she got into the driver’s seat and followed Mr. Crawford as he walked south on the western shoulder of Northern Blvd.

According to CW-3, Mr. Crawford twice threw his cellphone to the paved shoulder of the road and picked it back up while he was walking. CW-3 saw Mr. Crawford throw his cell phone a third time, but this time, she said the phone traveled east across the southbound lanes of Northern Blvd. At that point, according to CW-3, she stopped and got out of her car, and stood on the shoulder, between the open door and driver’s seat, and called out to Mr. Crawford.

According to CW-3, Mr. Crawford walked east, toward where the cell phone was thrown, across the southbound lanes of Northern Blvd. CW-3 said she never stopped looking at Mr. Crawford and she believed he was standing near the yellow line by the grass median. At that time, according to CW-3, she observed a small SUV traveling south in the left passing lane of Northern Blvd. CW-3 said she only saw the vehicle for a second as it approached Mr. Crawford. CW-3 described hearing a loud noise, followed by the sound of car parts hitting the road. CW-3 did not see the SUV strike Mr. Crawford, but based on the loud noise she believed he had been struck because he was in the same lane as the SUV.

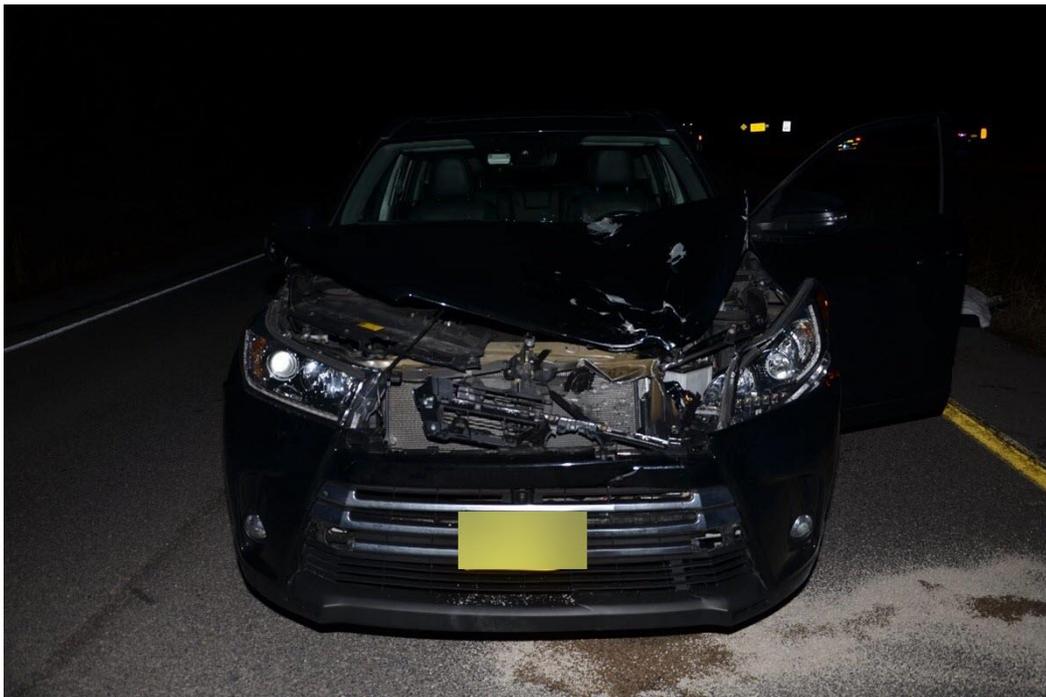
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<sup>5</sup> According to online historical weather data for Cicero, NY on December 17, 2021, sunset was at 4:32 P.M. and twilight ended at 5:03 P.M.

<sup>6</sup> CW-3 was interviewed by NYSP investigators on the night of the incident and, separately (at a later date), by OSI personnel.

CW-3 said she left her vehicle and ran toward where she last saw Mr. Crawford looking for his cell phone. CW-3 found Mr. Crawford lying on his stomach, unconscious and unresponsive. CW-3 said that when she could not get Mr. Crawford to wake up, she ran to the SUV, which had stopped, and told the driver to call the police. According to CW-3, the people who had stopped their vehicles initially provided first aid to Mr. Crawford before an ambulance and marked patrol cars arrived.

CW-3 described the clothing Mr. Crawford was wearing as a black hooded sweatshirt, black pants, and black socks. According to CW-3, while she knew Mr. Crawford had smoked some marihuana that night, she had not seen him drink any alcohol or take any other drugs before the collision.<sup>7</sup>



*NYSP photograph depicting damage to SUV driven by Officer Aregano; taken at the scene post-collision*

### **C. Officer Aregano's 911 Call**

Onondaga County Department of Emergency Communications' ("ECD") records show that Officer Aregano called 911 at 7:08 P.M. on December 17, 2021, from his personal cell phone, and said, *"Uh...we just got into an accident. We just killed somebody. I don't believe it."* When the 911 operator asked his location, Officer Aregano responded, *"Northern Boulevard. This guy was in the middle of the road, and we just killed somebody."* When the 911 operator asked if the person was walking, Officer Aregano responded, *"Uh, yes...he was [inaudible]. I didn't even see him in the middle of the road."* Officer Aregano further reported that he did not know where the person he struck was located at that point.

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<sup>7</sup> Toxicological analysis of Mr. Crawford's blood showed the presence of cannabinoids, but no other substances.

Thirty seconds into the 911 call, Officer Aregano told the 911 operator that there was a woman at the scene who said that “they were fighting.” When the 911 operator asked if the people were arguing in the road, Officer Aregano responded, “*I don’t know. I don’t know where he came from. He’s just like in the middle of the road. There was a car stopped on the right-hand side of the road...and all of a sudden it’s just like...person’s just right in the middle of the road.*”<sup>8</sup> About 90 seconds into the 911 call, Officer Aregano reported to the 911 operator that they had located Mr. Crawford on the side of the road, but he was not breathing. About three minutes into the 911 call, Officer Aregano told the 911 operator that he was an off-duty CPD patrol officer, and that an off-duty Syracuse Police Department (“SPD”) officer and other first responders were already on scene assisting with first aid and traffic control.

ECD records further show that one minute after Officer Aregano’s 911, at 7:09 P.M., CW-2 called 911 and reported the collision. CW-2 reported to the 911 operator that she was behind a car that got into an accident, stating, “*There’s a car on the side of the road...and then a car just hit something...and I...a woman screamed and...ran after the car, so I’m not sure what they hit.*”

At 7:09 P.M., ECD dispatched the call for a motor vehicle-pedestrian accident at Northern Blvd. and Totman Rd. ECD records show that CPD Patrol Officer Kenneth Isyk was the first on-duty officer to arrive, at 7:12 P.M., followed by CPD Patrol Officer Kyle Harrington, at 7:14 P.M. Trooper Michael Orlowski was the first member of the New York State Police (“NYSP”) to arrive, at 7:16 P.M.

#### **D. Post-Collision**

At the time of the collision, off-duty Syracuse Police Department Patrol Officer Daniel Pietricola was driving north on Northern Blvd. near Totman Rd. when he observed several vehicles stopped and people standing in the southbound lanes. Officer Pietricola stopped in the grassy median, across from a black SUV. According to Officer Pietricola, he saw Mr. Crawford lying facedown and motionless in the grass median, about two to three feet from the southbound passing lane shoulder, with the upper part of his body pointing toward the ditch. Officer Pietricola said Mr. Crawford was wearing black sweatpants and a black sweatshirt, with the hood up over his head. Officer Pietricola also saw that Officer Aregano, whom he recognized, was on the phone with 911.

Officer Pietricola said he first thought it very strange that no one was attending to Mr. Crawford, so he turned his attention to Mr. Crawford and rolled him onto his back. Officer Pietricola noticed that Mr. Crawford had no pulse and did not appear to be breathing. According to Officer Pietricola, he pulled Mr. Crawford onto the paved roadway and began chest compressions. Approximately two minutes later, a physician assistant arrived on scene and

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<sup>8</sup> The 911 call is linked here: [Officer Aregano 911 Call](#).

checked for a pulse, with negative results.<sup>9</sup> According to Officer Pietricola, CPD officers arrived shortly thereafter and applied automated external defibrillator (“AED”)<sup>10</sup> pads to Mr. Crawford.

According to Officer Harrington’s BWC video, he arrived at 7:14 P.M.; EMS personnel had not yet arrived. Officer Harrington’s BWC video shows that Officer Isyk had already applied AED pads to Mr. Crawford and, at 7:15 P.M., Officer Pietricola continued chest compressions when the AED advised no shock. Officer Harrington’s BWC shows a North Area Volunteer Ambulance Corp. (“NAVAC”) ambulance arriving on scene at 7:16 P.M. Officer Pietricola continued with chest compressions until NAVAC paramedic Nathaniel Cisne arrived on scene and assumed care.

According to Paramedic Cisne, Mr. Crawford was on his back, in the driving lane shoulder of the southbound side of Northern Blvd., with obvious head trauma and blood coming from the nose and both ears. Officer Pietricola was performing chest compressions. Paramedic Cisne connected the AED pads to a heart monitor, which showed pulseless electrical activity. When his EMT partner confirmed the absence of a palpable radial pulse, Paramedic Cisne pronounced Mr. Crawford deceased at 7:17 P.M.

Following the collision, Officer Aregano and CW-1 were transported to Crouse Hospital, via ambulance, as a precaution (they were not injured in the collision). While other NYSP members investigated the scene, Trooper Matthew Cornish (“Tr. Cornish”), a drug recognition expert (“DRE”), responded to Crouse Hospital around 8:30 P.M. to check Officer Aregano for signs of impairment. At 8:49 P.M., after he was examined by medical personnel, Officer Aregano denied consuming any alcohol to Tr. Cornish, and Tr. Cornish did not detect any signs of impairment by any substance. According to Tr. Cornish, there was no probable cause to believe that Officer Aregano was impaired. Nonetheless, after consultation between OSI and NSYP, Officer Aregano offered to submit to an alcohol test with a preliminary alcohol screening device,<sup>11</sup> which Tr. Cornish administered at 9:45 P.M. The test was negative for the presence of alcohol.

#### **E. Medical Examiner Report**

Dr. Dianne Vertes performed a post-mortem examination of Mr. Crawford at the Onondaga County Medical Examiner’s Office on December 19, 2021. Dr. Vertes noted that Mr. Crawford, who was 5 feet 8 inches tall and 190 pounds, was dressed in dark clothing, and that his outermost layer of clothing consisted of a black hooded sweatshirt, black sweatpants, black socks, and one black and white sandal.

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<sup>9</sup> According to her interview with NYSP investigators, the physician assistant (“PA”) was traveling on Northern Blvd. when she came upon the collision scene and saw a body in the road. The PA said an off-duty police officer was doing chest compressions; she checked Mr. Crawford for a pulse, with negative results.

<sup>10</sup> AEDs are fully automated. When the operator applies the pads to a person’s chest the machine audibly announces, “shock advised” or “no shock advised.” “No shock advised” means the operator should not proceed to apply a shock to the person, because the AED does not detect a shockable heart rhythm.

<sup>11</sup> Preliminary alcohol screening devices are portable handheld screening instruments used by law enforcement to test for the presence of alcohol in a person’s system. If the preliminary screen indicates there is any alcohol present, the blood alcohol content is measured, most commonly, by a separate, scientific breath testing instrument. Here, the screen administered by Tr. Cornish measured .000.

Dr. Vertes found evidence of multiple blunt force injuries to Mr. Crawford's head and neck, torso, and extremities. According to the autopsy report, internal examination showed, among other injuries, skull fracture, cortical contusions, spine fracture, and lung contusions. Dr. Vertes determined that the cause of death to be "Multiple Blunt Force Injuries" and the manner of death to be "Accident."

As part of the investigation into Mr. Crawford's death, OSI personnel met with Dr. Vertes to review the autopsy findings. Dr. Vertes opined that, based on the location of the injuries to Mr. Crawford's upper extremities and torso and the lack of serious injuries to Mr. Crawford's lower extremities, it was likely that Mr. Crawford was bent over at the time of the collision.

#### **F. NYSP Troop D Collision Reconstruction Report**

NYSP Investigator Robert J. Piekieniak, a certified reconstructionist with Troop D's Collision Reconstruction Unit, responded to the scene and performed a collision reconstruction investigation. Inv. Piekieniak issued his final report ("Collision Re-Construction Report") on January 11, 2022.

Based on witness statements and the physical evidence, Inv. Piekieniak concluded that when the collision occurred, Mr. Crawford crossed Northern Blvd. while Officer Aregano's SUV was traveling south on Northern Blvd., in the left lane. Inv. Piekieniak considered and ruled out roadway defects, environmental conditions, and vehicular defects as contributing to the cause of the collision.

According to Inv. Piekieniak's report, although the area of impact was not readily defined, there was a cell phone screen and sandal located near each other, in the left southbound lane of Northern Blvd., as depicted by the evidence markers in the foreground of the photo below.

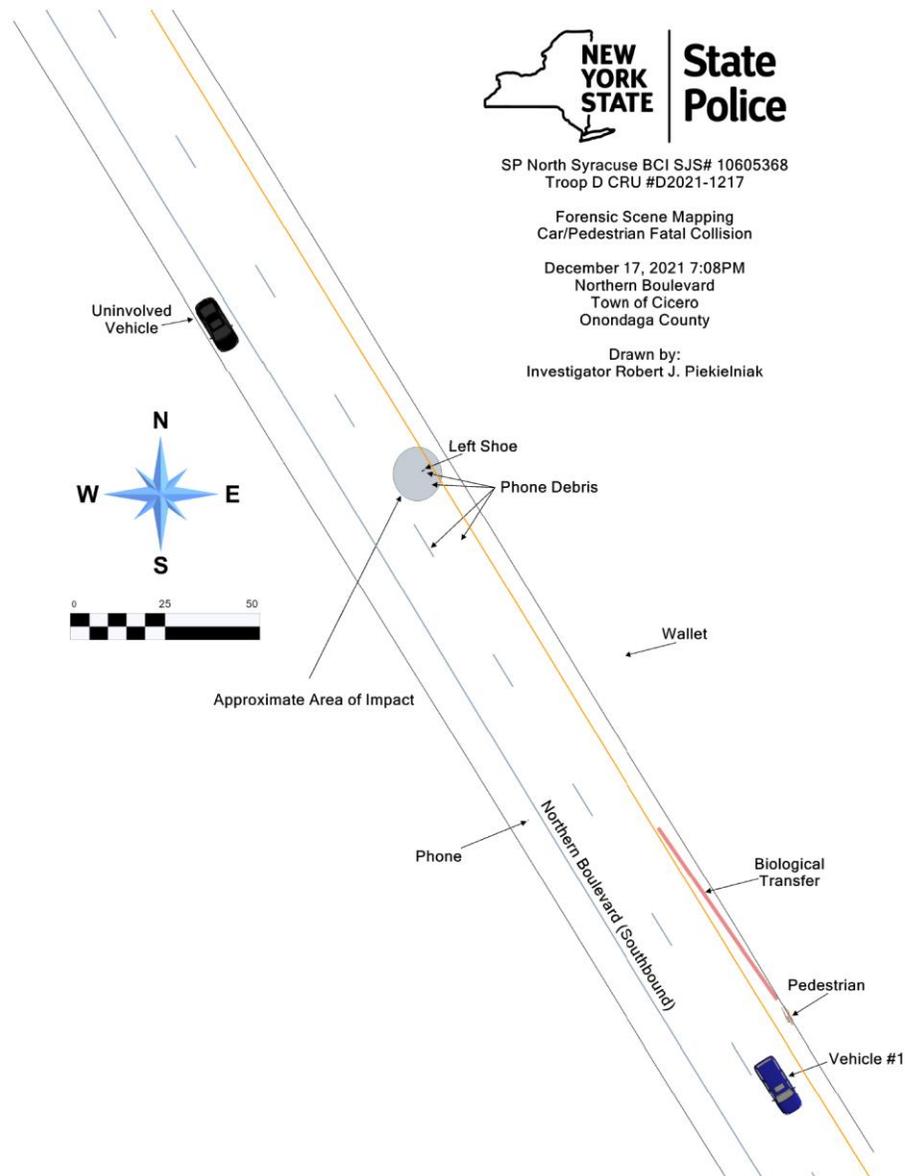


*Southbound view of Northern Blvd. at location of collision*

As part of the investigation, Inv. Piekielniak also examined the factors affecting Officer Aregano's ability to see Mr. Crawford prior to the collision. Inv. Piekielniak determined that Mr. Crawford's dark-colored/non-reflective clothing and the lack of any artificial lighting in the area would have limited Officer Aregano's ability to see Mr. Crawford as he approached. In contrast, Inv. Piekielniak determined that Mr. Crawford should have been able to see Officer Aregano's headlights at a time and distance that would have been sufficient to allow Mr. Crawford to move out of Officer Aregano's SUV's lane of travel before it struck him.

Although Officer Aregano's SUV was equipped with an Airbag Control Module type Event Data Recorder (EDR), Inv. Piekielniak noted that the airbags did not deploy and there were no collision-related events recorded by the EDR.

Inv. Piekielniak used the Searle Pedestrian Throw formula ("Searle formula") to determine Officer Aregano's approximate speed at impact. One of the variables required for application of the Searle formula is the distance the pedestrian travels after impact; Mr. Crawford was located approximately 170 feet from his sandal and cell phone screen. Applying the Searle formula, Inv. Piekielniak determined that Mr. Crawford's speed after impact (*i.e.*, the speed at which he traveled 170 feet) was between 48-57 mph, which also reflected the approximate speed of Officer Aregano's SUV, prior to the collision. Although Inv. Piekielniak found that the SUV's speed may have been slightly higher than the calculated speed of 48-57 mph, because of possible energy loss from the damage to the SUV and injuries to Mr. Crawford's body, given that the posted speed limit was 55 mph, Inv. Piekielniak concluded that Officer Aregano was traveling at a reasonable speed for the roadway when the collision occurred.



*Diagram of post-collision scene, taken from Inv. Piekieniak's report; Officer Aregano's SUV depicted as Vehicle #1*

Inv. Piekieniak concluded that the primary contributing factor for this collision was pedestrian error on the part of Mr. Crawford.

## LEGAL ANALYSIS

Under Penal Law Section 125.10, “a person is guilty of criminally negligent homicide when, with criminal negligence, he or she causes the death of another person.” A person acts with criminal negligence, pursuant to Penal Law Section 15.05(4), “with respect to a result or circumstance ... when [that person] fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such a 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 *People v Boutin* (75 NY2d 692, 696 [1990]), the Court of Appeals interpreted the statutory definition of criminal negligence and made clear that the mere “failure to perceive a substantial and unjustifiable risk” is insufficient to establish culpability. Instead, “criminally negligent homicide requires not only a failure to perceive a risk of death, but also some serious blameworthiness in the conduct that caused it.” Therefore, unless a defendant has engaged in blameworthy conduct creating or contributing to the substantial and unjustifiable risk of death, there will be no criminal culpability (*Id.*). Stated differently, “‘nonperception’ of a risk, even if death results, is not enough,” to establish criminal negligence (*Id.*).<sup>12</sup>

In the case of Officer Aregano, OSI would need to prove that his conduct was so serious and so blameworthy that it created a substantial and unjustifiable risk that people would die because of it, and that he failed to perceive that risk. Based on all the facts and circumstances of this case, including but not limited to the eyewitness accounts and the Collision Re-Construction Report, OSI would be unable to prove that Officer Aregano engaged in any blameworthy conduct or operated the SUV improperly.

Here, there is no evidence that Officer Aregano engaged in any “risk creating” conduct prior to the collision. The evidence shows that, prior to the collision, he was operating his vehicle within a proper driving lane (south in a southbound lane) and was traveling at an appropriate speed for the conditions, below or near the posted speed limit of 55 mph. There is no evidence that Officer Aregano was driving too fast, or that he was under the influence of alcohol or any other substance. Though an alcohol screen was not administered until over two hours after the accident, none of the many NYSP members who interacted with Officer Aregano at the scene, immediately following the collision, observed any sign that he was impaired or intoxicated.

Finally, there is no evidence that Officer Aregano was distracted at the time of the collision. As noted in the Collision Re-Construction Report, Mr. Crawford was dressed entirely in black clothing at the time of the collision – in an area with no artificial or ambient lighting. While Mr. Crawford’s black clothing reduced Officer Aregano’s ability to see him, the evidence suggests that Mr. Crawford should have been able to see the lights of Officer Aregano’s fiancée’s SUV with enough time to react and move out of the roadway before he was struck. Although Officer

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<sup>12</sup> *Boutin* also emphasized just how negligent a defendant’s conduct must be to fall within the ambit of the statute.

“[C]riminal liability cannot be predicated on every act of carelessness resulting in death.... [T]he carelessness required for criminal negligence is appreciably more serious than that for ordinary civil negligence” (*Boutin*, 75 NY2d at 695).

Aregano and CW-1 were speaking on a cell phone with a third party at the time of the collision – allegedly “hands free” on speaker phone mode – there is no evidence that this phone conversation distracted Officer Aregano to the extent that it contributed to the cause of the collision. Under the case law described above, even if Officer Aregano had been speaking with the phone to his ear at the time of the collision, such conduct would not have been so “serious and blameworthy” as to give rise to criminal culpability.

OAG therefore concludes that criminal charges are not warranted in this case.

Dated: December 29, 2022