



Office of the New York State Attorney General Letitia James

Office of Special Investigation

June 27, 2025

Report on the Investigation into the Death of Adrian Wilburne

ag.ny.gov/osi (800) 771-7755

SUMMARY

New York Executive Law Section 70-b (Section 70-b) authorizes the New York Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or peace officer. When, as in this case, OSI does not seek charges, Section 70-b requires issuance of a public report. This is the public report of OSI's investigation of the death of Adrian Wilburne, which was caused by New York City Police Department (NYPD) Officer Irtaza Hassan.

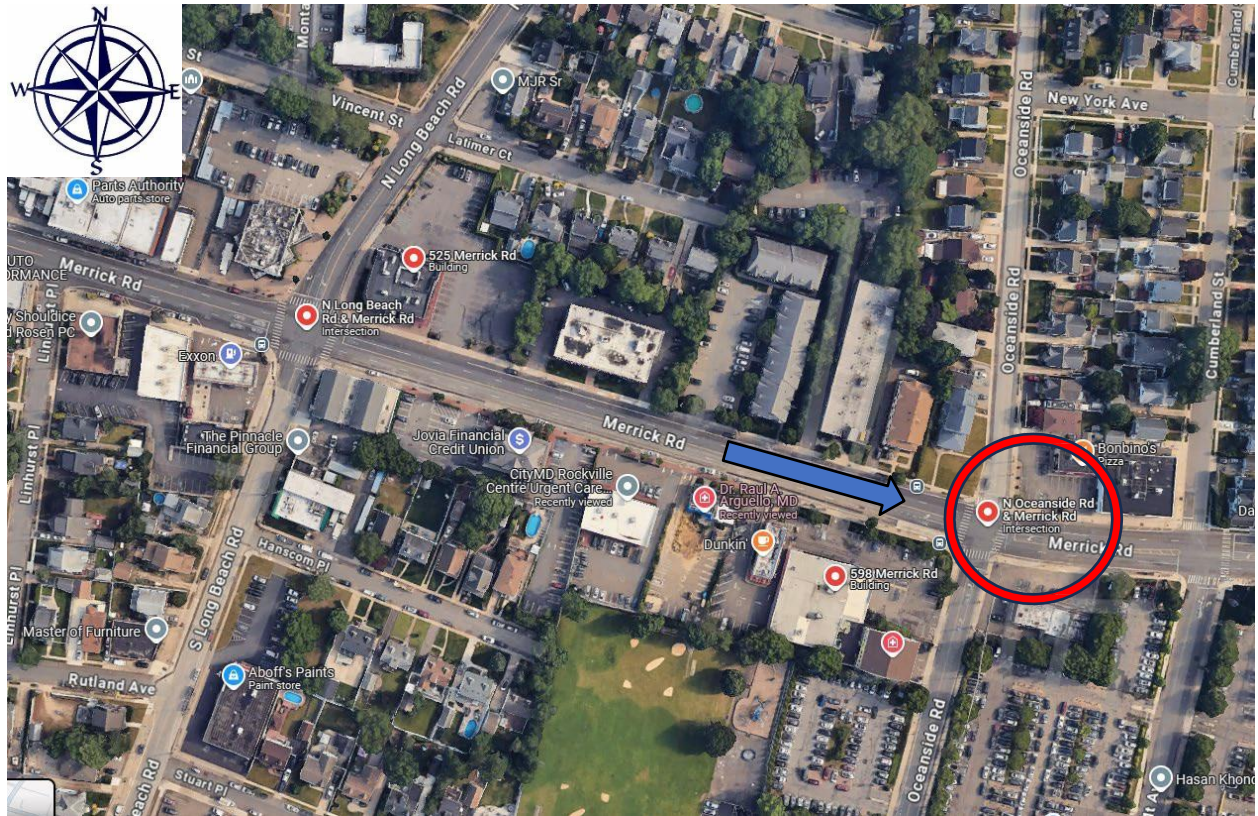
On December 9, 2023, at 1:57 a.m., Officer Hassan was off duty and driving his personal car on Merrick Road in Nassau County. As Officer Hassan approached Oceanside Road, Adrian Wilburne walked across the street in front of his car, and Officer Hassan's car struck Mr. Wilburne, causing his death. OSI's investigation shows that Officer Hassan had the green light and was driving 66 to 67 mph in a 30 mph zone when he struck Mr. Wilburne. Officer Hassan was not intoxicated or impaired or distracted at the time of the collision.

Having thoroughly investigated the matter and analyzed the law, OSI concludes a prosecutor would not be able to prove beyond a reasonable doubt that Officer Hassan committed a crime when he caused Mr. Wilburne's death. Therefore, OSI will not seek charges and closes the matter with the issuance of this report.

FACTS

The Collision

Officer Hassan was driving eastbound on a stretch of Merrick Road where the speed limit was 30 mph. A Nassau County traffic camera at the intersection of Merrick Road and Oceanside Road captured the collision. The video can be seen [here](#). The video shows that Officer Hassan's car had the green light when he drove through the intersection with Oceanside Road and struck Mr. Wilburne, who was walking in the crosswalk, northbound, across Merrick Road.



Google Maps aerial view of the intersection of Merrick Road and Oceanside Road, with the site of the collision circled in red. The blue arrow shows Officer Hassan's direction of travel. OSI collected video from the sites shown by the small red circles.



Still image from the traffic camera at Merrick Road and Oceanside Road at 1:57:55 a.m., a second before the collision. Mr. Wilburne is circled in green, and Officer Hassan's car is circled in blue. The image shows that Officer Hassan had a green light.



Still image from the traffic camera at Merrick Road and Oceanside Road at 1:57:56 a.m. as Officer Hassan's car collided with Mr. Wilburne.

Officer Hassan called 911 at 1:58 a.m. and asked for an ambulance. He said he was driving on Merrick Road, had the green light, and hit a pedestrian. He said he doesn't see the person he hit. Officer Hassan said he was driving 50 mph. He then said the person he hit was lying on the ground. The 911 call can be heard [here](#).

Post-Collision Investigation

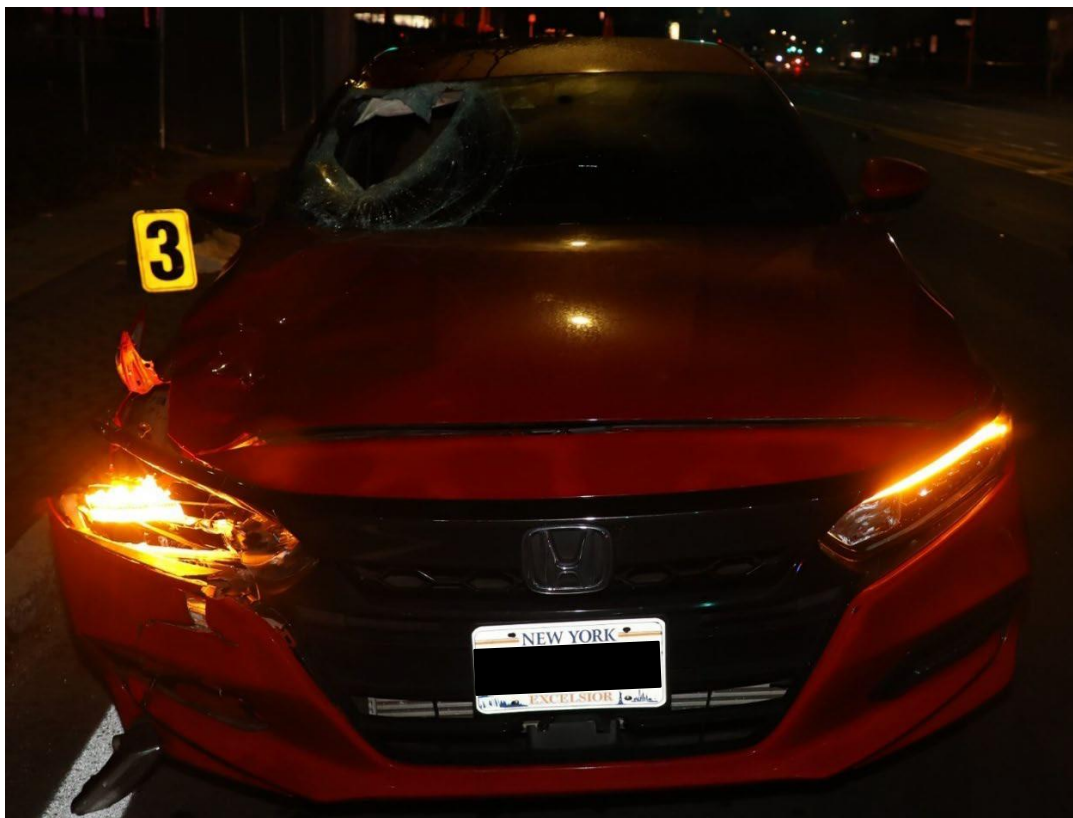
Members of the Nassau County Police Department (NCPD) responded to the scene. At 2:12 a.m. Officer Michael Walker, with his body-worn camera (BWC) activated, asked Officer Hassan what happened. Officer Hassan said he was driving, coming home from work, and he doesn't know what happened. He said everything happened so quickly and that he didn't see him and that he came out of nowhere. Officer Walker's BWC can be seen [here](#).

At 2:25 a.m. Officer Matthew English, with his BWC activated, asked Officer Hassan what happened. Officer Hassan said he didn't remember what happened, that he was coming home from work and all of a sudden there was an accident. He said he was driving, and the guy came in front of him, and that everything happened quickly. Officer Hassan said he doesn't drink. Officer English told Officer Hassan to follow his finger with his eyes as Officer English moved his finger side to side. ("Follow my finger" is the horizontal gaze nystagmus test. "Nystagmus" is the involuntary jerking of the eye, which becomes more pronounced when the

person is impaired by alcohol or certain drugs, <https://www.findlaw.com/dui/arrests/what-is-horizontal-gaze-nystagmus-hgn.html>.) After completing the test, Officer English said, “We’re good.” Officer English’s BWC can be seen [here](#).

At 2:34 a.m. Officer Anthony DeGregorio, with BWC activated, administered a portable breath test (PBT) to test the blood alcohol concentration (BAC) of Officer Hassan. The PBT registered a 0.00 BAC. Officer DeGregorio’s BWC can be seen [here](#).

The NCPD Crime Scene Unit (CSU) arrived at 4:30 a.m. and processed the scene. CSU’s report noted that the weather was “clear.” CSU photographed Officer Hassan’s car, which had damage to the windshield, right front corner, and front end.




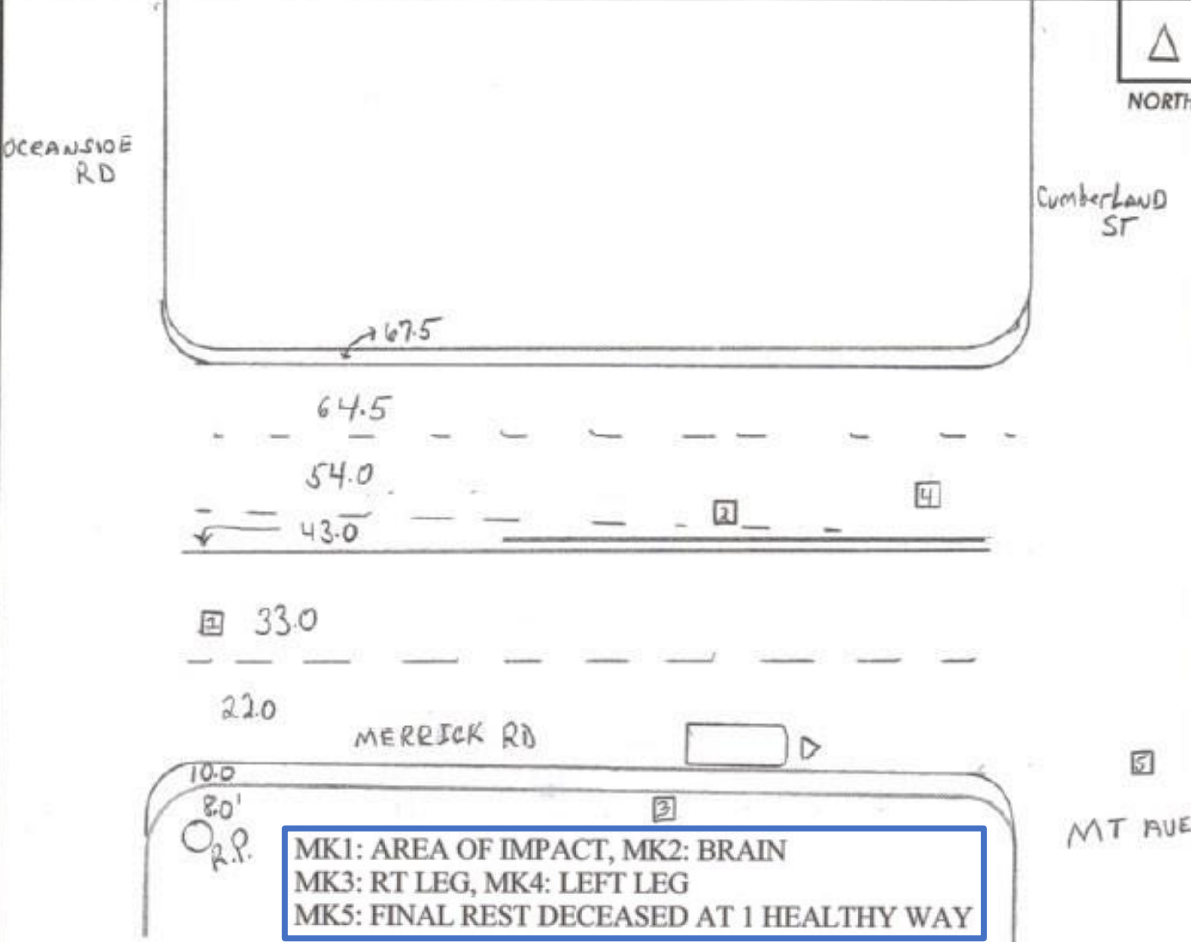
CSU photograph of the front end of Officer Hassan’s car.



Above: CSU photograph of the front right side of Officer Hassan's car.

POLICE DEPARTMENT - COUNTY OF NASSAU, N.Y.
CRIME SCENE SEARCH SECTION
SERIOUS / FATAL CRASH DIAGRAM


NORTH



MK1: AREA OF IMPACT, MK2: BRAIN
 MK3: RT LEG, MK4: LEFT LEG
 MK5: FINAL REST DECEASED AT 1 HEALTHY WAY

ILLUSTRATION PURPOSES ONLY NOT DRAWN TO SCALE		
SPOT	N/S	E/W
MK1	28.5	20.0
MK2	40.0	136.0
MK3	6.0	161.0
MK4	47.0	186.5
MK5	10.0	270.0
MV FD	17.0	176.0
FP	11.5	176.0
RD	17.0	166.0
RP	11.5	166.0

CASE# 23CR420344 HOM# 955-23
 DATE 12/9/23 TIME 0630 WEATHER clear
 LOCATION Merrick Rd @ Oceanside Rd
 TOWN OCEANSIDE
 R.P. SIGNAL POLE 1727
 ROAD SURFACE Pavement CONDITION STRAIT/DRY
 INCIDENT TYPE Pedestrian Struck
 DRAWN BY DET Palacio Palascio 8421

CSU diagram of the area of impact and where Mr. Wilburne's remains were found. The measurements refer to distance, in feet, from the signal pole marked R.P. (reference point).

OSI reviewed the report on Officer Hassan's car's Event Data Recorder, which, when downloaded, showed that it was not triggered by the impact with Mr. Wilburne.

OSI reviewed records of Officer Hassan's NYPD-issued cell phone, which showed he did not use the phone at the time of or before the collision.

OSI reviewed records of Officer Hassan's personal cell phone, which showed that he did not make any phone calls at the time of or before the collision. Although the records show data usage from 1:33 a.m. through 1:59 a.m., a T-Mobile Solutions Center Specialist told OSI "data usage" does not necessarily mean someone was using the phone; it could mean that any app running on the phone in the background was collecting data, and there is no way to determine whether the person was actually using the phone at the time.

Expert retained by OSI

OSI retained Michael J. O'Connor, a collision reconstructionist with Lange Technical Services Ltd., who analyzed videos from sites on Merrick Road to calculate Officer Hassan's speed. Mr. O'Connor was previously a detective with NYPD with 25 years of service, including 15 years of experience in Collision Investigation and Accident Reconstruction, during which he investigated over 1,000 motor vehicle collisions, including 750 serious/fatal motor vehicle collisions. He was qualified as an expert witness in civil and criminal cases.

Using video from three sites prior to the collision site, including 598 Merrick Road, which was almost at the collision site, Mr. O'Connor calculated that Officer Hassan was traveling 66 to 67 mph between Long Beach Road and Oceanside Road.

Autopsy

Dr. Brian O'Reilly of the Office of the Medical Examiner, County of Nassau, performed the autopsy of Mr. Wilburne on December 12, 2023. The autopsy report said the cause of death was "blunt force trauma to head, neck, torso, and extremities" and the manner of death was "accident." The report said Mr. Wilburne suffered severe injuries, including open fracture of skull with avulsion of brain, fracture and dislocation of cervical vertebrae, blunt force trauma of torso with fractures to the ribs and sternum, and amputation of both legs below the knees.

Interview of Officer

Officer Irtaza Hassan, through his attorney, refused to speak to OSI.

LEGAL ANALYSIS

Under Penal Law Section (PL) 125.10 “A person is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person.”

Under PL 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 the context of automobile accidents involving speeding, the culpable risk-creating conduct necessary to support a finding of recklessness or criminal negligence generally requires some additional affirmative act aside from driving faster than the posted speed limit.” *People v Asaro*, 21 NY3d 677 (2013).

In *People v Cabrera*, 10 NY3d 370 (2008), the defendant was 17 years old with a junior license. On a road with a posted speed limit of 55 mph, and going around a curve with a “40 mph curve” sign, the defendant drove 70 to 72 mph and hit a wall after losing control of the car. Three of the passengers died and the fourth passenger was critically injured. The Court of Appeals ruled that the evidence was insufficient to convict the defendant of criminally negligent homicide and reversed:

“There was testimony and forensic evidence that Cabrera, a young and inexperienced but sober driver, entered a tricky downhill curve, the site of other accidents, at a rate of speed well in excess of the posted warning sign. This behavior is certainly negligent, and unquestionably “blameworthy.” But our decisions have uniformly looked for some kind of morally blameworthy component to excessive speed in determining criminal negligence; for example, consciously accelerating in the presence of an obvious risk. No such morally

blameworthy behavior could be inferred from the testimony in this case...In sum, even when viewed in the light most favorable to the People, the evidence adduced at Cabrera's trial was insufficient as a matter of law to sustain his convictions for criminally negligent homicide and third-degree assault.”
(Citation omitted.)

Here, Officer Hassan drove faster than the speed limit, but he had the green light when he entered the intersection, and there is no evidence that he was intoxicated or impaired, or improperly distracted by cellphone use. In these circumstances, OSI concludes that a court would not find Officer Hassan’s conduct to be “morally blameworthy” in the sense required by the Court of Appeals in *Cabrera*. Therefore, OSI believes a prosecutor would not be able to prove beyond a reasonable doubt that Officer Hassan committed criminally negligent homicide.

As a result, OSI will not seek charges against Officer Hassan and closes the matter with the issuance of this report.

Dated: June 27, 2025