



Office of the New York State Attorney General Lettla James

Office of Special Investigation

March 19, 2026

Report on the Investigation into the Death of Jose Francisco Escobar Vasquez

OVERVIEW

New York Executive Law Section 70-b (Section 70-b) authorizes the 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 detailing its investigation. This is the public report of OSI's investigation of the death of Jose Francisco Escobar Vasquez, who, on March 15, 2025, in North Amityville, Suffolk County, was struck and killed by a car driven by Richard Moffatt, a police officer with the New York City Metropolitan Transportation Authority (MTA).

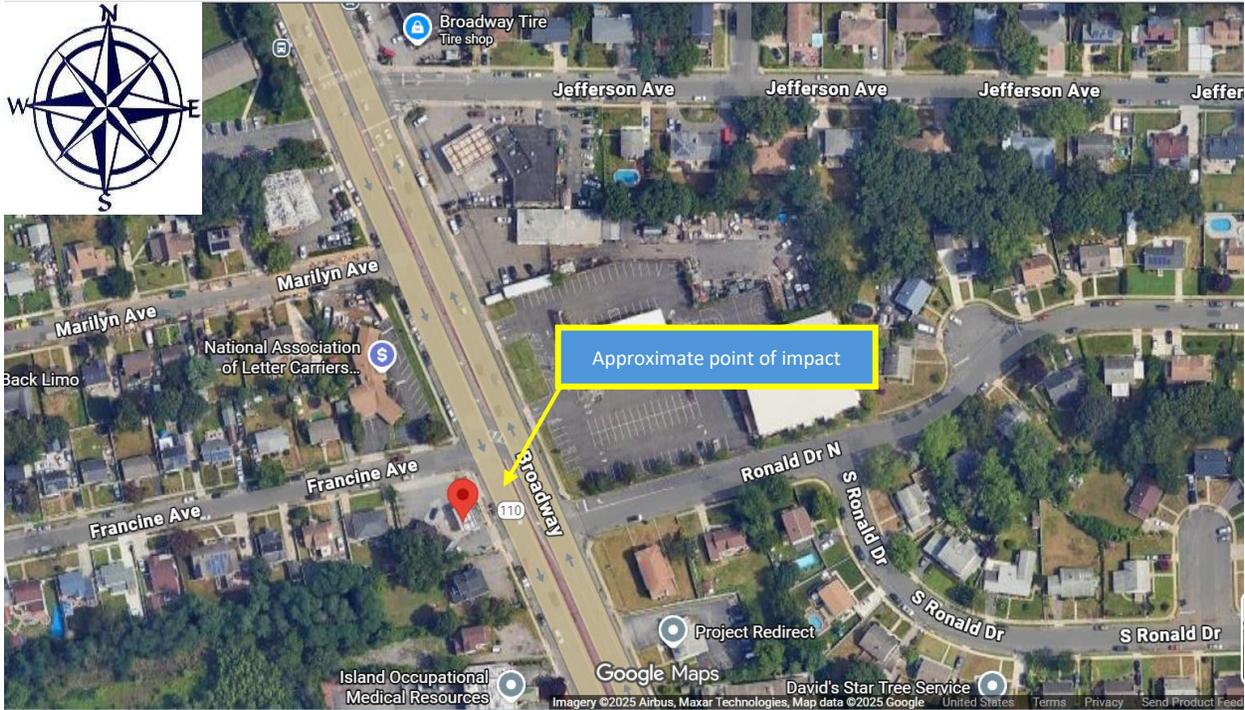
On March 15, 2025, at 12:12 a.m., Officer Moffatt was off-duty and traveling south on Route 110 (Broadway) in Suffolk County, in his personal car. After Officer Moffatt drove past the partial intersection at Francine Avenue, Mr. Vasquez walked into the left southbound lane of Route 110 and was struck by Officer Moffatt's car. Mr. Vasquez was pronounced dead at the scene shortly thereafter. OSI's investigation shows that Officer Moffatt drove between 43 and 47 mph when he struck Mr. Vasquez and that Officer Moffatt was not intoxicated or impaired at the time of the collision.

Having thoroughly investigated the facts, including review of commercial security videos, and analyzed the law, OSI concludes a prosecutor would not be able to prove beyond a reasonable doubt that Officer Moffatt committed a crime when he caused Mr. Vasquez's death. As a result, OSI will not seek charges and closes the matter with this report.

FACTS

The Scene

Route 110 in the area of the collision had four travel lanes in the main road, two southbound and two northbound, divided by a raised brick-paved median south of Francine Avenue, and a left-turn lane in the northbound section of Route 110. The brick-paved median had a fence, but the fence did not extend the entire length of the median; the fence ended several feet prior to the Francine Avenue partial intersection. Francine Avenue met Route 110 on the road's west side; it did not continue across on the east side of Route 110. The partial intersection was not controlled by overhead traffic signals, pedestrian signals, or posted stop signs and did not have a marked crosswalk. There were overhead traffic signals and pedestrian signals at the partial intersection of Route 110 and Jefferson Avenue, 450 feet north of Francine Avenue. The posted speed limit on Route 110 in this area was 40 mph. On March 15, 2025, at 12:12 a.m., the weather conditions were cold and rainy, and the area of the collision was dark.



Two aerial view photos of Route 110 in the area of the collision, showing Francine Avenue on the left (west), from [Google Maps, Broadway and Francine Avenue, North Amityville](#).

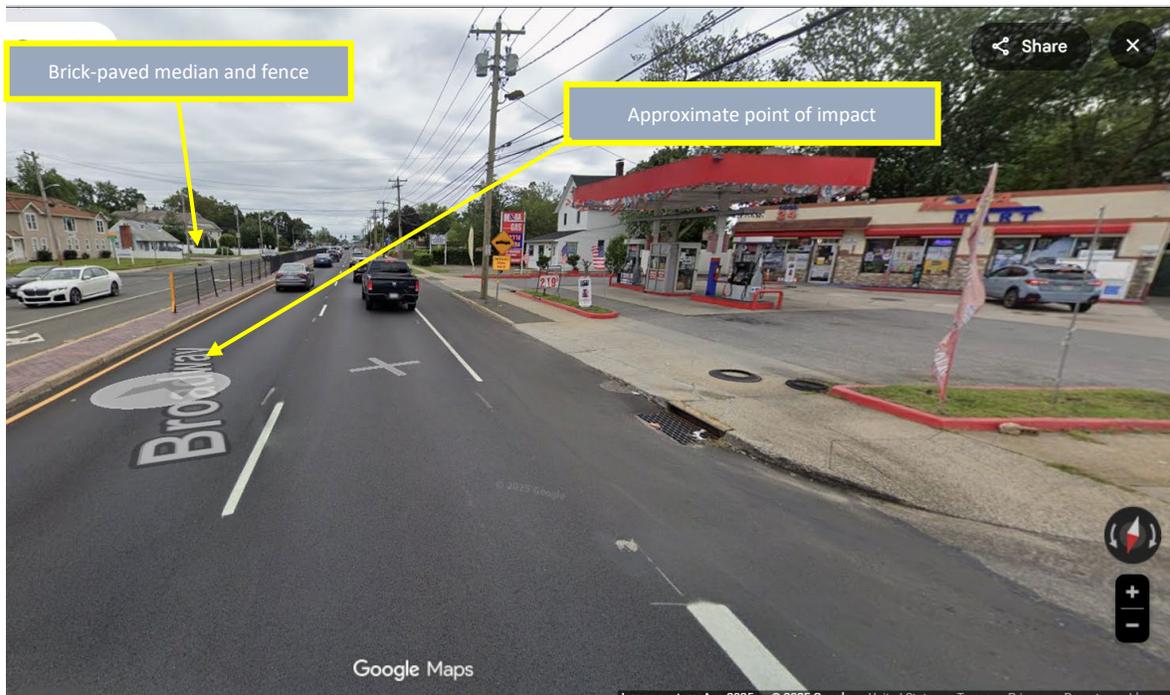


Photo of Route 110, facing southbound, in the area of the collision, from [Google Maps](#), [Broadway and Francine Avenue, North Amityville](#).



Photo of Route 110, facing east, in the area of the collision, from [Google Maps](#), [Broadway and Francine Avenue, North Amityville](#).

The Collision

Mega Gas Security Videos

OSI reviewed security videos from 624 Route 110, a Mega Gas gas station and convenience store at the corner of Route 110 and Francine Avenue. The videos did not have audio. The time on the security system was eight minutes behind Eastern Daylight Time, as evidenced by OSI's review of the event detail report and recorded 911 calls. Based on the investigation, OSI uses corrected times in the summary below.

The security videos showed that on March 15, 2025, at 12:12 a.m., Mr. Vasquez stepped off the brick-paved median on Route 110 and into the left southbound lane, where he was struck by Officer Moffatt's car. As seen on video, Mr. Vasquez's body propelled forward and landed in the right southbound lane. The videos showed that Officer Moffatt's car came to a complete stop to the left of Mr. Vasquez's body.

OSI created a compilation video which may be accessed [here](#).

Officer Moffatt's personal car was not equipped with a dashboard camera.

911 Calls

At 12:12 a.m., JB (OSI does not publish the names of civilian witnesses) called 911 and reported that he witnessed a pedestrian struck by a car and thrown in the air on Route 110, near Francine Avenue. The caller said the pedestrian jumped the fence, and the motorist tried to stop. According to the caller, the pedestrian appeared to be dead.

At 12:12 a.m., MB called 911 and reported that a car that had been traveling next to him on Route 110 struck a pedestrian as the pedestrian crossed Route 110. The caller said that the pedestrian flew forward and he was dead.

At 12:12 a.m., Officer Moffatt called 911 and said that as he drove south on Route 110, a pedestrian ran across the roadway near 622 Broadway (Route 110), and he struck the pedestrian with his car. Officer Moffatt said that the pedestrian had blood on his head, did not appear to be breathing, and was likely dead. On the 911 recording, Officer Moffatt is heard asking someone if they were an "EMT." Officer Moffatt told the 911 operator that an "EMT" was on the scene, that they checked the pedestrian's vitals, that the pedestrian did not have a pulse, and that he was not breathing. An unknown man spoke with the 911 operator, identified himself as a volunteer firefighter, and told the operator that the pedestrian was dead.

At 12:12 a.m., HG called 911 and said that she was stopped at the corner of Route 110 and Ronald Drive N., and there was a man bleeding on the street. The caller said that she believed the man was hit by a car, but she did not see a collision.

The caller said the man was likely dead.

Witness Interviews

JB

OSI interviewed JB who said that he was driving on Route 110, about two to three cars behind Officer Moffatt's car, when Mr. Vasquez "stumbled into on-coming traffic," and was struck by Officer Moffatt's car. JB said that Mr. Vasquez propelled upwards and landed on the roadway. According to JB, Mr. Vasquez appeared to have either climbed over the divider fence and fallen into traffic or crossed Route 110 (east to west), stopping briefly at the divider. JB said that Officer Moffatt stopped at the red light at the intersection prior to the gas station and he was not weaving in and out of traffic. JB told OSI that he did not see the brake lights on Officer Moffatt's car illuminated prior to the collision and was not certain if Officer Moffatt was speeding.

MB

OSI interviewed MB who said that prior to the collision he was in the right lane on Route 110. Officer Moffatt was one to two car lengths ahead of him in the left lane and both cars were traveling 35-40 mph. MB said that he saw Mr. Vasquez's body in the air and Mr. Vasquez landed on the ground in front of his car. MB did not see Mr. Vasquez before the collision. According to MB, Officer Moffatt stopped at two separate red lights prior to the collision, did not weave in and out of traffic, did not change lanes without signaling, and was not speeding.

HG

OSI interviewed HG, who said that she was a passenger in her friend's car, and they were traveling south on Route 110 when she saw what appeared to be a pile of clothes on the roadway. HG said that when they pulled over, she realized it was a man in the roadway and that his head was bleeding. According to HG, Officer Moffatt was driving to their left, stopped his car, and got out. She noticed that Officer Moffatt's car had visible front-end damage. HG said that, prior to stopping, Officer Moffatt was a short distance ahead of them and drove "pretty regular," and did not speed, drive recklessly, or switch lanes without signaling.

YW

OSI interviewed YW, who said that she was driving south on Route 110 when she noticed that something had fallen and rolled in the roadway. YW said that she pulled over and saw a body in the roadway. According to YW, Officer Moffatt's car was in the left lane, with visible front-end damage. YW asked her passenger, HG, to call 911.

Officer Interview

Officer Richard Moffatt

OSI interviewed Officer Moffatt in the presence of his attorney. He said that on March 15, 2025, at 12:00 a.m., he left MTA Police District 2, at 15 Grumman Road West, Bethpage, NY, at the end of his shift. According to Officer Moffatt, he was in his personal car traveling south on Route 110, in the left lane, when he struck Mr. Vasquez near 624 Route 110, a Mega Gas gas station. Officer Moffatt said that he did not see Mr. Vasquez prior to the collision so could not apply the brakes before hitting him. Officer Moffatt said he did not realize he struck a person until he got out of his car and saw Mr. Vasquez on the ground. Officer Moffatt said he saw blood on Mr. Vasquez's head and was uncertain if Mr. Vasquez was breathing. According to Officer Moffatt, he went back to his car and called 911. Officer Moffatt told OSI that while he was still on the phone with 911, an off-duty volunteer firefighter pulled over in their personal car and checked Mr. Vasquez's condition. The firefighter told Officer Moffatt that Mr. Vasquez did not have a pulse, and Officer Moffatt conveyed that information to the 911 operator. Officer Moffatt said that he ended the call with the 911 dispatcher when the ambulance arrived. Officer Moffatt noted that the weather conditions were rainy, misty, and foggy the morning of the collision and that Route 110 was very dark as a result of inadequate lighting along the roadway. Officer Moffatt said that prior to the collision he was traveling between 35-40 mph, that he stopped at all stop signs and red traffic signals, and was not speaking or texting on his cell phone prior to, or at the time of, the collision.

Officer Moffatt acknowledged that he previously told Suffolk County Police Department (SCPD) officers that he saw Mr. Vasquez run across the street prior to the collision but told OSI that he did not see Mr. Vasquez prior to the collision. He explained that what he said previously to law enforcement was his assumption, that Mr. Vasquez ran across the street because he did not see him in the roadway prior to the collision.

Body-Worn Camera

According to SCPD Police Officer Zachary Frederico's body-worn camera (BWC) video, at 12:20 a.m. he spoke with Officer Moffatt who said that he was driving south on Route 110, in the left lane, when Mr. Vasquez "sprinted across the street" in front of him. Officer Moffatt said he first saw Mr. Vasquez when Mr. Vasquez "came out in front of [him]." According to the BWC video, Officer Frederico interviewed YW who said that she was driving south, in the right lane, when she saw something rolling on the ground in front of her. YM said that she believed it was a pile of clothing that fell out of a car but realized that it was a person once she stopped her car and saw Mr. Vasquez on the ground. YM was uncertain if Mr. Vasquez fell out of a car or was struck by a car.

Post-Collision Investigation

Sobriety Tests

According to BWC video of responding officers, at 12:50 a.m., Officer Moffatt submitted to a preliminary breath test (PBT). (A PBT device is a handheld assessment tool that tests blood alcohol concentration [BAC] by analyzing a breath sample.) The BWC video showed that the PBT device displayed a reading of 0.00% BAC.

The BWC may be accessed [here](#).

Speed Estimate

OSI retained Michael J. O'Connor, a collision reconstructionist with Lange Technical Services Ltd., who reviewed the accident report and the total station diagram and analyzed videos from the Mega Gas gas station and convenience store to calculate Officer Moffatt's speed at the time of the collision. Mr. O'Connor was previously a detective with the New York City Police Department. He retired after 25 years of service, which included 15 years of experience in collision investigation and accident reconstruction, during which he investigated over 1,000 motor vehicle collisions, approximately 750 of which were serious or fatal. He has qualified as an expert witness in civil and criminal cases in the field of collision investigations, collision reconstruction, and event data retrieval and analysis. Using the videos and documents prepared during the collision investigation, Mr. O'Connor calculated that Officer Moffatt was traveling in the range of 43 to 47 mph at the time of impact.

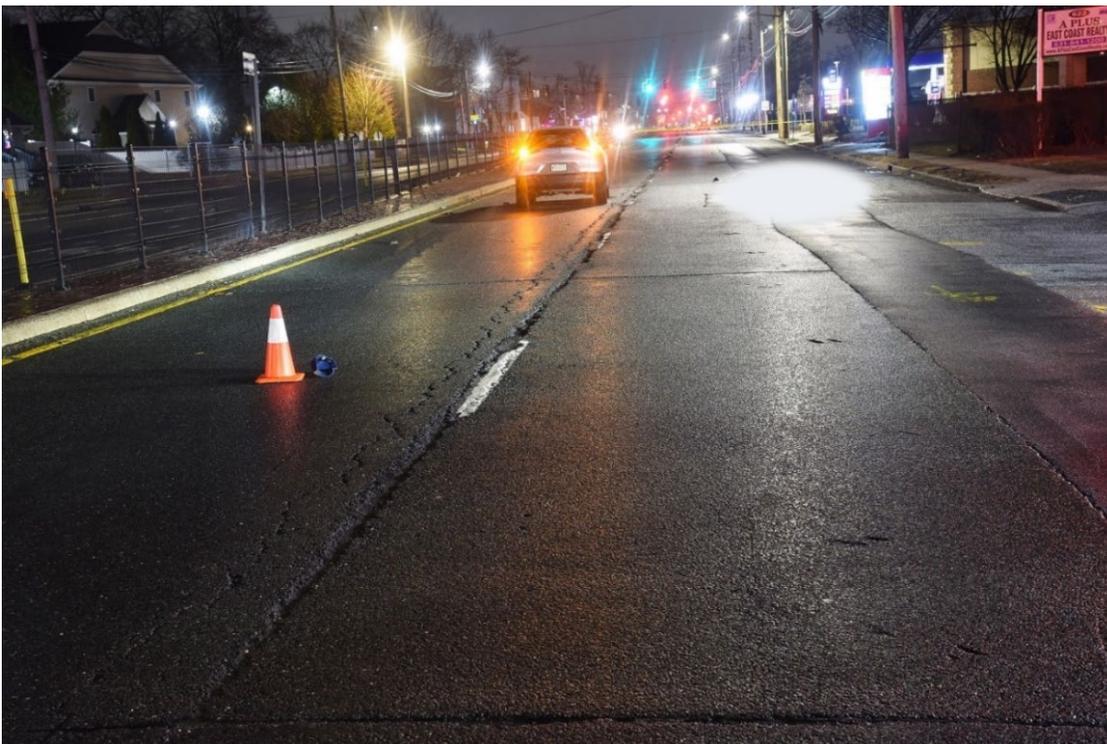
OSI reviewed data from the crash data retrieval (CDR) for Officer Moffatt's car's event data recorder (EDR). An EDR records data, including accelerator use, brake use, and steering, for a number of seconds before, during, and after a crash; not all impacts are strong enough to trigger the EDR to preserve data. (<https://www.nhtsa.gov/research-data/event-data-recorder>.) The CDR showed that the EDR was not triggered by the impact with Mr. Vasquez.

Police Officer Moffatt's Phone Records

OSI subpoenaed Officer Moffatt's cellular phone records. A review of the records showed that Officer Moffatt did not make or receive any phone calls or text messages at the time of or before the collision.

Crime Scene Investigation

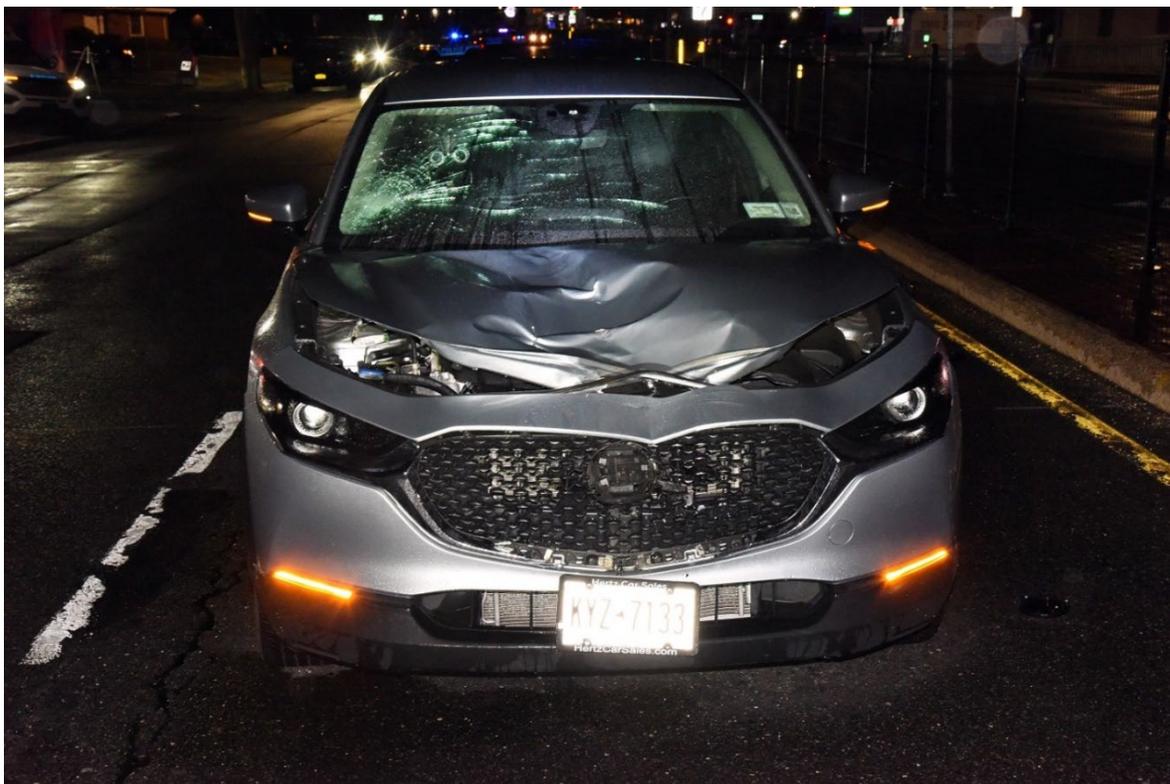
SCPD Officers Christopher Draskin and Robert Stranvold of the Crime Scene Section (CSS) responded to the collision scene, took photographs, and created a diagram documenting the scene, including those below:



Two CSS photos looking south on Route 110 showing the approximate point of impact, as indicated by the orange cone, the final resting place of Mr. Vasquez, as indicated by the blurred image, and Officer Moffatt's car in the left lane.



CSS photo showing Route 110, looking north, at the Francine Avenue partial intersection where Mr. Vasquez crossed Route 110 prior to the collision.





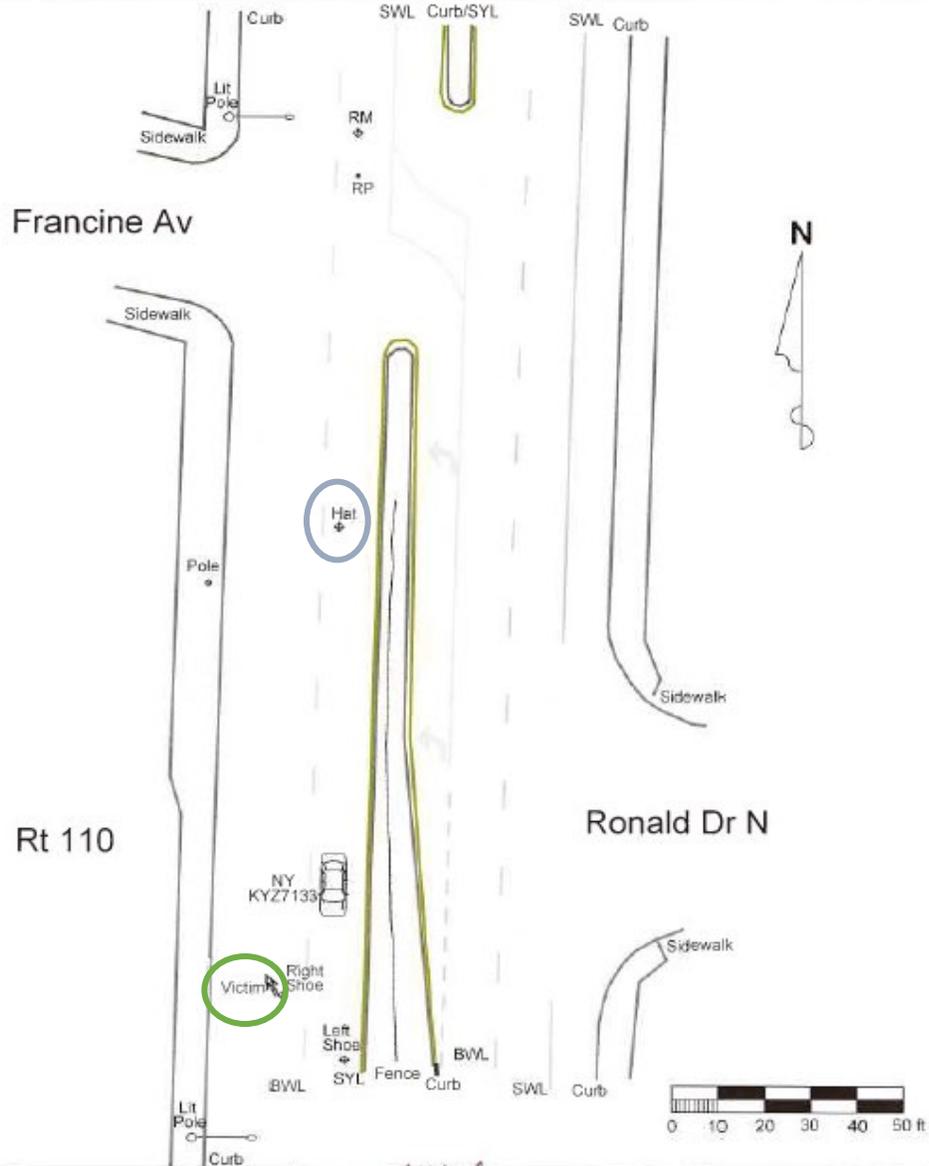
Two CSS photos showing Officer Moffatt's car with visible front-end damage.

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PAGE NO. 2	OF 2	PAGES



POLICE DEPARTMENT, COUNTY OF SUFFOLK, N.Y.
CONTINUATION REPORT

DISTRIBUTION: Same as Initial Report



REPORTING OFFICER: Draskin PO 5499 / 4140 / 5
 SUPERVISOR: [Signature] / 1440 / 5
 DATE: 3/17/2025

CSS diagram of the post-collision scene. Blue circle indicates approximate point of impact. Green circle indicates approximate final resting place.

Medical Treatment and Autopsy

On-Scene Medical Response

According to the Patient Care Report (PCR), North Amityville Fire Company paramedic Ryan McCarrick and emergency medical technician (EMT) Bryan Jenkins responded to the scene at 12:18 a.m. The PCR narrative read, "The crew responded to a vehicle-pedestrian crash a block from the fire station. The crew pulled up after SCPD arrived and found an adult male lying face down 20 feet away from a mid-size crossover SUV with a large dent, deformed front-end. The patient had no signs of life and significant head trauma...The road had a fence to prevent people from crossing; the impact appeared to have been just at the edge of the fenceline. The incident happened at or just after midnight at a section of road where there were no marked crosswalks." Resuscitation efforts were not attempted by the paramedic or EMT. The PCR noted that Mr. Vasquez did not show any signs of life and "met the criteria" for "obvious dead." Mr. Vasquez was declared dead by the paramedic at 12:20 a.m.

Autopsy

Dr. Gina Prochilo of the Suffolk County Medical Examiner's Office performed the autopsy of Mr. Vasquez and determined that the cause of Mr. Vasquez's death was "multiple blunt impact injuries" and deemed the manner of death to be "accident (pedestrian struck by motor vehicle)."

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." Criminal negligence is defined in PL 15.05(4): "A person acts with criminal negligence with respect to a result [e.g., death] ... when he fails to perceive a substantial and unjustifiable risk that such result will occur 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 fatal vehicular cases with evidence not clearly implied in the statutory definition. Under these decisions, proof of the defendant's failure to perceive the risk of death 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 N.Y.2d 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 N.Y.2d 683 [defendant, who was speeding and drag racing on city street, struck and killed driver stopped at red light]; *People v Ricardo B*, 73 N.Y.2d 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 N.Y.2d 804, 807 [intoxicated defendant was speeding on obstructed street under construction in residential neighborhood in Queens]; *People v Maker*, 79 N.Y.2d 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 N.Y.2d 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 N.Y.2d 893, 894-895 [intoxicated defendant driving on wrong side of a foggy road at 4:30 A.M.], **with** *People v Perry*, 123 A.D.2d 492, 493 [4th Dept 1986], *affd* 70 N.Y.2d 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 N.Y.2d at 696)."

Cabrera, at 377-378, emphasis added, all material in square brackets in original.

In *People v Badke*, 21 Misc3d 471 (Suffolk Co Ct 2008), the court dismissed criminally negligent homicide counts, finding insufficient the grand jury evidence that defendant drove at excessive speed with passengers in his car, collided with another vehicle, and caused the deaths of three passengers. The court said, "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.

The evidence in this investigation does not meet the standard the courts have set for proof of dangerous speeding or other "seriously blameworthy conduct." Examples of "dangerous speeding" include running a red light while racing another car on a busy city street, *People v Ricardo B*, 73 NY2d 228 (1989); driving drunk in Manhattan while going 25 to 50 mph over the speed limit and disobeying traffic signs, *People v Maher*, 79 NY2d 978 (1989); and driving through a red light at 52 miles per hour, *People v Haney*, 30 NY2d 328 (1972). In contrast, in *People v. Perry*, 23 AD2d 492 (4th Dept 1986), *affd*, 70 NY2d 626 (1987), a court overturned a conviction where the defendant was driving at night and going 25 mph over the speed limit on a rural road when he struck a utility pole and killed a passenger, holding that such "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." Similarly, in *People v Badke*, 21 Misc3d 471, 477-78 (Suffolk Co Ct 2008), a court dismissed an indictment when the evidence failed to show "any other factor in addition to speed [that] convert[ed] Mr. Badke's actions to dangerous speeding."

Like *Badke* and *Perry*, the evidence does not establish that Officer Moffatt's speed was "dangerous speeding," as his speed was estimated to be between 43 mph and 47 mph immediately prior to the collision, in a 40-mph roadway, he was not intoxicated, and he was not on his cell phone prior to the collision.

Based on the investigation, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that Officer Moffatt committed a crime when he caused Mr. Vasquez's death. As a result, OSI will not present this case to a grand jury for consideration of criminal charges and closes the matter with the issuance of this report.

Dated: March 19, 2026