

Drugged Driving: Where We Stand

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Drug Use Crisis

- ❑ **On Wednesday May 11, 2022 the Centers for Disease Control announced that more than 107,600 Americans died from drug overdoses in 2021.**
- ❑ **It was the highest annual death toll on record.**
- ❑ **In 2022 the number receded slightly to 107,081**

Crossing the Line...



The Problem:

(As far as it can be counted...)

- 2021 – Highest number of traffic fatalities in 16 years: 42,939 2022 – minimal .3% reduction to 42,795**
- In the United States, 9,818 people were killed in drug-involved crashes in 2020, a 1.6 percent increase from 9,661 in 2019, and a 7.4 percent increase from 9,140 in 2016 (per Berkeley SafeTREC) Only 53.7% of NY fatalities reported Tox (per NTSB Dr. Ryan Smith)**
- In August 2023, U.S. Transportation Secretary Pete Buttigieg again characterized the rising number of roadway deaths as a national crisis.**
- The National Highway Traffic Safety Administration (NHTSA) reported in June of 2021 that nationally 56% of drivers involved in serious injury and fatal crashes tested positive for at least one drug.**
- In New York 40% of fatal and injury crashes in 2020 were drug-related. (ITSMR Data)**

AP / ABEL SCHALIT



Soldiers assess damage from Hamas attack in Kibbutz Be'eri, Israel.

'HUNDREDS OF THOUSANDS' FLEE IN GAZA

Israel issues new warnings of invasion, says Hamas is using civilians as human shields

PLUS: QUESTIONS AND ANSWERS ABOUT THE WAR **A4-6**

newsday.com
\$4.99 | LI EDITION
Sunday
Oct. 15, 2023

Newsday

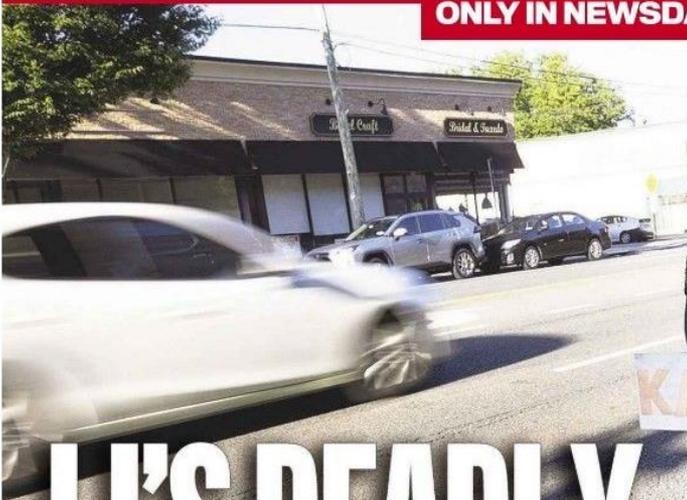
SPORTS FINAL

YOUR EYE ON LI



HI 60° LO 48°
MOSTLY CLOUDY

ONLY IN NEWSDAY



Memorial on Hempstead Turnpike where Katerine Vanegas-Hernandez, 6, died Aug. 7.

KATERINE HS

LI'S DEADLY ROADS

Reckless driving up, enforcement down as traffic fatalities surge, Newsday analysis finds

PLUS: HOW TO MAKE ROADS SAFER

A2-3, 16-18 | VIDEO AT NEWSDAY.TV

REBECCAH COVATY

On Trial Now

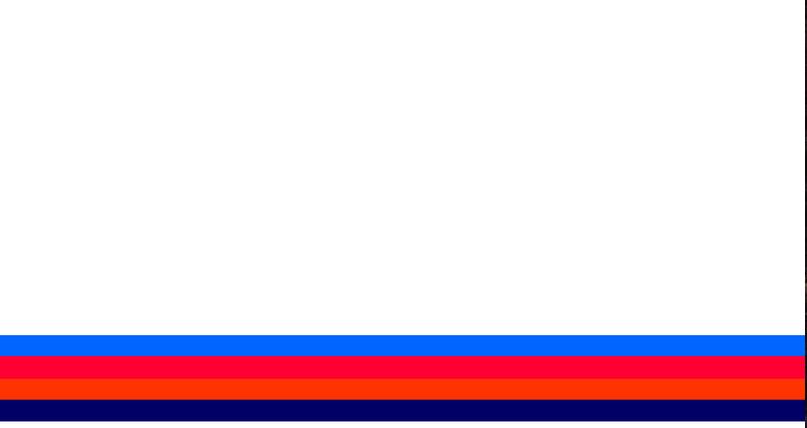
PO Anastasio Tsakos

- ❑ **14 NYPD Veteran**
- ❑ **Married father of 6 yo daughter and 3 yo son**

**Violently Killed in alleged Hit and Run on duty
on the Long Island Expressway 12:30 a.m. on
April 27, 2021**

**People v. Beauvais
Alleged to be .15 BAC and
High on cannabis**





PEOPLE v. HEIDGEN

- **July 2, 2005**
- **2:00 A.M.**
- **Meadowbrook State Parkway at the
Babylon Turnpike Exit**



FG +0.0 SG +0.0 Time -10.00
Front View

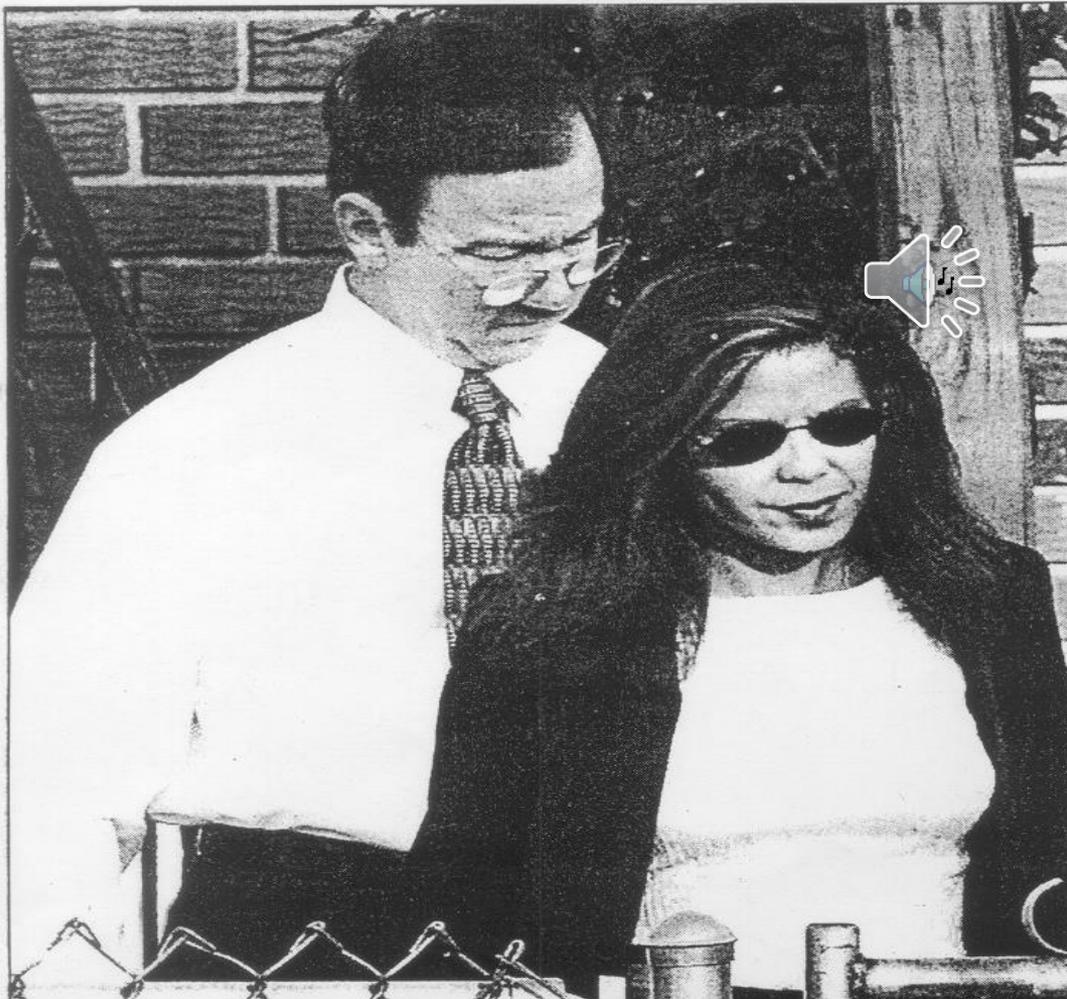




People v. Gray

- **August 4, 2001**
- **9:00 P.M.**
- **Third Avenue at 46th Street, Brooklyn**
- **Victims:**
 - **Maria Herrera, 8 ½ mos. Pregnant, 22 yo**
 - **Andy Herrera, 4 yo**
 - **Newborn Infant Son**
 - **Delcia Pena, 16 yo**

'DWI' COP TO TESTIFY: IT WAS 'UNAVOIDABLE'



TRAGEDY: Maria Herrera and 4-year-old son Andy were killed crossing the street in Brooklyn. *MP P.19 4/18/02*

By DENISE BUFFA

An ex-cop accused of killing a pregnant woman, her sister, son and newborn child in a horrific Brooklyn crash after a drinking binge last summer will take the stand in his own defense — insisting it wasn't his fault.

"The bottom line of his testimony will be that this horrible incident was an unavoidable accident," defense lawyer Harold Levy told potential jurors at Brooklyn Supreme Court yesterday.

But prosecutor Maureen McCormick strongly suggested that the crash was a "preventable, avoidable result of choices."

"What this is about is having too much to drink and driving," the prosecutor said.

also charge he was speeding and ran a red light.

Gray's lawyer concedes the evidence will show that his client had been drinking, but maintained that the crash had nothing to do with the alcohol Gray may have consumed that day.

Gray said in court documents that he was driving on Third Avenue at 45th Street when he realized he was approaching construction barriers, so he moved from the left to the middle lane to avoid them — instead hitting the victims who were crossing the street.

The defense also says Gray was going the 30-mph speed limit and did not run the red light.

If convicted, Gray faces up to 15 years in prison.

Seven jurors were cho-

People v. Zapulla

- **February 5, 2003**
- **2:30 p.m.**
- **Atlantic Avenue, Brooklyn**
- **Victims:**
 - **Yaritza Santos, 19 yo**
 - **Manuel Villot, 11 mos.**
 - **Nery Majia, 17 yo**
 - **Ricky Nivar, 11 mos. – critically injured**

Tears for three innocents



FAREWELL: Brooklyn hit-and-run victims (from left) Yaritza Santos, her baby, Manny Villot, and Nery Mejia were buried yesterday in the same cemetery.

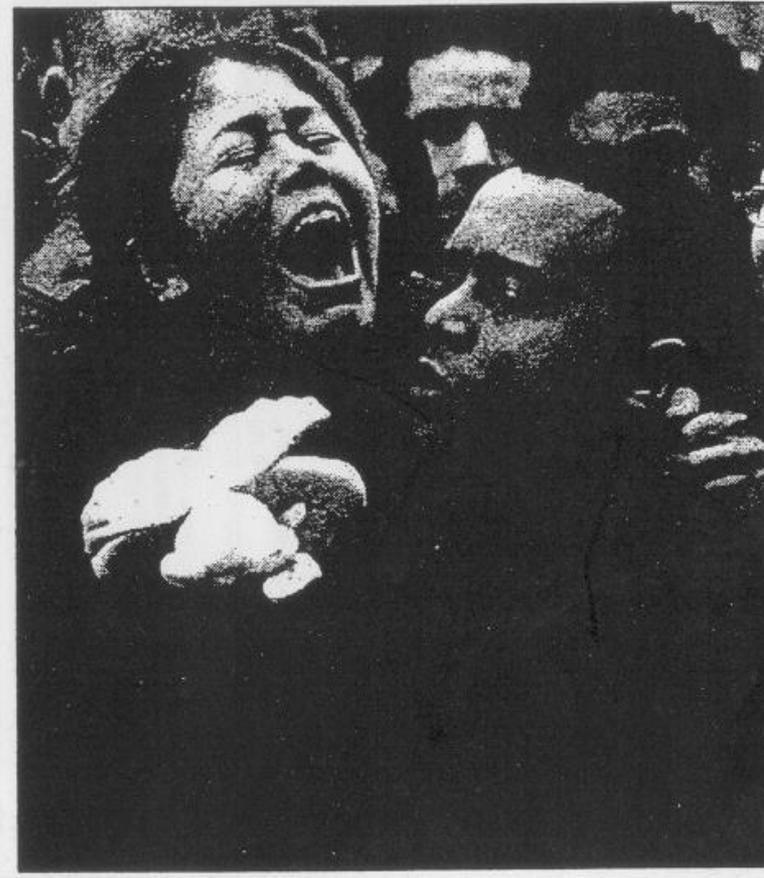
Hit-run moms, baby laid to rest

NYP. 2/11/03
By JENNIFER GOULD
and LORENA MONGELLI

Two Brooklyn families bonded by tragedy mourned together yesterday as they buried two teen moms and a baby mowed down by a 25-year-old SUV driver allegedly pumped up on heroin

them last Wednesday, police said. Santos and her 10-month-old, Manuel Noriega Villot, were killed along with Mejia, whose critically injured son survived.
"We're not sure who will take care of him now," said Mejia's uncle Danny Paradis.
The families held con-

sults in Santos' life — her apartment on Etna Street and the hit-and-run site — on the way to the burial.
About 100 people tossed red roses into the grave. Earlier, at the funeral, mourners viewed Santos cradling her son, known as Manny, in the open coffin.
As the coffin was lowered into the grave, San-



CRY FROM THE HEART: "I love you," wails Nery Paradis, the mom of victim Nery Mejia. Keith Bedford

ble of all my cousins," said Torres, 22, a Columbia University graduate.
Santos' sobbing mom could barely stand her

filled the cemetery.
Emotions also ran high across the cemetery where Mejia was buried.
"Can you hear me? I love

Basic Drugged Driving Elements:

- **OPERATION**
- **MOTOR VEHICLE**
- **PUBLIC HIGHWAY/PARKING LOT**
- **IMPAIRED (TO ANY EXTENT) BY A
PHL 3306 DRUG**



Kristian Roggio



People v. Litto

Defendant while alleged to be driving while intoxicated by “Dust-Off” (diflouroethane) drove into oncoming traffic on January 13, 2004 killing 18 year old Kristian Roggio. Diflouroethane is not on the drug “list”. Charged under 1192.3 (intoxicated condition). Rejected by the Court of Appeals

VTL § 1192. Operating a motor vehicle while under the influence of alcohol or drugs:

- ❑ 1. Impaired by alcohol (Traffic Infraction)**
- ❑ 2. Driving while intoxicated; per se .08 BAC or higher (Misdemeanor)**
- ❑ 2a. Leandra's Law: No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less is a passenger (Felony)**
- ❑ 3. Driving while intoxicated. No person shall operate a motor vehicle while in an **intoxicated condition** (Misd.)**

VTL §1192.4 & §1192.4a: Drug and Combined Effects

- ❑ **4. Driving while ability impaired by drugs. No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter.**
- ❑ **4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs**
- ❑ **NY is an ACTUAL IMPAIRMENT state; no “per se” drugged driving charge**

Current Definition of Drug: VTL §114-a

- The term “drug” when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and cannabis and concentrated cannabis as defined in section 222.00 of the penal law.

LITTO

3. Driving while intoxicated?

No person shall operate a motor vehicle while in an intoxicated condition

People v. Litto

8 NY3d 692 (2007)

Holding:

“The history and structure of Vehicle and Traffic Law 1192(3) demonstrate that the Legislature intended it to apply only to intoxication caused by alcohol.”

People v. Litto

8 NY3d 692 (2007)

**“Perhaps gaps exist in the law...
However, a determination by this Court
that intoxication in Vehicle and Traffic
Law § 1192(3) includes the use of any
substance would improperly override the
legislative policy judgment.”**

Meaning that only the legislature can fix this gap

People v. Koszko, 57 Misc.3d 47 (2017) & People v. Levine, 72 Misc.3d 5 (2021)

“For purposes of Vehicle and Traffic Law § 1192 (4), the People were required to prove that there was probable cause for defendant’s arrest, which requires the People to show that **when defendant was arrested, it was more probable than not that he exhibited “actual[] impair[ment], to any extent, [of] the physical and mental abilities which [a person] is expected to possess in order to operate a vehicle as a reasonable and prudent driver”..., and that the impairment resulted from the ingestion of a drug listed in PHL §3306”.**

The Current Catch-22 Followed by WHY the Law Must Change:

- Appellate Term, 9th and 10th**
- No Probable Cause for arrest and request for blood where the PO observed impairment but could not name the drug (Not DREs – wouldn't matter)**
- Consent blood on Levine revealed Alprazolam, Clonazepam and Citalopram - suppressed.**
- Koszko – Admitted Soma, blood revealed carisoprodol (soma) as well as estazolam and meprobamate, also controlled substances - suppressed**

The Koszko and Levine holdings – requiring law enforcement to name the PHL drug at arrest - apply directly to Nassau, Suffolk, Westchester, Rockland, Orange, Putnam and Dutchess Counties. It is advisory to other counties. **BUT**

STATEWIDE: The PHL §3306 drug has to be named for the charge to be sufficient. (So, some courts – for now - allow the arrest to take place without the name of the drug, a VTL §1194 test to be administered and the case to proceed while identifying tests are pending, but the case **must** ultimately name the drug for the case to be prosecuted.

If the driver refuses the test and the drug can't be named, it cannot be legally prosecuted.

August 6, 2023



The Huntley Family



The Lives Stolen in an Instant



Patrice 60



Jeremiah 10



Hannah 13



Chantel 6

6 Main Drugged Driving Loopholes

Closed by Deadly Driving Bill

Pre-existed Cannabis Legalization:

- 1. Impairing substance must be named by law enforcement and must be on the list**
- 2. The driver can refuse an identifying test and a court order cannot be obtained without death or serious injury**
- 3. Impairment and intoxication have distinct meanings but are being conflated**

Loopholes Continued

- 4. The law requiring submission to roadside screenings does not include oral fluid testing and court decisions invalidated the traffic infraction for refusing**
- 5. DRE evaluations can exonerate as well as provide evidence of actual impairment. They should be encouraged through license sanctions**
- 6. Drugged drivers should have licenses suspended pending prosecution like DWIs**

**1. Impairing substance must
be named by law enforcement
and must be on the list**



NY is Behind the Rest of the Country

Only 4 other states use a list as of 2023:

Florida, Hawaii, Massachusetts and Alaska

The Solution: (S.3135/A.174)

Expand the Definition of “Drug”

- **Definition of “drug”.** Amend definition of “drug” as follows:

§114-a. Drug. The term “drug” when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and any substance or combination of substances that impair, to any extent, physical or mental abilities.

More Support for the Proposed Definition of Drug

- **DRUG IMPAIRED DRIVING ® A GUIDE FOR STATES, GHSA_DruggedDriving2017_FINAL.pdf**
- **This toxicology definition of drug in the context of impaired driving is part of the model laws for Prohibiting Driving Under the Influence (DUI) of Alcohol or Drugs [§1(a)] developed by the Institute for Behavior and Health (IBH) and the National Partnership on Alcohol Misuse and Crime (NPAMC).**

NTSB

- ❑ **NTSB Report, “Alcohol, Other Drug, and Multiple Drug Use Among Drivers”**
- ❑ **P. 70 - Statutes should define drug-impaired driving as driving that is caused by impairment from any drugs rather than limiting their statutes to illicit drugs or to a set of drugs presently associated with impairment.**

When the Impairing Substance Isn't on “The List”

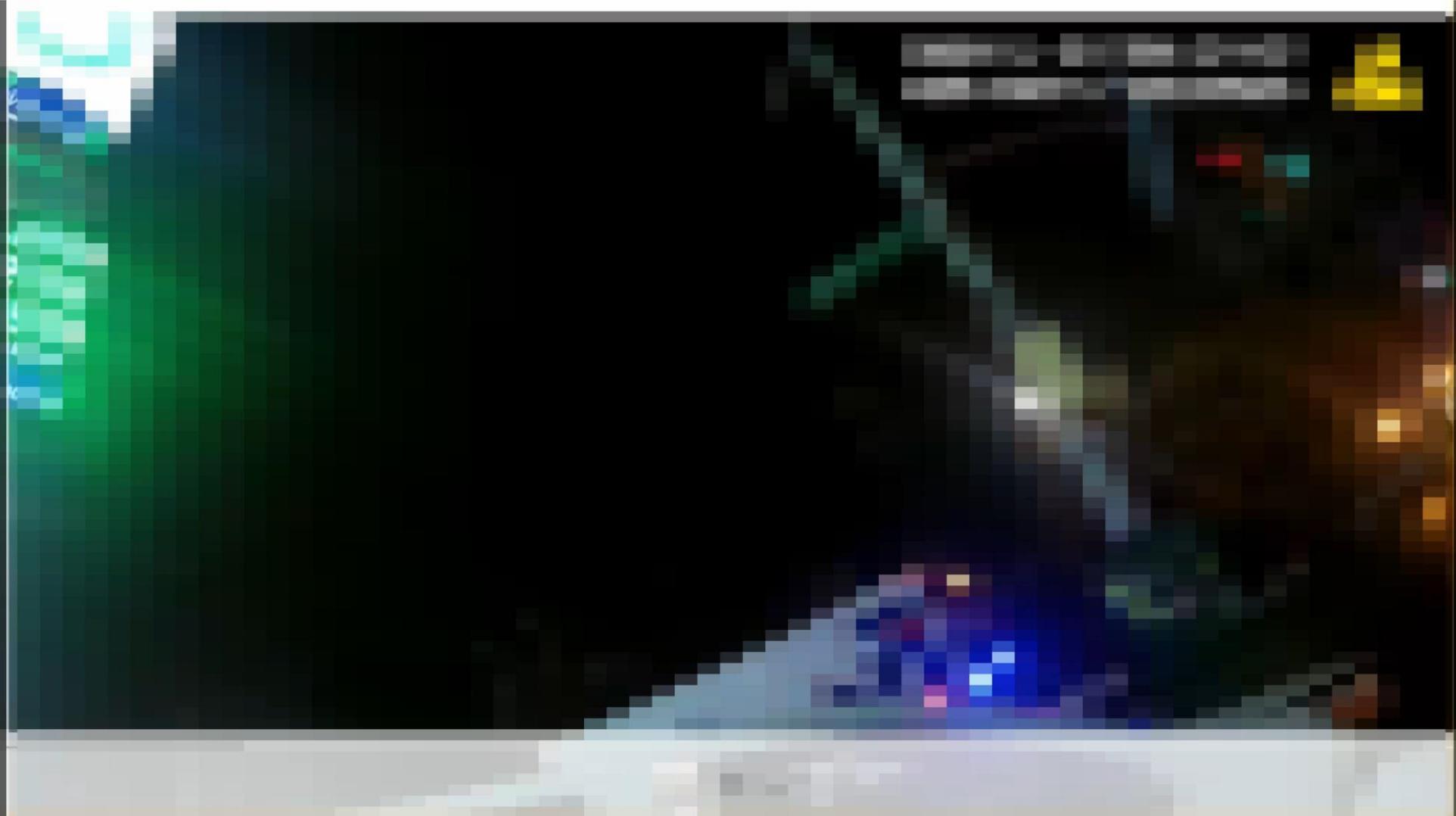


EXCLUSIVE

6:00 84°



NYPD Body Worn Camera Footage: No Charges Because the Drug Could not be Named



2. The driver can refuse an identifying test

- Currently court-ordered blood draws are only permitted in “serious physical injury or death” cases once a judge finds probable cause. S.3135/A.174 would expand blood draws to drivers who refuse the test in crash cases and to drivers with prior impaired driving arrests. (Should it be stronger?)
- This provision would be considered constitutional under the Supreme Court ruling in Schmerber v. California and “required” under Missouri v. McNeely

Unidentified and Impaired “To Any Extent”

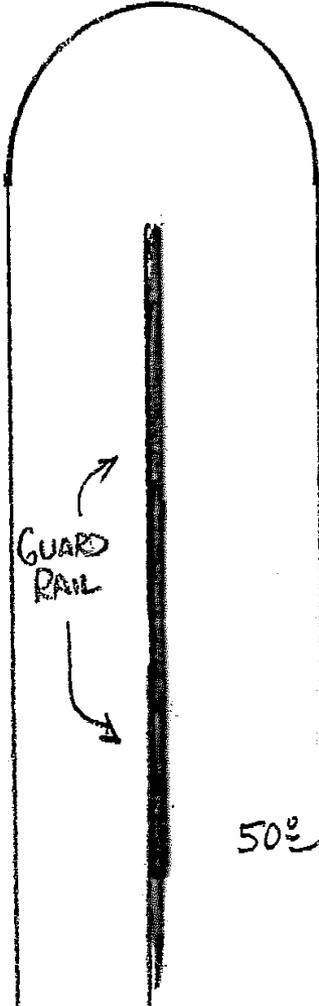
People v. Moss

- **Saturday, May 12, 2007**
- **4:15 p.m.**
- **Victims:**
 - **Antonia Brancia**
 - **Sjef Vandenberg**

OLD BROOKVILLE
N.Y.

GLEN HEAD ROAD

MV
6



MV
5

MV
4

MV
3

MV
2

MV
1



50' ←

← 472

← 352

← 232

← 108

AREA OF
GOUGES
& SCRAPES
58' 10"
LONG

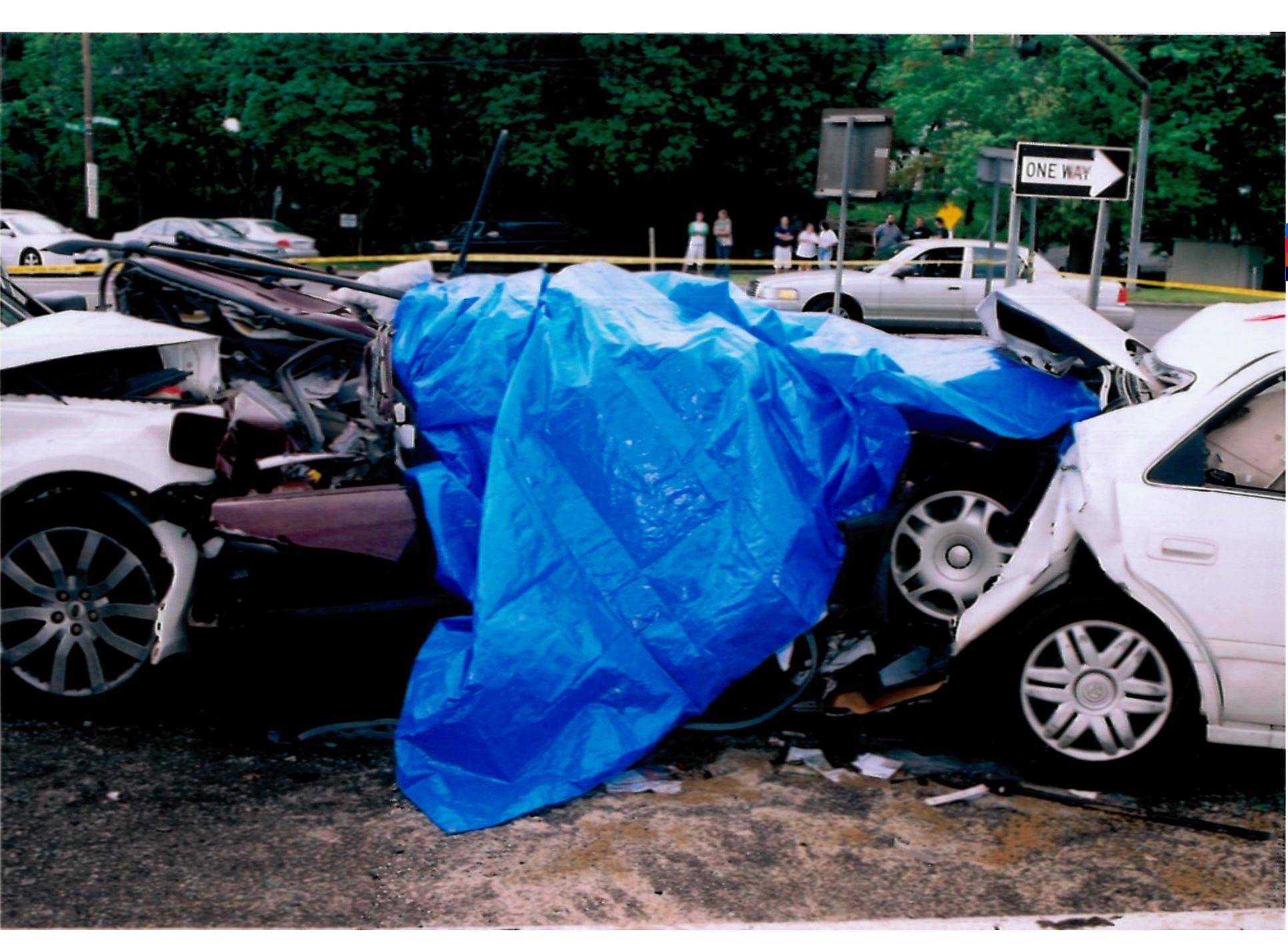
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NTS

GLEN COVER RD









Impairment to any extent

Defining Impairment and Intoxication

- ❑ **Moss is an example of how dangerous drug impairment that affects cognitive functioning and results in dangerous driving may not look like obvious intoxication. Some drug impairment can result in a failure to recognize and react to surroundings while the driver's external change in appearance is subtle. Trained law enforcement officers can identify and articulate this less obvious but dangerous level of impairment. Recent court decisions have blurred these terms.**

3. Intoxication and Impairment are being conflated by the Court

□ **People v. Caden N., 189 A.D.3d 84 (3rd Dept. 2020)**

(Applies Statewide)

□ **“Accordingly, in our view, the degree of impairment necessary to convict a motorist of vehicular manslaughter in the second degree based upon a death that was caused while such motorist was under the influence of one of the drugs enumerated in Public Health Law § 3306 (which includes marihuana) is the same degree of impairment as would be necessary to sustain a conviction of driving while intoxicated by alcohol – **113 namely, the People must prove that such motorist was “incapable of employing the physical and mental abilities which he [or *91 she was] expected to possess in order to operate a vehicle as a reasonable and prudent driver”**

S.3135/A.174 Restores and Codifies the Definitions

- ❑ This bill codifies the definitions enunciated more than 40 years ago by the Court of Appeals in People v. Cruz, 48 N.Y.2nd 419 (1979) and People v. Ardila, 85 N.Y.2nd 846 (1995) and extends them to all impairing substances.**
- ❑ Courts and practitioners had been familiar with the application of these terms until a recent Appellate Division decision conflated them in People v. Caden N.**
- ❑ This legislation will re-establish “impaired” and “intoxicated” as separate standards. The two standards are necessary to recognize the distinct and scientifically supported danger of drug impaired driving. (History)**

NYACCP Support Since 2012

- **New York Chapter of the American College of Physicians**
- **12,000 members**
- **RESOLVED, that NYACCP work to clarify the legal definition of driving while intoxicated/impaired**
- **Adopted the language of the proposed legislative correction**
- **PUBLIC HEALTH ISSUE**

New York Chapter of the American College of Physicians (NYACP)

12,000 Members – 2012*

Resolution LC 11-04:

RESOLVED, that the New York Chapter of the American College of Physicians (NYACP) work to clarify the legal definition of driving while intoxicated and/or impaired to include language such as that in Attachment A*; and be it further

RESOLVED, that the New York Chapter of the American College of Physicians (NYACP) support programs that educate the public on the dangers of driving while intoxicated, impaired or distracted.

Attachment A -

Impairment is reached when a driver has voluntarily consumed or ingested a substance or combination of substances to the extent that the driver has impaired, to any extent, the physical and mental abilities which a driver is expected to possess in order to operate a vehicle as a reasonable and prudent driver.

Intoxication is a greater degree of impairment which is reached when a driver has voluntarily consumed or ingested a substance or combination of substances to the extent that the driver is incapable of employing the physical and mental abilities which a driver is expected to possess in order to operate a vehicle as a reasonable and prudent driver.

*Resolution LC11-04 above was adopted to support proposed bill S.754/A.6491 in the 2013-2014 legislative sessions. The same definitions are in the pending Deadly Driving Bill (S.3135/A.174). These definitions, approved by the 12,000 members of the NYACP, were first introduced by the Court of Appeals in relation to alcohol in People v. Cruz, 48 N.Y.2d 419 (1979). Impairment and intoxication are not currently defined by statute. There have been efforts to codify these terms, as defined in Cruz and used in the courts for decades, since S.6814/A.10015 was proposed in 2008. The definition has been proposed effectively every year up to the present. Recent decisions, like People v. Caden N., 189 A.D.3d 84 (3rd Dept. 2020) have conflated the terms and have confused the standards to be applied making codification essential.

**4. The law requiring
submission to roadside
screenings does not include
oral fluid testing**

**And the VTL §1194(1)(b)
Traffic Infraction is Gone**

**People v. Harris, 201 A.D.3d 1327 (2022) &
People v. Bembry, 199 A.D.3d 1340 (2021)
(Applies Statewide)**

“Finally, we note that the Appellate Term, Second Department, has repeatedly stated that a defendant’s ‘refusal to submit to a breath test did not establish a ‘cognizable offense’ ”...

“We agree, and we therefore further modify the judgment by reversing that part convicting defendant of count four of the indictment, vacating the plea with respect to that count of the indictment and dismissing that count.”

VTL §1800

1800. Penalties for traffic infractions. (a) It is a traffic infraction for any person to violate any of the provisions of this chapter or of any local law, ordinance, order, rule or regulation adopted pursuant to this chapter, unless such violation is by this chapter or other law of this state declared to be a misdemeanor or a felony.

Nothing changed...

S.3135/A.174 Adds Oral Fluid Testing to the Field Sobriety Test Statute

- **Field sobriety tests.** This bill amends the field testing (Preliminary Breath Test - PBT) provision of the VTL [§1194(1)] to require that any person involved in an accident ...shall, at the request of a police officer, “submit to a breath test and/or oral/bodily fluid to be administered by the police officer, and/or to an evaluation by a drug recognition expert (DRE)”
- **The bill reinstates the traffic infraction for refusing a field sobriety test**

Example: NYPD



PATROL GUIDE

Section: Vehicle Collisions		Procedure No: 217-02	
VEHICLE COLLISIONS WHICH RESULT IN DEATH, SERIOUS INJURY AND LIKELY TO DIE, OR CRITICAL INJURY			
DATE ISSUED: 08/19/13	DATE EFFECTIVE: 08/19/13	REVISION NUMBER:	PAGE: 1 of 4

PURPOSE

To investigate vehicle collisions in which death, serious injury and likely to die, or critical injury has occurred and to present facts to the District Attorney.

DEFINITION

CRITICAL INJURY – A critical injury will be determined based upon the on-scene assessment of Emergency Medical Services (EMS) personnel.

PROCEDURE

After responding to a vehicular collision in which death, serious injury and likely to die, or a critical injury has occurred, follow normal vehicle collision procedures and, in addition:

- **Can also be used on some, but not all DRE call-out cases**



CONSENT TO SUBMIT

ORAL FLUID SAMPLES

(08/15)

I, _____ of
(Print Name) (Date of Birth)

(Address)

give consent to the New York City Police Department to take oral fluid samples and I understand that I have a right to refuse. I understand that my oral fluid will thereafter be submitted for analysis. I am giving my consent knowingly, voluntarily, intelligently and without threats or promises of any kind.

(Signature of Consenter)

(Time and Date)

Member of the Service Witness, Rank/Name (Print)	Tax No.	Shield No.	Command
Signature of Member of the Service Witness			Date

Roadside OF Testing Devices



**5. DRE Evaluations have no
incentive for drivers to take them like
chemical tests**

**They are scientific tests.
Why not?**

S.3135/A.174 Equates DRE exams to evidential breath and blood tests for refusal sanctions

- ❑ **DRUG RECOGNITION EVALUATION PROVIDES THE BEST EVIDENCE OF ACTUAL IMPAIRMENT**
- ❑ **CAUSED BY DRUGS – LINKS OBSERVATIONS**
 - **Rather than Illness or Injury**
 - **Rather than Sleepiness or other factors**
- ❑ **NOT JUST USE – There is no “PER SE” Drugged Driving charge.**

Refusals and DRE Evaluations

- ❑ **The bill extends the same sanctions (license revocation and civil fine) that exist for refusing to submit to a chemical test to a refusal to submit to an evaluation for drugs by a DRE.**
- ❑ **Evidence of a refusal to submit to a DRE evaluation would also be admissible at trial (in the same manner as evidence of refusal to submit to a chemical test).**
- ❑ **No time limit on a Refusal for admissibility**

People v. Odum, 31 N.Y.3d 344 (N.Y. 2018)
(Applies Statewide)

Here, because the breathalyzer test was not administered in accordance with the requirements of section 1194 and defendant's consent to take the test was not voluntary, as required by Atkins, the results of the test were properly suppressed.

**But how does that reconcile with
People v. Atkins, 85 N.Y.2d 1007 (1995)**

But DREs can only identify impairment by drug category

- **Seven Categories**
- **CNS Depressants (+ Alcohol)**
- **CNS Stimulants**
- **Hallucinogens**
- **Dissociative Anesthetics**
- **Narcotic Analgesics**
- **Inhalants**
- **Cannabis**



Drug Influence Evaluation – Symptomology Matrix



	CNS Depressants	CNS Stimulants	Hallucinogens	Dissociative Anesthetics	Narcotic Analgesics	Inhalants	Cannabis
HGN	Present	None	None	Present	None	Present	None
Vertical Nystagmus	Present <i>(High dose for that individual)</i>	None	None	Present	None	Present <i>(High dose for that individual)</i>	None
Lack Of Convergence	Present	None	None	Present	None	Present	Present
Pupil Size	Normal (1)	Dilated	Dilated	Normal	Constricted	Normal (4)	Dilated (6)
Reaction To Light	Slow	Slow	Normal (3)	Normal	Little or none visible	Slow	Normal
Pulse Rate	Down (2)	Up	Up	Up	Down	Up	Up
Blood Pressure	Down	Up	Up	Up	Down	Up/Down (5)	Up
Body Temperature	Normal	Up	Up	Up	Down	Up/Down/ Normal	Normal
General Indicators	Disoriented Droopy Eyelids Drowsiness Drunk-like behavior Flaccid muscle tone Gait ataxia Slow, sluggish reactions Thick, slurred speech Uncoordinated <i>NOTE: With Methaqualone, pulse will be elevated and body tremors will be evident. Alcohol and Quaaludes elevate pulse. SOMA and Quaaludes dilate pupils.</i>	Anxiety Body tremors Dry mouth Euphoria Exaggerated reflexes Excited Eyelid Tremors Grinding teeth (Bruxism) Increased alertness Insomnia Irritability Redness to nasal area Restlessness Rigid muscle tone Runny nose Talkative	Body tremors Dazed appearance Difficulty w/ speech Disoriented Flashbacks Hallucinations Memory loss Nausea Paranoia (Bruxism) Perspiring Poor perception of time & distance Rigid muscle tone Synesthesia Uncoordinated <i>NOTE: With LSD, piloerection may be observed (goose bumps, hair standing on end)</i>	Blank stare Confused Chemical odor (PCP) Cyclic behavior (PCP) Difficulty w/ speech Disoriented Early HGN Onset Hallucinations Incomplete verbal responses Increased pain threshold "Moon walking" (PCP) Perspiring (PCP) Possibly violent (PCP) Rigid muscle tone Sensory distortions Slow, slurred speech	Constricted pupils Depressed reflexes Drowsiness Droopy eyelids (Ptosis) Dry mouth Euphoria Facial itching Flaccid muscle tone Nausea Fresh puncture "On the Nod" Puncture marks Slow, low, raspy speech Slowed breathing <i>NOTE: Tolerant users exhibit relatively little psychomotor impairment</i>	Bloodshot, watery eyes Confusion Disoriented Flushed face Intense headaches Lack of muscle control Non-communicative Normal or flaccid muscle tone Odor of substance Possible nausea Residue of substance Slow, thick, slurred speech <i>NOTE: Anesthetic gases cause below normal blood pressure; volatile solvents and aerosols cause above normal blood pressure</i>	Body tremors Disoriented Debris in mouth Eyelid tremors Impaired perception of time & distance Increased appetite Marijuana debris in Marked reddening of conjunctiva Normal muscle tone Odor of Marijuana Possible paranoia Relaxed inhibitions
Duration Of Effects	Barbiturates: 1-16 hours Tranquilizers: 4-8 hours Methaqualone: 4-8 hours	Cocaine: 5-90 minutes Amphetamines: 4-8 hours Methamphetamines: 12 hours	Duration varies widely from one Hallucinogen to another LSD: 4-6HRS Psilocybin: 2-3hrs	PCP On-set: 1-5 minutes Peak effects: 15-30 minutes Exhibit effects up to 4-6 hrs DXM – Onset 15-30 min. Effects 3-6 hours	Heroin: 4-6 hrs Methadone: up to 24 hrs Other: Vary	6 – 8 hours for most Volatile solvents Anesthetic gases and aerosols - very short duration	2-3 hours – exhibits effects (Impairment may last up to 24 hours without awareness of effects)
Usual Methods Of Administration	Oral Injected (occasionally)	Insufflation Smoked Injected Oral	Injected Transdermal Snort (Insufflation) Oral Smoked	Smoked (PCP) Oral Insufflation (PCP) Injected (PCP) Eye drops	Injected Oral Smoked Insufflation	Insufflation (Historically have been taken orally)	Smoked Oral
Overdose Signs	Cold, clammy skin Pupils dilated Rapid, weak pulse Coma Shallow breathing	Agitation Increased body temperature Hallucinations Convulsions	Long, intense "trip"	Long, intense "trip"	Slow, shallow breathing Clammy skin Coma Convulsions	Coma	Fatigue Paranoia

- 1) Soma, Quaaludes and some anti-depressants usually dilate pupils
- 2) Quaaludes, ETOH and possibly some anti-depressants may elevate
- 3) Certain psychedelic amphetamines may cause slowing
- 4) Normal, but may be dilated
- 5) Down with anesthetic gases, up with volatile solvents and aerosols
- 6) Pupil size possibly normal

ARIDE Training

(Part of the Scientific Safety Net)

ADVANCED

ROADSIDE

IMPAIRED

DRIVING

ENFORCEMENT

Enhanced drug recognition training for patrol officers – actual impairment observations

**6. There are no
suspensions pending
prosecution for drugs**

Why not?

S.3135/A.174 Suspends drugged drivers' licenses pending prosecution

- Under current law, a drugged driver can be arraigned and leave court with a valid license until the case is concluded. Drivers with a .08 BAC (or higher) are suspended.**
- The bill suspends both alcohol intoxicated and drugged drivers' licenses when there is a test result or admission.**

Cannabis Legalization



The Insurance Institute for Highway Safety Report

- An IIHS study reviewing data from 2009- 2019 found that injury and fatal crash rates in California, Colorado, Nevada, Oregon and Washington increased in the months following the “relaxation” of marijuana laws in each state.**
- There was a 6% increase in injury crash rates and a 4% increase in fatal crash rates compared with other Western states where recreational marijuana use was illegal during the study period. But the same study classified the 4% increase as statistically insignificant.**

Creating a Functional Drugged Driving Statute:

- ❑ Does not roll back cannabis legalization any more than having a functional alcohol DWI statute rolled back the end of prohibition.
- ❑ S8913/A9554 – does not create any additional bases’ for car stops. The sponsors have expressed concern for the equity of those stops. Their bill deals with the loopholes in the law *after* the stop is made. Probable cause or a strictly unbiased checkpoint are required for the stop or the charges will be dismissed by the court.

CANNABIS

Delta 9 – THC (Tetrahydrocannabinol)
(Main Psychoactive = Gets User High)

**CBD -
Cannabidiol**
*(Primary
Medical
Properties)*

**Other
Chemical
Compounds**
*(We Don't
Even Know;
at least 113)*

Carboxy THC
*(Inactive
Metabolite,
evidence of
past use)*

11 - Hydroxy THC
(Active metabolite, Useful for determining TIME of ingestion)
Highly Psychoactive

Cannabigerol
|

Cannabinol

*Better
evidence of
recent use*

*Does not last
in blood long
(declines
rapidly)*

*Less likely to
accumulate
in fat*

*About the
same ½ life as
THC*

**High
Levels in
Edibles**

NOT YOUR GRANDMA'S WEED



POTENCY



- 1975 – Less than 1% THC
- 1985 – Less than 3% THC
- 2018 – Up to 90% THC





www.nhtsa.gov

- “Inadvisable to try and predict effects based on blood THC concentrations alone”
- “It is difficult to establish a relationship between a person’s THC blood or plasma concentrations and performance impairing effects.”
- 2017 – Report to Congress: weak relationship between THC blood levels and impairment
 - Advise AGAINST Per Se laws



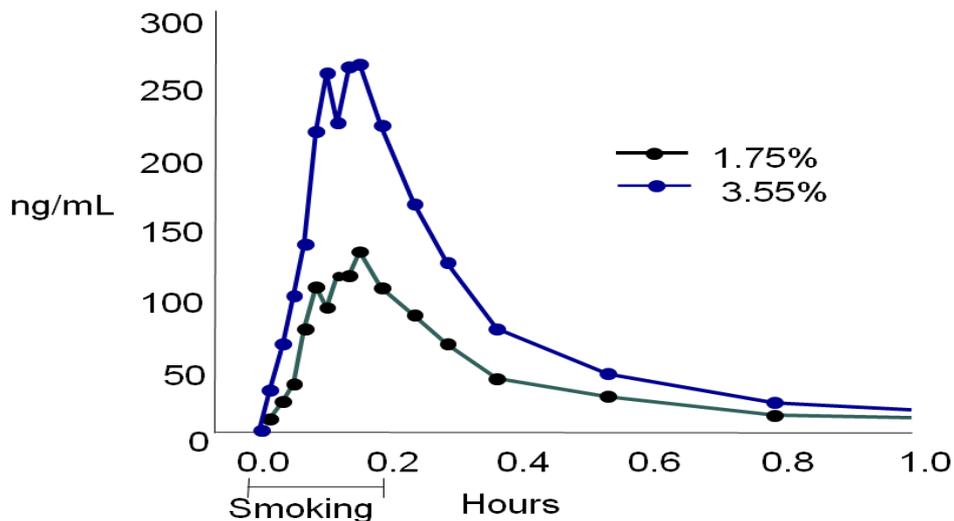
NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

- **1 ng: Pennsylvania**
- **2 ng: Nevada & Ohio**
- **3 ng: West Virginia**
- **5 ng: Illinois, Montana, Washington**
- **5 ng: Colorado = Reasonable Inference**

Δ 9 THC – Rapidly Dissipates from the Blood

Smoked THC Time-Concentration Curve



Effect of Blood Collection Time on Measured Delta 9 – THC (Hartman, Marilyn Huestis, 2016)

- THC in the blood reduces by 73.5% within 30 minutes of smoking
- THC in the blood reduces by 90.3% within 1.4 hours of smoking

NHTSA

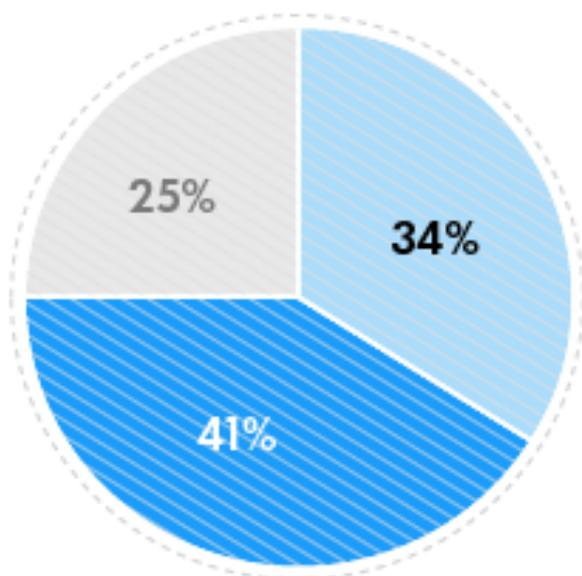
- “It is possible for a person to be affected by marijuana use with concentrations of THC in their blood **BELOW** the limit of detection”

Courtesy Marilyn Huestis, Borkenstein Drug Course, 2012

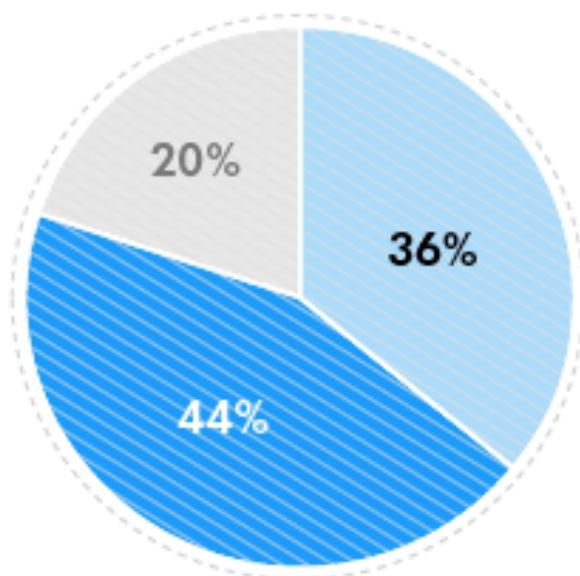
Teens driving under the influence

PERCENTAGE OF TEENS THAT BELIEVE DRIVING UNDER THE INFLUENCE OF MARIJUANA...

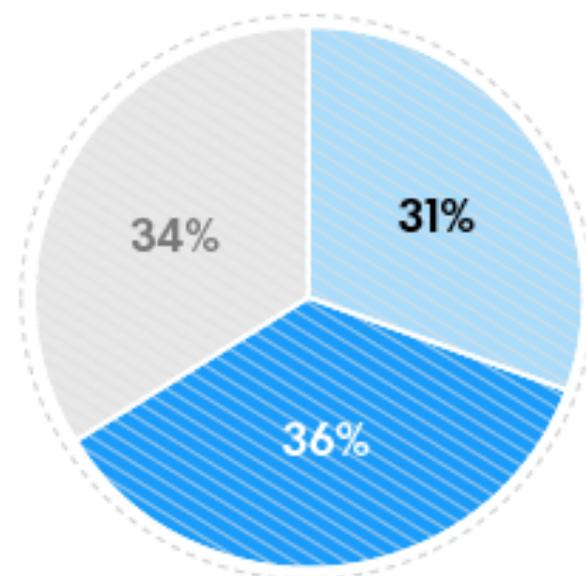
TOTAL



MALES



FEMALES



● ... MAKES YOU A BETTER DRIVER.

● ... HAS NO IMPACT ON YOUR DRIVING.

● ... MAKES YOU A WORSE DRIVER.



**BIGGEST
MISCONCEPTIONS**

- 1) There has to be Δ -9 THC in the blood for the user to be impaired by marijuana, and**
- 2) People drive slower while impaired by marijuana. (Most marijuana crashes involve speed)**

newsday.com
\$1.25 LI EDITION
Tuesday
Oct. 9, 2012

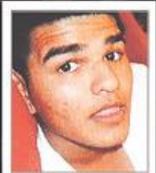
Newsday

SPORTS FINAL
THE LONG ISLAND NEWSPAPER

HI 63° LO 52°
CHANCE OF SHOWERS



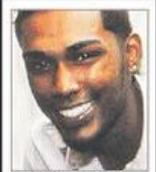
Darian Ramnarine



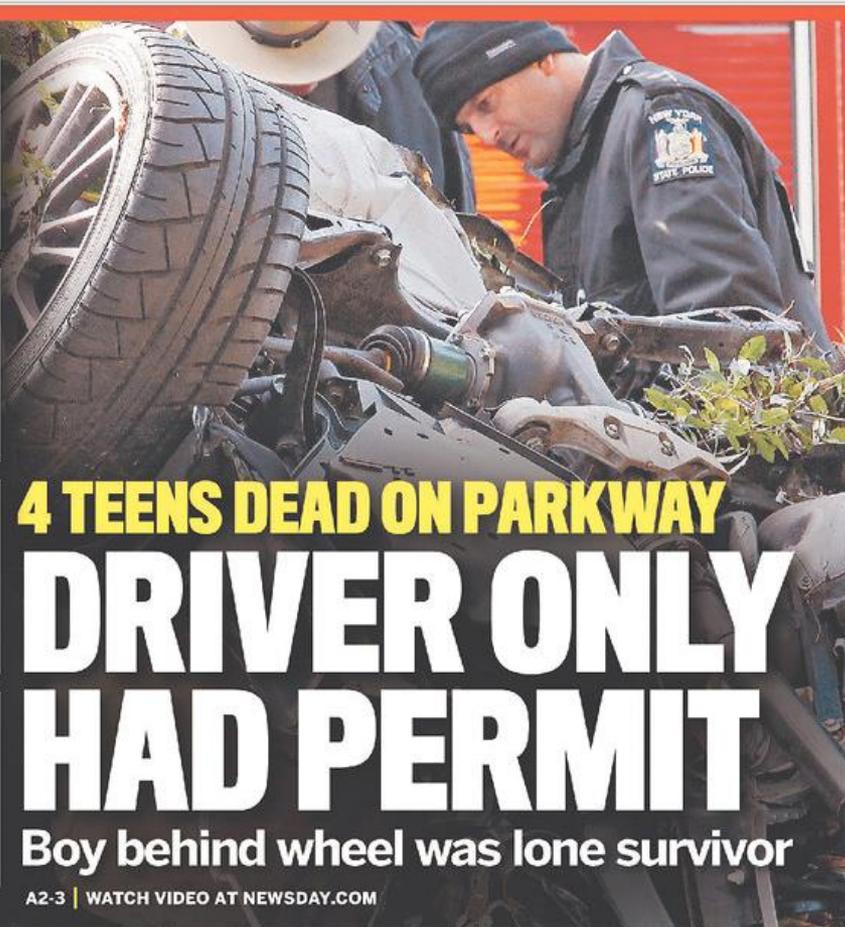
Neal Rajapa



Peter Anthony



Christopher Khan



4 TEENS DEAD ON PARKWAY

**DRIVER ONLY
HAD PERMIT**

Boy behind wheel was lone survivor

A2-3 | WATCH VIDEO AT NEWSDAY.COM

P v. Joseph Beer

Monday, October 8, 2012

3:30 AM

Southern State Parkway,
Hempstead

Profile Pictures

by Joseph Beer (Album) · Updated about 2 weeks ago



Profile Pictures 2 of 2

Options | Share

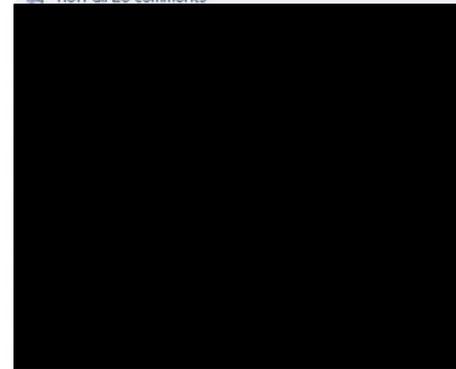


Joseph Beer
August 30

Share

12 people like this.

View all 23 comments



Liz Walsh Smalley likes Style Me Pretty's photo.

Jonathan Bushwick likes Ohio State Buckeyes's link.

Underlin Morton likes Casey McGrath's post in Knickerbocker's RPC.

by Scott Connors likes in photo.

Tones and Gal Bass Dons in friends.

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**“2012
Subaru
wrx sti
limited
its like
a
rockets
hip
Imfao”**



Text Messages



Name	Date & Time	Status	Folder	Type	Text
* Brandon	10/05/12 02:51:16 PM (GMT-4)	Sent	Sent	Outgoing	Word where you work at ? Same shit school and what not lol I got the whip now :)
* Brandon	10/05/12 02:52:02 PM (GMT-4)	Read	Inbox	Incoming	Airport yea I heard trav was tellin me you whippin the sti now
* Brandon	10/05/12 02:52:44 PM (GMT-4)	Sent	Sent	Outgoing	Yea shit crazy if you want we can go on a I ride laterrr

Name	Date & Time	Status	Folder	Type	Text
* Woods Shayan	09/22/12 07:48:08 PM (GMT-4)	Sent	Sent	Outgoing	Fine lets go on a blunt ride one day shit is mad fun you'd love it
* Woods Shayan	09/22/12 07:59:04 PM (GMT-4)	Read	Inbox	Incoming	A blunt ride?
* Woods Shayan	09/22/12 08:00:34 PM (GMT-4)	Sent	Sent	Outgoing	We drive around the highway smokingg weed lol didnt you say you wanted to try the urb :x?











Toxicology

Time	Specimen	Drug	Δ – Joseph Beer	V – Neal Rajapa	V – Chris Kahn	V – Peter Kanhai	V – Darian Ramnarine
3:30 AM	Whole Blood	Delta-9		39.5 ng	35.4 ng	15.9 ng	7.6 ng
3:30 AM	Whole Blood	Carboxy		101.6 ng	190.6 ng	74.8 ng	67.7
4:30 AM (1 hr. after crash)	Whole Blood	Delta-9	7.0 ng				
4:30 AM (1 hr. after crash)	Whole Blood	Carboxy	15 ng				
5:15 AM (1 hr. 45 min. after crash)	Whole Blood	Delta-9	4.5 ng				
5:15 AM (1 hr. 45 min. after crash)	Whole Blood	Carboxy	20 ng				

What the bill *doesn't* do...

- ❑ **Doesn't create new crimes - makes existing law work**
- ❑ **Doesn't expand law enforcement car stops**
- ❑ **Doesn't rollback cannabis legalization**
- ❑ **No per se or presence statute - NORML**

Trying to get it done...

DeadlyDrivingNY.org



**CLICK TO SIGN
PETITION**

***Donation requests
are for the petition
site, not required**

**CLICK TO
VIEW DEADLY
DRIVING BILL
WITH MEMO**

**CLICK TO
VIEW ONE PAGE
SUMMARY OF
BILL**

**CLICK HERE
OR ABOVE
FOR RALLY
INFO
JANUARY 9,
2024**

**CLICK TO VIEW
BRIEFING TO
NYS
LEGISLATORS**

**CLICK TO VIEW
VIDEO OF DRIVER
WHO HAD TO BE
RELEASED BECAUSE
DRUG COULD NOT BE
NAMED**



**CLICK HERE OR ABOVE FOR
BASIC COALITION INFO,
LETTERS OF SUPPORT AND
AN APPLICATION TO JOIN**

Many thanks to
STOP-DWI for
creating and
posting



DEADLY DRIVING NY

www.DeadlyDrivingNY.org

WE NEED YOUR HELP!!



SCAN ME

SCAN to Learn More About the Deadly Driving Initiatives *and* to **SIGN** the **ONLINE PETITION**

Drugged drivers threaten the lives of random and innocent roadway users every day throughout New York State.

This site is intended to educate, inform, and raise awareness of the issues surrounding drugged driving in New York State.

New York's drugged driving laws are full of loopholes. Drugged drivers are frequently not being identified until after they have crashed- after they have hurt or killed someone. New York's laws do not work well to stop drugged drivers before they crash- that leaves deadly drivers free to endanger everyone.

The current laws are ineffective.

Wear RED to Show Your Support!

WHEN: TUESDAY JANUARY 9, 2024

WHERE: THE CAPITAL, ALBANY, NY



RALLY FOR CHANGE

SCAN the QR Code to learn more about the Rally Details!



The Heart of the Matter:

Law enforcement cannot arrest a driver who is obviously impaired without being able to name the drug impairing the driver. The drug has to be on a specific list and the driver can just refuse a test and avoid charges. Why?

Impaired is impaired. Dangerous is dangerous. Drunk drivers are arrested when they refuse. Why not drugged drivers?

Please support fixing the law.

Thank you

Maureen McCormick

Special Assistant District Attorney

Suffolk County District Attorney's Office

Maureen.McCormick@suffolkcountyny.gov

c.516-382-2435