



**Joint Testimony of New York State Senator Daniel Squadron
and New York State Assemblymember Brian Kavanagh**

**Before the New York City Council Committees on Transportation and Public Safety Joint
Hearing: "Proceeding with Caution - An Examination of NYPD's accident response and
enforcement of traffic rules relating to cars, bikes, and trucks"**

February 15, 2012

We are, respectively, Daniel Squadron, the State Senator representing the 25th Senate District including parts of Brooklyn and Manhattan, and Brian Kavanagh, the Assemblymember representing the 74th Assembly District on the East Side of Manhattan.

We would like to begin by thanking Public Safety Committee Chair Peter F. Vallone, Jr., Transportation Committee Chair James Vacca, and their colleagues on the City Council for holding this important oversight hearing today, and for the opportunity to provide testimony.

We introduced "Hayley and Diego's Law" codified in Vehicle and Traffic Law 1146 (VTL 1146), after the tragic deaths of Hayley Ng, 4, and Diego Martinez, 3, resulting from the careless act of a van driver in Chinatown.

The law became effective in October 2010 and imposes stiffer penalties on drivers whose failure to exercise due care results in the injury or death of pedestrians or bicyclists. The penalties for the first offense include a \$750 fine, 15 days of jail time, participation in a driver safety course, suspension or revocation of the driver's license or registration, or any combination of these penalties, and a misdemeanor charge on a second offense.

Over the last year, we have been working with advocates to monitor the implementation of the new provisions and ensure that they are being used to prevent careless driving and bring justice for victims and their families when bicyclists or pedestrians are injured or killed by the acts of careless drivers.

Currently, police officers in some jurisdictions believe that the law does not permit them to issue a VTL 1146 violation unless they personally witness the accident. This drastically limits the ability of an officer to issue a violation in accidents that are clearly the result of careless driving.

After consulting with the New York Police Department and district attorneys' offices in New York City, we recently introduced a new bill - S6416/A9219 - that will address the outstanding issue of enforcement. This new legislation gives police unambiguous authority to issue a VTL

1146 summons, even if the officer was not present at the time of the accident, as long as the officer has reasonable cause to believe the violation was committed by the driver.

There is precedent for this authority in the state Vehicle and Traffic Law in cases where an individual is operating a vehicle under the influence of alcohol or drugs and is involved in an accident. When the responding officer has reasonable cause to believe that the violation was committed by such person but was not present at the time of the accident; they can still make an arrest (VTL 1194).

We believe that providing law enforcement with this additional tool is one of the surest ways to hold careless drivers accountable for their dangerous behavior. This new legislation will make our original law more effective by ensuring that officers will issue a violation when careless driving warrants one.

We would like to thank Transportation Alternatives, the NYPD, and the offices of the Bronx and Manhattan district attorneys for their support in monitoring and strengthening this law. We look forward to working with advocacy organizations, the NYPD and departments throughout the state, district attorneys, the New York City Council, and our colleagues in Albany to pass S6416/A9219 this session.

Thank you again for your leadership on this important issue.