Office of the New York State Attorney General Letitia James

Office of Special Investigation

May 23, 2025

Report on the Investigation into the Death of Steven Zalewski

SUMMARY

New York Executive Law 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. When OSI does not seek charges, as in this case, Section 70-b requires OSI to issue a public report describing the results of the investigation. This is OSI's public report of its investigation into the death of Steven Zalewski on October 9, 2023.

On October 9, 2023, Officer Kevin Skibinski of the Town of Dewitt Police Department (DPD) was responding to a call for service when he drove over Steven Zalewski, who was lying in the roadway on Bridge Street, in the Village of East Syracuse, in Onondaga County. Although Officer Skibinski initially did not realize that he had struck a person, he immediately stopped his patrol unit. Once he observed Mr. Zalewski, he promptly radioed that he had run over a person in the roadway, and that the person was clearly dead.

After a thorough investigation, OSI concludes that there remains a substantial question of fact as to whether Officer Skibinski caused the death of Mr. Zalewski, and that a prosecutor would not be able to establish causation beyond a reasonable doubt at trial. Further, even if Officer Skibinski did cause the death of Mr. Zalewski, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that he committed a crime, as there is no evidence that he operated his patrol unit with criminal negligence. Consequently, OSI will not present this matter to the grand jury and closes the matter with the issuance of this report.

FACTS

Events Leading to Incident

The facts in this section are based on Onondaga County 911 Communication Control Center (Onondaga E-911) records, including automated vehicle location (AVL) data.

On October 9, 2023, at 10:19 p.m., Onondaga County E-911 received a call from a person who did not identify themselves or respond to questions. The E-911 operator heard a man and a woman arguing and using profanities. The call ended abruptly, lasting only 13 seconds. The operator immediately called back, and a slightly out of breath woman answered. When the operator asked about the prior call, the woman denied that there had been an argument and said they were watching a television show. She said everything was "fine" and that there was "no need for police, fire, or EMS." The operator determined that the caller's number was associated with an address on Cooper Lane in the Town of Dewitt. At 10:25 p.m. the operator assigned the incident a case number and sought a law enforcement response. In messages to law enforcement, the operator summarized the E-911 calls and designated the call as "normal" priority, noting that there had not been any incidents at the address in the "last 10 years or so."

The operator dispatched DPD Officer Skibinski as the first responding unit at 10:26 p.m. Officer Skibinski's body-worn camera (BWC) was already activated and recording from a prior call, and it continued recording, without audio, while he was enroute. Officer Skibinski was driving a marked DPD 2018 Ford Explorer in a southerly direction on Manlius Center Road when he was dispatched and was 3.8 miles from the response address. The car did not have a dashboard camera. Officer Skibinski did not activate his lights or sirens until after he made contact with Mr. Zalewski.

Scene

Manlius Center Road, which becomes Bridge Street, is a multi-lane roadway that runs through a commercial area in the Village of East Syracuse, with a posted speed limit of 40 mph. There are four southbound lanes and four northbound lanes, separated by a concrete median that is several inches high and varies in width depending on the section of the road. The median is not designated for pedestrians. There is a pedestrian sidewalk along the northbound lanes, and there are marked crosswalks at the Manlius Center Road / Bridge Street intersection. There is no sidewalk next to the southbound lanes, just a paved shoulder with a metal guardrail. Although there are no signs prohibiting pedestrians on the southbound side, it is not designed for foot traffic.

Bridge Street is not well lighted. It is lined by stores and business on both sides, which are accessible from service roads, but not from the main roadway. The commercial properties are set back from Bridge Street, so their lights do not directly illuminate the roadway. There are no streetlights in the median or on either side of the roadway.

On the evening of October 9, 2023, the weather was clear. There was no precipitation or fog.

Incident

The facts in this section are based on DPD police reports, witness interviews, and Officer Skibinski's BWC. A 25 minute 45 second portion of the video, from 10:28 p.m. to 10:54 p.m. can be viewed here: Skibinski, redacted pursuant to OSI's published video release policy. The video has audio from the 1:30 elapsed time mark to the 11:38 mark, and from the 20:55 mark to the end. Through counsel, Officer Skibinski refused to be interviewed by OSI.

At 10:28 p.m. Officer Skibinski was driving on the southbound side of Bridge Street, having just passed the Manlius Center Road / Bridge Street intersection. He was traveling in the inside lane, closest to the median. DPD's Automated Vehicle Locator system (AVL), which records DPD vehicle speeds at fixed intervals, showed that he was traveling 28 mph seconds before the collision. As mentioned, Officer Skibinski had kept his BWC activated from a prior job, without audio. As he was driving, the BWC, which was affixed to his chest, showed the inside of his police car. At 10:28:55 p.m., the BWC indirectly captured Officer Skibinski driving over Mr. Zalewski by showing the police car shaking abruptly for a second.

As the BWC continued to record, it showed that Officer Skibinski stopped and got out of his car, walked north on the roadway (back the way he had come), and went to Mr. Zalewski, who was lying across the middle of the inside lane. Mr. Zalewski's feet were near the fog line, and his head was near the dashed white lines that separated the lanes. At 10:30:20 p.m. Officer Skibinski activated his BWC's audio and, a few seconds later, radioed that he had run over a man in the roadway. He said there was no need for EMS, as the person was clearly dead. He asked that the roadway be closed.

BWC video showed that Officer Skibinski was not talking or texting on his cell phone while driving, nor using the car's laptop or other equipment when he struck Mr. Zalewski.

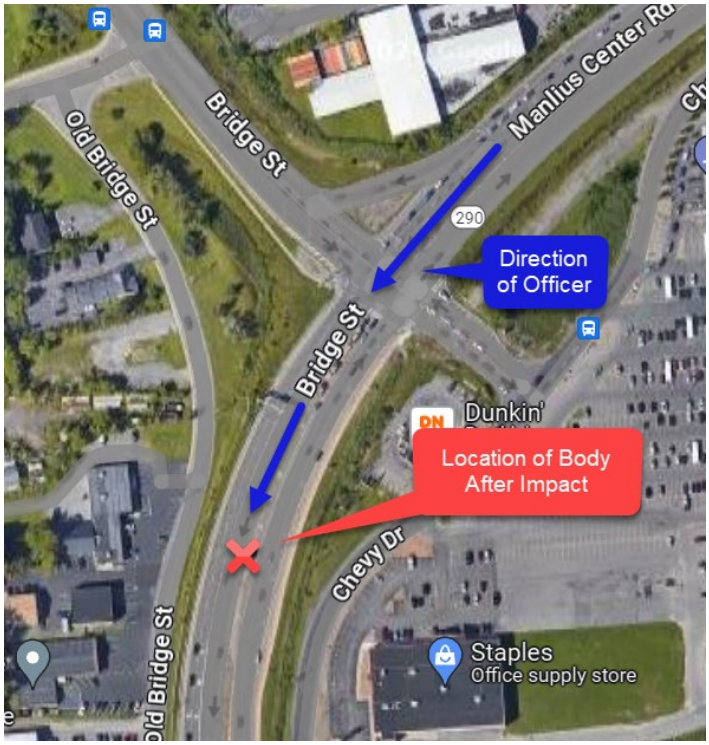

Diagram showing where the incident took place in East Syracuse.

At 10:31:02 p.m., with no other officers yet on scene, Officer Skibinski moved his SUV to the Manlius Center Road / Bridge Street intersection to block traffic. At 10:33:03 p.m. DPD Officer Joseph Dillabough arrived at the intersection and relieved Officer Skibinski, who immediately returned to the scene and parked so that his headlights illuminated Mr. Zalewski. After other officers arrived at the intersection, Officer Dillabough joined Officer Skibinski near Mr. Zalewski. At 10:35:28 p.m., BWC showed that Officer Skibinski said he had driven over Mr. Zalewski while responding to a call; he initially said he "never even saw" the body, but then clarified, saying he thought Mr. Zalewski was "a bag." Officer Skibinski said Mr. Zalewski did not step in front of him but was "down already" in the roadway. He said he could not swerve to avoid Mr. Zalewski because there was a vehicle in the lane to his immediate right.

When interviewed by OSI, DPD Chief Shane Spencer and Inv. Chad Frederick said they briefly spoke with Officer Skibinski at the police station between 11:00 and 11:30 p.m. According to their written reports, Officer Skibinski said he was driving 30 mph on Bridge Street when he observed "some type of debris" in the center of his lane, which he could not avoid due to the curb (median) on his left and a vehicle to his right. He said he slowed down and attempted to straddle the object between his tires but felt the vehicle drive over it. He said he felt "large bumps" when he ran over the debris, so he stopped to check what he had hit, which is when he observed Mr. Zalewski.

Other Video

According to a DPD report, DPD viewed security video from a Burger King at 3414 Erie Boulevard, two tenths of a mile east of Bridge Street in East Syracuse. (DPD did not obtain a copy of or download the video, and therefore OSI has been unable to view it.) According to the DPD report, the video showed Mr. Zalewski at the restaurant between 8:25 and 9:30 p.m.; when he left the restaurant, he walked west on Erie Boulevard, toward Bridge Street. At the scene of the collision, DPD recovered a plastic bag with two receipts from the Burger King, time stamped 8:25 and 8:59 p.m.

According to the DPD report, DPD viewed security video from Henry Wilson Jewelers, at 5795 Bridge Street in East Syracuse, less than two tenths of a mile north of the Erie Boulevard / Bridge Street intersection. (DPD did not obtain a copy of or download the video, and therefore OSI has been unable to view it.) According to the DPD report, the video showed Mr. Zalewski walking north along Bridge Street but does not indicate a time. The store is on the west side of Bridge Street, and its security camera faces east.

OSI downloaded and viewed security video from K-9 Kamp Dog Daycare, 228 Old Bridge Street, East Syracuse, on the west side of Bridge Street. The incident occurred just outside the camera's field of view, about 130 feet north of the business (to the left, according to the camera's view). The video showed a person walking north on the west side (southbound side) of Bridge Street a few minutes before the incident (from right to left). Although the pedestrian's identity cannot be determined from the video, circumstances indicate it was Mr. Zalewski, as the video showed no other pedestrians walking along Bridge Street around that time. According to the timestamp on the K-9 video, the unidentified pedestrian entered the camera's field of view from the right at 10:23:22 p.m. and left its field of view to the left at 10:25:35 p.m. (Based on a comparison with Officer Skibinski's BWC, the K-9 video's time stamp showed the time as one minute and 12 seconds earlier than the BWC's time stamp.)

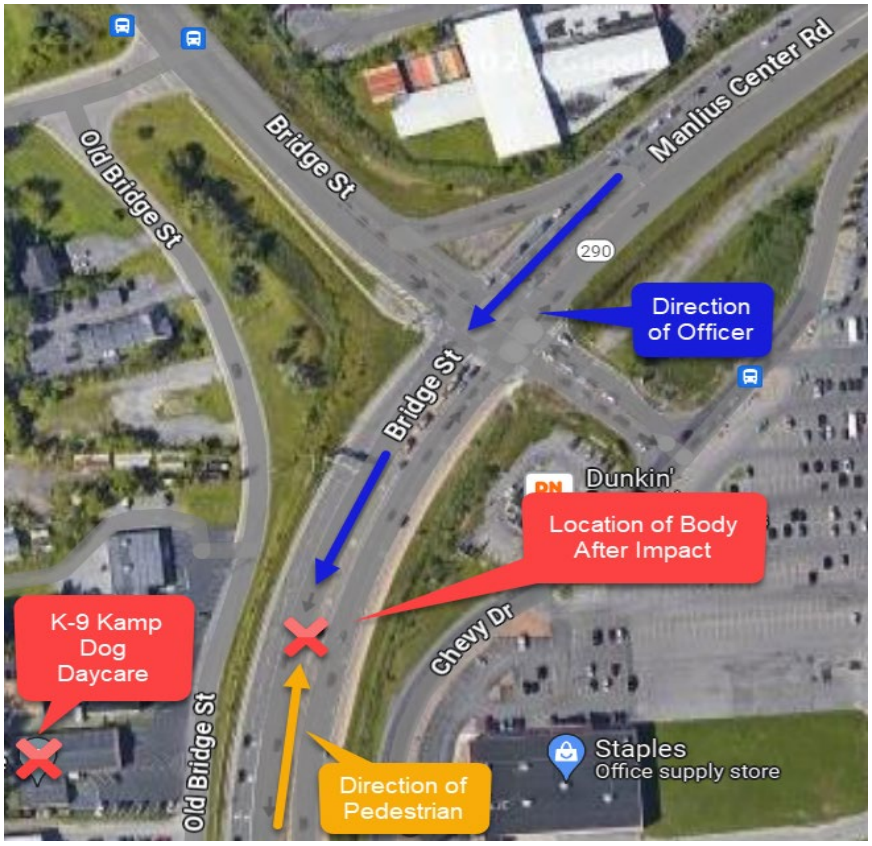

Diagram showing K-9 Kamp Dog Daycare relative to the incident site.

Still from K-9 video showing a person (circled) entering the camera's field of view from the right, walking north on Bridge Street.

Still from K-9 video showing the person (circled) about to leave the field of view. The arrow points to the site of the incident.

Officer Skibinski's patrol unit appeared on the video from the left, traveling south, at time stamp 10:27:46 p.m., two minutes and 15 seconds after the pedestrian left the frame toward the left. The K-9 video showed that Officer Skibinski stopped almost immediately after entering the camera's field of view, and that his car's overhead lights were activated at about the same moment. The video also showed a tractor trailer and two passenger cars drive past Officer Skibinski as he stopped; they were in a lane to the right of Officer Skibinski.

Still from K-9 video showing Officer Skibinski's car (circled) entering the camera's field of view from the left.

Although other businesses on Bridge Street had video security systems, their cameras were oriented toward their properties rather than the roadway. There were no municipally operated traffic or surveillance cameras in the area.

Physical Evidence

Responding DPD investigators tentatively identified Mr. Zalewski by cards in his pants pocket. He was wearing white socks, blue jeans, and an orange t-shirt under a brown leather jacket; investigators recovered his black shoes nearby in the roadway, as well as eyeglasses and an iPhone. The pavement immediately north of Mr. Zalewski had orange, blue, and white coloration, seemingly transferred from his clothing.

DPD investigators inspected Officer Skibinski's car at the scene and saw no obvious damage due to the incident, though a door had a small dent. Later, after having the car towed to a secure garage, investigators further inspected the car's front bumper, push bar, grill, and hood and found no damage attributable to the incident.

Photo showing Officer Skibinski's car at the secure garage the day after the incident.

On October 17, 2023, New York State Police Investigator Robert Piekielniak assisted DPD Investigator Loriann Maerz with obtaining and analyzing data from the vehicle's Event Data Recorder (EDR), which showed no recorded events. (EDRs generally preserve data only after a triggering event, such as a collision.)

On October 20, 2023, Steven Brookins, a licensed New York State motor vehicle inspector and mechanic for the Manlius Police Department, inspected the brake, suspension, and

steering systems of Officer Skibinski's car, and concluded all were in good condition and functioning properly. He also determined that the tires were in very good condition and inflated properly. He found no open recalls on the vehicle. Based on his observations, Mr. Brookins saw nothing to indicate that mechanical failure caused or contributed to the accident.

Sobriety Testing

As shown on DPD Inv. Menard's and Sgt. Luda Ammann's BWC, at 10:36 p.m., Officer Skibinski spoke with them on scene. Their BWC showed that Officer Skibinski's speech, coordination, and demeanor were seemingly normal, without signs of impairment or intoxication. (Their BWC can be viewed here: Menard and Ammann, redacted pursuant to OSI's published video release policy.)

When interviewed by OSI, Inv. Menard and Sgt. Luda said that they were within a few feet of Officer Skibinski and did not smell the odor of alcohol or notice anything unusual; they said that Officer Skibinski was sober. For that reason, they did not ask Officer Skibinski to submit to a preliminary breath test (PBT) to check for the presence of alcohol.

As shown on Inv. Menard's BWC, at 10:40 p.m., he asked Officer Skibinski to drive to the police station in Officer Joseph Dillabough's SUV and retrieve a FARO laser scanner. As shown on Officer Skibinski's BWC, he returned to the scene at 10:49 p.m. At 10:55 p.m., Officer James Dean drove him to the station, arriving at DPD at 11:00 p.m.

When interviewed by OSI, Chief Spencer and Inv. Frederick said that they spoke with Officer Skibinski at the station between 11:00 and 11:30 p.m. Both Chief Spencer and Inv. Frederick said they did not smell an odor of alcohol or notice any sign of impairment from Officer Skibinski. According to DPD Inv. Loriann Maerz's written report, she interviewed Officer Skibinski at the station and did not perceive any indication of intoxication or impairment.

Pursuant to DPD policy, Officer Skibinski submitted to a blood test to determine the presence of alcohol and/or drugs. DPD Sgt. Paul Pelton accompanied Officer Skibinski to the St. Joseph's Hospital Health Center in Syracuse. At 1:05 a.m., two and a half hours after the incident, a registered nurse at the hospital took a blood sample from him, which was later submitted to the Onondaga County Health Department Center for Forensic Sciences in Syracuse. On December 20, 2023, the lab issued a report that showed a positive test result for valproic acid, an

On January 23, 2024, Dr. William Dibble, a physician with St. Joseph's Physicians Family Medicine in Fayetteville, wrote a letter about his treatment of Officer Skibinski that was included in Inv. Maerz's "Collision Investigation Unit Report." In that letter, Dr. Dibble said he prescribed Depakote (which contains valproic acid and sodium valproate) to Officer Skibinski to reduce the occurrence and severity of migraine headaches associated with a workers compensation injury; Dr. Dibble said Officer Skibinski does not suffer from seizures. Officer Skibinski told DPD investigators that he takes the medication around midnight each day, after

his patrol shift, which was consistent with Dr. Dibble's description of how he directed the medication be taken.

Prior Incidents

The narrative in this section is based upon Onondaga County E-911 records and DPD Officer Jade Shimer's BWC.

In the five weeks preceding this incident, Mr. Zalewski was involved in two "person down" incidents in the Town of Dewitt, when he landed in or near a roadway.

As DPD Officer Jade Shimer's BWC showed, at 9:20 p.m. on September 5, 2023, she witnessed Mr. Zalewski fall in the roadway while he was walking to a bus stop on Kinne Road. Mr. Zalewski was cogent and able to communicate, but he could not stand on his own. Officers helped him to a seated position against the curb and requested an ambulance. Mr. Zalewski told responding EMTs that he had a history of seizures. The EMTs noted that he had urinated in his pants. Believing he had had a seizure, they took him to a hospital for evaluation.

Still from Officer Shimer's BWC showing Mr. Zalewski lying in the roadway, as Officer Shimer first observed him, on September 5, 2023.

According to Onondaga County E-911 records, at 10:06 p.m. on October 6, 2023, Officer Shimer responded to an E-911 dispatch for a man lying on the side of the road and "yelling for help." As shown on Officer Shimer's BWC, at 10:09 p.m. she found Mr. Zalewski lying on a concrete median at the entrance of a Chipotle restaurant parking lot, near the intersection of Kinne Road and Erie Boulevard; his feet were hanging over the curb edge, protruding into the shoulder of the roadway. Mr. Zalewski said he had slipped and fallen. Officer Shimer attempted to help Mr. Zalewski sit up, but he was unable to do so, even with her assistance. EMTs took him to a hospital for evaluation.

Still from Officer Shimer's BWC showing Mr. Zalewski lying near the roadway, as Officer Shimer first observed him, on October 6, 2023.

Medical Examination and Autopsy

Paramedic Isaac Walburger from the East Area Volunteer Emergency Services (EAVES) Ambulance Corps pronounced Mr. Zalewski's death at the scene on October 9, 2023 at 10:51 p.m.

On October 11, 2023, Dr. Katrina Monday from the Onondaga County Medical Examiner's Office in Syracuse performed an autopsy and determined that the cause of Mr. Zalewski's death was "multiple blunt force injuries" due to being struck by a motor vehicle. Dr. Monday ruled the manner of death as Accident.

Dr. Monday told OSI that Mr. Zalewski's injuries were consistent with having been run over while lying in the roadway; there was no evidence he was standing up when struck. Dr. Monday said she could not say whether more than one vehicle had driven over Mr. Zalewski, nor whether Mr. Zalewski was alive when Officer Skibinski ran over him. She said the injuries from the car running over him had caused internal defects that prevented her from determining whether he had suffered a medical event prior to being run over. Mr. Zalewski's medical records show a history of diabetes and Parkinson's disease, and Dr. Monday observed severe coronary artery atherosclerosis and moderate aortic atherosclerosis during the autopsy. Toxicology testing showed that Mr. Zalewski had an elevated blood level of Sertraline, an anti-depressant, at the time of his death. Dr. Monday advised that the medication is relatively safe and effective, but at higher concentrations can cause headaches, dizziness, tremor, fatigue, nausea, insomnia, somnolence, and, in some cases, death. Dr. Monday said she could not determine whether the Sertraline contributed to Mr. Zalewski's death.

LEGAL ANALYSIS

After a thorough investigation, there remains a substantial question whether Officer Skibinski caused Mr. Zalewski's death, which brings this case within OSI's scope under Executive Law Section 70-b.[1] However, as the pathologist who performed the autopsy cannot offer an opinion whether Mr. Zalewski was alive when Officer Skibinski ran over him, and there is no independent evidence that Mr. Zalewski was alive when Officer Skibinski ran over him, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that Officer Skibinski caused Mr. Zalewski's death. Further, even if a prosecutor could establish that Officer Skibinski caused Mr. Zalewski's death, OSI concludes that a prosecutor would not be able to prove beyond a reasonable doubt that he committed a crime, as the evidence indicates that Mr. Zalewski was already lying in the roadway, in the middle of the lane, as Officer Skibinski approached. The collision appears to be the result of an accident rather than criminal conduct.

As Officer Skibinski was not driving in emergency mode, we analyze this case based on whether a charge of Criminally Negligent Homicide would be sustainable. OSI's analysis in other motor vehicle cases, in which officers caused a death while driving in emergency mode, is that the law does not permit those officers to be charged with Criminally Negligent Homicide, but only with a more serious charge, such as Manslaughter in the Second Degree. See, for example, OSI's report concerning the death of Sofia Gomez: Gomez Report (pages 22-26).

Under Penal Law 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 Penal Law Section 15.05(4), which states, "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 a series of decisions, the New York Court of Appeals has required prosecutors to establish "criminal negligence" in vehicular homicide cases with evidence not clearly implied in the statutory definition. Under these decisions, proof of the defendant's failure to perceive a risk is not sufficient to convict them of criminally negligent homicide, even if the failure is a "gross deviation" from a reasonable standard of care. In addition, the prosecutor must prove that the defendant committed an "additional affirmative act" or engaged in "risk-creating

[1] Section 70-b states, in part, that OSI "shall investigate and, if warranted, prosecute any alleged criminal offense committed by [an officer, as defined] … concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such [officer] or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such [officer] [emphasis added]."

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). 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 NY2d 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 NY2d 683 [defendant, who was speeding and drag racing on city street, struck and killed driver stopped at red light]; *People v Ricardo B.*, 73 NY2d 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 NY2d 804, 807 [intoxicated defendant was speeding on obstructed street under construction in residential neighborhood in Queens]; *People v Maker*, 79 NY2d 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 NY2d 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 NY2d 893, 894-895 [intoxicated defendant driving on wrong side of a foggy road at 4:30 A.M.], with *People v Perry*, 123 AD2d 492, 493 [4th Dept 1986], affd 70 NY2d 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 NY2d at 696)."

Cabrera, at 377-378, emphasis added.

There is no evidence that Officer Skibinski was speeding, as the AVL system showed that he was travelling 28 mph shortly before the collision. Further, there is no evidence that Officer Skibinski was driving while distracted; the BWC shows that he was not talking or texting on his cell phone or using any equipment in the patrol vehicle.

Additionally, while we do not know Officer Skibinski's blood alcohol content (BAC) immediately after the incident, there is no evidence that he was driving while impaired by alcohol or drugs. Officers and investigators who spoke with Officer Skibinski that night said they did not observe any signs of intoxication or impairment, which is supported by his speech, demeanor, and apparent coordination on BWC videos. Although toxicology testing showed that Officer Skibinski was on a prescription medication, there is no evidence that it affected his ability to operate his patrol vehicle.

Based upon all available evidence, OSI concludes a prosecutor could prove beyond a reasonable doubt that Officer Skibinski committed criminally negligent homicide or any other criminal offense. OSI therefore will not present this case to a grand jury for consideration of criminal charges and closes the matter with the issuance of this report.

RECOMMENDATION

OAG recommends that all police agencies hold police officers to the same standards as civilians and ask them to submit to a preliminary breath test (PBT) at the scene as quickly as practicable after a motor vehicle collision, as authorized by Section 1194(1)(b) of the Vehicle and Traffic Law. If the PBT is positive for the presence of alcohol, the agency should have the involved officer perform field sobriety tests to assess their physical and mental abilities, promptly followed by a chemical test of their blood or breath, if there is an arrest.

Additionally, when the collision results in serious physical injury or the death of another person, police agencies should ask the involved officer to voluntarily consent to toxicology testing. If the officer consents, the agency should take all necessary steps to secure the blood sample in a timely fashion, as close in time to the collision as possible.

Alcohol is metabolized in the body at an average rate of 0.015g/100mL/hour, which means the average person's blood alcohol level falls by 0.015 of one per centum per hour. For men, this rate is equivalent to about one standard drink per hour. Although there is no basis to believe that Officer Skibinski had alcohol in his system, if he had, the delay of two and a half hours in obtaining his blood sample would have had a significant effect on the results of the testing.

OAG therefore recommends that all patrol officers and supervisors be trained in the administration of the PBT and field sobriety tests so that they can test any on-duty or off-duty police officer (or any civilian) involved in a motor vehicle collision on scene as soon as practicable to determine with greater accuracy whether they were operating a vehicle while impaired by alcohol.

If the involved police officer (or civilian) does not voluntarily consent to toxicology testing, the agency should seek a court order to compel a chemical test pursuant to Vehicle and Traffic Law Section 1194(3), provided there is a sufficient legal basis to do so.

Dated: May 23, 2025