

On Saturday September 24, 2005, between the hours of 6:30 pm – 7:00 pm, 14 year-old Andre F Anderson was brutally killed on Shorefront Parkway and Beach 77th Street in Rockaway Beach, Queens. Andre was struck from behind while he was riding his bicycle on a neighborhood street near his home by a SUV driven by 23 year-old Jose Vicens of Rockaway Beach.

Andre was not an average child. He superseded his peers with his natural artistic skills and his talented hands excelled at basic electrical and mechanical skills at the age of 14. To lose someone so important and valuable because of the recklessness of another person without just consequence is unbearable and unimaginable. It is devastating that we have lost our first child and only son at such tender age, but what is even more perturbing is that it is evident from all the reports thus far (i.e the PAR #466 and AIS case # 605-49), that there was a blatant disregard for a human life, law and procedures as set forth by city/state and its agencies. The Queens District Attorney Hon. Richard Brown & the Mayor's office are all aware of our dissatisfaction but to no avail.

Seven months have now past and this tragedy is yet to be thoroughly investigated. As citizens we assume that whenever there is an incident involving a fatality or potential fatality the authorities responsible for investigating the incident would execute their duties to the best of their abilities and abide by all the relevant laws and procedures that governs the situation. However in the case of Andre F Anderson's death that has not been the case.

It is the responsibility of the accident investigation squad responding to the scene of a fatal incident to collect all the necessary information to make the following determinations:

- Is criminality involved?
- Were any violations of the law committed?
- What were the contributing factors that caused this accident?

In addition, to arrive at any or all of those objectives the following must be taken into consideration:

- The penal law pertaining to accident investigation
- Field testing for alcohol
- The collection of data necessary to document the accident
- Fielding sketching & diagramming of the accident scene
- Photographing the accident scene
- Tests of the operator, vehicle & road surface to determine contributing factors to an accident
- Interviewing principals and witness and prepare written reports on the accident

Nonetheless after careful evaluation of the attached PAR # 466 and AIS case # 605-49 you will discover that this agency failed to abide by its own guidelines and thus **prejudice** the entire investigative process.

Subsequent to informing the mayor's office via 311 about the lack of investigation into the circumstances surrounding the death of Andre F Anderson, we were informed by Lieutenant Court of the 100 Police Precinct on October 25, 2005 that the case is being investigated and upon completion it will be forwarded to the DA office for further ruling. This seems to prove otherwise thus far.

Frustrated with the pace with which the investigation was been conducted, we took it upon ourselves and personally visited Highway Patrol Unit 3 on **December 3, 2005**, where we met with AIS Detective Moringolo, he advised us that the DA's office was informed of the accident the night of the occurrence and decided that there was no criminality to the actions of the driver. How is it possible that a conclusion could be arrived at without having allowed time for the investigation to even begin? What is even more alarming is that the case has been closed with no accountability for Andre's death.

There are many inconsistencies between the documents we received and the statements made by AIS Detective Moringolo as follows:

1. On December 3, 2005, we were informed by Det. Moringol that he personally administered a breathalyzer on 9/24/05 at the scene of the accident and had the forensic proof in his report. However, there is no documentation or evidence of the administration of any breathalyzer test in his investigative report (AIS case # 605-49).
2. Det. Moringolo also informed us that the driver Jose Vicens, was cited for speeding and issued a summons; however this information cannot be found anywhere in his investigative report (AIS case # 605-49).
3. Det. Moringol was informed of another eyewitness, but no effort was made to contact that witness for a statement. The only statements documented are those of Jose Vicens and his friend.
4. Mr. Willie Tipton is listed as a witness in the AIS case # 605-49 yet his written statement is completely omitted.
5. The inability of the 100 Police Precinct to produce a copy of the first responding officers' report is questionable to say the least. However, Det. Moringolo advised us that the information contained in his report was obtained from the 100 Precinct.
6. If the PAR #466 dated 9/24/05, compiled by PO Yula of Highway Patrol Unit 3 list one (1) as killed on 9/24/05, where and how was this information obtained since the HWY patrol did not arrive at the scene until considerable time had elapsed and Andre's lifeless body had already left the scene?

According to Mr. J Vicens' (driver of the SUV) statement, Andre was ahead of him for a period of time; however, there is no evidence in the police report that he applied his brakes, or honked his horn to alert the bicyclist of his presence or of his actions. Instead he rear ended the bicyclist resulting in Andre's death. Why did he not proceed with caution? Why was he so close behind the bicyclist? Why was he overtaking when it was not safe to do so? Why didn't he stop immediately upon impact? It is precisely the speeding and reckless driving of Mr. J Vicens that caused the death of our son Andre Anderson. Why then, is there no criminality to his actions when he admits to all these violations:

§1122 Overtaking a vehicle. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

§1129 Following too closely. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

§1146 Drivers to exercise due care. Every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian or domestic animal upon any roadway.

It is impossible to believe that Mr. J Vicens exercised anything like due care in his attempts to get past Andre. Rather it seems highly likely that he was annoyed to find Andre in his path and chose to "teach him a lesson" by passing too fast and too close to the cyclist. By Mr. Vicens own account, he saw Andre in time to take not just one evasive maneuver, but two. Nevertheless, at the moment of impact, Vicens SUV was clearly traveling at an excessive speed in order to inflict the kind of damage seen at autopsy (*please see attached report*). Either Mr. Vicens was traveling too fast to begin with, or he failed to slow down as he approached Andre because of a number of reasons which should have been discovered in the investigation.

This narrative seems, to say the least, a bit incomplete. But one thing is clear: on a nice wide street with no indication of other traffic present, a driver was strangely unable to avoid fatally striking a cyclist, even though by his own account he saw the cyclist. Has the coroner been contacted for his professional opinion on how fast this driver was traveling when he struck Andre?

While we understand that there are policies and procedures to be adhered to in every investigation we are outraged that it is evident that most of these were never adhered to in this case. Do we still live in a society where there is no regard for one's life or laws unless you are of a certain color, class or status? Why is justice only sought if you are only of a certain class, color or status?