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SERVING JUSTICE IN FATAL CRASHES IN PHILADELPHIA

An Analysis by the
Bicycle Coalition of Greater Philadelphia and Families for Safe
Streets Greater Philadelphia

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INTRODUCTION

Every year 100 persons are killed in motor vehicle crashes in Philadelphia. This works out to a rate of 6 fatalities per 100,000 residents, which is higher than rates found in Los Angeles, Boston, or New York City. Vulnerable users (bicyclists and pedestrians) are particularly at risk. Although they make up only 19% of the people involved in motor vehicle crashes, they make up 48% of the people killed in those crashes. In other words, two important vulnerable users make up a disproportionate number of the people killed in fatal crashes. This is particularly the case for pedestrians. According to Police statistics, over half of the City's traffic related deaths are a result of aggressive driving, which includes speeding and failure to yield. Unfortunately, there is often little consequence for these deadly incidents.

FATAL CRASHES

With little or no consequences

During 2017-2018, several high profile fatal crashes highlighted that in some cases, drivers who had killed bicyclists or pedestrians were not being charged. For example:

- On June 13, 2017, Peter Jasvicas, a 76 year old transportation advocate was hit and killed while standing on the sidewalk near Suburban Station by a driver who lost control of her vehicle. Another pedestrian was hospitalized from the crash. The driver was not charged.
- On November 28, 2017, Emily Fredricks, a 24 year old bicyclist who was riding on the Spruce Street bike lane and crossing the intersection on green light was struck and killed by a driver of a trash truck who turned right onto 13th Street.
- On May 18, 2018, Julian Angelucci, an 11 year old bicyclist was killed when he rode off the sidewalk into the pedestrian crossing by a motorist who had rolled through a stop sign. The motorist was not charged even though a camera documented the driver failing to fully stop at the intersection's stop sign.
- On June 22, 2018, Tomas Montanez, a 40 year old bicyclist was riding on Luzerne Street and was killed by a driver of a truck who turned right onto Whitaker. The driver was not charged.
- On July 7, 2018, James Derbyshire, a 52 year old man was killed by a SEPTA Bus driver who plowed through the intersection of Frankford and Morrell and into the front yard of a home hitting three people standing near a small pool. The driver was not charged.
- On May 12, 2018, Pablo Avendano, a 34 year old bicycle courier delivering food on Spring Garden and 10th street was struck, run over, and killed by an SUV crossing the intersection.

HOW THE PENNSYLVANIA VEHICLE CODE GOVERNS MOTORISTS WHO CAUSE DEATH AND BODILY HARM

Currently, Philadelphia's Police Department Accident Investigation Division collects evidence about the crash to determine contributing factors. The PPD-AID and District Attorney's office evaluates the evidence to determine if the driver in question should be charged with homicide by vehicles (HBV)[1] or Leaving the Scene (LTS—a driver who leaves the scene of a serious crash that kills or causes serious bodily injury and is subsequently found or turns themselves in.)

In order to charge someone with HBV, the police must show that the defendant's traffic violation caused a death and that the defendant acted either recklessly or with gross negligence. This is a high bar and requires at least two violations to have been perpetrated by the motorist in question.

Nevertheless, if the District Attorney determines that if there is not enough evidence to warrant charging the driver with HBV or LTS, the Philadelphia Police Department can pursue other charges, such as "reckless" or "careless" driving (see Table 1).

Section 1532 of the PA Vehicle Code provides that drivers who are convicted of careless or reckless driving also can lose operating privileges for six months and have points placed on their licenses.

[1] Section 3732 of Title 75 Pennsylvania Vehicle Code

[2] Section 3736 of Title 75 Pennsylvania Vehicle Code

[3] Section 3714 of Title 75 Pennsylvania Vehicle Code

RECKLESS DRIVING

Any person who "drives any vehicle in willful or wanton disregard for the safety of persons or property" is guilty of reckless driving[2] and incurs a \$200 fine. Reckless driving can include speeding, driving without a license, driving while impaired, or performing an illegal maneuver.

CARELESS DRIVING

[A]ny person who drives a vehicle in careless disregard for the safety of persons or property" is careless driving.[3] Careless driving that results in unintentional death shall pay a fine of \$500 or that results in serious bodily injury shall pay a fine of \$250.

Table 1: Definition of Reckless and Careless Driving

WHAT IS THE RATE OF DRIVERS WHO CAUSE FATAL CRASHES INVOLVING VULNERABLE USERS BEING CHARGED?

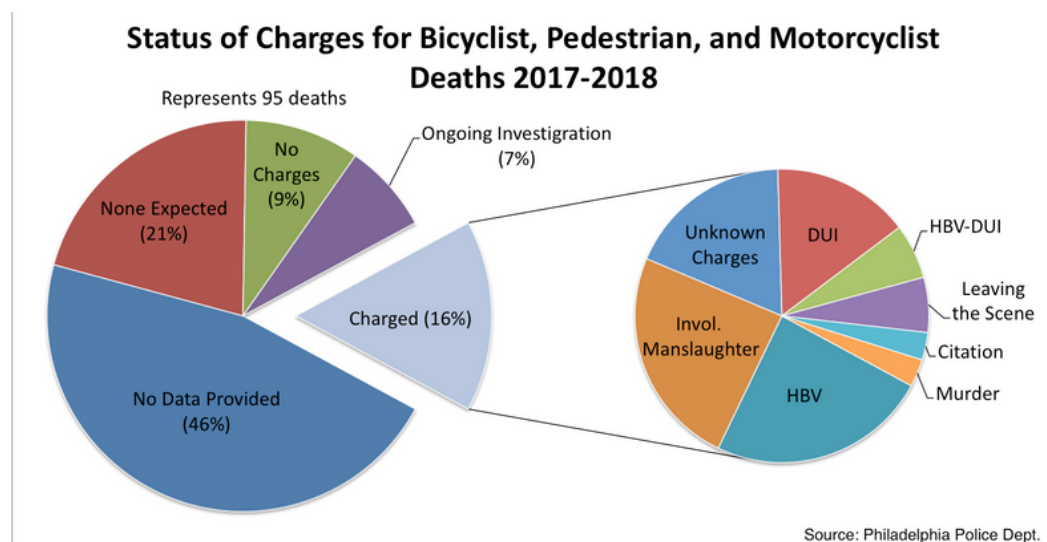
During Fall 2018, the Bicycle Coalition of Greater Philadelphia requested information from the Philadelphia Police Department about the result of their investigations into the deaths of bicyclists, pedestrians and motorcyclists caused by fatal traffic crashes that occurred during 2017 and 2018. In particular, the Bicycle Coalition sought to ascertain what percentage of drivers are charged in fatal crashes that involve bicyclists, pedestrians and motorcyclists.

METHODOLOGY

The Bicycle Coalition collects and maintains data on all traffic fatalities in the City of Philadelphia reported by the media on its website phltrafficvictims.org. Based on this data, we submitted names of victims and dates of their fatal crashes to the PPD AID and requested information about the results of their investigations. Unfortunately, PPD AID did not have the resources to provide information on every vulnerable user death in 2017 and 2018.

Consequently, we selected certain cases with either enough news coverage to assume that charges might be likely, or cases that had previously been described as an ongoing investigation, and the PPD AID provided the status of those cases.

RESULTS



Based on the data provided by the PPD regarding 95 traffic deaths of bicyclists, pedestrians or motorcyclists. We found only 16 percent of the cases involved the driver being charged. 30% of the cases were closed with no charges and for 46% of the cases, no data was provided.

Based on these results, there is reason to believe that only a small percentage of drivers who kill pedestrians, bicyclists and motorcyclists in Philadelphia are charged with homicide by vehicle or other felonies. The PPD were not able to report on how many other drivers received traffic violation reports (TVR). Drivers can be cited for reckless or careless driving on TVRs and be required to pay fines and other consequences.

CONCLUSION

The Bicycle Coalition of Greater Philadelphia and Families for Safe Streets Greater Philadelphia finds that there is a pattern of only a small percentage of drivers who kill bicyclists, pedestrians or motorcyclists being charged. It is not known if all drivers are charged with all possible charges available under the Pennsylvania Vehicle Code.

We call upon the District Attorney's Office and Philadelphia Police Department to address this problem. Specifically we call upon the D.A and PPD to take the following five actions:

1

Create a *publicly transparent database* that tracks the results of AID investigations of all crashes that cause fatalities or serious bodily harm. The database should report on 1) all charges brought against drivers, 2) which drivers received TVRs, and 3) the citations on each TVR.

2

Demonstrate to the public that there is a *policy for pursuing all possible charges and penalties* for motorists who kill or cause serious bodily injury, including reckless or careless driving. Specifically, demonstrate that drivers who kill or seriously injure other road users do face consequences such as fines, temporarily losing their license, or points.

3

Train one or two officers in the PPD Accident Investigative Unit (AID) to be certified by the *Accreditation Commission for Accident Reconstructionists* (ACTAR), in addition to being certified by the state of Pennsylvania.

4

Provide funding to the PPD to procure software for the Accident Investigation Division to read event data recorders. Our understanding is that PPD does not own this type of *software* and seek assistance from the State Police if it wants *to read data recorders*. The software costs approximately \$30,000.

5

Establish a *liaison within the District Attorney's Philadelphia CARES* (Crisis Assistance, Response, and Engagement for Survivors) program to serve the families of victims of traffic violence.

Motorists were only charged in 16% of crashes involving bicyclists, pedestrians, and motorists.

