

CRIMINAL NEGLIGENCE

September 3, 1996
 Mr. Leroy Frazer, Jr.
 Chief, Special Prosecutions Bureau
 Office of the District Attorney of
 New York County
 Dear Mr. Frazer:
 I learned today that a local busi-
 neman and acquaintance of mine,
 Mr. Mike Regina, died on Aug. 15
 from injuries he sustained when he
 was struck by a motor vehicle travel-
 ing at high speed in reverse on
 Lafayette Street, across the street
 from his auto body shop at 62
 Prince St. The accident occurred
 on Friday, Aug. 9. Has the driver
 been charged with a crime?
 Charles Komanoff

October 3, 1996
 Dear Mr. Komanoff:
 NYPD records show that the driver
 was not arrested in connection with
 this accident.
 Vehicular accidents generally are
 first investigated by the Police
 Department, which makes the ini-
 tial determination as to whether or
 not violations of the New York State
 Penal Law are found. If the police
 do not make an arrest, the matter is
 forwarded to the District Attorney's
 Office for possible prosecution.
 Thank you for taking the time to
 share your concern on this matter.
 Leroy Frazer, Jr.

October 9, 1996
 Dear Mr. Komanoff:
 I understand that a response to
 your Sept. 3 letter has been mailed
 to you. I hope you find it to your
 satisfaction. I understand your con-
 cern that people responsible for
 vehicular homicides should be pros-
 ecuted and you can rest assured
 that, when warranted, this office
 will vigorously prosecute those who
 have violated the law in this man-
 ner. Once again, thank you for your
 concern.
 Robert M. Morgenthau
 District Attorney

October 17, 1996
 Mr. Robert M. Morgenthau
 District Attorney, New York County

Dear Mr. Morgenthau:
 I have your letter of Oct. 9 as well as an Oct. 3 letter from Assistant DA
 Leroy Frazer. While I appreciate the courtesy of these replies, I am not sat-
 isfied with their content. From what I know of the Aug. 9 crash, I am mysti-
 fied as to why the driver has not been charged with Criminally Negligent
 Homicide. I ask you to take personal charge of this case. I also ask how it
 is that your office prosecutes drivers in only a very small fraction of pedes-
 trian and bicyclist deaths in New York County.

Mr. Regina was struck by a motor vehicle traveling at high speed in
 reverse on Lafayette Street. Eyewitnesses believe the vehicle was traveling
 at about 25 miles per hour. The vehicle had to have been traveling at a
 high rate of speed to break several of Mr. Regina's ribs on contact and to
 throw him 15-20 feet in the air (causing his head to strike the pavement
 with such force as to precipitate his death from head injuries).

Does not the behavior of the motorist meet the standard for Criminally
 Negligent Homicide, which Executive Assistant District Attorney James M.
 Kindler defined as follows in a letter to me on Jan. 30, 1991:

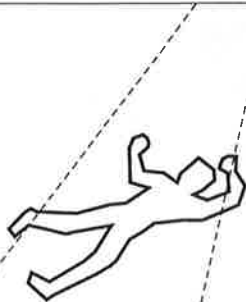
*The Penal Law defines "criminal negligence" as failure to perceive a "substantial
 and unjustifiable risk" under circumstances amounting to "a gross deviation from
 the standard of care that a reasonable person would observe in the situation."
 Penal Law §15.05*

Does not operating a motor vehicle in reverse at an excess of approxi-
 mately 10 mph on any well-traveled Manhattan street qualify as a gross
 deviation from the standard of care that a reasonable person would exer-
 cise? If you disagree, please tell me how, and why.

Each year some 60-70 pedestrians and half-a-dozen bicyclists die from col-
 lisions with motor vehicles in New York County. No more than a handful
 of such incidents result in prosecutions. While motorists aren't necessarily
 culpable in each incident, motorist behavior is at least a contributing
 cause, if not the primary cause, in many.

Can you square your commitment to justice and public safety with such a
 lackadaisical posture toward this ongoing carnage on our streets?

Charles Komanoff



November 27, 1996
 Dear Mr. Morgenthau:
 It is now 41 days since I last wrote
 you, inquiring why your office has
 thus far declined to prosecute the
 motorist who killed Mike Regina by
 driving into him in reverse at high
 speed on Aug. 9 of this year. And it
 is 12 days since your representative
 told me by phone that I would
 receive a reply "in a few days." No
 such reply has arrived as yet.
 Charles Komanoff

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**Use The
 Enclosed
 Envelope To
 Join T.A.!**

City Cyclist

published by Transportation Alternatives, a
 4,500 member New York City-area citizens'
 group working for better bicycling, walking,
 public transit, and fewer cars.

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Cover Photo: Ken Zirkel