

**STOP**  
**DWI** New York



# **SHATTERED LIVES**

**Impaired Driving Tragedies | Victim Perspectives**

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# DEDICATION

This publication is dedicated to the victims of drunk and drugged driving crashes.

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# Introduction

Victims of drunk and drug impaired driving and their families have had a tremendous impact upon our society during the past three decades. Because of their pain, they have demanded change in the ways our communities view impaired driving and how the criminal justice system sanctions impaired drivers. This includes stronger police response, stiffer penalties, and mandatory ignition interlock devices for convicted offenders and changed citizen behaviors. But the stories in the pages of this book tell us that more still needs to be done. The pain and sadness caused by drunk and drug impaired driving is incalculable. We must read the stories of "Shattered Lives." And do better.

Gerald F. Mollen, Broome County District Attorney

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The most sincere acknowledgement goes to the courageous people who were willing to share their painful stories with the reader to prevent future tragedies related to impaired driving.

Denis Foley, Ph.D., Editor

The Program functions as a financially self-sustaining alcohol and highway safety program. STOP-DWI efforts are funded entirely from fines paid by convicted drunken drivers. No tax dollars are used. To contact a county STOP-DWI Coordinator, please visit [www.stopdwi.org](http://www.stopdwi.org)

# Depraved Indifference Murder

By Maureen McCormick  
Chief of Vehicular Crimes Nassau County  
District Attorney's Office



Photo: ©Newsday

At 2 am, twenty-four year old Martin Heidgen changed forever the lives of everyone in his path. He had driven for miles the wrong way on the Meadowbrook Parkway, a major artery that leads to Long Island's famous Jones Beach. Heidgen would later say he had been in "self-destruct mode" and that following an argument with his girlfriend he decided he "just had to go out and drive." He also said he drank a fifth of Scotch before driving. Heidgen had a .28 blood alcohol concentration – three and one half times the .08 limit for intoxication in New York. We later learned he

had been coming from a friend's house party, where he had been invited to stay.

Heidgen was going around 60 miles per hour when he smashed his pick-up truck head-on into a wedding limousine driven by Stanley Rabinowitz. The limousine was returning two flower girls, Katie and Grace Flynn, their parents, Neil and Jennifer Flynn, and their grandparents, Chris and Denise Tangney, to their home on Long Island's south shore. Jennifer Flynn's sister Lisa was the bride and it had been a picture perfect wedding and a day that Katie Flynn had, only hours earlier, called "the greatest day of her life."

The crash itself was captured on videotape by a "Drivecam" system that had been installed in the front of the limousine. It showed the headlights of the pick-up truck coming directly toward the limousine in the moments leading up to the crash. It showed Mr. Rabinowitz trying to steer out of the way. And it captured the deafening sound of the impact followed by the haunting groans of a family that would never be the same. The final sound on the tape is Jennifer Flynn calling out for her daughter: "Katie!"

Jennifer and 5 year old Grace had been sitting with their backs against the driver's compartment with Neil. Miraculously their physical injuries were considered minimal by comparison. Emotionally, Jennifer has been crippled. Neil's back was broken. Chris Tangney was entangled in the bar and his leg was almost completely severed. He had lost so much blood that he was not expected to live. Chris' wife, Denise's legs were crushed and she has endured countless surgeries since that night. Stanley Rabinowitz, the driver, husband, and father of two, was crushed into the metal and glass of what used to be the limousine. Later, during the trial we brought the limousine to the court house for the jury to examine. Mr. Rabinowitz's eye glasses were still embedded in the shattered windshield.

I remember listening to the commentator's description of the crash and telling my horrified family that I hoped the Nassau County District Attorney's Office would charge murder. And then I heard something that will haunt me forever about this crash: Katie had been decapitated. Her mom, Jennifer, had found her daughter's head under the mangled bodies of her parents and her husband. Jennifer

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carried her daughter's head from the limo and sat on the center median of the parkway cradling her daughter's remains for more than an hour. She refused to leave until all of her family was removed to hospitals. She later told me she put it off as long as possible because she knew when she let go of Katie, she would never see her again. The image of Jennifer Flynn clinging to her daughter's head made me cry on July 2, 2005. It makes me cry now.

I am a prosecutor. I am part of a law enforcement team. I work with the brave men and women of police agencies to hold criminal drivers responsible for their actions. On July 2, 2005, I was an Executive Assistant District Attorney in the Kings County District Attorney's Office. I was in my 10th year running the only Vehicular Crimes Bureau in New York City. I knew the Depraved Murder charge would be difficult to prove at trial. I had done it in Brooklyn. I knew it is a thousand times harder to build a case than it is to tear it down as a defense attorney. I knew Vehicular Crimes are not like any of the other crimes I had prosecuted during my 19 years in Brooklyn. They involve "regular guy or girl" defendants that could be your neighbor or friend – or more importantly, a typical juror. Most importantly they involve random, innocent victims whose only crime was being in the wrong place at the wrong time.

Vehicular crimes are different than other crimes. Every one of them carries unmistakable heartbreak and pain. Every one of them stays with me. Every one of them reminds me how the thoughtless, selfish acts of a drunk, drugged or reckless driver can leave an innocent family in perpetual sorrow. In each case I can imagine my own children – trapped in a car with the friend who said he was "all right to drive" or blind-sided in an intersection by the drunk who missed the light. I thank God I have not had to sit on the other side of my desk as the family member of a victim listening to where the "process" will go from here – knowing that no result will change the suffering. The arrogance and stupidity, the preventable pain and loss of life makes me angry and sad.

Kathleen Rice won the election on that platform. She invited me to come and start the first vehicular crimes bureau on Long Island. In her first year she has toughened policies that have resulted in a steadily rising conviction rate. She has placed emphasis on treatment for those who are substance-dependent. She has upgraded law enforcement's technology and has launched an unprecedented education program aimed at high school students and prevention. I am proud to say she is keeping the promises she made that brought me to the Nassau District Attorney's Office.

The Heidgen trial was a circus. Each day the local press solicited comments from the defense and so-called "experts" and continually asked the question: "But is it murder?" We worried how the jury was receiving the evidence. Were they able to see through the defense attacks? I worried I would not be able to do the closing arguments without crying. The image of Jennifer Flynn with her daughter was always in the forefront of my mind. The testimony of each of the family members, including Jennifer's uncle Mike, who was among the first people to come upon the scene of the crash, was heartbreaking. Hardened police officers and EMS workers were obviously still traumatized by what they had seen that night. Everyone in the court room cried - except Heidgen.

After 6 weeks of testimony and 5 days of deliberations the jury convicted Martin Heidgen of Depraved Indifference Murder. While any other result would have been an injustice, the fact is that a conviction for a lesser crime was a real possibility. Through it all, the Flynns, the Tangneys and the Rabinowitzs were stronger and more courageous than I could ever imagine being. Prosecutors fight for victims. As corny as it sounds, we fight for justice within the laws we are given – and then fight to change those laws when they are so obviously wrong. We worry about letting our victims' families down. In a 3 to 1 decision on September 15, 2011, the New York State Supreme Court Appellate Division ruled to uphold Martin Heidgen's conviction.





# Shattered Lives

## Kate Flynn

### Statement from Jennifer Flynn, Kate's Mother

I loathe standing before you today knowing that I am expected to sum up the impact of the crash in a statement. It cannot be done. But I stand before you because no one should live like I do. I am here for Grace, Eamon, Colm, for my family, friends and neighbors and for the thousands of people that have been extraordinarily kind to us. It is courage that brings me here and not revenge, because it is the right thing to do.

We, as a society, have allowed drunk driving to continue. Kate did not die from Cancer, Cystic Fibrosis or some other terrible disease which compels us to send money to a foundation, praying that scientists will find a cure. We donate all we can afford, we raise funds, we pray and we hope someone will come up with a cure. Everyone agrees that these scourges need be eradicated. Drunk driving exists because we allow it to. With drunk driving we can't just write a check and hope for the best. It requires us to look at how we have been tolerating drunk driving with insufficient jail time, inadequate charges, and ridiculous self-improvement classes.

Why do we accept laws that are written in such a way that law enforcement must prove someone's state of mind? I had the blood, the confession, the witnesses, the video tape and the unrepentant sociopath driver and people actually said to me that if he wasn't convicted of murder, at least he'll get manslaughter and some jail time. Why would I accept that? Why do we accept that?

Kate was murdered, needlessly, by a deliberate act. Drunk driving exists because we allow it to. Drunk driving could be dramatically reduced tomorrow if we changed our mindset and punished drunk drivers. It is easy to give a little jail time. It is easy to stick someone in a program, but it does not work. I wish I could spend Thursday nights in a class somewhere. Pay a fine. I wish I could spend ten years in jail. Buy ten years worth of calendars, crossing off each day until I got my life back. My tomorrow will never get better...ever.

Drunk driving continues because people are not afraid not to. Punishments are not that big a deal. They are not severe enough, because society does not view it as the crime it should.

Which brings me to the trial. Why do we accept it when the *New York Times* writes that this was a drunk driving "bungle." Bungle is the word they actually used. Bungle. Bungle is the term you should use if you drop a bag of chips or at worst, roll through a stop sign. Kate's head was severed from her body. The entire front end of the limo was embedded in Stanley Rabinowitz. To clean it up and water it down, so that it is more palatable for the papers, the news, the jury and the defendant is wrong.

Setting aside how insulting that is to Kate, Mr. Rabinowitz and our families, it is a disservice to drivers everywhere to not discuss the crash as it actually happened. If it were not constantly watered down, maybe we would punish drunk driving appropriately. Maybe if you knew that crash didn't end on impact. If you knew how things unfolded after impact, people could form an informed opinion of drunk driving.

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“To sit on the ground holding her and to watch helplessly those I love so much in such pain. To see my father’s leg cut off and his body mangled, my husband moaning in pain and screaming for Kate, the unnatural and scary positioning of my mother, the blood and bodily remains strewn on the seats and my helpless, scared, hurt five year old daughter crying in the corner. It sounds flat on paper or even stated out loud, but living it cannot be described.”

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“Two dead, three others maimed in a car accident,” as the defense would like to paint this, does not even come close to describing the carnage that night. The defendant has rights and I am a believer in the system, but his rights do not supersede mine. And if decisions are made, they should be based on all the facts; and it didn’t end on impact and it should count.

Who cleans it up for me? Who cleans it up for the court officer and the police officers who don’t even know us and were still visibly affected during their testimony, by the horrors of July 2nd, a year and a half later? Or the emergency medical technicians and police officers that were not permitted to testify because it would be prejudicial – who cleans us out of their nightmares? It should count for sentencing today and people should know, so that changes might be made in society’s tolerance and acceptance of this crime.

I should not be dismissed as a grieving mother. What happened to my family and me should be known and should be given the weight it deserves. I sat with Kate on the Meadowbrook Parkway and calmly and knowingly told Officer Collins, the officer that was stationed to sit with me, that my life was over.

There was nothing exaggerated or dramatized in that statement. Because he drove 70 miles an hour and mowed us down with a head-on crash, I was left to pick up my most beautiful, loving, first-born, seven year old daughter’s head off the floor of a limousine.

To sit on the ground holding her and to watch helplessly those I love so much in such pain. To see my father’s leg cut off and his body mangled, my husband moaning in pain and screaming for Kate, the unnatural and scary positioning of my mother, the blood and bodily remains strewn on the seats and my helpless, scared, hurt five year old daughter crying in the corner. It sounds flat on paper or even stated out loud, but living it cannot be described.

Driving with Kate to the hospital, crying as I know I was getting closer and closer, knowing it was the end and kissing her goodbye. Having minutes to get it together, as I was rolled into an empty corridor to wait as they opened the back entrance to the emergency room where I could meet Grace. How scary it was to see my baby on a gurney not knowing how we would make it through the night or any day thereafter. Saying goodbye to my father, as he was transferred to a hospital better equipped to treat his horrendous injuries. Letting him know how much I loved him and how peaceful Kate looked in her sleep and that she couldn’t have felt any pain.

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## Kate Flynn (continued)



Grace & Kate Flynn



Jennifer, Neil, Grace & Kate Flynn

Calling Neil's mother with the devastating news about Kate and having nothing to say about Neil's condition. How frightening it was to be at the hospital without him. How scared I was for his survival, physically and mentally. Pleading into friends' answering machines to pick up the phone, so that they could get to South Nassau Hospital before the state troopers I was told were sent to tell him that his daughter was dead. All the second-hand information I was getting about his condition, doubting he was well enough to hear about Kate.

We watched the clock minute by minute, waiting for seven a.m., so that my mother could start the first of her many surgeries, still not knowing if it was because she wasn't stable enough to be operated on or if the hospital was waiting for the surgical team.

At about seven a.m., the hospital staff realized that Grace was never examined. Knowing that she was bleeding internally and would need to be watched for several days in the pediatric intensive care unit. Not knowing how much she knew and how much we could tell her. We spent five days in the hospital. As we were discharged, Grace and I sat in a wheelchair being rolled out to the car when she saw a newspaper with Kate's picture on the cover. I had to tell her and the boys by myself when we got out.

We stayed with relatives for a couple of days, hoping Neil would be released and that we could go back to my mother's house together. But it would be three weeks before he was released and we needed to get home.

It was two weeks before the doctors would release my parents and my husband, transferring them to a rehabilitation facility and permitting them to go by ambulance to Kate's wake and funeral. I visited three hospitals a day, comforted my one year old, three year old and five year old and planned a Wake and Funeral Mass alone. That should count, that should be weighed. Two dead, others injured is an unfair, incomplete depiction of that crash.

After the Mass, Neil and I went back to the rehab facility. I had just had a Funeral Mass for my perfect, spectacular child and Neil still could not come home with us. Because of his injuries, he slept in a recliner while I slept in his hospital bed, the two of us holding hands for as long as we had the strength to keep them outstretched.

Our house was being renovated by my father and the six of us had been staying at my parent's house. Now we had no house to go home to, no one to build it, broken bodies and spirits. Friends,



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neighbors and strangers came together like an Amish barn-raising to build us a place where we would try our best to live. We spent four months living in one room, myself and the kids on the bed, Neil in the recliner and Kate in a small cardboard box on a shelf in the closet next to my t-shirts.

Neil spent all day crying and drinking and all night staring at the television. For the first few months, I never spoke in the mornings, because I couldn't believe I had to live another day without her. For the next few months, I didn't speak in the evenings, because I couldn't believe I lived the whole day without her. My father came home four weeks after the crash and my mother, five and a half weeks after the crash, all of us living in one home, wailing from the pain, both mental and physical. It was helpful because we needed each other and horrible because it was too hard to be with people you love in that much pain and not be able to help each other.

We moved back home the weekend of her birthday. On what should have been Kate's 8th birthday, we brought Kate's ashes to the beach, sprinkling her in the ocean, a place that once brought her so much joy.

The past year and a half required more surgeries for all of us. The physical and mental pain we live with cannot and should not be referred to and cleaned up as "also injured." I don't want to describe what my life is like, but would it make a difference if you knew how he ended all of our lives because he could, because he wanted to? Would it change the way we view and punish this crime? The papers clean it up, the trial cleaned it up. I put my makeup on and stayed busy with my children, but if you knew that I was half the person I used to be, would it make a difference? It should.

I spell, count or pray to keep my mind from going to where it is difficult to come back from. The crash and living without her effects every television show I watch, every book I read, every conversation I have, every activity I engage in and all of the relationships I have. Food, drugs, alcohol and exercise do not provide respite. I gasp for air as I walk through the aisles of Waldbaum's. I get so overwhelmed with grief or gratitude when I meet the people who were so kind to us, that I can't speak. I fumble over my words and am reduced to tears in seconds. I try to be the best mother, wife, daughter and friend that I can. But I am half the woman I was.

I am most happy when I am with my children. Yet being with them makes me want her more. I had four kids in six years. We didn't have a chance to grow into individuals yet. We were one unit, each a piece making up one personality. Her absence is palpable.

My marriage has suffered. I have loved my husband since I was seventeen, but it is excruciatingly difficult to be with someone in that much pain and to feel the same way and not be able to do anything about it. I am quiet, disconnected and withdrawn. There is no conversation that follows what happened to us. There is no subject worth talking about. So I don't. My friends and family mourn the loss of Kate and us. And we are trying – I spend time with relatives and wake up with a rash. I go to a birthday party or holiday and wake up with an infection. I sat through the trial coughing and sneezing. Living with the stress makes me physically ill. I have suffered from infections, head aches, back pain, and cuts and colds that take an inordinate amount of time to heal. I can't sleep, I am incredibly sad. I wonder what we are doing here and hope Heaven is everything I want it to be.

We are good, strong people, a loving family, with close friends living in an embracing community and every day is a struggle, a 'can't get the door open to get air on my face fast enough' struggle. If people knew all of this, would it make a difference in the way that we punish drunk drivers? Would it force a remedy for the inadequacy of the current system? It doesn't end with two dead, others injured, it is not that neat. Although time will make us more resilient as we learn to live this new life, it will never be good. How we lived to get there should count for the sentencing and be known, so changes can be made.

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## Kate Flynn (continued)

Living without Kate is more difficult than I can or care to convey, but the manner in which she was stolen leaves me breathless. One man chose to end her life. The murder charge, correctly chosen because it fits the crime, was submitted under Denis Dillon, the previous D.A. The current D.A. prosecuted the case.

By reporting the defense's claim that this charge was brought by Kathleen Rice for political motivation without adding that it was actually her predecessor who brought the charge is wrong. The case is not about political agendas. It is not about Kathleen Rice. It is about Katherine Marie Flynn. It is about Stanley Rabinowitz. The charge of depraved indifference murder was chosen because it fits the crime committed.

His reptilian attorneys misled the jury and the public with complaints that the charge was tantamount to intentional murder when he was only charged with depraved indifference murder. Where is the follow up statement that challenges him on his blatant lies? How can we ever have a necessary dialogue if the public thinks we are crazy, grieving parents and that this is a political witch hunt?

If *Newsday* is going to print articles with three defense attorneys or liberal law professors who state we'll never win, where are the three retired prosecutors that counter balance that pathetically wrong drive? I am not saying you have to give the victims preferential treatment, but be fair. How does it serve the public if we are just left to believe that it is a battle that can't be won?

Our crash fits the new appellate rulings perfectly. But who else will have the videotape, the number of witnesses, the sympathetic victims? Why are we writing laws in such a way that it makes prosecuting these cases so difficult? Why do we tolerate it? And why is it not discussed in detail? We gave the media the perfect vehicle to put this dialogue out there. We all drive the same roads. The focus should be on changing the system.

His foul, disgusting defense attorneys have lied about how remorseful this murderer is. We know he isn't sorry, because he tried to have his blood thrown out. He tried to beat the DNA test. He allowed a defense strategy based on blatantly false distances and speeds. He showed not a scintilla of remorse throughout the entire trial. We know he isn't sorry from the letters he wrote from prison. We know from the court officers who took him to and from the court room. We know from the corrections officers that take him to the law library where he researches his appeal. He never grieves, he is not sad, he never mentions us. He is only concerned with himself. The remorse would not make him less guilty, but it would make him more human.

I request that he receive the maximum sentence available. He drove such an incredibly long distance the wrong way. It is the entire length of our boardwalk. To go that far and pass all of those people. To never brake or turn, when on his side of the road, before the overpass, are wide areas of grass on both sides. He aimed his truck right at us and plowed into us at a crushingly high speed.

He stole her life. He ended ours. I request that he be sentenced to 25 years to life. It is not out of revenge. I take no pleasure in knowing he'll be serving that length of time. I will not be soliciting convicts to have him beaten weekly. I almost never think of him, because he is in jail and that is the way it is supposed to be. He should serve 25 years to life, because it is the correct punishment for the crimes he committed. Life is worth that. Kate's life, Stanley Rabinowitz' life and our lives.

Thank you for taking the time to read through the binder. I hope you considered it long and hard. Thank you for your fairness throughout the trial and for the opportunity to be heard today.

# Shattered Lives

## Katie Almeter, Emily Collins, Rachel Nargiso



Katie Almeter



Emily Collins



Rachel Nargiso

Alcohol abuse caused a fatal car crash one early morning weekend at Colgate University. Three friends lost their lives. They were bright, talented, and full of promise. Their hopes and dreams were dashed in an instant.

### Statement from Betsy Almeter

Have you ever tried to imagine what your life would be like if you lost part of yourself? An eye, an ear, a right hand, a left leg? On November 11, 2000, I lost part of myself...my beautiful, talented, vivacious, loving daughter Katie was taken from me by a senseless act of violence.

Recently I reread some of the cards Katie had written to me in the past few years. Here are some of her comments to me:

- Mom, you are very special to me. I love you! You're always there for me-thanks for everything!!
- I want to be just like you when I'm older. I really admire you.
- You gave me the greatest gift: wings for my dreams. Thank you.
- I look forward to our relationship growing and maturing.

And upon her graduation from high school, she wrote to her father and me:

*Dear Mom and Dad,*

*At this very moment in my life I am forced to reflect back on all of my life's memories and lessons. As my classmates and I prepare to go out into the real world I notice that many of them are scared and seem unprepared. Yes, I too am scared, but you have given me the best thing in the world. You have filled my balloons with the strongest "helium" ever. You have given me love, trust, compassion. You have taught me how to be myself, stand up for what is right and not be afraid of many things at all... Thank you for a great graduation party. It was a great close to my high school career and a wonderful opening to the rest of my life.*

*I love you always,  
Kate*

*Continued on next page*

## Katie Almeter, Emily Collins, Rachel Nargiso (continued)

But “the rest of her life” was a mere 4 months. She had so many hopes and dreams, as did I for her. She was an elite athlete and had the potential to be an All-American and possibly an Olympic hopeful. She wanted to work with people, and she was blessed with many gifts in that area. Katie loved the water and talked often of how she would finish college, become a professional with a high-paying job, and have several homes, one of which would be on a lake or an ocean. The house would be big enough that her Dad and I could come and stay with her for months at a time. Katie hoped for a husband and children, and I, for grandchildren. Katie was my best friend and I grieve for her daily.

Will Rob Koester, the drunk driver who killed my daughter and her friends, ever begin to understand the magnitude of what his actions have cost me and my family, and the families of the others who were killed? Does anyone who has been drinking and then gets behind the wheel of a car foresee the heartache they may cause? “Friends don’t let friends drive drunk”, “If you drink, don’t drive, if you drive, don’t drink.” They’re easy to remember, those clichés – take them to heart so that you won’t break someone’s heart.

## Statement from Kelly L. Collins-Colosi

Think back to November 11, 2000. I bet most people can’t recall what they were doing that rainy November day. I can. That was the day that I got the call that forever changed my world. It was 10:30 a.m. when the phone rang. It was my mother. “Get home quickly,” she said, “Your sister has been in an accident.” Then the phone was dead. I immediately called my parents back and asked, “What’s going on?” My father responded, “Your sister was in an accident. We can’t find her and Katie (the girl my sister had been visiting) is DEAD.” My father’s words echoed as I made the hour trip to my house, wondering what had happened to my little sister. As I walked in the door, the frantic search for my sister was continuing. It was at 11:50 a.m. that the call came in: my sister had been killed at 1:45 a.m. on the Colgate University Campus, along with her best friends Katie and Rachel. The three of them – college freshmen, best friends since grade school, reunited for the first time in their college careers – had gone out on a Friday night in Hamilton. Walking back to Katie’s dorm through the rain and cold, they accepted a ride from three guys in a maroon Jeep Cherokee. Before they could even find out they were in a car with a drunk driver, he slammed on the gas, shot up Oak Hill on the Colgate Campus, and slammed into a tree. Instantly, my beautiful sister was killed. That was the day the pain began. It has never ended.

Em was eighteen and a freshman at Hobart and William Smith College in Geneva, New York. She was going to school for business, with dreams of becoming a fashion buyer for a large retail store. She was beautiful, intelligent, caring, charismatic, and most of all, she was my sister.

One of my earliest childhood memories is of visiting my mother the day Em was born. That day I received my most important title: “big sister.” That day my life changed, because I now had the responsibility of taking care of my little sister. When Em and I were young, we used to lie in bed at night and plan what fun the next day would bring, and wonder how we would have time to fit it all in. I never imagined that I would have to plan a day without Em. We were supposed to grow old together.

In our last conversation Em talked about how happy she was at college. She ended by saying, “I am glad to have a sister like you.” Then we said goodbye. Little did I know it would be our last goodbye in this lifetime. In her special way, she left me, letting me know that she loved me and always would.

The impact that Em's death has had on me is immeasurable. My best friend, my confidant, my role model, and the person I always turned to for help and to laugh with, the person I was supposed to grow old with, is gone. I have a hole in my heart that you can only understand if you have lost someone. My sister meant everything to me, and learning to live without her will impact every second of every minute of every day of the rest of my life.

One drunk driver took away my yesterdays and my dreams of tomorrow, and for that I cannot forgive him. There will never be a day in my life that I will not think of Em and I pray that there will never be a moment in this drunk driver's life that he will forget the beautiful life he stole from me.

## Statement from Sarah Nargiso

I remember those hectic winter mornings in Norwich, New York, before school. My older sister would yell to me from her room, "Sarah, go out and start my car for me and scrape the ice off the windshield!" I would yell back, "Rachel, it's your car!" "Do you want to get to school on time?" she would ask. "Ugh! You're so annoying!" I would say as I walked outside in the freezing cold of winter, to scrape the ice off the windows and heat up the car. I never thought I would actually miss hearing her give me orders. Now, I would give anything to hear the sound of her voice.

On November 11, 2000, a drunk driver killed my only sister and her two best friends. All three were college freshmen. Rachel and her best friend, Emily, were visiting Katie at Colgate University. They went downtown to celebrate their reunion. When it was time for them to head back to the dorm, the weather had turned cold and rainy. They were at the foot of the campus when a fellow student offered them a ride. They got in the car, not knowing the driver was drunk. No more than thirty seconds later, the driver recklessly stepped on the gas, and hit a tree. Rachel, Emily, Katie, and one other student were killed; the driver survived. The next day, my mother and I, not knowing of the accident, went to Colgate to meet the girls for an early lunch. We waited at the Colgate Inn, but they never showed. My mother and I started calling people trying to find them, but nobody would give us information. Later, we were told of the accident by the hotel management. I couldn't, I didn't want to believe it! It didn't seem real. I kept thinking that there was some mistake!

There wasn't. My big sister, and two girls that were like sisters to me, were gone forever. I was in shock.

My feelings then were as strong as the way all of America felt on September 11, 2001, when the World Trade Centers were attacked. It still seems impossible to express my true feelings and emotions in words.

The death of my sister has had a powerful impact on my life. It has not only changed my values, but the recognition of what is really important in life. I am no longer bothered by petty problems. After losing something that is extremely meaningful to you, even though it is hard, it is important to move on in life. America had to move on after September 11, just like I had to move on after my sister's death. Although the incredible feeling of sadness and loss will never go away, dwelling on the loss won't change anything. The only way to survive is to move on and appreciate every moment. Just as, in the wake of 9/11, most Americans no longer take their freedoms for granted, I no longer take life for granted.

After my sister died, I didn't think that my life would ever go on. However, I have come to feel that her death has taught me more than her life. My whole attitude about what I do and my life has changed. By moving on, I have been able to use my sister's death to teach others, and make a positive difference with others. Even though a person is not physically here, by making people aware, and remembering them, you can keep them alive forever. Having my sister killed is probably the worst thing that I will ever experience. Paradoxically, I feel that it has changed and shaped me into a better person.





# Shattered Lives

## Matt Angelillo

### Statement from Marc Angelillo

This sentence is the consequence of having no consequences, of accepting unacceptable behavior regarding teenage drinking. There was no terminal illness, no act of God, no battle in defense of our country and no cowardly terrorist attack to justify his death.

Matt's life, which had so much promise, was just unnecessarily wasted. Within hours of the accident, I realized that nothing I could do would bring my son back. This is a horrific feeling of helplessness. I also knew in my heart that Steven (the driver) was suffering with us. The absence of anger and bitterness for him was replaced with sympathy.

The horrifying reality of drinking is that it is so unnecessary. However, as a society we have allowed alcohol to become a prerequisite to everything we do. We will continue to bury our loved ones unnecessarily as long as this culture continues to glorify alcohol.

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"I heard my mom talking to my dad and she sounded very scared. I went downstairs and my dad was on the phone calling all of Matt's friends. I heard him saying something about an accident, but I didn't think Matt was in it. I saw my mom on her knees praying. That really scared me. My dad kept calling people and asking them if they knew what happened. He was scared. Matt wasn't home by then and he usually comes home before 12. I was very scared at this point. My dad said something about someone dying to my mom but he didn't know for sure. They decided to go out to find the accident and figure out where Matt was. I went up to the computer and put up an away message, 'Please don't let it be him.' " – Lindsay Angelillo, Matt's younger sister

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To read more about Matt and the Angelillo family's journey, go to [Sharingmystones.com](http://Sharingmystones.com).

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# Shattered Lives

## Pedro Hernandez and Henry Rivera



**Pedro Hernandez**



**Henry Rivera**

It was an emotional night at a Wegmans store in Irondequoit that Sunday. The store at Hudson and Titus hosted a vigil for two co-workers who died in a car crash. One hundred people turned out for the vigil at the Wegmans parking lot at Hudson and Titus. The pain caused by the tragic loss of the two men runs deep. Memories left in the hearts of those who knew them, run deeper.

Pedro Hernandez, 20, and Henry Rivera, 18, were not only colleagues at Wegmans, they were also students. Hernandez attended MCC, while Rivera was a senior at East Ridge High School. Both Hernandez and Rivera died in that crash on Route 590 in Brighton. The two, along with another friend who survived, were coming home from the movies when the crash happened. The State Police said Herman Bank, 37, was going the wrong way on Route 590 when he crashed into their car. Bank was charged with vehicular manslaughter and police report his ability was impaired by drugs.

The vigil at Wegmans helped the people who miss Rivera and Hernandez honor their memories:

“Remembering is keeping the smile, the laughter, the song of Pedro and Henry alive in our hearts,” said Lawrence Tracy of St. Michael’s Church.

Henry Rivera’s mother Migdalia Rivera said, “I miss my son’s hugs and kiss every morning and every night. Henry was my life.”

“My son Henry was one of the best friends I ever had. He was probably the best big brother a brother could have. He was the best son a mother could have,” said Rivera’s father, Henry Rivera Sr.

“One thing I promised my big brother before he passed was I promised I would make him proud. I don’t see this as a goodbye, but a see you later,” said Juan Carlos-Torres, Hernandez’s brother.

“I know he is with God and looking down on us saying, Mom, don’t worry, I’m in a better place. You’re just missing my physical being,” said Rivera’s mother, Migdalia Rivera.

Henry Rivera never made it to his high school graduation. His parents said he was their greatest teacher.

# Shattered Lives

## Danielle Stento



### Statement from Diane Stento

When our daughter, Danielle, said, "Thanks for making my homecoming so special, Mom," on October 22, 1989, after a weekend home from the University of Buffalo, little did we know that would be the last homecoming for Danielle as we knew her. A mere two weeks later, on November 4, 1989, we received the phone call every parent dreads. The caller asked if we had a daughter named Danielle; when I answered "yes," he told me that he was a nurse at Erie County Medical Center and that a car had hit my daughter. He said that she was unconscious, but still breathing on her own. He recommended that we get there as soon as possible. When he asked if we had any family in the Buffalo area, I knew in my heart that this was very serious.

Danielle did survive. She communicates to me now that she hung on because she loved us (her mom, dad, and sisters Gina, Nicole and Rosemary). I'm sure there were times it would have been much easier for her to let go. Through months of coma, Danielle was locked in a body that no longer worked. She only had the ability, through her eyes, to communicate – "I'm in here, don't give up on me." Countless sleepless nights were spent wondering: Will she wake up? Will she walk? Will she speak? Will she remember us? Welcome to the world of TBI (Traumatic Brain Injury) – a very common occurrence in vehicular accidents.

One year to the day after her injury, Danielle laughed for the very first time, finally showing us some of the emotion that had been locked inside her. You can imagine our ecstasy at this sign of progress. Despite her condition, Danielle's love of family and friends was very evident.

The flip side of our happiness is our struggle. I could never live if Danielle ever knew how much we hurt or how tired we get. I would never want her to feel our burdens – she has her own to bear. Imagine for a moment living the life that Danielle and her family have been sentenced to.

Imagine the torment of watching your beloved daughter struggle with pneumonia, infections, surgeries, muscle contraction, and pain – and not be able to tell you where she hurts. Imagine

contending with the reaction of friends as they struggle – not always successfully – to accept Danielle as she is now. As the result of permanent damage to her brain stem, Danielle can never be who she was. Her injury leaves her with many of the same struggles as one who has been afflicted with cerebral palsy. She will need 24-hour care for the rest of her life. After the crash, I forgave the intoxicated driver, imagining how she has suffered with guilt over her destruction of my daughters life. The defendant weighed less than a hundred pounds. But at the trial I realized she had no remorse. I was filled with rage. Danielle saw this and asked me what was wrong. I said nothing. Danielle could tell. She asked me again. I told her of my seething hatred. Danielle said, "Forgive her."

One incident in particular has stayed with me. Ten months after Danielle's injury, on a beautiful September day, I walked Danielle in her wheel chair to the local grocery store to purchase strained baby food. It was a happy day! I had been told that Danielle would never be able to eat – that she would be restricted to a feeding tube the rest of her life – but I was finally able to prove otherwise. As Danielle and I were choosing the food, I noticed the store was filled with college students, obviously shopping to fill their bare cupboards – it was the first day back for the 1990 fall semester. My happy time suddenly turned into a nightmare with the realization that Danielle, too, should be shopping – this would have been her first year of graduate school. I could not get out of the store fast enough, choking back the tears, never wanting to let Danielle know what I was feeling. SILENT SUFFERING!

The silent suffering that we continue to endure comes from watching people her age get married, have children, have fun, travel, and pursue careers. She will never experience the joy of becoming a mother, and we will never experience the joy of being grandparents to her children – the chain has been broken.

The miracle is Danielle is still alive twenty-five years later and the gift is that we, her parents, can still take care of her at home. She needs 24-hour care and because of her permanent brain stem damage is unable to do anything for herself – the simple things we take for granted – eating, drinking, walking, talking. These past 25 years have involved many hospital stays, surgeries, and sleepless nights. One of the challenges in her care is always trying to figure out what can be bothering her, as she cannot tell us. Most recently Danielle suffered incredible pain for seven months before a doctor figured out its source and was able to treat her. Watching a loved one suffer with no relief is the absolute worst experience you can face in life.

After many years of our family involvement with Broome County STOP-DWI, hopefully to make a difference – our family along with Danielle was inspired to give back what was given to us while Danielle was hospitalized – a home away from home. The Danielle House was opened in 2002. Our mission: "In the spirit of helping others in need, the Danielle House offers a temporary, safe and homelike atmosphere for patients' families and loved ones, and for outpatients seeking respite during a medical crisis, during treatment phases of medical care, or medical related services. Our goal is to provide love, support, comfort, and affordable accommodations for those who find themselves in the Triple Cities area of Southwestern New York in need of a place to stay."

Danielle is a frequent visitor at the home where guests are just awed by her presence. She brings comfort to those carrying a heavy burden – as she carries one every day.

**For more information about the Danielle House, go to [DanielleHouse.org](http://DanielleHouse.org).**

# Shattered Lives

## Rosemarie Hume, Carol Lansing, Frances Pallozzi



Rosemarie Hume



Carol Lansing



Frances Pallozzi

Lu Ann Burgess (56), while drug impaired on Parkinson medication (Xanax®, Seroquel®, and Wellbutrin®), and driving 46 mph, killed three women hikers (Frances Pallozzi (81), Carol Lansing (66), and Rosemarie Hume (79)) at the entrance to St. Matthew's Roman Catholic Church in Voorheesville, NY. The driver never applied the brakes, and over a year later has no recollection of the crash.

### Frances' daughter, Catherine Pallozzi recalls the Crash and Aftermath

My mother was with the Volkssporters in Voorheesville; they were doing their typical 5K or 10K walk. She was with her friends, and they were in front of Saint Matthew's Church in Voorheesville. The church is probably a good 100 to 150 yards off the road, and they were going in to go to the ladies room at the church before the walk started. They were following a friend of theirs who was walking in front of them, and presumably (based on the accident and the events) we don't believe they ever saw the car coming.

It was the church tower that actually stopped the car. At no time, according to the records, according to the black box of the Toyota Highlander that hit them, were the brakes applied. The driver was going approximately 38 mph at the time that she failed the curve in the road. My mother, Rose, and Carol were hit by the SUV, going 46 mph. My mother was thrown into a bush, and, ironically, my mother's body landed at the corner of the church. That certainly has become a very sacred spot to my family, probably more so than the stone for which her cremated body is, because that's truly where her soul was lifted.

LuAnn Burgess knew she had Parkinson's...I can't say at what stage...I did not see the medical record. She had a prescription for an anxiety medication and she also had a cast on her left arm (that allegedly she was having removed the day of the crash). So you look at the circumstances: 8:30 in the morning, having taking a cocktail of five different Parkinson's drugs and Xanax for her anxiety, she got behind the wheel of her car. Then you factor in that she was going 38 mph prior to even leaving the road, so she was already speeding through a very, very residential area. She had passed the church on the way to school (where she had just dropped off her child) and the school was only one-quarter mile [away]. You can see the school from the road in front of Saint Matthew's Church...I am thankful that the child had been dropped off.



On her way back from the school, she failed [to negotiate] a curve in the road, and her SUV took a straight beeline to the sidewalk on which my mother, Fran Pallozzi, was standing with Rosemarie Hume and Carol Lansing. My mother was the first to be struck, based on the accident site, and [what] was probably more unfortunate is that Carol and Rose were actually dragged by the SUV; their bodies were in front of the SUV when the SUV actually came to a stop. All three women were pronounced dead at the scene.

As the events of that day unfolded, the notification process in all three families was very poor. I received a call at work at 12:02, from my 86-year-old father. He was very upset and crying. He had gotten a call from the local newspaper, asking if, in fact, the woman, Fran Pallozzi, who was killed in the Voorheesville accident was his wife. My father was in absolute hysterics. I just kept on saying to him, "Stay with me, I don't know what happened." He, of course, kept on saying, "I don't know what to do, I don't know what happened." This was probably the most haunting part of the day, hearing my 86-year-old father in absolute desperation, and neither of us knew what had occurred.

You realize when you have an event that is so incredibly life changing that life goes on whether you want it to or not. I feel the factor of that cocktail with the Parkinson's disease played an absolute role, and took the lives of three absolutely incredible women that day. These were three women of service, they gave to their community, they were all pillars, and they were centers to all of their families, all of them. I've gotten to know the other two families very well through this. Tragedy certainly bonds at the core of your being and the three women were absolutely center. There are now three widowers. You look at each of those three men and you know how they cherished those three women. There's no replacing them, there's no replacing my mother. Those moments are hard when you know unequivocally that this did not have to happen that day. LuAnn was a responsible, or should've been a responsible, adult, knowing full well that the drugs she was taking, for the reasons she was taking them, should've taken her off the road, period.

The month of May 2015 continues to be such a difficult month. Mother's Day begins the week. Followed in short order with my Mom's birthday and two days later my parents anniversary. We honor these occasions with a visit to the cemetery with Dad. This week, each year carries the same heartache as August 10, 2011.



Crash scene



Officers at the scene



# Shattered Lives

## Sierra Gore

### Statement from Kathy Daub-Stearns, Sierra's Aunt

Sierra was a joy to behold; a little girl who already knew accessories make the outfit by wearing a tiara, glass slippers (two sizes too big) and a pink dress over her blue jeans. She loved making me tea and she loved making cakes. She had a toy kitchen set, pots and pans – she was just getting into the pretend stage.

Remembering Sierra brings a smile to my face just as tears fill my eyes...Sierra had a way of making you feel special when truly it was she that was special. She sang little ditties, words and melodies made up as she went along, followed by an announcement that the song was just for you, because she loved you. Her laughter was contagious...Sierra's birthday was a few days ago, reminding us again that we will never get to know the woman Sierra would have become. My heart aches, there will be no new memories.

### Sierra's Law

In 2013 the New York State Senate passed Sierra's Law, which honors 3 year old Sierra Gore, the innocent victim of her mother Kim Gore's choice to use illegal drugs and drive. The proposed law, which was sponsored by Senator Charles Fuschillo (LI) and introduced in the State Assembly by Assemblywoman Aravella Simotas (Queens), provides law enforcement with a better way to identify the use of drugs, other than alcohol, by drivers through the use of saliva swabs and specially trained law enforcement officers.

Often drivers exhibiting signs of impairment during a field sobriety test may, upon the administration of a roadside breath test, show no or low alcohol. The authorized use of a saliva swab will provide police officers with an alternative, non-intrusive method for confirming or dismissing whether the grounds for failing the Standard Field Sobriety Tests [SFST] is related to impairment by drugs.

Additionally, by combining the use of saliva swabs and increased training of police officers in drug recognition, Sierra's Law could make it possible to establish sufficient grounds to obtain a court order for a mandatory blood test where a suspected drugged driver has caused the death of another, as was the case with Sierra.



# Shattered Lives

## Leandra Rosado

### Leandra's Law: A Father Speaks Out

Reprinted from the *Impaired Driving Update*, Fall 2011

Eleven year old Leandra Rosado's life came to a tragic end on October 11, 2009 in a DWI crash on the Henry Hudson Parkway. She and six other children were in a car driven by Carmen Huertas, a friend's mother who was under the influence of alcohol. The vehicle spun out of control and Leandra's body was ejected out of the vehicle's window causing her death. The six other children were seriously injured as well. Carmen Huertas had a BAC of 0.18%. She had told Lenny Rosado earlier in the evening that his only daughter was in "good hands."

### Statement from Lenny Rosado

Someone said the news people were downstairs. So I went downstairs to the lobby. I talked to the reporters and found out that Carmen Huertas was drunk and was speeding on the highway and crashed. The minute I heard this, my emotions changed from sadness to anger. I remembered Carmen telling me that my daughter is in good hands. I realized that Carmen must have left the party intoxicated. The party host, too, must have known that Carmen was intoxicated and let her take off. *The Daily News* came by and television stations. I was continuing to get more information that she was drinking and her blood alcohol 0.18 percentile BAC and that she was speeding before she got on the highway.

The newspaper people told me that Carmen's daughter said twice to slow down and that Carmen replied, "If you think this is fast, wait till we get on the highway." She told the girls, "Raise your hand if you think you're going to crash." Her ranting infuriated me. She was abusing my girl, Leandra. I thought this was crazy. It seemed to me that Carmen could have been suicidal, the way she was speaking and she was intoxicated. Someone told me that this was just a misdemeanor. You've got to be kidding me. Killing someone was just a misdemeanor. I thought this has to be a felony. Then I said to myself, "It's got to change." Carmen knew she was drunk and took a chance to drive.

*Continued on next page*

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"I remembered Carmen telling me that my daughter is in good hands. I realized that Carmen must have left the party intoxicated. The party host, too, must have known that Carmen was intoxicated and let her take off."

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Lenny at Leandra's funeral



Lenny gives victim impact statement



Daddy's Girl

## Leandra's Law

### Child Passenger Protection Act (VTL §1192.2-a(b))

*Leandra's father, Lenny Rosado has become a fierce proponent of harsher DWI laws and his lobbying combined with momentum from the tragic crash has led to quick changes in New York's DWI laws.*

New York is one of 46 states having special child endangerment laws that punish drivers who place a child passenger at risk while driving under the influence of alcohol. Leandra's Law was enacted by Chapter 496 of the Laws of 2009 and amended by Chapter 169 of the Laws of 2013.

Under the current provisions: Courts must order all drivers convicted of misdemeanor and felony drunk-driving charges—even first time offenders and regardless of whether a child under sixteen was in the vehicle at the time—to install and maintain ignition interlock devices on any vehicles they own or operate for at least twelve months at their own expense, in addition to any other terms of sentence.

New York becomes one of 10 mandatory first-time offender ignition interlock states. An interlock device costs between \$75 and \$100 to install, coupled with a monthly fee ranging from \$70 to \$100.

## Vince's Law

### Multiple DWI Offenses-Vince's Law

The penalty levels for offenders who commit three or more DWI offenses within 15 years is a Class D Felony with a maximum determinate prison sentence of up to 7 years in state prison and a fine of up to \$10,000 where previously such repeat offenses might not have been prosecuted as a felony at all.



## Facts About The .08 BAC Standard

### What is the .08 BAC Standard for Driving While Intoxicated?

Blood alcohol concentration (BAC) is defined as the level of alcohol in the bloodstream. As the number of alcoholic beverages consumed over a period of time increases, so does the BAC. At .08% BAC, virtually everyone, including habitual drinkers, experiences some degree of driving skill impairment affecting eye movement, judgment, coordination, concentration and reaction time.

In a study published in the *Journal of Studies on Alcohol* (May 2000), results showed that a driver with a .08 BAC can be up to 50 times more likely to die in a crash than if he was completely sober (.00 BAC).

### What .08 BAC means to the average driver.





Anyone drinking alcohol in New York State should consider the following facts before getting into the driver's seat:

- A 170 pound male is at .08% BAC after four drinks within one hour.
- A 140 pound female is at .08% BAC after three drinks within one hour.

### A drink is a drink is a drink.

Each of the following drinks contains an equal amount of alcohol:

- 12 oz. can of beer at 5% alcohol content
- 5 oz. glass of wine at 12% alcohol content
- 1 ½ oz. shot of 80 proof liquor
- 12 oz. wine cooler at 5% alcohol content

			
Beer 12oz. at 5%	Wine 5oz. at 12%	Liquor 1 1/2oz. at 80 proof	Wine Cooler 12oz. at 5%

### Alcohol content between products will vary considerably depending on container size and percentage of alcohol.

The degree of impairment depends on numerous factors including:

- The amount of alcohol you drink.
- Whether you have eaten before or while drinking (food slows absorption of alcohol into the bloodstream).
- Your body weight and percentage of body fat (fat does not absorb alcohol).
- The length of time spent drinking. Note also your rate of consumption.

*Coffee cannot make someone sober. Only time can make someone sober. It takes at least one hour per drink for the alcohol to leave the body's system.*

**THINK BEFORE YOU DRINK!**



# The Cost Of An Impaired Driving Conviction (First Time Offender)

Towing	\$50+
Car Storage (Fee per Day)	\$45+
Defense Attorney	\$1000+
Bail Fee	\$0 – \$250+
DWI Fine	\$300 – \$1,000
Court Surcharge for Crime Victims Assistance Fund	\$0 – \$100
Court Surcharge for DWAI/DWI	\$90/\$190
Alcohol Evaluation	\$100+
DWI Victim Impact Panel Session	\$25
Probation Supervision Fees	\$0 – \$250+
Conditional License	\$75
Drinking Driver Program Fee	\$175 – \$300
DMV Civil Penalty	\$125
DMV License Reinstatement Fee	\$100
Driver Responsibility Assessment Fee (annual for three years)	\$250
Auto Insurance (additional cost per year)	\$2,000 – \$3,000

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**TOTAL: \$4,435 – \$7,955**

## How a DWI Conviction Affects Auto Insurance . . .

### Little known facts:

- An insurance company can deny no fault coverage (personal injury protection for medical, rehabilitation and loss of wages) to the driver that causes a motor vehicle crash due to alcohol/drug involvement.
- An insurance company can deny parents whose child resides with them the standard or preferred rate due to the alcohol related driving offense of their child. In other words, the insurance rates for parents could increase simply because their child lives with them and has an alcohol related driving conviction.

# Penalties

CONVICTION	FINE <sup>1</sup>	MAXIMUM JAIL	LICENSE ACTION <sup>2</sup> AND REQUIREMENTS
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## ALCOHOL/DRUG RELATED VIOLATIONS

- Driving While Intoxicated (VTL §1192(3))
- Driving with a BAC of .08 or more (VTL §1192(2))
- Driving While Ability Impaired By A Drug (VTL§1192(4))
- Driving While Ability Impaired by Combined Alcohol and Drugs (VTL §1192 (4-a))

1st Offense Misdemeanor	\$500 – \$1,000	1 year	Revoked for at least 6 months Ignition Interlock <sup>3</sup>
2nd Offense (within 10 years) Class E Felony	\$1,000 – \$5,000	4 years	Revoked for at least 1 year Ignition Interlock
3rd Offense (within 10 years) Class D Felony	\$2,000 – \$10,000	7 years	Revoked for at least 1 year Ignition Interlock
4th Offense (within 15 years) Class D Felony	\$2,000 – \$10,000	7 years	Revoked for at least 18 months Ignition Interlock

## AGGRAVATED DRIVING WHILE INTOXICATED: HIGH BAC

- Aggravated DWI (Driving with a BAC of .18 or more) (VTL §1192(2-a)(a))

1st Offense Misdemeanor	\$1,000 – \$2,500	1 year	Revoked for at least 1 year Ignition Interlock
2nd Offense (within 10 years) Class E Felony	\$1,000 – \$5,000	4 years	Revoked for at least 18 months Ignition Interlock
3rd Offense (within 10 years) Class D Felony	\$2,000 – \$10,000	7 years	Revoked for at least 18 months Ignition Interlock
4th Offense (within 15 years) Class D Felony	\$2,000 – \$10,000	7 years	Revoked for at least 18 months Ignition Interlock

<sup>1</sup> This is the statutory fine only. In addition, the State imposes 3 mandatory surcharges and a crime victim fee ranging in total from \$260 for traffic infractions, \$400 for misdemeanors and \$520 for felonies. The DMV also collects a \$750 Driver Responsibility Assessment.

<sup>2</sup> License suspensions have a fixed period after which the license is returned. Minimum license revocations are set by statute, but the DMV determines, based on its regulations, when an offender is actually eligible to reapply for a license. Based on certain criteria, the revocation period can be considerably longer than the minimum. State law and DMV regulations both provide for permanent revocation of a license for persistent offenders.

<sup>3</sup> The ignition interlock device (or IID) detects the presence of alcohol. The requirement that it be installed as part of a penalty will apply only in cases involving alcohol, either alone or in combination with drugs.

# Penalties

CONVICTION	FINE ONLY	MAXIMUM JAIL	LICENSE ACTION AND REQUIREMENTS
<b>AGGRAVATED DWI: WITH A CHILD [Child Passenger Protection Act – Leandra’s Law]</b>			
• DWI/ 0.08+/Impaired by Drugs /or Combined Alc./drugs w/child 15 or younger (§1192(2–a)(b))			
1st Offense Class E Felony	\$1,000 – \$2,500	4 year	Revoked for at least 1 year Ignition Interlock
2nd Offense (within 10 years) Class D Felony	\$2,000 – \$10,000	7 years	Revoked for at least 18 months Ignition Interlock
<b>DRIVING WHILE ABILITY IMPAIRED</b>			
• Driving While Ability Impaired by Alcohol (DWAI) (BAC: .05 up to .07 BAC) (VTL §1192(1))			
1st Offense Traffic Infraction	\$300 – \$500	15 days	Suspended for 90 days
2nd Offense (within 5 years) Traffic Infraction	\$500 – \$750	30 days	Revoked for at least 6 months
<b>ZERO TOLERANCE LAW</b>			
• Driver less than 21 years (BAC: .02 - .07) (VTL §1192-a)			
1st Offense (Administrative)	\$125 civil penalty	None	Suspended for 6 months \$100 suspension termination fee
2nd Offense (Administrative)	\$125 civil penalty	None	Revoked for 1 year or until age 21 \$100 reapplication fee
<b>CHEMICAL TEST REFUSAL (VTL §1194)</b>			
1st Offense	\$500		Revoked for 1 year
2nd Offense (within 5 years)	\$750		Revoked for 18 months
Zero Tolerance	\$300		Revoked for 1 year
Zero Tolerance 2nd offense	\$750		Revoked for 1 year

# Have A Plan Mobile App

## Introducing our NEW Have a Plan Mobile App

The New York State Governor's Traffic Safety Committee and the NYS STOP-DWI Foundation are proud to release our **Have A Plan** mobile app. This app provides you with a timely and convenient resource that enables you to locate and call a taxi service, program a designated-driver list, educate yourself on Blood Alcohol Content levels as well as information on DWI laws and penalties or even report a suspected impaired driver. Available for Apple, Droid, and Windows smart phones.

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## If you are less than 21 years old take notice, these laws affect you...

### **Penalties for purchase of alcoholic beverages by persons under 21:**

Anyone caught using false identification to purchase alcohol commits a violation of law punishable by a maximum of \$100 and/or 30 hours of community service.

In addition, if your New York State Driver's License is used to illegally purchase or attempt to illegally purchase alcohol, the court will impose a 90-day suspension of your driver's license. If you do not currently have a license you will be disqualified from applying for a driver's license for 90 days.

### **Penalties for possession of alcohol by persons under 21:**

It is illegal for persons under the age of 21 years to possess alcoholic beverages with the intent to consume them. Under the terms of this violation, alcohol confiscated from minors will be seized and destroyed or disposed of by law enforcement officers. Minors guilty of possessing alcoholic beverages are subject to a fine up to \$50 and up to 30 hours of community service.

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**STOP**  
**DWI** New  
York

