

# Streetsblog: Midtown Police Refuse to Help Hit-and Run Pedicab Victim

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[Streetsblog: Midtown Police Refuse to Help Hit-and-Run Pedicab Victim](#)  
by Ben Fried on January 21, 2009

## NYPD "Broken Windows" Strategy Does Not Apply to Traffic Crime

Last month [a grand jury indicted officer Patrick Pogan](#) for leveling cyclist Christopher Long during a Critical Mass ride and lying about it afterward. For all the satisfaction one may derive from seeing justice grind forward in that case, [the Pogan assault](#) is something of a rarity -- police aggression caught on tape, making the cover-up utterly transparent and leaving a media storm in its wake. The more common -- and pressing -- problem for pedestrians and cyclists is the routine NYPD response to traffic violations that cause them injury and harm.



*Ethan Haymes is still waiting for a response to his report of a hit-and-run collision.*

Not long before the Pogan indictment, pedicab driver Ethan Haymes got a taste of this everyday injustice. On the night of November 25th, cruising for fares on Fifth Avenue near Rockefeller Center, Haymes was swiped from behind by an SUV as the driver made a reckless attempt to pass him on the left. The impact gashed Haymes' rear fender and bent one wheel into a potato chip, causing no physical harm. His cab rendered unrideable, Haymes watched as the driver accelerated and rounded the next corner.

The collision was unintentional, Haymes says, but the driver's hit-and-run reaction was unmistakable. "He basically stepped on it and hightailed it out of there," says Haymes. Luckily, a family of tourists witnessed the collision and caught the driver's license plate. Haymes recorded the number in his cell phone and prepared to notify the police. He figured multiple eyewitnesses and a unique identifier would give him firm footing to seek damages from the perpetrator -- nothing too hefty, just enough to cover damages to the pedicab.

The first officer Haymes approached said he could not help because he had no radio, and advised Haymes to call 911. The emergency operator took the complaint, entered it into the system, and told Haymes to stay at the scene until police arrived. So Haymes waited. And waited. After about 90 minutes, the owner of the pedicab showed up and helped replace the busted wheel. Haymes waited for the cops some more. Two hours after placing the 911 call -- well past midnight -- he rode away from the scene and headed for the Midtown North precinct building.

At the precinct, Haymes recalls, police told him the collision could not be classified as a hit-and-run because he had left the scene. Frustrated, he filled out an accident report, a process that only heightened his sense that enforcement protocols were weighted against him. "It was all catered to drivers, as if the collision were two cars," he said of the form. "I just wrote in the margins what actually happened." He is still waiting for a response to the form from state police headquarters in Albany. The whole experience has proven disillusioning. "I expected them to be like, 'Oh, you got hit-and-run? Well, give us the license plate and we'll prosecute this guy,'" Haymes said. "I feel like that's the way it should have happened. That is their job."

Haymes's story is hardly exceptional. Police follow-up is nearly unheard of when a hit-and-run vehicle strikes a bike, says Adam White, an attorney based in New York who has represented cyclists for more than 10 years. "I've never had a situation where a cop has done what's necessary to go after the owner or operator of that vehicle... they just don't do it," he said. "Every now and then clients of mine have been livid and tried to pursue it, and I've encouraged them to do so, and I've never heard a client tell me that it's come to anything."

NYPD's treatment of traffic crime doesn't square with its much-touted adherence to the "broken windows" theory of policing. One of the tenets of broken windows is that eliminating petty offenses pays dividends by reducing more serious crimes down the line. Crack down on turnstile jumping, the thinking goes, and a decline in subway violence will follow. The analogy to cases like Ethan Haymes's collision is clear: Zero tolerance for drivers who act recklessly, regardless of the physical harm incurred, will yield lower rates of crashes that do injure and kill people.

With increased bike modeshare an essential component of the city's green agenda -- [and ridership numbers starting to take off](#) -- a tougher NYPD stance on traffic violations would also reinforce sustainability goals by helping to put cyclists on equal footing with drivers. The necessary training and protocols appear not to be in place, however.

"My general sense is, across the board, that the police take vehicle crashes more seriously because they are just more routine, they're used to them, and they generally seem a little out of sorts by cyclist incidents and they just want to get done with them," said Mark Taylor, the attorney who helped Haymes file an insurance claim with the state following the collision. "The paperwork is set up for vehicles hitting each other and that's what cops tend to be trained for -- they just don't know how to handle cyclists."

So what exactly is the NYPD's current protocol for car-on-bike collisions in which a hit-and-run vehicle can be positively identified? Streetsblog's queries have yet to yield a response from the agency. A phone call to Midtown North's community affairs office was re-routed to the "Highway Safety" desk, which refused to answer any questions from reporters. NYPD's central public relations office has not responded to multiple inquiries.

Law enforcement's ingrained anti-cyclist bias is certainly not limited to New York. But there are some success stories elsewhere in the country, where consistent public pressure has improved police protocols for handling car-on-bike crashes. Last year, for instance, Portland's police department [lowered the threshold for generating a police report](#) for crashes involving "vulnerable roadway users" -- a new legal category encompassing cyclists, rollerbladers, and skaters.

"There was a time when if you were hit on a bike, and you were knocked off, they wouldn't write up a report," said **Bob Mionske**, [a Portland-based attorney](#) and former Olympic cyclist who in 2007 published [Cycling and the Law](#), a guide to cyclists' legal rights. The new standard, he explains, triggers more police investigations of car-on-bike crashes and leads to better insurance records of drivers' histories.

As a columnist with [Velo News](#) -- and, soon, [Bicycling Magazine](#) -- Mionske receives letters from cyclists and their families all over the country about their encounters with law enforcement. When you get down to it, he says, police treatment of crashes involving cyclists is really a matter of rights and equality. "We should have parity when it's a cyclist involved, and the fact is, that's not the case," he said. "Whatever the protocols are with respect to motor vehicle-on-motor vehicle are the same ones they should use for bike versus car."