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Criminal investigation in Wal-Mart trampling death under way

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LONG ISLAND, N.Y.

LONG ISLAND, N.Y. \_ The Nassau County, N.Y., district attorney is joining police in the criminal investigation into whether Wal-Mart should have had better security for the Black Friday frenzy that led to a worker's death at a Valley Stream, N.Y., store, a spokesman said Friday.

"The focus will really be on documents and evidence that shed some light on Wal-Mart's security plan and what they expected or should have expected to happen that day, and whether they failed to perceive or intentionally disregarded the risks associated with an event like this," spokesman Eric Phillips said.

The district attorney's office has reviewed employee records and surveillance film of the Green Acres Mall store where security guard Jdimytai Damour, 34, of Jamaica, N.Y., was trampled to death, Phillips said.

Wal-Mart will "continue to work closely with local law enforcement officials as they conduct their investigation," said Steven Restivo, director of corporate affairs for the Northeast.

The district attorney has also subpoenaed New York Institute of Technology news footage of a workers meeting at the Wal-Mart before Black Friday.

"We'll have enough people at the door," a man off-camera said in response to a question about security during the meeting. Long Island News Tonight reporter Laura Lopez, whom Wal-Mart invited to the meeting as part of a Black Friday report, said an employee told her he was concerned about security.

"He said there was a lot of pushing last year, it was cold outside, there was a lot of people with babies and he didn't want that to happen again this year," said Lopez, a communications graduate student.

When asked about the video, Wal-Mart referred to a statement issued earlier by northeastern division president Hank Mullany. "We expected a large crowd on Friday and added additional internal security, additional third-party security, additional store associates and we worked closely with the Nassau County Police. We also erected barricades," he said in the statement. "Despite all of our precautions, this unfortunate event occurred."

The tape is damning, said a lawyer for two shoppers who said they were hurt in the melee. "It clearly shows employees, management and the Wal-Mart organization had significant prior knowledge of the lack of security and chaos that they created," said **Bruce Baron** of Brooklyn, N.Y. Attorney Jordan Hecht of the New York City borough of Manhattan, who is representing Damour's family, did not return a message Friday.

Legal observers differed on whether there was a strong case for the company's liability.

"One could argue that Wal-Mart should have known there was going to be a rush and failed to provide the necessary personnel to make sure an incident like this didn't happen," said Richard Klein, a criminal-law professor at Touro Law School.

But Rachel Barkow, a criminal-law professor at New York University School of Law, said if Wal-Mart's doors were locked and customers pushed through, as police said, it would be difficult to hold the store responsible. "The more the crowd acted in a way that wasn't to be expected, the more you can't blame Wal-Mart," she said.

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(Newsday staff writer Ann Givens contributed to this report.)

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