

Submission to the Transport and Public Works Committee for the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018, specifically addressing 'increasing penalties for driving offences involving death or grievous bodily harm'

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On a quiet Sunday in May last year, Mother's Day in fact, my Dad, Bryan Baker, was working on one of his beloved Ducati motorbikes. He had been riding bikes since his teens; dirt bikes, road bikes, competitions, endurance competitions, for fun - he had done it all. Dad's most recent passion was restoring, showing and riding vintage Ducatis. He was preparing for a big meet in Brisbane and changed the oil in his 900SS. Afterwards, Dad decided to take it for a run, as he always did, when he was tinkering. His equivalent of around the block, living just out of town, a trip he had done 1000 times before. It was like any other Sunday afternoon ride and he waved to his neighbours as he passed them. He was just over half way around the loop, on a straight stretch of road doing 100km/ hr (the speed limit) when another driver executed a U-turn across his path. Dad tried to avoid the collision but ran out of road. He collided with the bull bar of the almost stationary ute and was thrown through a barbed wire fence into a paddock. His injuries were horrific. Dad made it to hospital but died shortly after. He was 62.

In the days and weeks that followed, my siblings and I learnt that the other driver may be charged with, driving without due care and attention, or dangerous operation of a motor vehicle, causing death. We assumed, 'causing death' was part of the due care and attention charge also, though the police officer explained that circumstances of aggravation were not included under that charge in Queensland. Once investigations concluded, there was insufficient evidence to prove dangerous operation charge and the lesser charge of due care and attention was laid. We were grieving, we were angry, but held onto hope that the legal process would help us feel some small sense of justice for our terrible loss.

The court proceedings were held across a few weeks. The police prosecutor met with me before the sentencing hearing and tried to prepare me for the possible outcomes of the case. I listened in disbelief as she explained that a fine and potential licence disqualification were the very best we could hope for.

I had to sit in the courtroom and listen to the magistrate say that the actions of the driver who took my father's life were not at the highest level of the charge. It broke my heart, again. Dad suffered horrific injuries and died as a result. There is no higher level for him, or us.

Whether we agree or not, the magistrate was right. Unlike other parts of Australia, there is a 'gap' in Queensland legislation where negligent driving laws do not differentiate between outcomes including grievous bodily harm or death. The maximum penalty under the TORUM S.83 driving without due care and attention offence is 40 penalty units or 6 months imprisonment. There is no mandatory licence disqualification in relation to this sentence. The Criminal Code S.328a sets out maximum penalties from 200 penalty units or 3 years imprisonment, up to 10 years imprisonment, depending on individual circumstances. To say this gaping hole compounds our loss and grief, is a gross understatement.

I walked out of court that day a publicly vowed to fight for legislative change. I've spoken with local members of parliament, worked with the Queensland Police Service on road safety campaigns and joined many other families suffering the same sense of loss and bewilderment, in supporting the Queensland Parliamentary Petition 'Harsher penalties for negligent driving causing death or serious injury – Walkers Law'. We have rallied the support of thousands of Queenslanders through this petition and heard too many other stories of 'soft penalties' for negligent driving causing the death of a loved one.

I feel that I am too close the situation, to suggest what the 'increased penalties' could be for negligent driving offences, but I know that circumstances of aggravation are required. There is a vast difference between outcomes involving property damage and those of serious injury or death. The community places a higher value on a human life and our legislation should do the same. Please implement 'Walkers Law' and show Queenslanders, that every life matters.

