



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Submission Cover Sheet

Inquiry into Dangerous Driving

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Inquiry into Dangerous Driving

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Dear Committee .

As a former Police Minister, AG and crown prosecutor / defence counsel , allow me to make some observations which will hopefully assist you in your deliberations .

I would also like to appear before you to elaborate on a few things and give you my thoughts on this issue gained since 1976 when I first started to practice law .

I touch on several of the terms of reference below .

As you may know my youngest son Jozef was killed on 2 January 2018 on Yarra Glen in a car driven by his mate's unlicensed and drug (ice) effected girlfriend .The car was traveling at approximately 136 KPH and it was 6 pm on a week day evening . There were a number of other cars on the road and it was lucky no other vehicles were involved. Joe's mate and his girlfriend left the scene of the accident and the driver (Angela Smith) denied driving the car despite evidence to the contrary until about 6 months later when she admitted it to a prosecutor in cross examination during an unsuccessful supreme court bail application.

She subsequently pleaded guilty and was sentenced to 5 years imprisonment with a non parole period of 3 years for the culpable driving charge (max penalty 14 years) plus for leaving the scene of an accident .

The sentence , whilst on the light side was within the ball park for similar offences committed in the ACT. I believe a sentence of 8 years with a non parole period of 5 years would have ben more appropriate ,however Angela within 6 weeks of getting out of jail (and being a very good prisoner in the AMC doing all the courses required of her) committed a further serious offence and went back in until recently . She has now been released to a rehab facility in NSW . Hopefully it will help her .

Firstly, I would have liked a coronial inquest into this case as it highlights some necessary changes to the law .

Currently in the ACT the offence of leaving the scene of an accident only carries a maximum of 2 years imprisonment . It also only applies to the driver and not the passengers .

In my view it need to apply to all occupants of the car and I would suggest a maximum term of imprisonment of up to 10 years would be more appropriate . Had Angela and Kane (Joe's mate who really suffered badly from this incident - genuine remorse -) not left the scene of the accident no doubt the police would not have had to spend many days trying to locate them both and it probably would have resulted in an early plea of guilty thus saving our family and all involved a lot of angst and trauma . To me and my family the leaving the scene of the accident and then trying to say Joe was driving was ,if anything, worse than the bad driving .

Speaking of Police , I was very impressed with how they kept us informed and attended to our needs as victims of crime at all times . Similarly the staff at the DPP who we dealt with directly , did the same.

Secondly, I was surprised during the sentencing proceedings to hear that the DPP could only use ACT precedents . These were few an far between. There was a slightly more serious case involving 2 deaths where Justice John Burns had given a head sentence of 11 years with about 9 years non parole and 2 other cases involving one death where the offender got a lesser sentence

than Angela did

Not much help. Even in my days with the DPP (1980s) we were able to use interstate precedents on sentencing. South Australian precedents I recall seemed to be particularly helpful as their offences were very similar to ours.

I would recommend sentencing practices in the ACT should at the very least be altered to allow precedents from all Australian jurisdictions to be used .

The other point I wish to make is that despite the very best intentions of the authorities and even perhaps the offenders , rehabilitation does not always work. My wife and were hoping Angela would come out a drug free and better person . She did all the courses available but it seems as soon as she got out she went back to her old mates ,apparently got on the drugs again and reoffended.

Still, as many people do benefit from rehab programs in the AMC we need programs – especially ones that try to wean people off hard drugs (which I note some other legislation before this assembly will not help in one iota).

We also need stronger sentences in most instances to reflect the gravity of these offences .Once arrested and charged and awaiting the court hearing, bail in my view should not as a rule be given , and thankfully it was not in our case The offenders in these cases are often drug addicted and should be denied bail to stop further offences being committed whilst on bail.

Finally , I prosecuted a number of culpable drives in the past and can comment from considerable experience on these types of offences if asked . I have also done a number of Police supervised drink driving experiments in both ACT and NSW . Happy to appear before you and answer any questions you may have

Kindest Regards

Bill Stefaniak AM,RFD

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