



Brisbane Central Business District Bicycle User Group

CBD BUG

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The Hon Mark Bailey MP
Minister for Main Roads, Road Safety and Ports
GPO Box 2644
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Dear Minister Bailey

Coroners Court Findings: Joint Inquest into the deaths of Ian Jensen and Timothy Kepui

I am writing on behalf of the Brisbane Central Business District Bicycle User Group (CBD BUG) to express our deep concerns over a number of aspects of the above Coroner's report (File 2015/2081 and 2014/1586

www.courts.qld.gov.au/data/assets/pdf_file/0004/514696/cif-jensen-ic-kepui-tp-20170324.pdf) that was recently handed down. The subjects of this Coroner's report were two crashes in Bundaberg between motor vehicles and people riding bicycles that resulted in the deaths of those riding the bicycles.

We appreciate the efforts of the coroner and encourage you to act upon their recommendations. However we have a number of concerns as follows.

The use of the term accident

The word "accident" is used 21 times in the report to describe the crashes. "Incident" is used on 22 occasions, "collision" 17 times, and "crash" only twice.

The use of the word "accident" is imprecise. It generally implies an act of God, something unavoidable. It has the unfortunate effect of softening the public's reaction to car crashes. Your government through "Safer Roads, Safer Queensland calls on everyone in our community – government, business and citizens – to: reject the notion that death and serious injuries are simply 'part and parcel' of using the roads" A coronial inquiry is one place where government can play its part.

We call upon you to encourage the state's coroners to avoid the word "accident" when reporting about traffic crashes.

Findings related predominantly to road user behaviour

As outlined by you in the state's Road Safety Strategy there are four major elements in the "Safe System" approach to road safety – Safe Users, Safe Speeds, Safe Vehicles and Safe Roads and Roadsides.

We were disappointed that the vast majority of the Coroner's report related only to the Safe Users element. We do appreciate that the coroner studiously avoided any victim blaming.

However, "Safe Speeds" appear to be an obvious aspect that was not addressed. In the case of Dr Kepui the road on which he was cycling is posted at 60km/h. A cyclist struck at 40km/h has a significantly greater chance of surviving than if struck at 60km/h.

Safe Roads and Roadsides appear also not to have been addressed. The intersection of McCarthy Road and Barolin Street is controlled by a Give Way sign on McCarthy Road. Had this been a Dutch style roundabout that slows motor traffic down and gives priority to cyclists crossing the approaches, it is arguable that Dr Kepui could have quite safely made his intended turn.

We note the coroner's concerns about poor driver knowledge of the relatively new safe passing distance road rules and the need for further education to raise public awareness on this issue. As they note, a simple question and answer test on recent changes to the traffic laws at the time of a drivers licence renewal would be a low cost way of helping to bring this about. CBD BUG made this specific suggestion in our submission to the review of the minimum passing rule. We are surprised and disappointed that it is yet to be implemented and urge you to see this change is implemented.

Failure to prosecute

We are shocked to find that two separate traffic crashes resulting in the deaths of totally innocent victims did not result in any prosecution, even for the relatively minor offence of "failing to drive with due care and attention". The concerns of the Coroner in relation to the appropriateness of the process through which charges against the two motorists involved in these deaths were withdrawn in contravention to the investigating officer views, are highly disturbing. Such instances only serve to reinforce a perception held by many cyclists that they have no protection under the law because as far as some people in the non-cycling community are concerned bicycle riders are a sub-human species whose life/safety is inconsequential. It seems prima facie that causing the death of any other road user should be grounds for prosecution of an alleged offender using the most serious charge available.

Coroner's recommendations and findings

In the case of Dr Kepui, the coroner notes the elementary deficiencies in the investigation and that lack of dedicated Forensic Crash Unit (FCU) officers in the Bundaberg police district.

We request that you raise these issues with your ministerial colleague, the Hon Mark Ryan, who in his role Minister for Police, Fire and Emergency Service should be asked what specific actions have been undertaken to improve the capability of FCU operations in Bundaberg. Furthermore, it is imperative the Queensland Police Service (QPS) reviews the process of the charges against the motorists involved in these crashes being withdrawn, with a view to prosecuting a charge/s against the driver involved in the death of Mr Jensen. This review should also examine whether any police investigative and prosecutorial actions contradicted the QPS Operations and Procedures Manual.

We look forward to your response.

Yours sincerely

Paul French
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Brisbane CBD BUG
26 April 2017