

From: Michael Cross
To: robert.mcdonald@parliament.vic.gov.au
Date: 26/04/2012 09:51 PM
Subject: Hearing May 23rd -Road Safety Amendment[Car Doors].

Dear Mr. McDonald,

My name is Nicola Martin. My married name is Cross. My husband Michael and I are the parents of James Cross who was killed in a dooring incident on March 17th 2010 in Hawthorn. James was the one fatality from over 1000 dooring incidents reported in the previous decade. This does not include the very serious and permanent injuries for many other cyclists. I would very much like to speak with you to see whether we could offer some insights into the legislation proposed. We would be very keen to attend the hearing and give some input. Our experiences with the police investigation, the police decision not to charge the driver and how that decision was reached and subsequent coronial process have led us to a number of conclusions:

1] Education is most certainly a key aspect for reducing the risk of hazards - including doorings - to cyclists and motorists. Current behaviours demonstrated by some motorists and some cyclists are unacceptable. My work with TRAG [Teenagers Road Accident Group - www.trag-vic.org] in schools on the Mornington Peninsula is part of an effort to address the most over-represented group in road trauma statistics - the 16-25 year olds. I would like to see our education department looking at broader programs around our state that address these issues. I have met and spoken with both Martin Dixon and Bruce Billson about these matters.

2] Road design and infrastructure is a very obvious area that requires urgent and ongoing attention. There have been some efforts to protect cyclists in certain roads in the city - St.Kilda road and Albert street in East Melbourne are 2 examples where parking and bike lanes have been reversed.

3] The coronial findings in our son's death were that the driver in the parked car "failed to see" our son. Eye witness accounts stated that the driver failed to look. It would be easy to get angry and bitter because of the senseless way our son died. However, we understand the driver meant no harm - it was an error with a tragic result. There has been some publicity around this over the past 6 months since the inquest into James' death which has certainly been difficult for many people but has achieved a great deal of awareness raising - which is a good thing. Simple things which have come from this include "Lead with your left" which means opening the driver door with your left hand which in turn makes you swivel your upper body and aids viewing what is coming behind you. I spoke at a local school just two days ago and students came up to me afterwards stating that it was such a simple but powerful safety message. This reflects back on my first point.

Having said that, it is unfortunate that as human beings we seem to require other deterrents to keep us reminded of things we should or should not do. I have thought long and hard about what should or should not be applied in this situation. Our son died. The driver was not called to any account. Nothing will bring James back or change the fact that our family's tragedy has lifelong consequences. It does seem wrong that the driver was not required to give a timely statement which delayed the police investigation substantially and intensified our distress enormously. I had to push for a coronial inquest into James' death as there were many unanswered questions and by the time the findings were handed down it was well after the statutory 12 months where any charges could have been laid. Perhaps if the penalty

is more of a "stick" the deterrent effect would make the public more aware and hopefully more careful. I don't know. I still feel the best thrust are the first 2 points - education and infrastructure. However, at the coronial inquest, it was stated by the police officer leading the accident investigation into James' death that a decision was made by a senior officer at Booroondarra police station not to charge the driver involved. No reason was given. We understand that the maximal penalty that could have been imposed was 3 penalty points. In the document of the Standing Committee " under the current regulations the specified infringement penalty for car dooring is 1 penalty point [\$122.14]. That is the same penalty as exceeding the speed limit by less than 15km on a freeway.

Our son was killed.

It seems extraordinary that a police officer can unilaterally decide not to impose a penalty on a driver when the result of their error is the death of a person.

We look forward to hearing from you.

Regards,

Dr. Nicola Martin.