

To: ThePremier@premiers.qld.gov.au
From: Michael Yeates <michaelm@myoffice.net.au>
Subject: re hit and run drivers and "Wheels of Justice" ride
Cc:

The Hon Peter Beattie,
Premier,
Office of the Premier,
Queensland.

12 May 2005

Dear Premier,

As you know, I am a keen cyclist and a well known advocate for a safer range of options rather than relying on using a car. In addition to being very convenient eg for a trip to the railway station, I ride a bike to improve my fitness, to save money, to reduce my impact on environmental pollution and because it is fun.

I know you and your wife also cycle although I suspect primarily in a recreational and fitness mode rather than as transport. My adult children also cycle as do my grandchildren.

It is when you decide to go cycling with younger children that it becomes extremely obvious how poorly cyclists (and pedestrians and hence people with disabilities) are considered by the relevant authorities eg in terms of road crossings, facilities on roads, and provision of bike paths that actually go somewhere useful (ie to schools, parks, public transport, shops, etc). In other words, while governments promote cycling (and walking) and express concern about health, obesity, air pollution, etc, relatively little is actually done to provide a "useful" network and improve the safety of walking and cycling and thereby encourage increased use of these modes to their potential.

Accordingly, I was dismayed to read news reports about the court case in South Australia in recent weeks concerning a hit-and-run accident that resulted in the death of a cyclist. Hopefully you also saw the reports and are similarly concerned both as a cyclist and as our state Premier?

In case you are not aware of this incident, in summary, the story as reported is that a cyclist, father-of-two Ian Humphrey, was hit by a four wheel drive vehicle in the Barossa Valley in November 2003. The driver was a lawyer and former police officer, Eugene McGee. In his trial, McGee admitted to drinking five or six glasses of red wine prior to the accident. McGee apparently "did a runner" and did not come into contact with police for some 6 hours after the incident. Police were apparently unable to find him and it appears therefore that he was apparently able to avoid being charged with drink driving because he had not been breath tested within the time limit. Last month, McGee was acquitted by a jury of the charge of dangerous driving but convicted of driving without due care. He was fined \$3100 and had his license suspended for 12 months.

At face, the fact that someone could run over a cyclist and not be found guilty of dangerous driving suggests either inappropriate legislation or a lamentable acceptance that motorists do not have an obligation to drive safely (ie the opposite of driving dangerously).

Last Saturday morning and at very short notice, Brisbane cyclists organised a short ride from King George Square to Parliament House at the same time as other rides in Sydney and Melbourne in support of the "Wheels of Justice" ride in Adelaide which was attended by 3-4000 people.

At the Annexe entry, we left a number of messages including some written on bidons (the cyclists' drink container). On behalf of the group, I presented copies of the handout to your security officers and specifically explained the importance of the "messages" and requested the security officers ensure that the "messages" be delivered to you as Premier given the wide range of Ministers and departments involved.

[As many people do not have the ability to provide the facility, photos taken during the ride have kindly been made available at <http://www.yeatesit.biz/transfiles/brisbane/index.htm>]

Attendees at the ride (and others who were unable to participate) have subsequently indicated they would appreciate your response to our concern that far too many motorists are killing cyclists, in some cases with a hit and run, and that it appears that this is inadequate to ensure a jail sentence.

In one recent case in Queensland, the motorist was fined approximately \$2000 and given community service. In many cases, the fine is worth less than the bicycle. Despite requests, the Attorney-General refused to lodge an Appeal, presumably "correctly" but from a very narrow legal or legalistic perspective rather than a concern for the safety of cyclists or the need to reinforce the responsibility of motorists.

This suggests the need for changes in the penalties to reflect greater responsibility of motorists and this would be greatly welcomed by cyclists, many of whom are also cyclists or have family or friends who are.

You may be aware or perhaps not, that some European countries are moving to change the onus so that motorists are always responsible for a crash involving pedestrians or cyclists unless they can show otherwise. This creates a "deeming" situation similar to the current laws involving driving too close to the vehicle in front, where, in a crash in that situation, it is the following driver who is deemed responsible..

Too often drivers simply plead that they didn't see the cyclist. However this is in effect a guilty plea to driving dangerously, dangerously for the conditions, too fast, too close to the vehicle in front, and/or driving without due care and attention and/or failing to look for cyclists, pedestrians, etc.

It is usually accepted that penalties are meant to "fit the crime" so the current maximum jail sentence is certainly adequate.

However, if the judiciary continues to only apply the jail sentence in rare or very blatant "special" instances then it will become clear that only those offences including driving under the influence of drugs will result in the driver being jailed. For all others, a suspended sentence is increasingly inevitable. This of course also tends to encourage "hit and runners" eg to try to avoid being tested for drugs.

The above touches on some of the concerns expressed in the discussions about the issues leading to the "Wheels of Justice" ride.

However, each of the participants was invited to create their own "message(s)" which we carried on the ride. These were prepared personally so other participants were unaware of the specific content although clearly there will be several common themes.

Accordingly, we ask that you respond to the "messages" such that I can provide your response to those who participated.

By making cyclists, pedestrians and motor cyclists important to motorists, they may become more aware of their presence as part of the traffic stream. It appears that our regulatory, enforcement and penalty systems are based on emphasising the most important things to motorists and other road users are those that they can or will be penalised for doing or failing to do.

So a change in the law that puts cyclists and pedestrians, or for that matter the drivers of motor cars, higher in the mind of drivers of larger vehicles, may lead to far fewer serious accidents occurring.

A move to make motorists responsible would of course be most useful in this regard and I would be pleased to receive your support for such a move in order to support the various state government policies and strategies (covering transport, roads, urban planning, health, hospital costs, environment) which appear to support and encourage walking and cycling.

On behalf of the "Wheels of Justice" ride in 2005, I look forward to your responses.

Yours sincerely

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