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Capt. Campurciani
West Springfield Police Department
26 Central Street
West Springfield, MA. 01089

Hand Delivered

July 6, 2003

Re: Kevin Pecor-Lengthier Investigation Case #03-585

Dear Capt. Campurciani,

Police Chief Burke informed me on June 22, 2003 that at the request of Mayor Gibson, Case #03-585 involving the death of my son Kevin J. Pecor on January 13, 2003, had been reopened for a lengthier investigation to determine if something had possibly been overlooked. I believed that a follow up investigation by someone not involved with the initial investigation would offer a fresh set of eyes. He informed me that he had assigned that responsibility to you. Since that time, I have left three messages in an attempt to speak with you, and those phone calls have gone unanswered. I am relatively certain that you do not understand the depth of the pain in such a tragic loss of my only child, as I could not have imagined it prior to actually experiencing it. This, coupled with the lack of response by Officer Duffy and Sergeant Connors at the time of the accident, has left me with a perception that the West Springfield Police Department is not making a good faith attempt to ensure that there be some social justice surrounding my son's death. Although my phone calls started the morning after my son's death, I did not get a response or meeting or any information from the W.S.P.D. concerning my son's accident until February 6th. This is an extremely lengthy amount of time when trying to understand and come to terms with such a sudden and tragic loss. In the hope to prevent some other mother from suffering the same anguish, I have given Mayor Gibson a pamphlet entitled "Officers responding to the death of a child". It is published by Compassionate Friends, and I believe that had the officers involved known this information, they could have lessened my pain and anguish dramatically. It makes a huge difference believing that people want to help and do not pass judgement. The comment by Officer Duffy that stated "Mrs. Pecor, you may not want to hear this, but if it was anyone's fault, it was your son's" as well as Sergeant Connors saying "What the hell was he doing on his bike anyway" both caused me additional grief, pain, and guilt. At the time, I was working 11-12 hours per day and teaching my son responsibility and independence. For that reason, he was working from 3-6:00 p.m., instead of hanging around with no supervision. I have been a single parent and was not getting home from my job until 6:00 p.m. Although Kevin was eligible to have his driver's license, he did not feel he was a competent enough driver to start driving on winter roads. He thought his bike was safer. His bicycle passed all of the bike requirements and although the newspaper said he was killed because of dark clothing and listening to music, in Mr. Martinez' statement, he states "I seen the person on the bike on the right side of me, so I went to go around him". That eliminates the theory of darkness as he saw my son who was wearing beige pants and a dark brown jacket. Also, the paper claimed that he was listening to music, but to the best of my knowledge, there was no Walkman or tape player found, just the headphones that could have been hanging around his neck.

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I would also like to understand why Mr. Martinez was not arrested that night. He was driving on a suspended license in an unregistered, uninsured car. That is an offense that warrants an arrest and it is my belief that many people have been arrested on the same offense for minor property damage. He was subsequently mailed a traffic citation. It is my belief that my son is much more valuable than any property. It would have made a huge difference in my perception of the accident, my perception of social justice, and the level of trust and faith I had in the West Springfield Police Departments responsibility to protect and serve my son's rights and safety as well as others. It also may have prevented me from feeling a need to "investigate" and attempt to pursue justice on my own. This also has caused me much more mental anguish than you could imagine. Although I understand you are all very busy and in a profession that could possibly desensitize a person, it is my hope that this portion of this letter will help prevent at least one person from going through a lot of what I have had to experience.

I am fully aware that the fact that Mr. Martinez was driving illegally does not constitute negligence in the Commonwealth of Massachusetts, even when the commission of that crime results in a fatality. For that reason, I have requested the assistance of people involved in the lawmaking process. On June 16th, Mr. Martinez appeared in court for the hearing of that traffic citation. During the proceeding, he was assigned a court attorney and on at least two occasions, smiled and laughed. It is my belief that there is no remorse and I am in awe that he could find anything about the incident to smile about. If we live in a society that someone can drive illegally and have no major consequences even if that results in the death of a child, there is a problem. This young man is only 20 years old.....he has no guilt or remorse and even found a portion of the proceeding entertaining.....and with no real consequences I can not help but wonder how many other people he will hurt or destroy. His license has subsequently been reinstated. He killed someone driving illegally and in less than 6 months time, he is now driving legally again (providing he bothered to register and insure his vehicle). This is not indicative of a society with social justice.

I understand that you only enforce the laws and do not make them. I appreciate you taking another look at this with a good faith effort and an open mind. I continue to look through case law myself and hope that you may find the following information helpful to consider, as I believe that he did not have room to safely pass my son and that does constitute negligence.

The road was narrowed dramatically by snow. There was a bank at the entrance of Amostown Rd. that Kevin had just gone around. This had Kevin two feet out into the lane of traffic. The breakdown lane could not be used as it was snow covered. According to M.G.L. 85:Section 11B:

"Every person operating a bicycle upon a way, as defined in section one of chapter ninety, shall have the right to use all public ways in the commonwealth, except limited access or express state highways where signs prohibiting bicycles have been posted and shall be subject to the traffic laws of the commonwealth and the special regulations contained in this section, except that: (1) the bicycle operator may keep to the right when passing a motor vehicle which is moving in the travel lane of the way, (2) the bicycle operator shall signal either by hand his intention to stop or turn, and (3) bicycles may be ridden on sidewalks outside business districts when necessary in the interest of safety, unless otherwise directed by local ordinance.

This law entitled Kevin the right to travel on that road as it is not marked no bicycles. The far right break down lane was covered with snow, therefore, Kevin was two feet out into the lane of travel.

According to the definitions in M.G.L Chapter 90E: Section 1: Definitions:

""Bicycle" a two-wheel nonmotor-powered vehicle.

M.G.L. Chapter 90E: Section 2: Paragraph 4 states:

"The commissioner shall establish, with the advice and assistance of the bicycle advisory board, established by section eleven A of chapter twenty one A, a bikeways program which shall include, but not be limited to: surveys, safety measures, demonstration projects, research, education, utilization of existing streets and walkways

According to the above definitions and laws, Kevin had the right to use the road, and although not considered a motor vehicle, is considered a vehicle in traffic. The road that was being traveled upon was posted 30 mph, posted "No Passing" and marked with a double yellow line. By these definitions, Mr. Martinez should not have been passing Kevin at all.

M.G.L. Chapter 89: Section 2: Paragraph 1 states:

Except as herein, otherwise provided, the driver of a vehicle passing another vehicle traveling in the same direction shall drive a safe distance to the left of such vehicle;

M.G.L. Chapter 89: Section 4A states:

When any way has been divided into lanes, the driver of a vehicle shall so drive so that the vehicle shall be entirely within a single lane, and he shall not move from the lane in which he is driving until he has first ascertained if such movement can be made safely

M.G.L. Chapter 89: Section 8: Paragraph 1 states:

"When two vehicles approach or enter an intersection of any ways, as defined in section one of chapter ninety, at approximately the same instant, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

All of the above laws do not specify motor vehicle, but specify "vehicle", and as per the definitions in section one of Chapter 90, a bicycle is considered a vehicle. Any of the above instances also constitute negligence by Mr. Martinez.

It is important to note the following measurements. The lane that Kevin was traveling in at the entry point is 11 ft. 6 inches. This was narrowed as a result of the snow (as per pictures and the statement by Yesenia Santos which states " there was a snow bank on the passenger side and it was out into the street" Kevin was clearly stated to be 2 feet into the lane. Kevin's shoulder width would have been approximately 20-24 inches. The total of his width combined with the two feet that he was into the lane is approximately 4 feet. I have measured several Honda Civics, and the average width excluding the rear view mirrors is approximately 6 feet 6 inches. This

allows only 12 inches for Mr. Martinez to get around Kevin without going into the other lane, even without any snow. The presence of snow decreased this. As per the statement by Tina Wood, which states "As our vehicles past on the road, I heard a "thud". I looked in my side mirror and saw the biker hit by the red car near the center. At first, I thought the thud may have been the red car hitting my bumper (attempting to swerve and avoid the biker)". She claims this happened as the cars passed, not after they passed. Mr. Martinez did not have room to go into the other lane as Ms. Woods car occupied that lane. According to M.G.L. Chapter 89: Section 1 states:

"When persons traveling with vehicles meet on a way, each shall reasonably drive his vehicle to the right of the middle of the traveled part of such way, so that the vehicles may pass without interference...."

Mr. Martinez could not safely go to the right as Kevin was there, nor could he safely pass Kevin as there was a vehicle coming the other way which prohibited that. These reasons also constitute negligence. Although I understand that Kevin swerved 30 inches in the road as he looked over his shoulder to see where Mr. Martinez was. Mr. Martinez did not allow for any movement of Kevin or the other vehicle. He saw Kevin and negligently attempted to pass him resulting in the death of my son.

Mr. Martinez claims to have been driving 20-25 M.P.H. (he also handed the officers a license and registration that he knew were not valid). I have watched this strip of road often and it is my belief that anyone rarely travels under 35-40 M.P.H. despite the posted speed of 30 mph. The second driver was allegedly going 30-35 m.p.h. (Admittedly going over 30), and traveling 4-5 car lengths behind. The distance from Elm Street to Amostown does not seem as though both of these statements could be true, although I am no expert and am not certain of that.

The second driver also claims that he saw Mr. Martinez swerve. I believe that he did....after he hit my son. He could not swerve early enough, as there was a vehicle in the other lane. It should also be noted that he hit my son with the front of his vehicle, not the side quarter. He was not in complete control of his car and at 20-25m.p.h., he would have been able, with a safe passing distance to brake in time if Kevin swerved. Although I have not yet located the law, in the Commonwealth of Mass Drivers Manual, page 73, states:

"Be safe when passing a bicycle or moped:

- **Reduce your speed. The wind turbulence or air pressure change caused by your passing vehicle can throw a rider off balance.**
- **Leave plenty of room between your vehicle and riders.**
- **If you have too little room in your lane to pass safely, you must wait for oncoming traffic to pass or the lane to widen.**

At night, you should dim your headlights if you meet an approaching bicyclist. Be aware that a bicyclist or moped rider might react to a road hazard and swerve suddenly, just like any other driver. Remember that you should respect the rights of a bicyclist to use the roadway, as you would respect the rights of another driver.

I would also like to mention that neither driver was given an alcohol or blood test. It might make sense for our lawmakers to propose a mandatory blood test in any accident resulting in a fatality.

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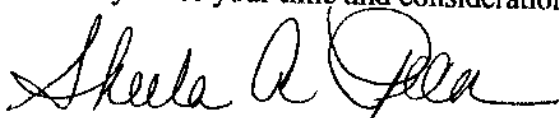
It is my hope that this information has assisted you and not insulted you in any way. Although I am completely overwhelmed with the loss of Kevin, the insensitivity and lack of social justice have worsened a situation that would not appear to be able to get any worse. It is also my hope that you will see the negligence and lack of remorse by Mr. Martinez and that some just consequences will be forthcoming to stop him from hurting anyone else. It is also my hope that the information in this letter, and some sensitivity training could help avoid another parent from the additional hurts that I have encountered. I would also like the assistance of legislature to help correct some injustices in the laws.

You may find that the Registry of Motor Vehicles could be a useful tool for the Right of Way laws as they apply when the roads are narrowed with snow. Also, John Allen is a bicycle advocate at massbike.org. He may be helpful as well.

Please contact me for clarification of anything contained in this letter or to help me understand where I have misunderstood the laws. Any and all assistance is truly appreciated.

Mr. Martinez is having his hearing for his traffic citation on July 15th. District Attorney Bennett, A/District Attorney Safford, Attorney William Fallon, and Attorney Terrance Dunphy are having an attorney's conference on that date as well. Any assistance that you can offer prior to that time is also appreciated.

Thank you for your time and consideration,



Sheila A. Pecor

cc: Mayor Gibson
Chief Burke
District Attorney Bennett
A/District Atty. Safford
Kathy O'Connor
Atty. William Fallon
Atty. Terrance Dunphy
Representative Buoniconti
Senator Melconian