12 November 2015

The Hon. Philip Cummins AM
Chair of the Victorian Law Reform Commission

Dear Sir,

I am the daughter of the late Mr Tom Kelly who tragically was a victim of a Hit Run Crime in Mt Evelyn on 15 September 2013.

My father's case was recently highlighted in an interview conducted by Mr Neil Mitchell with Detective Inspector Bernie Rankin on 3AW. The interview I believe, was prompted by the recent spate of Hit Run fatalities where the propensity of offenders to 'run' is of increasing concern, and where penalties imposed by the courts do not reflect the gravity of the crime, nor would I suggest, community sentiment.

Mr Mark Butler, a journalist from the Herald Sun, also wrote a detailed article discussing this very issue.

I have struggled for months now since those charged with this tragic crime were sentenced. I felt compelled to write about our family's experience of the criminal justice system and our heartbreak at the soft sentencing applied in our father's case. It has been an overwhelming and onerous task at times as I have tried to capture and convey relevant facts of the case while providing an emotional balance.

The current media focus has provided me with the impetus to complete this letter and I thank you for taking the time to read it.

[redacted], 76 years and [redacted], 62 years were sentenced separately in March and May this year respectively.
I attended every hearing and as a result became disillusioned with a legal process focused on supporting the rights of the accused at the expense of justice for the victims. What I encountered was a legal system which allows criminal behaviour to be sanctioned rather than punished, where the gravity of the offending is mimimized through plea bargaining, legal semantics and an over reliance on mitigating circumstances and where sentencing outcomes are determined with little regard for maximum penalties.
There were inconsistencies in legal procedures, disparity in the sentencing judge's summations, issues concerning the admissibility of our Victim Impact Statements and finally the appalling and lenient sentences handed down.

While I am grateful and have the utmost respect for the dedication, commitment and empathy displayed by the prosecution team, I feel it must be so difficult and frustrating for them to prosecute cases within the constraints of a legal framework that appears to appease and bow to the rights of the accused.

Little reference was made in court about the horrific circumstances of that fateful evening of 14 September 2013. The background to the case became lost in legal procedure. The value and respect for our father's life, the very essence of the man he was, lost all significance. His case became just another presented to a court for a legal outcome.

I would like to share with you a brief account of the events of Saturday 14 September 2013 as they provide an insight in to the day that changed our family's lives forever.

Like any typical Saturday, our father would have been up early and off to Doncaster Gardens where he always took a group of young athletes through their training session. His next stop would have been the APS athletic meet where his Xavier athletes were competing. Dad was employed as a middle distance coach at Xavier College though his expertise and knowledge extended to all aspects of coaching and mentoring.

He would have returned home in the afternoon, had a bite to eat and prepared a session plan for his athletes at Whitefriars College for the coming Tuesday. Our father would have been looking forward to attending the 21st Birthday party of one of his athletes that evening. This was to be a special celebration as [redacted] was heading over to America on an athletic scholarship, a goal she and our father had worked towards.

Dad had a wonderful zest for life with an energy, enthusiasm and outlook that defied his age. His social life left ours to shame!

He would have planned his journey and had his Melways marked for reference. Our father was always the first to arrive at celebrations allowing plenty of time. This particular evening I suspect, he would have hoped to spend a little individual time with [redacted] imparting words of wisdom, maybe even providing her with a quote or two before her other guests arrived. This would have been a sentimental moment for Dad especially with her imminent departure for America.

The sad irony of this fateful evening is that our father, a non drinker, was driving to his party while [redacted] and the driver [redacted], who had been drinking, were driving home, having attended an afternoon party.

We will never understand why our father parked his car on the side of Birmingham Rd when the party was in York Rd. We believe he may have been crossing the road to seek directions from a neighbouring home. At approximately 6.50pm, their fates collided when [redacted] hit our father.

What we also find difficult to understand is why [redacted] and [redacted], after knowingly hitting our father, made the conscious, calculated and callous decision to leave him injured and dying in a dirty ditch by the side of the road. They chose self preservation over the life of our father.

The most heartbreaking aspect of their actions is that our father's body was not discovered until 7.10am Sunday morning 15 September. He lay there alone, defenceless and injured, all night. At some time during these empty and lonely 12 hours he lost his life.

The Coroner's report concluded that our father passed away as a result of pelvic and chest injuries sustained in the Hit Run. No time of death was provided. We believe that death did not occur on impact but sometime later. [redacted] in his interview with Neil discussed the uncertainty surrounding the survival rates of victims of Hit Run fatalities. In our father's case, had medical intervention and care been provided, he may have survived and family and friends would have had the opportunity to be with him and care for him.

Dad had great tenacity and he would have fought hard to survive. It is shattering to think that such a dignified, honorable and compassionate man who had spent most of his life in service to others could lose his life in such an undignified and inhumane manner. To dwell on these tragic circumstances brings me to tears and I suspect, always will. I will never comprehend the reprehensible actions of this couple that evening, their moral culpability is unquestionable.

As our father lay dying in a ditch, they returned to the comfort of their home where they planned an ***elaborate story of lies to deflect the truth and divert the ensuing police investigation****. By* [redacted] *deliberate actions he also avoided the possibility of an additional charge of "Culpable Driving."*

[redacted] only came forward Sunday evening once media outlets began reporting the Hit Run fatality in Mt Evelyn and probably once all traces of alcohol were out of his system. Blood alcohol readings were never taken I suspect, due to time limitations, burden of proof and the story he provided. He informed police that he had gone for a drive for a few hours while his partner rested. He thought he may have hit a kangaroo on his return home.

[redacted] and [redacted] continued to mislead the police investigation with their systematic cover up. It wasn't until phone intercepts and listening devices placed in their home uncovered the true gravity and culpability of their actions and the extent of their deception.

Our family cannot praise enough the dedication and diligence of the investigating police officers led by Detective Senior Constable [redacted] and Detective Sergeant [redacted] who worked tirelessly to uncover the truth which resulted in charges being laid in late January 2014.

These charges included:

[redacted]:	Perverting the course of justice	(25 years maximum imprisonment)
	Perjury	(5 years maximum imprisonment)
	Accessory after the fact	
[redacted]:	Perverting the course of Justice	(25 years maximum imprisonment)
	Leaving the scene of an accident	(10 years maximum imprisonment)
	Not Rendering Assistance	(10 years maximum imprisonment)
	Perjury	

Even after these charges were laid and following the contested committal hearings, the couple continued their pleas of not guilty to all charges.
Their denials placed considerable strain on family and friends. I continued to attend direction hearings where the presiding judge would encourage a plea resolution between Defence counsel and the Prosecution.

On 14 December 2014, almost a year after charges were laid, [redacted], changed her plea to guilty on the Peverting the course of justice charge. This followed the withdrawal of her additional charges of Perjury and being an Accessory after the fact.

[redacted] maintained his not guilty plea and a trial date was set for September 2015.

Throughout the entire legal process I never once saw any remorse or emotion from the defendants.
Prior to one hearing, I witnessed them laughing and joking while coming up the escalators.

Distressing revelations also came to light following police recorded phone intercepts. These included, a conversation between [redacted] and a friend, where she referred to our father as " a silly old bastard." There was also her admission of having seen Dad and then telling [redacted] that "they had hit someone" and her concern regarding the effects "of all this" on their relationship.

What I find difficult to reconcile and will never forget is their total disregard and disrespect for the loss of our father's life and their culpability in the events of that night.

At most hearings our father was often referred to as the deceased or the victim. It was as if on the night he lost his life in these most tragic and undignified circumstances, he also lost all relevance, value and identity in a justice system influenced by legal procedure, semantics and expediency.
Once the guilty plea was entered, we had the opportunity to correct this wrong with the submission of our VIS. What should have been a simple process and formality became mired in legal debate and interpretations.

The Victim Impact Statements were to provide our family and friends a vital and necessary focus for all our grief and maybe, to allow some of the healing process to commence. It was our chance to present our father to the court, restore his dignity and validate his life.

At the request of the Prosecution we had submitted our VIS' within ten days of the plea hearing. The day before the plea hearing I was notified that Defence counsel had issues with some of the VIS's but wouldn't elaborate. At a pre arranged meeting on the day of the hearing (March 4th), the prosecution showed us our heavily edited VIS's. The VIS' written by our father's closest friends were deemed inadmissible. The discussion also touched on the possibility of a fine being imposed as the sentencing outcome. We sensed that a an arrangement had been made between Prosecution and Defence counsel.

In court that morning, Defence raised the issue of admissibility of our VIS'. Counsel stated that because [redacted] was not the driver of the car and her only charge was Perverting the course of justice, we could not be considered victims! Pages of our statements were reduced to mere paragraphs.

This argument was an affront to family and friends. [redacted] was complicit in all that transpired that night. Together, they made a deliberate decision to leave our father injured and dying in a ditch. She was morally culpable at the very least.
In writing our VIS', we had made ourselves extremely vulnerable, exposing our emotional pain to others and revealing our most private thoughts and grief.

My heart and soul had been poured into writing mine.

I lost my father at a time in my life when I needed him the most. The tragic circumstances surrounding his loss, left me too traumatised to speak at his funeral. Maybe in parts, my VIS resembled an eulogy but surely this was my right to have a say as a victim. It was unfair to censor emotions especially when they were so raw.

Judge [redacted], presiding, did not support Defence counsel's argument. Disappointingly, the Prosecution did not pursue the empathetic sentiments of the judge but conceded to Defence's argument.
We believe His Honour would have accepted all the VIS's in their entirety. We were later informed by the Prosecution that they didn't want to provide Defence with any avenue to appeal and we were assured, that once [redacted] entered a guilty plea, our VIS' would be admissible at his hearing because his charges related to him being the driver of the car.

[redacted] guilty plea was entered weeks following sentencing for [redacted]. His plea hearing was set for 21st May. His charge of perjury had been withdrawn.
Once again, we prepared to read or have our VIS' read to the court.
To our complete confusion and dismay, Judge [redacted], the appointed judge for this case raised his concerns in relation to admissibility issues. He adjourned court, advising that the statements needed to be reassessed by both counsels as he didn't want to provide legal cause for a later appeal.

With such lenient sentences handed down, what grounds would Defence counsel have had to possibly appeal!

VIS's should be exempt from legal limits and determinants. If they are not defamatory, then legal constraints should not apply. By censoring our VIS' the courts are denying our rights to express the emotional and physical impact the crime has had on us. This 'impact' is referenced in 5(2) of the *Sentencing Act.*

Having since spoken with police and prosecutors, the issue of VIS' and the inconsistencies with their handling and application within the criminal justice system has become a concern. All agree that ours had been censored to a degree not seen before and therefore, clearer guidelines need to be established.

My final comment on the issue of Victim Impact Statements and their admissibility relates to the *Sentencing Act 1991* and the stated purpose of:
" the need to provide consistency of approach in sentencing offenders".
The sensitive nature of Victim Impact Statements needs to be respected. If VIS' are to form part of sentencing considerations , then there needs to be a consistency of approach within the criminal justice system.
The comments made by each judge in relation to the admissibility of our VIS' were conflicting and inconsistent.

Sentencing

Sentencing was the courts opportunity to impose a penalty that effected just punishment and reflected community values and sentiment. For our family and friends it was our only avenue to justice and the chance to restore the dignity and honour, stripped from our father by the reprehensible conduct of [redacted] and [redacted] that night.

Sentencing options available to the Court included Imprisonment, Community Correction Order (CCO), Fine or any combination of these as described both judges.

Sentencing of [redacted]

In the case of [redacted] and her charge of **Perverting the Course of Justice** the sentencing maximum is **25 years imprisonment**. It is a level 2 charge with murder the only other charge considered more serious.

'The high maximum penalty recognises the importance of protecting the integrity of the criminal justice system'. *R v Purtell (2001) 120A Crim R 317 at [12].*

'Offences of Perverting the Course of Justice are singled out as offences of the most serious kind': *Taylor v R [2007] NSW CCA 99 at [23]*. 'They strike at the very heart of the justice system and must be severely punished **whenever detected**'.
This offence is difficult to prove, therefore denunciation and deterrent penalties are important considerations when imposing sentence.

The other aspect of this charge and one which applies to [redacted] and [redacted] is that their lies and deception were' ongoing and organised which is more serious than on the spur of the moment.'
R v Derbas at [17] .

In sentencing [redacted], Judge [redacted] acknowledged the seriousness of the charge highlighting the 25 year maximum penalty. He spoke of her inexcusable and deplorable actions in leaving the scene and not rendering assistance. He continued that because no other charges were in play he could only sentence on this one charge.
He stated that but for her age and health issues he would have sentenced her to six months imprisonment. Instead he imposed a fine of $20,000 and a conviction was recorded.

With our current sentencing arrangements this fine was considered at the higher end of the scale.
Was this fine considered the 'severe punishment and strong deterrent sentence' as described in *S319* of the *Sentencing Act?*

If we look at white collar crime where no life is lost, penalties can include fines which run into the hundreds of thousands of dollars, and imprisonment for any considerable number of years.
Why do sentencing courts place a higher value on offences involving financial gain through deception and fraud, above the loss of a life, fleeing the scene, not rendering assistance and a deception which threatens the integrity of the criminal justice system?

Recently, another comparative case sadly involved the accidental death of a load inspector at a recycling company. The company was fined $225,000. The DPP appealed the inadequacy of the fine.
The appeal was upheld and the fine was increased to $425,000! Why such disparity in the determination of fines and their application to criminal offences?

If imprisonment was not an option for [redacted], her $20,000 fine should have had an extra zero attached to it. This would have satisfied the 'strong deterrent' element of her penalty.
What would have satisfied our family is having some input into where that money or even a percentage of that money was directed, for example, a charity of our choosing. This would have given some control back to our family.

We walked away from her sentencing hearing pretty dejected. Part of Judge [redacted] final summation was that "[redacted] was a person of exemplary character and even people of good character will commit the crime of Perverting the Course of Justice". I would argue, however that people of good character, even if a passenger in the car do not flee the scene of an accident knowing a person has been injured. I queried the reference of "exemplary character" with prosecution and they simply said that it is a legal definition that implies a person without prior convictions who are of good character.
Using the non legal definition, our father was a man of exemplary character, a fact which would have been revealed in a part of my VIS which was deemed inadmissible.
One other sad irony is that Judge [redacted] minimized [redacted] sentence due to her advancing years. It is the very aspect of her mature years that makes her crime all the worse.

Sentencing of [redacted]

Charges

At the direction hearing where [redacted], pleaded guilty to all three charges, Defence Counsel requested Judge [redacted] be excluded from presiding over the plea and sentencing hearings. Counsel's argument was that she felt His Honour would be influenced by facts presented at [redacted]' hearings.
She was actually questioning the integrity of a judge and his ability to sentence in relation to the offender's charges.
Our family believed that for *'consistency of approach in sentencing',* Prosecution should have argued for the appointment of Judge [redacted] but disappointingly no such approach was made.

Judge [redacted] was therefore appointed and what we encountered was a man who demanded respect in his court but at times was belligerent and condescending in his comments especially towards the Prosecution. He allowed his personality to control and dominate proceedings.

I'm unsure as to what degree His Honour read the police brief as he raised several questions about the case, answers to which were contained in the brief. He challenged the admissibility of our VIS's as previously discussed and cross examined Detective [redacted] to establish the fact that because [redacted] came forward when he did he saved the investigating officers many man hours and costs in searching for the car and offender. What Judge [redacted] failed to consider however, was that the systemic cover up and deception orchestrated by the couple cost the community hundreds of thousands of dollars in extra police time and resources.
Our confidence in receiving a fair and just sentence for our father was faltering

As I have discussed the **Perverting the Course of Justice** charge at length I would like to comment on [redacted] two additional charges, **Leaving the Scene of an Accident** and **Not Rendering Assistance.**

In April 2005, in response to a series of fatal hit run accidents, the Bracks government increased the maximum penalty **fivefold**.
To quote Mr John Thwaites, Attorney General at the time:
"To leave the scene of an accident when you know someone has been killed or injured is a pretty despicable act". He continued, "In a case where someone willfully knows that someone is likely to be injured, then drive off potentially to avoid punishment then a maximum of 10 years is a more appropriate penalty".
These are the only charges that have recently seen such an increase in the maximum penalty so reflecting the gravity of the offending.

Where [redacted] is concerned he allegedly drove off to avoid a possible culpable driving charge having drank six stubbies of beer that afternoon. His greatest fear was not the loss of our father's life but the loss of his licence!

CCO's, Boulton and the Guideline Judgement

Throughout [redacted] plea hearing and discussion surrounding sentencing , continual reference was made to the application of a CCO as a sentencing option. In particular, the *Boulton* case was often referenced and a *guideline judgement* resulting from this appeal case became precedent for sentencing in our fathers case.

Community Correction orders (CCO) have been a sentencing option available to Victorian Courts since January 2012. A CCO is considered a flexible sentencing option, enabling punitive and rehabilitative purposes to be served simultaneously. It can be fashioned to address the particular circumstances of the offender, causes of the offending and to minimize the risk of reoffending by promoting the offenders rehabilitation.

In the case of *Boulton*, December 2014, the DPP requested that the High Court provide a *guideline judgement* to assist sentencing courts in deploying the CCO as a sentencing option. Parliament believed they were not being utilised as intended. The DPP submitted that by giving a *guideline judgement* in the *Boulton Appeal*, the court would serve the statutory objectives of:

(1) Promoting consistency of approach
(2) Promoting public confidence in the criminal justice system

Boulton was a man in his thirties who was charged with armed robbery and recklessly causing injury.
He had been drinking in a park with friends and was heavily intoxicated when he produced a knife and demanded money from a passerby. A scuffle ensued and the victim was slashed on the hand with the knife. Twenty dollars of the victims money was found in the offenders possession.

On the armed robbery charge Boulton was sentenced to three months imprisonment and an eight year CCO with judiciary monitoring. Several other conditions were attached to his CCO. On the second charge of recklessly causing injury, he was sentenced to 265 days imprisonment and a five year CCO.

On appeal, the high court found that the sentence was manifestly excessive. Boulton was resentenced to three months imprisonment and a three year CCO on the first charge and two years CCO and 6 months imprisonment served concurrently. He had been in presentence detention for almost 9 months a fact considered when resentencing.
Mitigating circumstances highlighted in the case included impaired mental function, reduced moral culpability and the fact that he pleaded guilty at the first opportunity.

The DPP submitted that there was a real risk of inconsistency in the use of CCO's unless the High Court provided an authoritative statement of the principles to be applied in determining the period of a CCO, hence the *guideline judgement* was introduced.

Using this *guideline judgement* as precedent, [redacted] was sentenced to **four months imprisonment**, **three year CCO** which included **200 hours of work within the first two years** of that order, attend road trauma and mental health assessment programs.
An additional condition imposed was that **'he not drink alcohol!'** How on earth do you enforce such a condition? A conviction was recorded and he lost his licence for four years which is the minimum suspension required by law.

What is difficult to understand is why our father's case was considered an appropriate one for a *guideline judgement*. No comparable link existed between the *Boulton case* and this one, especially in relation to the type of offending and charges imposed.

There are many areas of concern with regards to sentencing in our father's case, where I believe that the statutory objectives of a *guideline judgement* in '*promoting consistency of approach'* and '*promoting public confidence in the criminal justice system'* are challenged.

1. The nature and gravity of the offence and the moral culpability of [redacted] was referred to as serious by Judge [redacted]. He did not plead guilty at the earliest opportunity but some 15 months later!. [redacted] sentence was considerably less than that imposed in the Boulton case whom as I highlighted had several mitigating circumstances which reduced his culpability. There was no loss of a life as a result of his offending, nor did he Pevert the Course of Justice.
Once again the issue of *'consistency in sentencing'* can be raised.

2. In his sentencing summation for [redacted], His Honour referred to Section 9(1) of the *Sentencing Act* stating that because the offences were based on the same or similar facts or a course of conduct, he would impose an aggregate sentence for all three charges.
Boulton received a separate sentence on each of his two charges. His offending was also based on the same or similar facts or course of conduct. Another inconsistency!
By aggregating the charges, His Honour is in a sense discounting the gravity of the offending.

As a family seeking just punishment for our father we are left confused and asking the question, "What part of the penalty applied to which of the three charges?"

3. Judge [redacted] made very little reference to the serious nature of Peverting the Course of Justice and its maximum penalty of 25 years as identified by Judge [redacted] when sentencing [redacted].

4. Australian sentencing law requires consistency between co-offenders in the same incident and charged with the same offence. With this law in mind, [redacted] should have been sentenced separately for Peverting the Course of Justice and to satisfy '*consistency*', six months imprisonment or a $20,000 fine should have been imposed. Could this have been the Prosecution's grounds for an appeal?

5. In relation to [redacted] two remaining and serious charges, there was no reference made by His Honour to the Coroner's report and the nature of our fathers injuries in relation to time of death. Surely this is an important consideration in sentencing because it addresses the gravity of the offending. Our father's life may have been saved if prompt medical attention was sought.

In handing down sentence, Judge [redacted] referred to *Appendix 1* which sets out the guidelines in relation to CCO's in particular paragraph 3. He assessed the objective nature and gravity of the offence and the moral culpability of [redacted] as serious and sentenced based on this conclusion.
With this conclusion in mind, I would also like to refer to *Appendix 1 (7)* which discusses the principle of proportionality which requires that the sentence imposed not exceed what is appropriate or proportionate to the gravity of the crime.

Does [redacted] lenient sentence contradict this principle? Community outrage in relation to recent sentencing outcomes, including my father's case, would suggest so.

One other important issue I would like to raise and which relates to sentencing principles is why maximum penalties introduced by Parliament and made law, are **never** applied in a court of law?
Why does the *Guideline Judgement* in the *Boulton case of appeal* also contradict maximum terms in sentencing? One of the points of reference in *Appendix I (26)* states that a CCO can be combined with a term of imprisonment of **only up to two years.** This is not in line with maximum sentencing principles.

Appendix I (14). A CCO is also intrinsically punitive, and depending on the order and the nature and extent of the conditions imposed, is capable of being highly punitive.
[redacted] was sentenced to a three year CCO, 200 hours service in the first two years. This equates to nothing more than nine days in two years! Would the community consider this highly punitive and a deterrent to serious offending?

Australian sentencing is highly discretionary with few firm rules.
Gleeson CJ in Wong v Queen:[20]
The outcome of discretionary decision making can never be uniform, but it ought to depend as little as possible upon the identity of the judge who happens to hear the case.
From our experience, we believe that if Judge [redacted] had presided over sentencing for [redacted], this offender would have received a much harsher sentence. Based on his Honour's comments at [redacted]' sentencing, [redacted] probably would have been sentenced separately on each charge. Perhaps this is the real reason why Defence counsel for [redacted] pursued their argument to exclude Judge [redacted] .

In *R v Jurisic,[22]*, Spigelman CJ explained that inconsistency of sentencing is a form of injustice.
The 'innovative' aspects of CCO's as a sentencing option has made the application of law more complex, thereby creating inconsistencies in sentencing and eroding public confidence in the sentencing process.

It may be time to revisit **Mandatory Sentences** as sentencing options. Mandatory minimums send a clear message as to the serious or grave nature of a crime. They are considered, however, to reduce the discretion judges have in determining sentences because mitigating circumstances become largely irrelevant.
Judges discretion is what confuses the community however, and leads to society questioning the delivery of just punishment.

There is far too much focus on mitigating circumstances and how they are applied to sentencing considerations. They have become pre determinates for judges to minimize sentences and reduce accountability and culpability of the offender.

So much confusion and so many inconsistencies exist within the criminal justice system as attested to in our fathers case. Having experienced this first hand now, I feel that legal procedure heavily favoured the offenders, and that their rights to a fair and just hearing and sentencing outcome outweighed our father's right to fair and appropriate justice.
I felt that the value of his life was dishonoured by a legal system conditioned to administering lenient sentences.

Prosecution did consider appealing the sentence. It was decided, however, that unless the appeal court considered the sentence manifestly inadequate the DPP would not win at appeal.

Ironically, in the *Boulton appeal*, the High court found his sentence manifestly excessive and resentenced as previously highlighted. This amended sentence was still greater than that received by [redacted].
Once again, a further example of legal terminology without any clear definition for victims of crime. What constitutes manifestly inadequate and manifestly excessive sentences?

Could the DPP have used our father's case as a test case to challenge the very principles of just sentencing in relation to Hit Run Crime especially in light of the ever increasing propensity in today's society, for offenders to run and then deceive?
As alarming statistics reveal the pervasiveness of drink and drug driving in today's society, the incidence of Hit Run Crime, sadly, will only increase.

Denunciation and strong deterrent sentences are crucial therefore, in addressing the gravity of this type of crime. We need to consider the devastating impact this offending has on society, in particular, the family and friends of the victims who are left behind to pick up the pieces of their shattered lives. The knowledge and images of the heartbreaking circumstances surrounding the loss of their loved one are with them forever.

Community expectations and sentiments need to be considered and respected. Governments charged with the responsibility of legislating laws and determining sentencing guidelines should embrace statutory changes that may be necessary to effect justice and reflect community values.
The dignity and value of each human life needs to be protected and validated by sentencing judges and reflected in strong deterrent, punitive and where appropriate, rehabilitative sentencing

Our father's reach and influence within many communities was extensive. He was an honorable, selfless and humble man, who was loved and respected universally. As one of his athletes had commented, "Tommy was a man for others." Wisdom, knowledge and integrity, some of the qualities that defined him.

The athletic and school communities held expectations that a just and highly punitive sentence would be imposed for a crime that robbed them of their friend, mentor, coach and for some a father figure.
The lenient sentence handed down has deeply troubled and incensed these communities. Many young students, athletes and families believe that the inadequate sentences handed down make a mockery of our legal system and sentencing laws and dishonour and devalue the life of our father.
This was an opportunity for the courts to send a clear and strong deterrent message.

Our family have been blessed because these very communities who loved and embraced our father have paid homage to his memory and legacy by creating athletic and school awards in his name.
The Tom Kelly development scholarship has also been established to assist aspiring athletes and coaches in their athletic pursuits.

In the ultimate and enduring tribute to our father, his beloved Doncaster Athletic Track was renamed, 'The Tom Kelly Athletic Track' late last year.

When our father became a victim of a Hit Run Crime on 15 September 2013, the value and meaning of his life was placed into the care of our criminal justice system. This system became our only avenue to pursue justice for our father and restore the dignity which had been denied him that fateful evening.
Justice needed to provide those of us left behind to mourn and grieve, validation and recognition of a beloved life suddenly taken in the most cruel and devastating of circumstances. It should have entitled us to introduce our father to the court through our Victim Impact Statements. This was denied us.

In opening addresses to the court and in media reports, our father was described as an 80 year old man who was popular in the local community. This was the only reference made to our father during all hearings, and even this was inaccurate.

Our father was actually 82 years young! Sadly, as his age was all that was used to define him throughout court proceedings, our family have often wondered whether his mature years influenced the level and leniency of the sentence imposed?

If the court could only have heard a little of our father's remarkable background, they would have sensed the devastating impact his loss has had on so many lives. They would have understood that he was so much more than, 'a man who was popular in the local community.' They would have learned that our father was an honorable, giving and just man who deserved so much more from our criminal justice system.

Yours sincerely

Colleen Murphy

"*Justice will not be served*
until those who are unaffected
are as outraged as those who are"

Benjamin Franklin