

The Governor of Massachusetts Charlie Baker
Massachusetts State House
Office of the Governor
Room 280
Boston, MA 02133

The Attorney General of Massachusetts Ms Maura Healey
One Ashburton Place
Boston, MA 02108-1518
USA

OPEN LETTER

Dublin, 22 June 2015

Dear Governor Baker,
Dear Attorney General Healy,

We are writing to you today as the second anniversary of the horrific accident approaches that left our son in a minimally conscious state (MCS). At 23 years of age, he was working on Cape Cod on a J1 visa, having just finished his studies at Trinity College Dublin in Irish and History, when on the morning of 27 June 2013, he was hit on Rt. 6A in Brewster by a 4.3 ton van who was trying to overtake him, clipped him, and knocked him off his bicycle. At the time, he was expected to die.

We are writing to you because the Chief of the Brewster Police Department, Chief Koch, decided *not* to cite the driver of the car, Mr Mark Couto, a local plumber, on the recommendation made by the District Attorney immediately following the accident, and well before the investigation into the circumstances of the accident had been concluded. The Chief himself confirmed this to us when we met him on 03 July 2013. Instead of a citation, what followed was a one-sided, biased, and unprofessional investigation conducted by the Brewster Police Department, contradicting the assurance given to us by the Chief that, because of the gravity of the accident, outside investigators had been involved.

It seems that once Pádraig was on his way to the hospital the next focus of the Brewster Police Department that had congregated virtually in its entirety at the scene of the accident was to protect the local driver from prosecution.

We had to go through a draining, lengthy and costly civil case in an attempt to recover at least some of the costs facing us – it turned out that the driver's insurance was capped at US\$1m, when the very conservatively estimated financial cost of the accident and its consequences are at least US\$11m.

The investigation and the way it was conducted have considerably added to our pain and suffering. Cyclists, it turned out, were just seen as a nuisance on the roads of Cape Cod – where hundreds of foreign J1 students work in the tourism sector every summer, almost all relying on bicycles to get to their jobs. The location of the accident turned out to be a locally well-known accident black spot. Locals here are so annoyed

about cyclists that, on one occasion, they actually put nails on the road to stop cyclists involved in a charity cycle.

On a recent visit to the Cape we made arrangements to meet with the Captain of the Brewster Police Department (the Chief was not available on the day) and the Chairperson of the Brewster Board of Selectmen, and urged both to do whatever necessary to prevent accidents like the one our son Pádraig suffered and, if they happened, to conduct a fair and balanced investigation. So far, the main focus is still on the cyclists for whom special seminars are being organized and for whom equipment like cycle lights are being made available.

Pádraig was an elite athlete who had been awarded a scholarship to swim with the University of Kentucky in the USA Swimming NCAA Division 1. He was an accomplished cyclist who had cycled thousands of kilometres in Europe, including a trip from the North to the foot of Italy. He was a well-know broadcaster, blogger and writer in the Irish language community, and had been President (Reachtaire) of the Irish Society at Trinity College Dublin. Today, Pádraig requires 24 hour care and is completely helpless. His life, as well as our lives and that of his two sisters, has been turned upside down.

We have summarized some poignant aspects of the police investigation, which we attach to this letter.

We would be extremely grateful if you would:

- Review the investigation conducted into the accident
- and, in addition, consider supporting
- a programme of driver education on the Cape, and
 - an initiative to make adequate insurance cover for drivers obligatory.

We want to ensure that the many foreign students who spent their J1s on the Cape are safe and respected as cyclists, and that next time a J1 student or any other person cycling on Cape Cod is injured in an accident, that this accident is properly investigated in an unbiased way, and that they will receive the help and support they need to deal with its short- and long-term consequences. (We would like to acknowledge the exceptional comfort and support from many locals and the nursing staff.)

We would, of course, be more than happy to assist with any initiative you might consider. We look forward to hearing from you.

Yours truly,


Patricia O'Byrne


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Parents of Pádraig Schaler, a 23-year old Irish/German Student who was hit by a 4.3 ton Truck on Rt. 6A in Brewster, MA, on 27 June 2013, and left in a Minimally Conscious State (MCS), call for an independent Investigation into the Decision by the Brewster Police Department not to cite the Driver, Mr Mark Couto

We, the parents of Pádraig Schaler, present the following examples and evidence in support of our claim that the driver of the van, Mr Mark Couto, that hit our son on the morning of 27 June 2013 on Rt. 6A in Brewster, MA, should have been cited and charged.

- (1) When our daughter saw a note on Facebook that our son Pádraig had had an accident, we immediately rang the number given in the note. We talked to the owner of the Bramble Inn who called one of the police officers who was still at the scene. When my wife asked what had happened she was told by the officer that our son had "cycled out in front of a van".
- (2) Immediately after the accident, the police issued a statement to the press stating that the driver would most likely not face charges and would not be cited because "the cyclist made a sudden turn into the path of the van". They added that the cyclist "was not wearing a helmet at the time of the crash". Within just over four hours after the accident, this was published by local media, among them capecodtoday and wickedlocal/Brewster. Long before a proper and orderly accident investigation had begun, never mind concluded, this statement and the subsequent media reports set the public opinion: our son had not only caused the accident, he was also responsible for his horrific injuries because he had not worn a helmet.
- (3) The police did not take a signed statement from the driver, they did not test the driver for substances, they did not impound the van nor secure the van's black box, they did not impound the driver's cell phone, they did not take a statement from the driver of the car driving immediately behind the van that hit our son.
- (4) The police, in turn, impounded our son's cell phone and his bicycle.
- (5) The police never contacted us. We tried to make an appointment with the Chief a few days after the accident for which, at first, he was not available (we got an appointment with the Captain) but then he was available when we arrived at the Police Department the morning of 03 July. While he expressed his deep regret for what had happened to our son, he said that unfortunately accidents involving bicycles happened regularly on the Cape as cyclists from foreign countries not familiar with the rules of the road were cycling ("wobbling") on the wrong side of the road without lights and reflective clothing. The accident involving our son happened at 10am on a dry, bright morning; our son had passed his driving test in the USA; and he was an accomplished cyclist.
- (6) When asked, the Chief told us that he had contacted, immediately following the accident, the District Attorney's Office and had been advised not to cite the driver of the van.

- (7) Despite this being the most serious accident the Chief had experienced, as he admitted to us, neither the State Police nor outside investigators were brought in (with the exception of a photographer from a neighbouring police department), despite an assurance by the Chief to us that outside investigators had been involved.
- (8) When we received the accident reports, prepared by two officers of the Brewster Police Department, they contained a number of contradictory and unsustainable statements. Furthermore, the reports repeatedly refer to the "bicyclist as a possible or potential threat" to the driver of the van, Mr Couto – indicating that in their mind, the police officers had reversed the role of the two parties to the accident because, by nature, it is always the car or, in this case, the 4.3 ton van, that is a threat to unprotected participants in traffic, such as pedestrians or cyclists.
- (9) The reports stated that the driver, Mr Couto, "was exercising care and caution as he attempted to overtake the bicyclist", "yielding to westbound traffic" (note: both the van and Pádraig were moving in Eastbound direction), when one of the key witnesses of the police, Mr. Neal Milan, was the driver of a car who had turned on to Rt. 6A from Crocker Lane, just a very short distance from the scene of the accident, and who was now quickly moving Westwards directly right into the path of Mr Couto's van, meaning that suddenly there *was* Westbound traffic in Mr Couto's path, when Mr Couto was attempting to overtake Pádraig, clearly *not* taking the necessary caution. Even Mr Couto himself, in a recent deposition, states that he would not attempt to overtake a cyclist under such circumstances again.
- (10) An independent traffic reconstruction expert is of the opinion that the calculations presented in the police reports were not correct.
- (11) In our opinion, there was sufficient evidence for the police to charge the driver of the van, Mr. Couto, a local plumber, for dangerous driving causing grievous bodily harm. Instead, the police decided to issue a statement immediately following the accident, when the investigation proper had not even started, and at a time when our son was expected not to survive, stating that our son was to blame for the accident because he suddenly cycled into the path of the van; that, in addition, he was (implicitly) to blame for the gravity of his injuries because he was not wearing a helmet; and that there was no reason to even cite the driver, a decision arrived at in consultation with the District Attorney's Office at a time when the investigation had barely started, never mind been concluded.
- (12) In our opinion, and we have strong evidence supporting this opinion, Brewster Police had determined the outcome of the investigation before it even started, the investigation itself was biased and flawed from the beginning, it was designed to protect the local man, and to blame the foreign student himself for the horrific brain injuries inflicted on him by the van driver, injuries that in a split second took away the dreams and hopes he had for his future life, injuries that have left him utterly helpless and that are still constantly threatening his young life – two years after the accident.