

Ashlea Cunico

25 June 2020

Standing Committee on Legislation
Parliament House
4 Harvest Terrace Perth WA 6005

By email: lclc@parliament.wa.gov.au

Ms Tracey Sharpe,

Submission in relation to *Work Health and Safety Bill 2019*

On Friday 20th April 2018 my father Robert Cunico left for work at 4.30am as per usual. He worked at The Waste Water Treatment Plant in Woodman Point, by 10.55am he was injured in a workplace incident and died. Dad was 60 years old, 10 days short of his birthday. Three weeks later he was brought home in a small plastic container reduced to nothing but ashes.

He was killed in a horrific workplace incident whilst 10 metres in the air. My dad was not your typical blue-collar worker; he had not worked on the tools for almost 40 years. He was a Supervisor on this particular job, but mostly he worked as a Superintendent all over the country. He was highly skilled and qualified with years of industry experience under his belt. He was a massive safety advocate, and was highly regarded by many within the Construction Industry. He was often considered as one of the safest employees on site. Dad climbed onto that scaffolding that morning purely to inspect a 1 metre by 1 metre steel pipe with every intention of coming back down again.

Injuries he sustained in the incident were so horrific that he didn't even have a chance to go to a hospital; instead he was carried down in a body bag. My Dad lived for almost an hour in the most horrific of conditions whilst being cradled in the arms of a work colleague before succumbing to his injuries. Despite the efforts made by the first responders and emergency services, his injuries were so severe he was never going to survive. My Father should never have sustained a papercut whilst on the job let alone injuries so severe it claimed his life.

My Dad was a son, a brother, a husband, a father, a grandfather, an uncle and a friend to so many. He leaves behind a wife of 35 years, 3 children and 5 grandchildren, the youngest only being one month old when he died. After the incident that morning it took almost four hours for our family to be notified of dad's death, when two police officers turned up at my parents' home. My mother had to ring her three children and tell us of our beloved father's death, one of whom was in Thailand at the time. I also had to call my husband who was in Albany attending his own mother's funeral for him to come home. How do you explain to a 12 year old that his grandfather and best friend is never coming home or what do you say to a 5 year old who says "I don't want to live anymore if Pa can't live"

From that moment on our lives were shattered! How on earth does someone go to work in 2018 and never come home? It is wrong the General Manager on the project my father worked on came to my parents' home that day, stood in front of my mother and myself and blatantly lied to our faces about how my father was killed. It is wrong that we had to wait three days due to the incident occurring on a Friday, before we were able to go to the State Morgue to see and say goodbye to my father. His body was never identified by a family member. It is wrong that instead of planning my dad's birthday we were planning his funeral. It is wrong on so many levels that my family has lost such an important and significant

person from our lives. He was in all aspects of the words "our rock or the glue that held our family together".

Through our experience of dealing with the death of my father, we have been made fully aware of the little to no support available for families dealing with fatalities of this magnitude. Families are left to navigate all legislative acts and laws for means of support and future legal proceedings. There is no impartial advisory centre or services that offer any sort of comfort to those affected by these tragedies. Families are left to self-research relevant information, whilst ultimately still trying to grieve the passing of their loved ones. For us upon searching for both legal and industry related answers it is apparent that the current laws and legislations are both outdated and inconsistent between States and Territories.

Western Australia is currently still governed under the old Occupational Health and Safety Act of 1984 which I find disgraceful considering the Work Health and Safety Act was legislated back in 2011 nationally. How is it appropriate that our State Government has not introduced a newer reformed set of Health and Safety laws 7 years after they have been nationally recognised? I personally see this as a matter of priority but clearly given the lack of action on their part it is not. It should not be widely accepted that people are dying at work. There is public outcry if someone is killed by a shark in the sharks own environment, yet 77 people to date have died at work this year as of 8th July in Australia and not a damn thing is done or said about it.

Worksafe as an industry regulator is a complete and utter failure. If Worksafe had a stronger presence on our worksites than perhaps some of these 77 people would still be alive. Coming out after the fact or after the incident has occurred is not acceptable. The Coronial Investigators have completed their investigation into my Dad's death yet 16 months on Worksafe are still obtaining statements from witnesses. Workplace incidents resulting in a fatality must be investigated in a timely manner and cases completed as a matter of priority. At the very least out of respect for the deceased and their grieving families. Worksafe as an Industry Regulator is not governing our worksites to deter negligence and reckless work practices. Therefore these companies, corporations, small businesses and individuals are all self-regulating. The current provisions do not provide enough incentive for companies to do the right thing by the employees. Profit and production must never be put before human life.

The current WorkCover scheme and Workers Compensation Act for Notational Residual Entitlement should not differ in financial value from state to state. A life lost in Western Australia is and should rightfully be worth the same as a life lost in New South Wales or any other state or territory in Australia. Yet the current acts do not reflect this from state to state. The claim for compensation should be straight forward considering it was put in place to compensate someone in a time of great emotional turmoil. Yet insurance companies have the right to be non-compliant to the act for absolutely no reason other than delaying a payment and greed. In turn families are then required to be legally represented in a fight to be compensated for the loss of their loved one. Where is the justice in that? Even in the event that my mother pursues a fatal accident claim, she is only ever entitled to be remunerated for a portion of my father's potential earning capacity until retirement age. Who is held accountable for the very black and white fact that my father was killed! He would earn that money regardless if was alive.

All this being said under current laws and legislations any company found negligently leading to the death of an employee are never truly held accountable for their wrong doing or endangerment of their workers. They are merely given a small fine and a slap on the wrist. During the prosecution process individuals and/or entities that either pleads guilty or are found guilty need to be prosecuted accordingly, reflecting that of a maximum fine value or jail term. The current justice system is a failure. The small fines these individuals and

entities are actually getting is a complete insult to the families who are left reeling trying to deal with their loss and justice for their loved ones. We one hundred percent support the recommendations from both the 2018 Senate Inquiry and Marie Boland Review for implementation in Western Australia.

Thank you for the opportunity to comment on this Bill, I urge the Committee to recommend that the Bill be passed in its current form.

Kind regards,

Ashlea Cunico