

Boland Review Submission

4th August 2019

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My older brother lost his life in a workplace accident on 30th May 1997. He died in a massive gas explosion that happened outside of our family home. Gas from a small 0.34kg LP gas cylinder leaked into his work van overnight and it is believed that when the van's central locking system was deactivated the following morning by my brother the sparks created from the motors in the doors ignited the gas, creating a massive explosion. This explosion killed him instantly and caused extensive damage to not only our family home but also to every house in the street. My brother was employed by a major Sydney building firm as their only on call maintenance plumber providing service to all of their properties within the Sydney metropolitan area and it was considered that his truck was his place of work and therefore a workplace accident. My younger brother was to work with him that day as a sub-contractor and was parked in the driveway of our family home and he witnessed not only the explosion but also the death of our brother. Following the accident he had to pull our parents out of our extensively damaged house, deal with the emergency services, and provide assistance to our parents and our neighbours whose houses were also extensively damaged. The media frenzy that followed had to be endured by not only my brother but also our neighbours. The police had to chase the media away from the cemetery on the day of our brother's funeral and I lived in fear that the media would find out where I lived, invade our privacy and harass my parents and brother who had sought refuge at my home. My older brother lost his life on this day and my younger brother has suffered numerous mental health issues and has been unable to work since the day of the accident, resulting in the loss of his own privately owned business.

I learnt about my brother's death by an announcement on a morning radio show that was reporting on that morning's peak traffic situation. All phone lines were down in the street following the explosion and mobile phones were not as common as they are today. I knew there had been an accident and I had to piece together the information that I was hearing to determine that I had lost a brother, however I didn't know until later which brother had died.

Following this accident an investigation by Workcover was held but my younger brother and I had to constantly and continually fight for a Coronial Inquiry to be held. We engaged and paid for our own private Solicitor and Chemical Engineer to help us push for this to take place and we continued to employ the Chemical Engineer to advise and act on our behalf at the Working Party that was formed following the Coronial Inquiry. The Coroner ruled that a Working Party be formed to investigate the 'Safe Handling and Transportation of Dangerous Gases'. It was five years after the accident that the Working Party meetings ended, during which time my younger brother had become extremely unwell and had left Sydney, having little contact with the rest of the family. I had to continually push for something positive to come from these meetings or for them to even continue. The Chemical Engineer who we had employed to assist us at these meetings was instrumental in achieving a positive outcome which ended up being a 'Learning Module' that was introduced into our TAFE system to educate tradespeople on the Safe Handling and Transportation of Dangerous Gases, a change to the Code of Practice relating to the transportation of these gases and the Swap and Go LP Gas Bottle scheme that is now seen in all service stations. There were many other changes that our family wanted to see but the pressure, the emotional toll and financial cost to our family at this stage had become too great and no longer bearable.

As my older brother was not married nor did he have children he was not automatically entitled to any compensation at the time of his accident. This meant that I had to engage a solicitor to lodge and fight for a partial dependency claim as at that time he was living at home with our elderly parents and was contributing to all household expenses and doing many of the household and gardening chores along with caring for my elderly parents.

My younger brother has suffered crippling mental health issues since witnessing our brother's death, which have stopped him from working and living as he once did. I have suffered trauma from this event, and my children have lived that trauma and will hold that for their lives. The mental health impacts are multigenerational.

I have spent the past 22 years fighting to keep my younger brother alive and well and from becoming a burden to society. He has never been entitled to receive any Government assistance with all medical and social costs falling on the family. I lodged a workers compensation claim on his behalf and fought for 3 years only to receive a meagre payout equivalent to one years wage. This inadequate amount is meant to last him for the rest of his life and as he is not entitled to receive any form of Government assistance it is now up to me to find him accommodation and ensure that he is looked after financially for the rest of his life. This burden continually takes both an emotional and financial toll on my family and myself and will continue to do so for the rest of our lives.

Workers who have witnessed accidents or have suffered injuries themselves are generally not only left with significant mental health issues for the rest of their lives but also in many cases, they are no longer able to work in their area of expertise or in many instances at all. Accessing any form of adequate compensation is hard fought for and causes further serious mental health issues.

I have been involved in the recent Senate Inquiry and travelled to Canberra in October last year with seventeen other affected family members from around Australia to witness the tabling of the Senate Education and Employment References Committee's report '*They never come home - the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia*' (the report). The Senate Inquiry consulted with many affected families along with many representatives from industry bodies and it identified many areas that need urgent attention and has provided Government with 34 recommendations. My lifelong journey has introduced me to many affected family members who have lost a loved one in a workplace incident and to my knowledge none of these families were consulted or asked to contribute to the Boland Review. I would encourage all who are involved in making WHS laws and changes to these laws to at least familiarise themselves with all family submissions from the Senate Inquiry.

It is important to note the significant trauma families face when having to retell their experiences of losing a loved one to a workplace death no matter how long ago that death happened. There are on average 3.6 deaths and an unknown number of injured workers affected on Australian workplaces every week and yet the number of people capable of speaking out due to trauma is minimal. The Work Health and Safety Laws governing workplace safety in Australia are currently lacking in many areas starting from the lack of respect a worker is shown following their death or accident. If someone dies in a road accident or a homicide there is always a proper and thorough investigation process followed with the guilty party being charged or jailed. The timeframe for this to be completed is limitless. This sadly is not the case when it comes to a death on a workplace with all investigations having to be completed in a specified timeframe. There are many incidences when the scene of the accident is contaminated prior to any investigation starting. Witnesses, in many cases, are not interviewed for days or weeks, if at all following the incident. The limited resources and lack of expertise of Australian regulators and investigators negate a thorough investigation taking place and therefore an unsuccessful prosecution. The non-harmonisation of Australian WHS Laws adds further difficulties to achieving a successful prosecution.

The recent Senate Inquiry along with the Marie Boland Review has identified the gross inadequacies in the Work Health and Safety Laws within Australian workplaces and has made many recommendations for these laws to be changed. In short, Australia has a broken system that requires immediate action and it is imperative that all recommendations from both reports be implemented without delay. We need **workable and enforceable** Work Health and Safety Laws this country.