

An Open Letter to Governor Dennis Daugaard and the South Dakota Senate and House

Last summer on July 8, 2013 our beautiful 25 year old daughter, Maegan Elizabeth Spindler was killed by a drunk driver in Pickstown, SD, along with Dr. Robert Klumb. Both were completing a 13 hour work day on the Missouri River for the US Fish & Wildlife Service and were based in Pierre. Standing in a parking lot, 150 feet off of a highway, they were preparing their boat and equipment for the following day; it was still daylight. An unregistered, uninsured vehicle driven by an unlicensed driver Ronald R. Fischer, Jr., of Lake Andes killed them. He was high on marijuana with blood alcohol over three times the legal limit and was on “unsupervised probation” which forbade drug or alcohol use. Fischer came into the parking lot at highway speed. Maegan was thrown 120 feet; there were no viewable remains.

Blood from her horribly broken body drained into the soil of South Dakota that night. A part of Maegan will forever remain here. Our family has an unfortunate and permanent blood tie to South Dakota.

Maegan and Rob were like one-third of all DUI deaths innocent victims; not the impaired driver. More innocent victims are killed by drunk drivers than are murdered each year in South Dakota. Think of 9/11 – the number of innocent victims – DUI kills more innocents every single year. Each death is entirely preventable.

Nationally 93% of fatal incidents involve first-time DUI offenders, like Ron Fischer. On average, drunk drivers are not caught until they have driven drunk 80 times. Thus, a stronger, highly visible deterrent is needed to deter drunk driving.

In late July we came to Pierre to gather Maegan’s belongings. We also requested a meeting at the Governor’s office to discuss her death and DUI enforcement in general. Senior staff met with us and began a constructive dialog. Governor Daugaard sent condolences on August 26 and promised a “data driven, evidence based” process to review South Dakota’s DUI laws and practices. We were very encouraged!

Our thought in meeting with state officials was that Maegan lived and died here and South Dakota has a serious DUI problem (it consistently ranks near the bottom among the 50 states in its death rate). Fischer’s behavior on July 8 is unfortunately quite common, especially in certain areas of the state. We also saw the opportunity for South Dakota to

lead the nation with serious DUI reforms because government is small and closer to its people. Perhaps Maegan’s death could lead to positive change and benefit all South Dakotans and one day the nation.

We provided the Governor with research based ideas to actively reduce impaired driving. A primary source document was the National Transportation Safety Board (NTSB) report, “Reaching Zero: Actions to Reduce Alcohol-Impaired Driving” released on May 14, 2013. The NTSB is a non-political, independent federal government body and is the premier organization in the world for studying and advocating transportation safety. Its recommendations do not have force of law.

The NTSB recommendations are exclusively “data driven” and “evidence based”

The proposals were reviewed by senior members of the Governor’s staff, the Department of Public Safety and the State Highway Patrol. On November 15, we again visited Pierre, met the Governor and staff, and left feeling that DUI reform proposals were getting serious attention. But the only concrete proposal was the Highway Patrol committed to doubling its enforcement actions (checkpoints, saturation patrols) from approximately 200 to 400 in 2014. That means on an average day, only in one spot in the vast state of South Dakota there will be an active DUI enforcement action.

No official proposals from the Governor’s office came before the legislative session, but we were assured changes in law were still under active consideration.

On February 5, after five months, we were finally informed there would be no major changes in DUI laws. **February 5 was also the final day to introduce legislation. Was it just a coincidence or had we been strung along?**

We were told the Governor felt changes in law would not have the “intended effect” of reducing impaired driving. We were mystified and disappointed. It left us to wonder what, in the Governor’s opinion, would have the desired effect?

The Governor’s assessment, of course, totally contradicts the findings of the NTSB. How is it possible that the NTSB recommendations somehow don’t apply in South Dakota or are irrelevant? There are no “except for in South Dakota” footnotes. We hope Governor Daugaard appreciates that his



choice ignoring the NTSB’s report on reducing impaired driving is just as serious as if the CEO of Boeing or Airbus chose to deny and ignore NTSB air safety recommendations.

The Governor’s position willfully ignores the successful experiences of the European Union, Japan, Australia or Canada in making significant reductions in deaths, injuries and the incidence of DUI. In a decade EU deaths were cut by more than 50%, while US death rates largely flat-lined since the mid-2000’s. This is not a case of European nanny-state socialism, rather it is the result of tough laws, effective deterrence, highly visible enforcement and good police work. Getting arrested for DUI is far more likely outside the US and it results in immediate sanctions and upon conviction receiving severe penalties. Drivers outside the US are heeding the message, and DUI incidence and deaths have dropped elsewhere.

By contrast, the US is a nanny-state and coddles drunk drivers with happen-stance enforcement and slap-on-the-wrist penalties. In 2012 there were 10,487 DWI arrests in South Dakota but 4,666 or 45% did not result in a DWI conviction. Most are plea bargains to far less serious charges. This is terribly frustrating for local law enforcement. Why are drunk drivers coddled in such a manner? Who benefits?

South Dakota state government starves local law enforcement of resources to vigorously enforce DUI laws, while taking almost all alcohol taxes into its general fund. Ask local law enforcement if they think the state adequately funds DUI enforcement. The state has also shifted a huge DUI financial burden on to counties and local

taxpayers with its SB 70 criminal justice reform of 2013. Ask county commissioners what they think.

State government has largely socialized the huge costs of DUI onto local taxpayers and victims.

We are writing this letter in the hope that the people of South Dakota will demand the Governor and legislature enact comprehensive DUI reform based on the recommendations of the National Transportation Safety Board.

Adopting the NTSB recommendations will certainly have the “intended effect” of reducing DUI and preventing needless death and injury.

Choosing to deny the facts and recommendations outlined by the NTSB does not make the problem go away. Lack of leadership allows DUI to fester and continue, killing dozens and maiming hundreds of South Dakotans each and every year. This carnage is not “affordable” by any measure. The “do nothing” approach does not serve the citizens of the state. It is inherently bad for business and is an embarrassment. This is not political ideology, simply a matter of public safety. And after all, that is the Governor’s first and foremost duty.

Shame on your “do nothing” response, Governor Daugaard, your decision was political!

The DUI problem will not improve without government action. The next innocent DUI victim could be you, a loved one or good friend. It will certainly be a constituent of yours or a visitor. And it will have been a preventable tragedy.

- Gregg & Susan Spindler

Recommendations from the NTSB report, “Reaching Zero: Actions to Reduce Alcohol-Impaired Driving”:

- Reduce Blood Alcohol Content for DWI offenses from the current 0.08 to 0.05 or lower.
- Mandate use of Ignition Interlocks for DWI convicts.
- Increase use of High Visibility Enforcement.
- Routinely use Passive Alcohol Sensors in Enforcement Action and Traffic Stops.
- Set specific goals for DUI reduction.
- Implement administrative license suspension and vehicle impoundment upon arrest.

Spindler Family DUI Reform Proposals:

- Adopt all NTSB recommendations
- Enact Aggravated DWI for high BAC, crashes involving death or injury and any DWI with children or disabled
- Use routine asset forfeiture as a penalty for Aggravated DWI or repeat offenders.
- Modestly increase the alcohol excise user fee to fund DUI enforcement, education and treatment and share it with local government. *Make the 5% problem drinkers that consume 50% of the alcohol pay the most.*
- Enact “Dram Shop” and Social Host Liability; those providing alcohol to visibly drunk people should pay.
- Limit Plea Bargains.



See: <http://go.usa.gov/TeOe>



See: http://sgsstat.com/sd_dui_reform_proposal.html