



May 31, 2012

Gov. Rick Scott  
The Capitol  
400 S. Monroe Street  
Tallahassee, FL 32399-0001

Dear Gov. Scott:

BikeWalkLee is a community coalition raising public awareness and advocating for complete streets in Lee County, streets that are designed, built, operated and maintained for safe and convenient travel for all users -- pedestrians, bicyclists, motorists, and transit riders of all ages and abilities. For the past decade, Florida has been the most dangerous state in the country for pedestrians and cyclists according to a number of independent authorities, and it is past time for state leadership to take action to reverse this embarrassing distinction. We hope that recent statements by Florida Department of Transportation Secretary Ananth Prasad are an indication that your administration will make this a priority.

A recent tragic case in Lee County has focused our attention on the need for action. On May 7, 2011, 46-year-old Tracey Kleinpell was struck by a truck and killed while bicycling on the Sanibel Causeway. Driver Theresa Shirley veered across the oncoming traffic lane and struck Kleinpell, who was riding in the proper fashion along the bridge shoulder. Kleinpell died at the scene. Shirley walked away – and now, a year later, apparently she will walk away again without having to take any substantial responsibility for her actions.

There are many troubling questions about how the investigation was handled by the Florida Highway Patrol and why the State Attorney with the 20<sup>th</sup> Judicial Circuit did not bring criminal charges against Shirley. On a broader scale, we have serious concerns about how the FHP statewide enforces the traffic laws and investigates of bicycle and pedestrian fatalities and serious injuries, and how the State's Attorney Offices prosecute the cases referred to them. We have outlined our detailed questions and specific requests for action in the attached statement

([http://www.bikewalklee.org/BWL\\_PDFs/BWL\\_facts/052212traceyBWLStatementFinal.pdf](http://www.bikewalklee.org/BWL_PDFs/BWL_facts/052212traceyBWLStatementFinal.pdf)), and our commentary was published in the News-Press on May 31 ([http://bikewalklee.com/BWL\\_PDFs/NewsPress/053112\\_NPTraceyoped.pdf](http://bikewalklee.com/BWL_PDFs/NewsPress/053112_NPTraceyoped.pdf)).

First, we call on you to launch an investigation into the handling of this case by the FHP, as well as a broader look into FHP's investigative practices into bicycle/pedestrian fatalities and serious injuries in

general. The troubling pattern of disregard for the rights of the most vulnerable road users warrants a closer look by an impartial party.

Second, we request that your administration undertake a comprehensive study into the safety of the state's transportation system for vulnerable road users (pedestrians, cyclists, and motorcyclists). This includes a focus on data collection that would allow better understanding of the risks and options facing vulnerable users, as well as implementing design and enforcement options to make our state transportation system safer and more effective for all. This could be done reasonably through an existing institution (such as the University of South Florida's Center for Urban Transportation Research), and would give policymakers a better basis to make changes to a system that is clearly broken.

Third, we request that you lead an aggressive campaign to end distracted driving in Florida. While Florida is the most dangerous state in the country for pedestrians and cyclists, it is one of only six states in the nation NOT to have passed any law dealing with cell phones and texting. The *News-Press*' May 19 editorial ([http://bikewalklee.com/BWL\\_PDFs/NewsPress/NPeditorialTracey120519.pdf](http://bikewalklee.com/BWL_PDFs/NewsPress/NPeditorialTracey120519.pdf)) urged the Legislature to pass such legislation, and we wholeheartedly agree. (See our Jan. 22, 2012, commentary: "Florida should ban distractions while driving," <http://bikewalklee.blogspot.com/2012/01/bwl-commentary-florida-should-ban.html>.) As Governor, you should urge the Legislature to get distracted driving legislation on your desk for signature next session. It might not have made a difference in this tragedy, but it would make a big difference on our roadways.

Forth, if there's a legal gap here that allowed Shirley to fall through the cracks, we urge your administration to propose legislation to fix the problem. While we think there are plenty of laws in place that could have been applied here, if a new law is really needed to ensure justice is achievable, tell the public what it is so they can rally to support it.

Finally, we ask you to join our call for FHP to recuse its personnel from any investigation into bicycle and pedestrian traffic homicides until this independent inquiry is complete and any recommended changes in procedures can be implemented. Local law enforcement agencies typically have qualified traffic homicide investigators who could capably handle such investigations while FHP's practices are being reviewed and revamped. The issue with FHP's investigations is statewide, but this recusal may need to be limited to those areas where local authorities are able and qualified to step in to replace FHP in these essential traffic homicide investigations so the wheels of justice are not inadvertently slowed.

Fair and thorough enforcement of the traffic laws as a primary means to keep our roadways safe. When laws are enforced, they are obeyed; conversed, when enforcement is lax or inconsistent, more road users will cut corners, engage in dangerous behavior and put themselves and their fellow road users at risk. When those who are acting dangerously are surrounded by two tons of fast-moving steel, more vulnerable road users such as bicyclists and pedestrians are even more at risk – but such dangerous behavior imperils us all. If Shirley had drifted across the Causeway and hit a school bus head on rather than side-swiping a bicyclist, the response and reaction in that case would have been much different... but the risk Shirley created would have been no less dangerous.

We urge you to take the unnecessary death of Tracey Kleinpell as a catalyst for change so that her memory – and the memories of all bicyclists and pedestrians killed on our roadways – can spark positive changes for cyclists and pedestrians in Florida. Thank you.

Sincerely,

Darla Letourneau  
On behalf of BikeWalkLee

cc: Colonel David H. Brierton, Jr., Director, Florida Highway Patrol  
Pam Bondi, Attorney General of Florida  
Ananth Prasad, Secretary, Florida Department of Transportation  
Stephan Russell, State Attorney, 20th Judicial Circuit  
Billy Hattaway, Florida DOT District 1  
Captain Tim Culhane, District Commander for Fort Myers, FHP  
Florida Senate President Mike Haridopolous  
Florida House Speaker Dean Cannon  
Lee Legislative Delegation  
Lee MPO Members  
U.S. Senator Bill Nelson  
U.S. Senator Marco Rubio

Attachment 1: BikeWalkLee Statement: Kleinpell's death demands action (May 23, 2012)  
([http://bikewalklee.com/BWL\\_PDFs/NewsPress/053112\\_NPtraceyoped.pdf](http://bikewalklee.com/BWL_PDFs/NewsPress/053112_NPtraceyoped.pdf))

*For more information about BikeWalkLee, visit us online at [www.bikewalklee.org](http://www.bikewalklee.org), our blog at <http://bikewalklee.blogspot.com>, and look for us on Facebook & Twitter.*