



PRESS RELEASE

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FOR IMMEDIATE RELEASE

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STATEMENT FROM COUNTY ATTORNEY

(Tucson, Arizona) – Barbara LaWall, Pima County Attorney, released the following statement:

As a result of the article and headline in this morning's *Arizona Daily Star* newspaper (April 22, 2010 "*Criminal Charge Unlikely in Fatal Crash: Prosecutor Cites Lack of Resources,*") my Office has received numerous phone calls and emails from concerned and upset citizens regarding the fatality that occurred on Tuesday, April 20th when Richard Kinner ran a red light and struck another vehicle killing two innocent people.

I, myself, was personally upset and quite disturbed when I learned about these fatalities. Their deaths are a terrible and horrific tragedy, and my sincere sympathy and condolences go to the surviving family members and friends.

My Office policy has always been and continues to be that we prosecute cases whenever there is sufficient evidence to prove the case beyond a reasonable doubt. The headline in today's *Arizona Daily Star* indicating the "prosecutor cites lack of resources" for a criminal charge against the driver causing the fatality comes from the Tucson City Prosecutor's policy, not from the Pima County Attorney's Office.

A lack of resources is not a basis on which prosecutions are declined by the Pima County Attorney's Office when an offense results in injuries or death to persons.

The newspaper article did not make this distinction clear, but I need to do so. The Tucson City Prosecutor's Office has jurisdiction over all misdemeanor criminal cases within the Tucson city limits. The Pima County Attorney's Office prosecutes all felony offenses within the county, and all misdemeanors in the unincorporated county limits, not within any incorporated city.

The Tucson Police inquired of us if the driver could be charged with the class 4 felony of “causing serious physical injury or death by a moving violation” under ARS 28-675. This statute requires evidence that a death happened as a result of a person driving on a suspended license while committing a moving violation – like running a red light, or excessive speeding.

That statute, however, allows for prosecution only when a person’s driver’s license has been suspended for specific reasons, such as a DUI conviction or failing to take an alcohol breath test. In this case, Mr. Kinner’s license suspension was imposed for a failure to pay a fine, not one of the articulated license suspensions which would permit a felony prosecution under this statute. We cannot legally go forward with a criminal felony charge under that statute.

The Tucson Police are continuing with their traffic investigation. They will be doing a collision reconstruction and obtaining further information from a download on the car’s crash data recorder. After their investigation is complete, they will then bring the completed investigation to my Office for a review of possible felony charges of manslaughter.

However, to convict someone of manslaughter the State must have sufficient evidence to prove beyond a reasonable doubt that the person acted recklessly or in conscious disregard of a known risk. Usually, this involves evidence of excessive speed, alcohol or drugs or a combination of those factors, none of which, according to the Tucson Police Department, appeared to be present in this case.

When the case is brought to us for felony review, we will carefully evaluate the facts and the law and make a legal determination if the case can be proven beyond a reasonable doubt. **Prosecution resources will not be a part of our decision-making analysis.**

Let me reassure you that as your County Attorney, I take protecting the public safety of this community very seriously. My Office has been and will always continue to be committed to holding those responsible for these types of horrific crimes accountable to the extent permitted by law.

Barbara LaWall
Pima County Attorney

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