

I have been accused, over my nearly ten years as Sheriff of this county, of frequent outrage. That emotion is in short supply in this community by public officials.

When that term is thrown at me, my gut reaction is to offer the differences between outrage and disgust; or between outrage and passion; outrage and, what affects too many in this system: crime victim's sad resignation.

But, today is not that day. Today is the day that the word applies. Today, I am **outraged**.

In my time as Sheriff, I have never spoken at a sentencing hearing in this county.

But today is different. Michael Grabowski, a man I have never met, yet feel I know through his mom Nancy Tomashek in my brief encounter with her. Michael Grabowski was summarily executed by Jasmine Lyboulalong on March 11, 2011 at 33rd and Lincoln. That means he didn't get due process, he didn't get a lawyer to defend him before he was murdered, he didn't get a trial by jury before being executed, Michael Grabowski didn't get a plea agreement on reduced charges because of a technicality sparing his life, he won't get to ask the governor to commute his sentence or grant him a pardon. Nancy Tomashek will tell you that he is gone forever. She won't get to see him be a father, his daughter will never know him.

This past week, I was notified through a heart-wrenching letter from the parents of a murdered child of what they believe to be a travesty of justice, a letter that has compelled me, in my 34th year wearing a badge, to come before a sentencing judge and the people of my county because what has occurred in a criminal case occurs all too often in cases of drunk driving and resulting death. No case is perfect, but that doesn't mean that we have to compound it with judicial leniency. The people I have taken the time to meet are what remains in the wake of this slaughter on our roadways by drunk drivers. I have met Paul and Judy Jenkins whose family was wiped out when their pregnant daughter and grandchild were killed by an impaired driver. I have met surviving family members of Nancy Sellers, a tri-athlete who was left for dead in a roadside ditch by a drunk driver. I met the family of Corrie Damske who was killed by a wrong way drunk driver on the freeway. Corrie left behind a nine-year-old daughter. And imagine the lump in my throat as I walked my dog one Saturday morning down West Bradley Rd., and a car pulled along the curb, a woman rolled down her window and said, "Sheriff Clarke, thanks for making my father's life seem like it mattered. My father was Percy Chambers who was killed by a drunk driver and you spoke about his death in a news conference. Sheriff, my father was helping me plan my wedding when he was killed by a drunk driver and he was so excited about it". Percy Chambers never got to walk his daughter down the aisle. I've attended countless memorial services for victims of criminal homicide and worked with survivors of homicide victims groups. These and many other victims are whose side I'm on.

As unlikely a killer as our society generally sees, an 18-year-old woman, has been afforded a rank rationalization of her crime, and it has come at the price of the dignity and compassion of a victim. We're not here to bring Michael Grabowski back from the grave that his killer put him in. We're here because for the last eleven months the parents of Michael Grabowski have sat riddled with sorrow and questions, and have been in a state of confusion. Confusion from the Assistant District Attorney who prosecuted their son's murder in that the prosecutor will not recommend a specific period of incarceration; nothing of remorse from the killer in pleading "no contest" when a guilty plea would signal her recognition and responsibility of the devastation that she has wrought. Your Honor, this court and how you sentence this defendant can signal a new day in how much this court values life in general, but specifically how you value the life of Michael Grabowski.

Law enforcement officers arrest drunks all the time. Every night. It is, thankfully, still somewhat rare that we arrest drunks who kill. In this case we did. But to the extent that the arrest doesn't result in a meaningful adjudication of the matter through the sentencing stage, we are engaging in a masquerade...partners in a broken system. Our citizen's lives are in the balance, a lesson in the harshest terms that the Tomasheks have now learned like the others before them that I have mentioned. Any sentence of a killer that fails to result in prison and I need to emphasize that a sentence to the House of Correction is NOT prison, is to me, simply confirmation that our system is numbed by a sense of fatalism; by the mistaken belief that these are just accidents, tragedies, unpredictable and unpreventable. I respectfully disagree. This is criminal homicide. Michael Grabowski was murdered. Rhiannon Patz is almost the forgotten victim in this case. She was brutalized- her leg mangled and still suffering the emotional trauma while she rehabs. The person that did it sits in this courtroom today, having also risked the lives of William Neuhalfen, and Ramon De La Torre; Carlos Jensen-Perez, and Natalie Azpeitia, as they knelt in the street early in the morning tending to Jason Hamann. Today's sentencing is the cumulative act in a process that, with every breath, has chosen to give the killer Jasmine Lyboulalong credit for a technicality, when the truth in this matter is that we are miraculously lucky, as a simple twist of fate, to not be attending to the sentencing of a killer of 7. Appeals court justice Ralph Adam Fine wrote about it in his book, *Escape of the Guilty.*"

Would the state, or shortly the court, have us believe that this matter is at all mitigated? Where does an 18-year-old girl belong at 2 o'clock in the morning? Dragging herself from a tavern at closing time with a snoot full of the alcohol that she is too young to have a drop of? I am aware of the belief in some that the killer in this case was "barely" over the limit for impairment of .08. No she wasn't. This defendant is 18. She falls under the absolute sobriety law. Her limit is ZERO. She was 700 times her legal limit in driving that night. And all the missing paperwork and attacks on police work in the world won't change that.

It is not negligence for an 18-year-old to slam down beer before murderously rolling around the city at 2 in the morning dropping off her bar buddies. Not in my world - it's reckless at best.

Jasmine Lyboualong will, before she receives her sentence today, probably cry. She'll talk about that night, and how she would take it back if she could. Her lawyer will tell of her youth, and her future. He'll argue of the need for her to return home to continue her education, and her commitment to address, through some type of counseling or treatment program I expect, the impact of that morning on her fragile young life. I won't be moved by any of it. It's done post mortem.

I'll have none of it. She, in an instant, sentenced Michael Grabowski to the graveyard. Her life will wait for her, for a few years. College? Perhaps. A family? She'll have that option. Michael Grabowski is no more. His parents have only sorrow.

Maybe I'm wrong, and I'll be impressed to hear, for the first time in my three decades in this system, something other than the expected feigned sympathy and self-serving pleas for empathy from the defendant and counsel. Perhaps she'll recognize the true depth of the misery that she's caused and petition the court herself to sentence her to prison and, in doing so, provide some brief glimmer of solace to the families of those she has brutalized. I doubt it, however. I know what I expect I'll hear instead: Stayed Sentence; House of Correction time at CCF South; Huber for work and school along with Alcohol Monitoring and Counseling. I call it the bed and breakfast sentence. It's like winning the lottery under these circumstances. This is an instance where I hope to be wrong, I want to be wrong. This defendant needs to spend every day in a women's state prison, not a local jail facility, to contemplate 24-7 yes in retrospect for what she has done. To teach you ask???...yes. To punish? Most definitely, to send a message to the next person who will kill another human being while under the influence of alcohol or drugs.

But when Lyboualong talks about the morning she killed, I'll be preoccupied with this simplest truth; she stated to the police that she was "unaware" that she had struck any people until they told her so. This, despite having mowed down Michael Grabowski, Rhiannon Patz and Natalie Azpeitia with her car. The officer had to inform her of the misery that she had caused.

A crime victim, in Wisconsin anyway, has certain rights guaranteed by law. Rights given to them by the legislature, by their elected voices in government, and held as a sacred trust. The right to have their interests considered in the pursuit of justice; the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction; and the right to request and receive information from a district attorney concerning the disposition of a case. I have discussed this matter, at length, with the Tomasheks in perhaps the most emotional and frank discussion that one can have with the parents of a murdered son. These rights were administered according to them like people were going through the motions. The watering down of the charged class D felonies in this case, and the shift of the true nature of this case, the drunken driving murder of their son, to a negligent homicide because of a technicality that still has unanswered questions, has left them staggered.

The deference of this process to a killer whose rank insensitivity to her victims was palpable enough to the family of Michel Grabowski, so that they felt compelled to reach out to the Sheriff of the County for a voice. Felt compelled to tell me the sad fact that they were victimized twice; by Lyboualong, and by a system that has ignored their most basic needs. A system that, to quietly make one more case just go away, pled 75 years away down to single digits. A system that took the word "intoxicated", the very core of the matter at hand, and replaced it, in an instant, with the word "negligent" without even considering what that change would mean to the parents of a murdered son.

This abortion of justice leaves those parents to the only conclusion any parent could have...that no aggressive stance would be pursued to prove intoxication by other means, and that the justice system is capitulating on their son's murder, in deference to the killer.

Today is Michael Grabowski's day, his mom's day, his step dad's day, his brother's day, his daughter and the mother of his child's day, it's Rhiannon Patz's day. It's not Lyboualong's day. March 11 was her day, and she was living it up. Right up until 1:55 in the morning. That's when she rained hell down on a group of people tending to an injured soul, and impaled Mike Grabowski on the hood of a car that belonged in the garage of a tree-lined street in Brookfield hours earlier.

I began my comments to the court by discussing my time as Sheriff. I'll close in the same manner. In every year since I've been a Sheriff, I've held an awards ceremony to celebrate citizens who have done what those men and women did at 33rd and Lincoln. We put on our best uniforms, and polish our brass, and meet at a banquet hall in the finest hotels in this city, and pin medals on their chests for risking their safety to aid another in their moment of need. The Bible says the greatest love you can show is to give your life for your friends. Michael Grabowski personified that act of servant leadership. May God rest his soul.

And at just such a ceremony this fall, I imagine that I would give Michael Grabowski and Rhiannon Patz medals. What did Jasmine Lyboualong give them? She gave Rhiannon a shattered leg and gashed face; for Michael he had a shattered skull, massive internal injuries and a gravestone. He deserved our thanks and praise; Jasmine Lyboualong rewarded him with a casket that had to be closed at the funeral. His mom Nancy told me that before the day he died she talked to him and he told her that he would see her later. She never saw him again, not even at the funeral. Nancy is living every parent's nightmare...to bury your children.

Would this court not sentence her to serve a prison sentence of no less than 6 years of the maximum 13.5 years. Not stayed and imposed your Honor...every day of all six years.