

The Honourable Tom Bathurst AC KC
Chairperson
NSW Law Reform Commission



Dear Mr Bathurst

Re: Call for Submissions for Reform on Serious Road Crimes

1. Whether the existing provisions of the Crimes Act 1900 (NSW) dealing with serious road and dangerous driving offences (in particular in Part 3 Division 6 and manslaughter) (serious road crime) and accessorial liability provisions remain fit for purpose.

The following serious driving offences; Aggravated dangerous driving occasioning death, Dangerous driving occasioning death, Failing to stop and assist after vehicle impact causing death - should all fall under the offence of Manslaughter.

The driver is committing a crime before they have even crashed their vehicle, the driver knows the law and by driving in this manner they are breaking it. Their intent is evident by driving in this manner, they have no regard for the safety of other road users or the community at large.

All drivers need to know this behaviour will not be tolerated and there are consequences to their actions especially when they take the life of an innocent victim.

2. Whether the maximum sentences available for serious road crimes remain appropriate.

The maximum sentence for Manslaughter is 25 years imprisonment and that is appropriate, it is the maximum sentence for the following offences that need to be addressed; Aggravated dangerous driving occasioning grievous bodily harm, Failing to stop and assist after vehicle impact causing grievous bodily harm, Dangerous driving occasion grievous bodily harm, Predatory driving, Failing to stop and driving recklessly or at a speed in a manner dangerous to others in response to a police pursuit, Causing actual bodily harm while in charge of a vehicle by wanton or furious driving, racing or other misconduct, or by wilful neglect: these offences should carry a maximum sentence of 10 years.

Drivers need to be aware that behaviour that puts not only themselves at risk but innocent members of the community is not acceptable. Having a licence to drive is a privilege not a right.

3. Relevant sentencing principles in statute and the common law for serious road crimes.

The current principles in statute and the common law for serious road crimes is out of touch with the seriousness of these crimes when it comes to sentencing these offenders. Why is a road death any less significant or serious than a person that is murdered?

When a person is killed through no fault of their own but as a result of another person driving in a manner that can only end in a devastating crash the victim and their family should be the

priority of the judicial system. Currently the perpetrators are given all the rights even though they are the ones that have killed or seriously injured an innocent person due to their negligence. A majority of the time they receive a light sentence; - Suspended sentence, Good behaviour bond, Community service, a short Custodial sentence and in some cases Home Restriction. Many of these drivers are also repeat offenders and this only shows when the punishment is not deemed serious enough, they do not care.

Quite often we hear some hard luck story as an excuse for such vial behaviour, that does not excuse the driver from breaking the law and taking a person's life or seriously injury another human being. It should not be taken into account, the message they should be given is - you rise above it and be a better person.

4. The experiences and rights of victims of serious road crime and their families within the criminal justice system.

A greater emphasis needs to be placed on the impact on the victims and their families. Currently the person that has caused the trauma, devastation and a lifetime of grief is afforded all the rights. They can delay commencement of a trial by not offering a plea at court mentions, repeatedly sacking solicitors and then applying for legal aid all with no demand for them to offer a plea to move to the next stage. In the meantime, the families are left waiting for answers and justice.

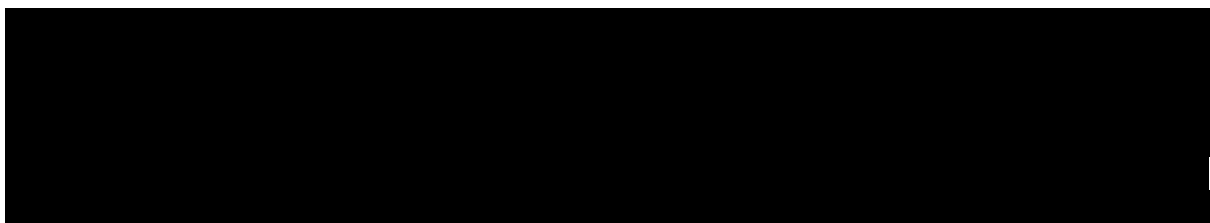
For victims and families having to attend court to face the person that has caused this trauma, injury, devastation and potentially a lifetime of grief, only adds to the stress they are already experiencing and to hear the light sentence handed down to the person responsible, is an insult to victims and their families. It sends the message that their loved one does not matter and their life meant nothing.

The voices of the victims and their families need to be heard and the impact of what has happened to them must always be at the forefront when dealing with the criminal justice system.

5. Any other matter the Commission considers relevant.

The current judicial system is failing the innocent members of the community. Not only do the maximum sentences need to be addressed so do the minimum sentences. The biggest injustice is the minimum sentences handed down, victims' lives are worth far more than a 2-, 4-, 6- or 8-year sentence or a Suspended sentence, Community Service, Good Behaviour Bond or even home detention/restrictions.

When disqualified drivers continue to drive (some are often under the influence of drugs and or alcohol), usually at speed putting the safety and welfare of others at constant risk. Proving the deterrents to stop them are not tough enough. I speak from experience when I say this.



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[REDACTED]

Society, governments and the judicial system need to stop treating these crimes as if they are just accidents, they are not. They cannot be considered an accident when they are in fact the result of criminal acts and the punishments need to fit the crimes. These innocent victims matter and they deserve the appropriate justice.

Finally once a person has served their disqualification it should not be just a matter of sitting a theory test to return their licence, they should have to pass both a theory and road test. They must also pay for each test and if they pass then they must incur a fee to receive their licence. Hopefully knowing this added cost on top of their fines and/or sentence may help act as a deterrent, reducing the number of serious road crimes resulting in unnecessary suffering for victims and their families.

Yours sincerely

[REDACTED]