

Road Trauma  
Support Group  
NSW

**Road Trauma Support Group NSW**

**Submission to**

**Serious Road Crime Consultation Paper  
23,  
NSW Law Reform Commission**

**5 APRIL 2024**

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## Executive Summary

Too many people are dying as a result of serious road crime which could be avoided but which is instead rapidly increasing in New South Wales (NSW). Laws and sentences are outdated and ineffective. Court decisions are being made based on a century-old law and even with amendments and guidance, sentencing trends are still not reflective of community expectations.

Specifically, average head sentences of approximately three years for dangerous driving occasioning death and five years for aggravated dangerous driving occasioning death are wholly inadequate, disrespectful to the value of human life, and misaligned with community views and expectations. This clearly demonstrates the need for major reform in relation to serious road crime.

The Road Trauma Support Group NSW (RTSG) has mapped a root and branch law reform pathway and is seeking the following outcomes to be delivered promptly to avoid further avoidable loss on our roads:

- New road crimes Act
- New offence of Vehicular Homicide
- New offences and penalties hierarchy with standard non-parole periods for vehicular homicide
- Sentencing that recognises criminality associated with serious road crime and the devastating impact on families and communities.
- Legislating mandated victim impact panels
- Embedding a better approach to victim-centred design and services
- Road fatality reporting of all road deaths in NSW, drawing from safety practices in workplaces and aviation, to enhance investigations, promote transparency, and inform road safety measures while safeguarding individual privacy.

The recommendations RTSG has provided meet modern community expectations, and we stand ready to work alongside the NSW Government and the NSW Opposition to expedite these reforms.

Road crime needs to be recognised by the law and judiciary for what it is – a violent and unprovoked assault on the person with a deadly weapon (a motor vehicle) with potentially catastrophic consequences, often occurring in situations where the offender has a reckless disregard for other road users as demonstrated by their blatant disrespect for road rules and wilful neglect of human life.

In the same way recent reforms have helped shift attitudes and responses to crime such as domestic violence, revenge porn, and one-punch assaults causing death, realising genuine change will rely strongly on attitudinal shifts amongst law makers, enforcers and the judiciary, as well as seeing behaviour change in the community.

The current situation requires a formal, bi-partisan crisis response that centres around root and branch law reform. This will then underpin effective initiatives that better deter criminal behaviour, rehabilitate offenders, educate road users and provide broader justice for victims and the community.

## Summary of recommendations to the NSW Law Reform Commission

**Recommendation 1: New Law** – strong action, strong message. Urgently draft and introduce a new separate road crimes Act as the foundation for reform, by 2025.

**Recommendation 2a: A New Vehicular homicide offence** to be created and incorporated into the new road crimes Act.

**Recommendation 2b: New hierarchy of offences** – define new offences for serious road crime to be included in a new road crimes Act.

**Recommendation 2c: New offences for non-drivers (Accessorial liability)** to be included in the new road crimes Act.

**Recommendation 3a: Penalties – Vehicular Homicide** maximum penalties to be set consistently and in line with other crimes that result in death.

**Recommendation 3b: Penalties – licence disqualification** periods to be increased and rehabilitation programs applied.

**Recommendation 3c: Penalties – mandatory alcohol interlocks** to be enforced for all convicted drink driving offenders.

**Recommendation 3d: Penalties for repeat traffic offenders** must be increased and use of technology, such as black box telematics, expanded.

**Recommendation 4a: New sentencing approach** that recognises that deaths and serious injuries caused as a result of serious road crime must receive sentencing outcomes consistent with sentencing outcomes for death and serious injury in other criminal circumstances.

**Recommendation 4b: Victim impact panel program** – to be mandated for serious and repeat offenders and enshrined in legislation.

**Recommendation 4c: Standard non-parole periods** – sentences for serious road crime that results in death must include a standard non-parole period.

**Recommendation 5: Appropriate jurisdiction of higher courts** – serious road crime offences to be heard in District or Supreme court only.

**Recommendation 6: New approach to designing laws and services** – Embed a victim-centred design approach to new laws and services and include road crime in the Charter of Victims' Rights.

**Recommendation 7: Road fatality reporting of all road deaths in NSW** drawing from safety practices in workplaces and aviation, to enhance investigations, promote transparency, and inform road safety measures while safeguarding individual privacy.



## 1. Introduction

### *About us*

The Road Trauma Support Group NSW (RTSG) is the voice of families impacted by road trauma and an active advocate for safer road for all. We provide support and education to victims of road trauma and walk alongside them as we continue to campaign for reform and work toward ensuring there are more effective connected support systems in place to help victims through the experience of road trauma.

RTSG has over 370 active members and seeks to achieve its Vision by working with all stakeholders and acts as an advocate for safer roads for all road users in NSW, with a special focus on trauma support, education, reform and research.

Support for families impacted by the death of a loved one due to criminal acts of another road user is available through Road Trauma Support Group on **1800 808 384**, [www.roadtraumasupportnsw.org](http://www.roadtraumasupportnsw.org)

For those suffering from grief and trauma following an accident or injury, we recommend grief and trauma support services on our website: <https://www.roadtraumasupportnsw.org/usefulinformation>

RTSG founding members have prepared this submission, representing the views of RTSG members across NSW. The founding members are:

*Roxanne Arnold, wife of Steve killed by a drunk driver.*

*Tom Daher, son of Tannous killed by an unlicensed drugged driver.*

*Craig Mackenzie, stepfather of Veronique killed by a drugged and drunk driver.*

*David Vidal, father of Aaron, killed by a dangerous driver.*

*Duncan Wakes-Miller, father of Barney killed by a drunk driver.*

RTSG's Law Reform Manifesto (**Appendix A**), founded on evidence-based research and lived experience, provides an achievable plan to save lives. It represents our members' call for urgent action by government and the courts.

*The Unheard Trauma of Fatal Road Crimes in NSW (April 2023) (Appendix B)* is a research study conducted for RTSG by FiftyFive5 part of Accenture Song. Thanks go to 2,102 surveys completed by NSW residents, 20 interviews with families and close friends intimately affected by road trauma and 20 interviews with experts who interact with families included a range of perspectives from the professionals who support families in the days, weeks, months, and years post-crash.

While our submission to the NSW Law Reform Commission (LRC) *Serious Road Crime* Consultation Paper December 2023 (Consultation Paper) focuses on the Consultation Paper's topics, we urge reviewers and policymakers to refer to the Manifesto for the full suite of actions required, including initiatives that would support law reform.

### **The Problems**

The system is broken, current approaches to reducing road trauma are not working and NSW citizens are paying too high a price – death of loved ones. Road trauma death numbers in New South Wales are unacceptably high with (on average) one person dying on NSW roads every day in circumstances that should be avoidable.

At the NSW Road Safety Forum held on 22 February 2024, Transport for NSW Secretary, Josh Murray, and Chief of the Centres for Road Safety and Maritime Safety, Bernard Carlon, both described the jump in numbers of people dying on NSW roads as “a crisis situation”<sup>1</sup>. In the 12 months to 22 March 2024, 367 lives have been lost in NSW. 99 more people died in this 12-month period compared to the previous 12 months<sup>2</sup>. (NSW Centre for Road Safety, 2024)

Alarming, the number of people dying on NSW roads during 2023 and into 2024 is trending sharply upwards, following a downward or steady trend up until 2022. Compared with 2022, in 2023 there was a 36% increase of deaths where speeding was involved, an increase of 60% of deaths where fatigue was involved and an increase of 58% where alcohol was involved. Last year there was a 69% increase in people being killed in country urban areas on roads with speed limits below 80 km/hour and an 89% increase in people killed across NSW on roads with speed limits below 50km/hour.<sup>3</sup>

Risky behaviours are too often normalised by the Australian love-affair with the car and attitudes that driving is an individual right rather than a privilege that comes with responsibility. Combined with the social acceptance of alcohol consumption, recreational drugs (both legal and not) and speeding, this is a recipe for disaster.

Drivers – sometimes encouraged by their passengers and others – who commit road crimes can be emboldened in their risky behaviours because of a lack of visible policing and a light touch sentencing regime. There is no Australian legislation around accessorial liability for specifically dealing with serious road crime, that is for letting or getting into a car with an impaired driver, or otherwise encouraging or turning a blind eye to a clearly impaired driver.

We submit that the penalty regime in NSW is not reflective of the destructive and detrimental consequences road crime has on victims and members of the community. The penalties do not denounce and deter this conduct sufficiently so as to minimise its prevalence in our community. It is RTSG’s submission that the current penalty framework offers little deterrent for drivers who continue this course of criminality on our roads. Sentencing lacks proportionality with other violent crimes or wilful neglect for human life.

RTSG’s ground-breaking research on the impact of road crime in NSW conducted by independent research agency FiftyFive5, *The unheard trauma of fatal road crimes in NSW (2023)*<sup>4</sup> (Appendix B), provides a clarion call to action and explains the ripples of road trauma that are felt throughout the NSW community.

Our research shows that road trauma has severe economic and social consequences for individuals and the community, including mental health challenges, loss of faith, decrease in work/study performance, loss of friendships, suicidal thoughts and alcohol/drug/gambling problems.

Our research also shows that community expectations are not being met, with:

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<sup>1</sup> Transport for NSW, NSW Road Safety Forum 2024  
(<https://www.transport.nsw.gov.au/roadsafety/what-we-do/nsw-road-safety-forum-2024>)

<sup>2</sup> Transport for NSW, Centre for Road Safety, statistics  
(<https://www.transport.nsw.gov.au/roadsafety/statistics>)

<sup>3</sup> Transport for NSW, 2024 NSW Road Safety Forum, Attendees Information Pack, Feb 2024

<sup>4</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

- 62 per cent of people supporting the charging of drivers with vehicular manslaughter when they kill someone on the road;
- 73 per cent believing punishments for driving on drugs should be harsher;
- 59 per cent wanting public investigations and reporting of causes of fatal crashes; and
- 69 per cent supporting participation in Victim Impact Panels for offenders to regain their licence.<sup>5</sup>

NSW is in the midst of a road crime and road trauma crisis. The consequences of this are that members of the community are not protected and, relevantly, justice is not being afforded to the most important stakeholder group in this – victims and their families.

### ***The Solutions***

The LRC has been asked to review and report on whether the existing provisions dealing with serious road and dangerous driving offences and accessorial liability provisions remain fit for purpose.

To answer the guiding question proffered in the Consultation Paper 2023<sup>6</sup> –

**Yes, the law needs to change. And drastically.**

NSW should (and could) be the leader in road crime reform, analysing and incorporating best practice policy and judicial outcomes of other Australian and overseas jurisdictions.

It is our ultimate submission to the LRC that the current provisions of the *Crimes Act 1900* (NSW) and *Road Transport Act 2013* (NSW) are outdated and are not able to combat the epidemic of road crime on NSW roads. The punishments and consequences for serious road crime offences have not evolved to reduce rates of reoffending.

*We must go to the heart of the behaviours that are causing such a rapid increase in road deaths.*

The legislation<sup>7</sup> and the guideline judgment of *R v Whyte* [2002]<sup>8</sup> are decades old and are now not the correct or appropriate instruments to sentence, reduce road crime and protect our community.

*New stand-alone legislation should become the centrepiece of reform, complimented by government policy on a safe systems approach to road safety which has been proved effective (for example, in Sweden).*

The *R v Whyte* guideline judgment is outdated and can be eradicated with the introduction of new, over-riding legislation. New provisions drafted within new legislation to encapsulate the objective seriousness, moral culpability and aggravating and mitigating factors for an offender will provide a clearer guideline for dealing with serious road crime.

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<sup>5</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

<sup>6</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 1

<sup>7</sup> *Crimes Act 1900* (NSW) *Road Transport Act 2013* (NSW)

<sup>8</sup> *R v Whyte* [2002] NSWCCA 343; 55 NSWLR 252

Road crime needs to be recognised for what it is – a violent and unprovoked assault on the person with a deadly weapon (a motor vehicle) with potentially catastrophic consequences, often occurring in situations where the offender has a reckless disregard for other road users as demonstrated by their blatant disrespect for road rules and a willful disregard for human life. The crucial aspect requires an attitudinal shift amongst all stakeholders, which will lead to behavioural changes, by systematically altering mindsets and strategies to combat this crime, like we have addressed the attitudes surrounding alcohol-fueled violence, one-punch assaults, revenge porn and domestic violence.

Cultivating a steadfast attitudinal and cultural mindset shift that road crime will not be tolerated in any circumstances will consequently lead to a decrease in road-related crimes and dangerous driving. Everyone in the NSW community, including government officials, professionals who interact with bereaved families, the media, and the wider community, can play a role in both reducing fatalities on NSW roads and in minimising the traumatic aspects of the experience for those who find themselves in the horrific situation of losing a loved one due to the criminal act of another.<sup>9</sup>

The Consultation Paper has clearly identified the complexity of road crime identification, conviction, sentencing and parole options. The discrepancy in penalties and sentencing outcomes for road crime is both distressing and insulting for the community and victims of crime and does little to address the increasing numbers of lives lost and families damaged irreversibly.

We recognise the support for a review of serious road crime expressed by the NSW Police Force in its preliminary submission, notably that it “welcomes any insights and recommendations to improve the experiences of victims and their families and works towards providing a stronger framework of deterrence and accountability associated with road trauma”.

The road trauma crisis response must be centred around root and branch law reform that educates all on vehicular responsibilities, deters criminal road behaviour, rehabilitates offenders and provides justice for victims and the community. And this must be done with a sense of urgency and bi-partisanship so as to address this crisis and save the avoidable loss of lives on NSW roads.

***Law Reform Action Plan: how NSW can lead the way***  
**RSTG NSW responses to Consultation Paper<sup>10</sup>**

## **2. Serious road crime offences**

In the pursuit of justice, support for those impacted by the tragic loss of a loved one due to criminal acts on our roads, and the compelling need to save lives, the Road Trauma Support Group NSW (RTSG) calls for major and urgent law reform.

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<sup>9</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

<sup>10</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023)

Existing serious road crime offences are **not** fit for purpose. The following RTSG recommendations form the foundation for legislation that reflects the true criminality and destruction associated with these crimes.

**Recommendation 1: New Law – strong action, strong message.**

Urgently draft and introduce a new separate road crimes Act as the foundation for reform, to take effect no later than 2025.

*Ref: Consultation Paper Question 2.10*

Public policy and legislative reform are the keys to addressing the current road trauma crisis. This reform needs to be based on a foundation of new serious road crime laws that articulate more appropriate offences, penalties and sentencing guidance that achieves better outcomes and reflects community expectations.

*“Crimes committed in a motor vehicle must be considered just as seriously as other crimes. The concept of proportionality should apply.”*  
RTSG Member

To effectively reduce death and serious injury from road crime, the full hierarchy of indictable offences and penalties relating to vehicular crimes should be clearly articulated in the one Act. This legislation should encompass a range of provisions specifically tailored to handle cases involving criminal acts on the road, accessory accountability and recidivist driving offenders.

A new singular road crimes framework for NSW would streamline legal processes, improving consistency and fairness in the pursuit of justice and reduce the complexity of other involved Acts. It would provide a centralised framework and raise social awareness of the seriousness of road crime, and it would complement a safe systems approach to road management.

**Strong action: Why change**

A major shift in law signals to the community that road crime is unacceptable. In recent times, new legislation has been passed to respond to escalating criminal conduct such as firearm offences, domestic violence, drugs and even the recent revenge porn laws. Similarly, responses to road crime offences such as unlawful killing and violent crime need to be more effectively enshrined in a new standalone legislation.

*35 people were killed during an abhorrent criminal act in Port Arthur. Ten times this number of people were killed on NSW roads last year.*

The mass killing of 35 people in Port Arthur in 1996 was an appalling and destructive act that devastated the families and friends of those who lost their lives, and shock and sadness reverberated throughout the entire nation. With respect to the victims’ families and communities, we would like to use the response to this as an example of swift government action, including support for law reform to drive the change.

Within 12 days of this incident, then Prime Minister John Howard announced a scheme for uniform gun laws and the National Firearms Agreement, which was quickly endorsed by Australian governments<sup>11</sup>. This gun law reform resulted in an immediate and major reduction

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<sup>11</sup> The Howard Library UNSW, Case Study National Firearms Agreement  
(<https://www.howardlibrary.unsw.edu.au/sites/default/files/2021-01/Case%20Study%20National%20Firearms%20Agreement.pdf>)

in homicides involving firearms and eventually shifted the community's attitude towards firearms.

*The Firearms regime in NSW is a perfect example of how owning a gun is about being a fit and proper person. A new serious road crime Act should similarly define what is a fit and proper person to be in charge of a motor vehicle.*

In her book *A Lesser Species of Homicide. Death, Drivers and the Law*, the accomplished academic author and researcher Dr Kerry King recommends that only by “cementing understandings that the mismanagement of a vehicle is as dangerous or negligent as discharging a firearm in a public” place even without the presence of aggravating factors and by completing a “wholesale revision of penalties across the entire spectrum of driving conduct” can we envisage real change.<sup>12</sup>

### **Case Study – Domestic Violence Law Reform**

RTSG strongly supports all policy and legislative reform that has improved outcomes and raised awareness of the seriousness of domestic violence crimes, especially victim-informed responses that have shaped this shift.

We acknowledge that true reform and the widespread behaviour change needed to address family and gender-based violence is very much a work in progress. By using domestic violence legislative reforms as a case-study, we do not wish to take away from the serious nature of these deaths and injuries. Instead, we believe it may serve as a multi-faceted framework for road trauma law reform, by radically improving public policy, speeding up behaviour change and providing a systemic and community-wide way to address the road trauma crisis.

This broadscale reform provides a case study to show the impact that can be achieved from new public policy, new action plans, new stand-alone laws, new offences, intergovernmental agreement, improved rapid response mechanisms, new information and data sharing.

Campaigners for domestic violence reform and victims of violence had long been calling for urgent law reform to better protect families and reduce the abhorrent numbers of people, mostly women and their children, dying and being injured and scarred for life. Too often it was referred to as a silent epidemic, although women had been attempting to shine a light on violence for decades.<sup>13</sup>

In April 1999, the Domestic Violence Legislation Working Group, comprising Commonwealth, State and Territory officials, produced the *Model Domestic Violence Laws*

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<sup>12</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020), 272-3

<sup>13</sup> Alana Piper and Ana Stevenson, *The long history of gender violence in Australia, and why it matters*, The Conversation, (15 Jul 2019) (<https://theconversation.com/the-long-history-of-gender-violence-in-australia-and-why-it-matters-today-119927>)



*Report.* This contained model State/Territory legislation dealing with domestic violence protection orders, as well as commentary on specific features of the model.<sup>14</sup>

The *Crimes (Domestic and Personal Violence) Act 2007*<sup>15</sup> repealed and enacted Part 15A of the *Crimes Act 1900* (NSW) with modifications as a Principal Act. The new Act was designed to help address the unacceptable levels of personal and domestic violence and provide police and magistrates with more specific powers to respond quickly, for example with interim orders, especially in the case of repeat offenders. The Act included a new offence (at that time) of domestic violence designed to “help identify repeat offenders”<sup>16</sup>.

Since the decision by many state and territory legislatures to establish new domestic and personal violence laws, awareness has grown that violence in the home and between current and former intimate partners is abhorrent and not to be accepted as just part of our culture. It has moved it from a private to a community issue and reforms are continuing as the number of deaths remain high.

In 2022, Commonwealth, State and Territory governments pledged to end violence against women and children in Australia within one generation. The National Plan to End Violence against Women and Children 2022-2032 includes Prevention, Early Intervention, Response, and Recovery, and healing and implementation is being guided by a victim-survivor advisory group. Underpinning the plan is ongoing data collection and evidence building.<sup>17</sup>

The plan provides definitions for gender-based violence and describes key focus areas for government, including coercive control, intimate partner homicide, sexual violence and harassment, pornography and economic abuse including financial abuse. Governments have commenced legislative reform that recognises these particular crimes.

While some states have already implemented new information and data sharing regimes, the Australian Government is now establishing a new national online system to provide more up-to-date information on the number of Australians killed by a current or former partner, which will provide quarterly updates on intimate partner homicides.<sup>18</sup>

***Strong message: Improving outcomes from new laws relies on changing the narrative.***

The language used by those in authority, and within our laws, is also a significant factor in the way death and injury due to road crime is perceived, and subsequently, dealt with by the law

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<sup>14</sup> The National Council to Reduce Violence against Women and their children, *Domestic Violence Laws in Australia* (June 2009) ([https://www.dss.gov.au/sites/default/files/documents/05\\_2012/domestic\\_violence\\_laws\\_in\\_australia\\_-\\_june\\_2009.pdf](https://www.dss.gov.au/sites/default/files/documents/05_2012/domestic_violence_laws_in_australia_-_june_2009.pdf))

<sup>15</sup> Parliament of NSW, Bills (2007) (<https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=1265>)

<sup>16</sup> NSW, *Parliamentary Debates*, Tanya Gadiel, Member for Parramatta, Legislative Assembly Hansard, (16 Nov 2007) (<https://www.parliament.nsw.gov.au/bill/files/1265/LA%208007.pdf>)

<sup>17</sup> Commonwealth of Australia, National Plan to End Violence against Women and Children 2022-2032, A joint Australian, state and territory government initiative (2022) ([https://www.dss.gov.au/sites/default/files/documents/10\\_2023/national-plan-end-violence-against-women-and-children-2022-2032.pdf](https://www.dss.gov.au/sites/default/files/documents/10_2023/national-plan-end-violence-against-women-and-children-2022-2032.pdf))

<sup>18</sup> Senator the Hon Katy Gallagher, The Hon Amanda Rishworth MP, the Hon Mark Dreyfus KC MP, Media Release *Albanese Government to improve reporting on intimate partner homicide* (25 Nov 2023)

and the courts. The use of the term 'accident' when referring to road crime is insulting and distressing to victims and their families but also greatly undermines the gravity of the situation. Minimising the severity of a crash and its consequences by using language that does not match that used to describe other manslaughter and murder allegations, can also contribute to the inclination of lesser penalties being applied or a sense that the community sees the causing of 'an accident' as a lesser or somehow avoidable incident.

### **Case Study – Domestic Violence Law Reform**

*Road fatalities that involve criminal behaviour need a different term.*

As described by respected academic Dr Kerry King<sup>19</sup>:

"In 1960, Professor Lewis told the Commonwealth Senate Select Committee of Inquiry into Road Safety that "civilised society had never really faced the problems of road injury and fatality and deplored the use of the word 'accident' with its connotation of inevitability".

"In 2004, almost half a century after Professor Lewis' frustrated observations, the World Health Organisation declared a preference for the word 'crash' in that it denoted amenability to investigation and corrective, preventative action."<sup>20</sup>

Produced in collaboration with research agency FiftyFive5, part of Accenture Song, and the lived experience of road trauma victims, The Australian Road Collision Reporting Guidelines<sup>21</sup> were launched by RTSG in 2023. These guidelines encourage Australian media to report road crashes responsibly, which is crucial for informing the public and promoting safety.

[rc-rg.com.au](https://www.rc-rg.com.au)

The term 'accident' suggests a crash was inevitable and unavoidable. Most often, these are NOT accidents but collisions that could have been avoided.

The preliminary submission of the Office of the Director of Public Prosecutions (ODPP) proposes that "use of the term 'accident' ...be avoided in the prosecution of serious road crimes..."<sup>22</sup>

Many areas of the NSW government such as the NSW Police Force and Transport for NSW have already moved to ensure the word 'crash' is used, but the term 'accident' is still commonly used in legal settings and the media.

New policy and legislation must set the standard by using only the word 'crash' in drafting of public policy and programs, including in legal submissions, deliberations and decisions, road traffic reports and media guidelines.

<sup>19</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

<sup>20</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

<sup>21</sup> Road Trauma Support Group NSW and FiftyFive5, *Australian Road Collision Reporting Guidelines* (2023) <https://www.rc-rg.com.au/>

<sup>22</sup> PRC77, NSW Office of the Director of Public Prosecutions, NSW Law Reform Commission website (17 Feb 2023)



*In recommending this change, we seek to accurately reflect the nature of these incidents and foster a mindset of social unacceptability for dangerous driving encouraging a generational change in road safety such as we have seen in attitudes to domestic violence and one-punch laws.*

## **Recommendation 2a: New vehicular homicide offences**

to be incorporated into the new road crimes Act

*Ref: Consultation Paper Question 2.1*

Serious road crime offences that result in death need urgent review and modernisation. A new offence of vehicular homicide should be created with maximum penalties that are aligned with the maximum penalties for homicide in the Crimes Act.

“Dr Claire Corbett of Brunel Law School noted that serious traffic offences are rarely conceptualised as ‘real’ crime, or offenders’ ‘real’ criminals. For the most part, Corbett noted, deaths on the road have been positioned as a traffic problem rather than a crime problem.”<sup>23</sup>

Observing the propensity to prosecute road crime at the lower range of road traffic offences rather than homicide charges, we propose clear definitions for a new offence of vehicular homicide be created as part of new stand-alone legislation.

*Crimes Act 1900 (NSW) s18(1)(a)* defines murder and maximum penalties. In NSW, a person commits murder if they kill another person and:

- they acted with reckless indifference to the person’s life, or
- they intended to kill the person, or
- they intended to cause “grievous bodily harm” to the person, or
- they killed the person while attempting to commit, or during or after actually committing, a “crime punishable by imprisonment for life or for 25 years.

Manslaughter is defined as “every other punishable homicide” that is not murder (*Crimes Act 1900 (NSW) s18(1)(b)*).

Driving a vehicle, or being encouraged to drive a vehicle while drunk, drug-affected, tired, speeding or any other illegal act which contributes to impairment, is irrefutably a reckless indifference to other people’s lives. While road deaths can be captured under existing law, a new offence of vehicular homicide contained within the new legislation would send a clear message that vehicular homicide is just as serious a crime as other forms of homicide.

*Britain’s head of road policing (Chief Constable Jo Shiner) has said that intoxicated motorists who cause fatal crashes should face the same penalty as a murder charge.*

*“If someone takes the decision to get behind the wheel of a car when they have taken drink or drugs and would know what impact that would have on their driving, why would you not expect them to face the full consequences?” she said.*

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<sup>23</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

*"I liken it to some of the homicide investigations, to some of the sentences that we get for murders.*

*"I actually do believe that if someone makes that decision to get behind the wheel, under the influence of drink or drugs, that is a conscious decision they have made... to put others at risk."<sup>24</sup>*

"In Australia, vehicular manslaughter sits at the bottom of the fault hierarchy of intention, knowledge and recklessness, as criminal negligence. Intention's stronghold on the apex of criminality is generally considered non-controversial. Yet, reckless indifference to the lives and safety of others, particularly when in charge of a dangerous object in a public thoroughfare, arguably represents a challenge to received notions of blameworthiness."<sup>25</sup>

*RTSG also recommends that the issues raised in the preliminary submission of the NSW Office of the Director of Public Prosecutions (ODPP) relating to a new vehicular manslaughter offence to be considered in the creation of the new legislation.*

As expressed by the ODPP, "...although no category of manslaughter can be considered more or less serious than the other, the determination of the basis upon which category of vehicular manslaughter the offence lies is nevertheless of some importance. Properly identifying the category provides clarity regarding the nature of the prosecution case and assists the Court in the sentencing process"<sup>26</sup>.

### **Case Studies – One Punch Laws**

One-punch laws have been strengthened and clarified in most Australian jurisdictions over the past decade, in response to demands from victim groups and the community.

*These crimes are now broadly seen as socially unacceptable. What was once known as a 'King Hit' is now known as a 'Coward's punch'.*

A common theme in these reforms has been an increase in penalties, including minimum sentences in the case of NSW, and new offence definitions particularly around intent.

This could provide guidance for the drafting of new road crime offences.

#### **Queensland**

In 2014, Queensland created a new offence of Unlawful striking causing death, carrying a maximum penalty of life imprisonment. Intent to kill or reasonable foreseeability of death or grievous bodily harm does not need to be proven to convict under this offence.<sup>27</sup>

#### **Victoria**

<sup>24</sup> Daily Mail, *Drug and drink-drive killers should be treated like murderers, Britain's head of road policing says* (22 Feb 2024)

<sup>25</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

<sup>26</sup> PRC77, NSW Office of the Director of Public Prosecutions, NSW Law Reform Commission website (17 Feb 2023)

<sup>27</sup> Queensland Government Cabinet office, *Safe Night Out Bill 2014 Explanatory Notes* (2014) (<https://cabinet.qld.gov.au/documents/2014/jun/safenightoutbill/Attachments/ExNotes.pdf>)

Also in 2014, Victoria strengthened its laws relating to one-punch attacks. The *Crimes Act 1958* (VIC) amendment states that a single punch or strike is to be taken to be a “dangerous act” in prosecutions of “manslaughter by an unlawful and dangerous act”.<sup>28</sup> The maximum penalty applicable is 25 years imprisonment.

A minimum non-parole period of not less than 10 years applies, unless the court finds that a special reason exists.<sup>29</sup>

### **New South Wales**

In NSW S25A of the *Crimes Act 1900* describes “assault causing death”, commonly referred to as a “sucker punch”.

“(1) A person is guilty of an offence under this subsection if—

- (a) the person assaults another person by intentionally hitting the other person with any part of the person’s body or with an object held by the person, and
- (b) the assault is not authorised or excused by law, and
- (c) the assault causes the death of the other person.”<sup>30</sup>

The maximum penalty is imprisonment for 20 years; or 25 years with a mandatory minimum sentence of 8 years, when the person is intoxicated as a result of having voluntarily consumed alcohol or illicit drugs.

Even if the offender did not intend the other person to die, these penalties still apply.

*Although no other Australian state or territory currently has a specific offence of vehicular manslaughter or homicide, it is incumbent on NSW to lead the way.*

As noted in the Consultation Paper, the ACT Legislative Assembly’s Standing Committee on Justice and Community Safety held an inquiry into dangerous driving in 2023. The committee made recommendations that the ACT Government consider:

- Renaming the ACT offence of culpable driving causing death to ‘vehicular manslaughter’, and
- Bringing the maximum penalties for culpable driving causing death (14 years for a basic offence, 16 years for an aggravated offence) up to the maximum penalties for manslaughter (20 years for a basic offence, or 28 years for an aggravated offence).<sup>31</sup>

The ACT Standing Committee considered that “culpable driving causing death is effectively the same thing as manslaughter” so renaming the offence would “better reflect what it is”. In its view, raising the penalty would align “with the nature of the offence” and its impact on victims and families.

The ACT Government has agreed to consider the appropriateness of the offence’s name, the benefits of renaming it, and the current penalties for the offence in the context of the penalties for manslaughter.<sup>32</sup>

<sup>28</sup> Sentencing Amendment (Coward’ Punch Manslaughter and other matters) Bill 2014 (VIC)

<sup>29</sup> *Sentencing Act 1991* (VIC) s9C

<sup>30</sup> *Crimes Act 1900* (NSW) s25A

<sup>31</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 15, paragraphs 2.30, 2.31

<sup>32</sup> Australian Capital Territory, Legislative Assembly, Standing Committee on Justice and Community Safety, *Inquiry into Dangerous Driving*, Report 16 (2023) [2.52], rec 2; *Crimes Act 1900* (ACT) s 29(2)–(3), s 15.

Clearly, the creation of new offences with maximum penalties would enliven a real consideration of the purposes of sentencing being that the offender is punished, deterred, community protected, held accountable, denounced and most importantly for the recognition of the harm done to the victim of the crime and the community.

### **Recommendation 2b: New hierarchy of offences**

- define new offences for serious road crime to be included in a new road crimes Act

*Ref: Consultation Paper Questions 2.2 - 2.6*

As described in the Consultation Paper, "...moving serious road crime offences from the Crimes Act to the new legislation," and "...shifting certain related RTA offences to this new legislation" could possibly form the basis of new legislation. "Consolidating related offences...could assist to reduce complexity and set out the legislative hierarchy more clearly. It could provide an opportunity to review and amend related offences and remove unnecessary duplication."<sup>33</sup>

*With new serious road crime legislation as the foundation of reform, RTSG calls for an evidence-based approach to drafting of all new offences, rather than trying to retrofit existing offences into the new legislation.*

All road crime offences currently contained within the Crimes Act and the Road Transport Act should be reviewed to inform a new hierarchy of offences. The creation of a new instrument of law would allow for a new offence of vehicular homicide, a new hierarchy of offences for inclusion in the new road crimes Act, commencing with this practical and powerful first step.

Driver conduct, and those who encourage or allow them to break the law and drive illegally, must be considered in this new framework of offences and we have addressed several of the discussion points raised in the Consultation Paper below.

*Ref: Consultation Paper Question 2.2*

RTSG recommends that any person of any age who is in control of a motor vehicle and offends in a way that their driving is dangerous or intended to be dangerous not be afforded the discretion enlivened currently at law. For example, exceeding the speed limit, driving while tired or driving following excessive intake of alcohol or drugs, or any other illegal act which contributes to impairment needs to be acknowledged as an intentional action that encapsulates behaviours of contemplation, moral impropriety, actions of criminality, wilfulness and most importantly not a momentary lapse of attention or decision-making which could not ever be considered as involuntary.

The term 'at the time of impact' is restrictive and binds the judicial system when contemplating objective seriousness. The term should incorporate all of the conduct of the offender prior to and after the crime being committed including if the driver is aware of any significant risk of impairment, such as a medical condition, fatigue or other risk factor not already described in Section 52A of the Crimes Act.<sup>34</sup>

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<sup>33</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 34, paragraphs 2.121, 2.122

<sup>34</sup> *Crimes Act 1900* (NSW) s 52A

The Consultation Paper canvassed an option that could be considered in the new hierarchy of offences, that a person should be “guilty of dangerous driving if the impact is:

- caused by the dangerous driving, and
- a reasonably foreseeable consequence of that driving.”<sup>35</sup>

*Ref: Consultation Paper Question 2.3*

RTSG concurs with the recommendation provided in the ODPP preliminary submission that there should be consideration of “the need for a legislative approach to causation that accommodates an appropriate period between the act of voluntary dangerous driving and any causally related impact that causes death or grievous bodily harm”.<sup>36</sup>

The word “very” should be removed when describing circumstances for aggravated driving. Without qualification [over and above s7 a,b,c<sup>37</sup>], or reference to direct correlation to the manner of driving, it provides little to the legislation. Additionally, as presented by the ODPP in its preliminary submission, “‘very substantially impaired’ ...is unnecessarily confusing and may pose an inordinately high bar on proof of the circumstance of aggravation...”<sup>38</sup>

Driving offences such as speeding, not stopping at red lights, drug and drink driving, reckless driving are all serious offences that have resulted in the death of many victims, many of whom have families that are members of RTSG. Many of these offences do not have a sentence of imprisonment, yet ought to be properly regarded as high-risk offences, as evidenced by the Government’s own advertising campaign.

There are many factors that should be considered aggravating, and the current list of factors provide too many loopholes that can result in lower sentencing. “Degree of” and “extent of” can be difficult to apply, especially when those terms do not change the outcome or finality of death and trauma. For example, exceeding the speed limit should be recognised as an aggravating factor where someone dies, because driving at 10km/hour over the limit or 45 km/hour over the limit did not change the outcome of the death.

Circumstances relating to speed must be amended. The definition of “high range speeding offence” in the Road Transport Act does not accurately reflect the risk of increased speeding in lower speed limit areas, for example where there are speed limits of 40km/hour or 50km/hour.

Amendments should consider the speed of the offender relative to the legal speed limit. 72 people died on NSW roads with designated speed limits of 50 km/hour in 2023, an increase of 89% compared to the previous year.<sup>39</sup>

If an offender does not cause their own or someone else’s death on the roads, it should be enshrined in the new legislation that reoffending will be severely penalised at law.

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<sup>35</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 20, paragraph 2.56

<sup>36</sup> PRC77, NSW Office of the Director of Public Prosecutions, NSW Law Reform Commission website (17 Feb 2023)

<sup>37</sup> *Crimes Act 1900* (NSW) s 7 a, b, c

<sup>38</sup> PRC77, NSW Office of the Director of Public Prosecutions, NSW Law Reform Commission website (17 Feb 2023)

<sup>39</sup> Transport for NSW, 2024 NSW Road Safety Forum, Attendees Information Pack, Feb 2024

*Ref: Consultation Paper Question 2.5*

References to vague terms such as 'furious' or 'wanton' should be removed and should not be included in any new road crimes legislation. Without direct correlation to the manner of driving, it provides little value to legislation.

The RTSG supports a framework that identifies dangerous and negligent driving but does not support a middle tier of reckless, or any other type of, driving. Our view is that anything higher than negligent is dangerous, whether on or off-road.

*Ref: Consultation Paper Question 2.7*

RTSG views a failure to stop and assist where a person has died or been seriously injured in a crash as very serious. This offence would be akin to a vehicular homicide offence where a driver or accessory at the fact has fled, or in the case of other people not stopping and assisting.

If absconding drivers are later located, they are not able to be alcohol or drug tested due to the time delay and hence their intoxication levels at the time of the crash are not taken into consideration by courts. This allows them to reduce their culpability at the time of the crash when considering charges and sentencing.

Definitions for not stopping and assisting following a crash must be strengthened and penalties increased.

*Ref: Consultation Paper Question 2.9*

RTSG is extremely concerned by the increase in risky driving and supports the option on predatory driving described in the Consultation Paper to expand the offence of predatory driving to cover predatory driving that does not involve actual or threatened impact.<sup>40</sup>

*For the drafting of a new road crimes Act, we would recommend a review of both the predatory driving and menacing driving offences, clarification of definitions and increase in maximum penalties in both cases.*

### **Recommendation 2c: New offences for non-drivers (Accessorial liability)**

to be included in the new road crimes Act

*Ref: Consultation Paper Question 2.11*

RTSG submits that the current law on accessorial liability in relation to road crime is wholly inadequate.

It places focus on the driver to the complete exclusion of other persons who have played a contributory role in the criminal behaviour by the defendant (for example, other passengers in the vehicle and/or adults who have turned a blind eye to their children's illegal behaviour). We refer the LRC to the case of *R v Davidson [2021] NSWDC 164*<sup>41</sup> with respect to the offending behaviour of the passenger in that matter, as documented by Bennett SC DCJ.

We also refer to *R vs Merrington [2021]*<sup>42</sup> with respect to the offending behaviour of adults who allowed underage drinking on their premises and encouraged dangerous driving behaviours.



Consistently applying significant sentencing to accessorial offences is critical to being able to improve the reduction of serious road crime. A person sitting in a getaway car whilst other offenders commit an armed robbery would be also charged with the armed robbery if they had knowledge of what was occurring under the 'common purpose' principle of law. The same is not for road crime.

To send a strong and clear message to the community that such conduct by offenders will be met with very significant punishment will be one of the strongest deterrents of this reform.

It is necessary to start imposing sentences of sufficient severity to deter passengers, drivers and the broader community from engaging in conduct that in anyway encourages or simply ignores risky and dangerous behaviour that can lead to any manner of road crime.

If someone is involved in enabling a violation of the law, they can and should be held just as responsible as the primary offender. Complicity at law exists in NSW and should be applied to road crime. There are also relevant laws in NSW that create a joint criminal enterprise (JCE) that may find relevant application in the new road crimes Act.

Creating a new offence for non-drivers, and including it in the new road crimes Act, would help clarify that a person (or people) who provides assistance before, during or after (eg fleeing the scene) the offensive acts can be liable for the offence under the principles of JCE or common purpose.<sup>43</sup>

Under a recommended new offence, a person may be criminally liable in various ways for a crime physically committed by another person. In this case the driver would be the principal offender and the person assisting would be the accessory.

A new serious road crime offence of accessorial liability should also include:

- failing to exert effort to prevent criminal driving behaviour;
- failing to render immediate assistance by calling emergency services straight away;
- responsible serving of alcohol in all public venues and private homes. (RTSG can provide many case studies where public and private venues enabled drink driving deaths and serious injury.)

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<sup>40</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 32, paragraph 2.115

<sup>41</sup> *R v Davidson* [2021] NSWDC 164

<sup>42</sup> *R v Merrington* [2021]

<sup>43</sup> Peter Zahra SC and Jennifer Wheeler, *Principles of Complicity*, Public Defenders Chambers (2015) [https://www.publicdefenders.nsw.gov.au/Pages/public\\_defenders\\_research/Papers%20by%20Public%20Defenders/public\\_defenders\\_principles\\_of\\_complicity.aspx](https://www.publicdefenders.nsw.gov.au/Pages/public_defenders_research/Papers%20by%20Public%20Defenders/public_defenders_principles_of_complicity.aspx)

Implementing accessorial liability for impaired driving could revolutionise road safety efforts. By emphasising accountability and fostering responsible behaviour, we can create a cultural shift where impaired driving is no longer tolerated or excused. Just as society now views violent assault as abhorrent, we can make impaired driving equally reprehensible—a social anathema that is met with swift and severe consequences.

### 3. Penalties

The existing application of penalties are not fit for purpose and do not adequately address the purposes of sentencing as outlined in section 3A of the *Crimes (Sentencing Procedure) Act 1999*.

A fundamental pillar of this section is to ensure the offender is punished, deterred and the community is protected. More importantly, the conduct is denounced with the offender held accountable for their actions and the harm to the victim and community is recognised.

The senseless road trauma in this State remains at far too high a level, and alcohol and speed play a significant role in the level of deaths and serious injuries that occur on our roads. The need to condemn and denounce the type of conduct involved in these offences by way of the imposition of a significant sentence is high, in order to properly reflect general deterrence, that is, to send the message to the community that such disgraceful and appalling conduct will be met with very significant punishment.

Penalties currently are not in line with the prevalence and continued course of road crime committed by individuals in the community. To protect the community and combat the increase in road crime, the consequences of road crime penalties must be felt by offenders, particularly repeat offenders. Mandatory disqualifications, compulsory completion of traffic offender programs, financial and reputational consequences such as further costs to be licensed, offences being recorded as criminal convictions, and restrictions as to individual accessing certain motor vehicles are what peak bodies such as RTSG and the wider community require.

Nearly every member of our community is a road user in some capacity, whether as a driver, passenger or pedestrian. The majority of our community are drivers. People are entitled to use our roads without the risk of having someone drive with no regard or consequence to their actions.

The United Nations Crime Prevention and Criminal Justice educational advice, provides for five underlying justifications of criminal punishment to consider: retribution; incapacitation; deterrence; rehabilitation and reparation<sup>44</sup>. None of these are addressed with specificity and precision in the National or State Legislation when road crime is committed.

Recent sentence outcomes have been wholly inadequate and inappropriate because maximum sentences are very rarely imposed.

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<sup>44</sup> United Nations Office on Drugs and Crime, E4J University Module Series: Crime Prevention and Criminal Justice, Topic Two *Justifying punishment in the community* (sourced Mar 2024) (<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-7/key-issues/2--justifying-punishment-in-the-community.html>)



RTSG recommends that the best way forward is to prepare a new road crimes Act with clear penalty options and standard non-parole periods. It is of utmost importance to have new sentencing guidelines that are continually improved so that the new penalties are applied well and do not become outdated. We propose that a full review of the penalties is undertaken to align with the new offences and the hierarchy of offences that are required. Regular evaluation of sentencing trends is also required to ensure alignment with community expectations.

As a guiding approach, RTSG is recommending that vehicular homicide maximum penalties mirror those of other homicide offences and include Standard Non-Parole Periods (SNPPs) for these offences.

For remaining offences (including the suite of new offences that may be created), we recommend reviewing of maximum custodial sentences and a package of new programs that could form a condition of sentence or release, such as education, new driving tests for offenders and technology including alcohol interlocks and black box telematics to reduce the possibility of repeat offending.

*“Intensive correction orders (ICOs) are still considered custodial, yet they paradoxically entail individuals fulfilling community orders unsupervised, a practice deemed benign, devoid of punishment, rehabilitation, or deterrence for offenders, thus categorically ineffective and disrespectful to victims of road crime.”*

RTSG member

### **Recommendation 3a: Penalties – Vehicular homicide**

- penalties to be set in parity with other crimes resulting in death.

*Ref: Consultation Paper Question 3.1*

Maximum penalties for serious road crimes should be in parity with other crimes which result in death, to properly reflect the trauma experienced by the victim, their family, friends and community. Causing a loss of life by breaking the law while driving a vehicle must be punished just as seriously as other causes of death and injury.

Many states in the USA have vehicular homicide offences with increased penalties and non-parole periods for repeat or aggravated offences.

In Tennessee, penalties include 8 to 60 years for Vehicular Homicide: Class B felony, not less than 8 years or more than 30 years and a fine of not more than USD\$25,000 may be imposed. Aggravated Vehicle Homicide: Class A felony, not less than 15 years or more than 60 years and a fine of not more than USD50,000 may be imposed.<sup>45</sup>

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<sup>45</sup> Mothers Against Drunk Driving (USA) *Vehicular Homicide* (July 2018)  
(<https://madd.org/wp-content/uploads/2022/06/Vehicular-Homicide.pdf>)

In England and Wales, penalties for those who cause death by dangerous driving and for careless drivers who kill while under the influence of drink or drugs were increased, effective June 2022. Drivers who cause death by speeding, racing, or using a mobile phone could face sentences equivalent to manslaughter, with maximum penalties raised from 14 years to life imprisonment.<sup>46</sup>

*Maximum penalties for offences in NSW involving death should align with maximum sentences for homicide.*

The current NSW maximum penalty for dangerous driving occasioning death (10 years' imprisonment) is far too low for the seriousness of the crime.

RTSG also proposes that intensive correction orders should **not** be available to offenders and that road crimes involving death are added to Section 67(1) of Part 5, Division 2 Crimes (Sentencing Procedure) Act.

Intensive correction orders do not reflect the community expectation for serious road crime penalty. Minimum non-parole periods should be applied for any offence that results in a person's death. Therefore, intensive correction orders must not be an option for serious road crime that involves death.

### **Recommendation 3b: Penalties – licence disqualification**

- period to be increased and rehabilitation programs applied.

*Ref: Consultation Paper Question 3.4*

Licence disqualification periods do not reflect victim and community expectations in relation to serious road crime.

*RTSG recommends an increase in default and minimum licence disqualification periods, even more so for second and subsequent offences. Recidivists should not be able to drive on our roads.*

In addition to licence disqualification periods being increased, specific rehabilitation programs designed to address recurrence of the risky driving behaviour for courts to order offenders to complete. This would help to ensure the offender is fit to regain a licence.

Similar to NSW work development orders where people with fines can undertake various rehabilitation courses, these should be expanded to include traffic offences/offenders who must undertake courses in order to have their licence returned.

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<sup>46</sup> Sentencing Council (UK) *Sentencing guidelines for motoring offences published* (15 Jun 2023) (<https://www.sentencingcouncil.org.uk/news/item/sentencing-guidelines-for-motoring-offences-published/>)

In addition, NSW should be exploring all avenues of technology to curb road crime. Any reduction in the civil liberties of convicted road criminals through the technological monitoring of behaviour is completely overshadowed by the urgent need to curb reckless and risky behaviour and save lives. Event Data Recorder (black box) technology has enormous potential for road safety and could be a condition for offenders regaining licence. It is also capable of recording all the parameters in the event of a road crash.

Means tested fines must be tested in the period prior to them having a licence suspended, and consideration should be given to whether an assets test, rather than an income test, is more appropriate. Criminals could easily just reduce their income to circumvent this penalty.

### **Recommendation 3c: Penalties – mandatory alcohol interlocks**

to be enforced for all convicted drink driving offenders

*Ref: Consultation Paper Question 3.4*

In addition to maximum penalties for all serious road crime, RTSG calls for Mandatory Alcohol Interlocks for all convicted Drink Driving Offenders. Enforcement of the program must be enshrined in legislation with an agency assigned accountability and reporting on the program.

US research by Mothers Against Drunk Driving (MADD) discovered people who are caught drunk driving have, on average, driven drunk 80 times prior to being charged, arrested and sentenced. MADD released a 50-state report in 2022 which found that ignition interlocks stopped 3.78 million drunk driving attempts over 14 years.<sup>47</sup>

Austrroads' publication *Effectiveness of Drink Driving Countermeasures: National Policy Framework*<sup>48</sup>, provided a policy and regulatory framework for reform, including the following key recommendations to reduce drink driving across Australia:

- extending a lower legal BAC limit to more drivers;
- improving general deterrence through more highly visible and randomised enforcement, combined with covert operations;
- expanding the use of interlock programs, with improved monitoring and case management;
- working more closely with the alcohol and other drug (AOD) sectors to manage alcohol dependent drivers;
- supporting measures to reduce societal use of alcohol;
- fast-tracking vehicle-based systems to prevent alcohol impaired driving.

Effective technology is affordable and proven effective. As a crucial step in preventing alcohol-related incidents on the roads, we advocate for the mandatory installation of alcohol interlocks for all individuals convicted of drunk driving. This proactive measure will contribute

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<sup>47</sup> Mothers Against Drunk Driving (USA) Ignition Interlock Report: Putting an End to Drinking and Driving Attempts (Jan 2022) (<https://madd.org/wp-content/uploads/2023/01/2021-Ignition-Interlock-Report-FINAL-COPY.pdf>)

<sup>48</sup> Austrroads, *Effectiveness of Drink Driving Countermeasures: National Policy Framework* (18 Feb 2020) (<https://austrroads.com.au/publications/road-safety/ap-r613-20>)

to the reduction of alcohol-related road trauma and influence public perceptions ensuring safer roads for everyone.

This technology can be funded at the offender's expense and can include facial recognition technology.

"The *Road Transport Act 2013* prescribes certain driving offences as 'mandatory interlock offences' and outlines applicable disqualification and interlock periods, which vary in length by offence type. The interlock licence conditions and offences relating to the program are contained in the *Road Transport (Driver Licensing) Regulation 2017*"<sup>49</sup>

In August 2022, the NSW Bureau of Crime Statistics and Research published research by Sara Rahman (The effectiveness of alcohol interlocks in reducing repeat drink driving and improving road safety).

"The Mandatory Alcohol Interlock Program (MAIP), which commenced in NSW in February 2015, introduced alcohol interlocks as a mandatory penalty for high range and repeat PCA offences. MAIP was expanded on 3 December 2018 to include offenders convicted of first-time mid range drink driving and alcohol drive under the influence (DUI) offences (Phase 2 of MAIP) and from 28 June 2021, offenders convicted of a combined PCA and drug driving offence also became eligible for MAIP (Phase 3 of MAIP)." <sup>50</sup>

The research showed that interlocks significantly reduce drink driving while interlocks are active but only reduce it modestly following their removal.

It is time to amend MAIP again to ensure **all drink driving offences** include penalty of mandatory interlock and require courts to issue a Mandatory Alcohol Interlock Order (MAIO) for every drink driving conviction, as well as an increased minimum period of disqualification and interlock. RTSG is also calling for stricter criteria which enables offenders to move from the 'disqualification period' to the 'interlock period'. Black box technology should also be available to apply as a further deterrent.

Most importantly, the enforcement of MAIP by the NSW Police Service and Transport for NSW needs to be enshrined in legislation.

### **Recommendation 3d: Penalties for repeat traffic offenders**

must be increased and use of technology, such as black box telematics for repeat speeding offenders, expanded

*Ref: Consultation Paper Question 3.4*

Serious road criminals should not be on our roads and need to face much greater penalties. Custodial sentences for blatant repeat offending are needed and a range of additional actions to change behaviour should include technology, education and retraining for licence.

Australian research on repeated illegal driving behaviour does not exist and is urgently needed, as outlined in our Manifesto (Appendix A).

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<sup>49</sup> NSW Roads and Maritime Services, *Alcohol Interlock Program Guide for Magistrates, Legal Practitioners and Police Prosecutors* (December 2018)

<sup>50</sup> Sara Rahman, NSW Bureau of Crime Statistics Crime and Justice Bulletin (Aug 2022) (<https://www.bocsar.nsw.gov.au/Publications/CJB/CJB251-Report-Effectiveness-of-MAIP-in-reducing-drink-driving.pdf>)

In NSW, we are particularly alarmed by drivers who continually flout traffic laws and put the lives of the public at risk. Evidence-based research commissioned by RTSG confirmed repeat offenders are six times more likely to be in a serious or fatal crash than first-time offenders. Urgent action is needed to curb repeat offending and protect the community.

Drivers with one or more offences (including high risk offences) in the past 5 years are overrepresented in fatal and serious injury crashes, while drivers with no offences are underrepresented. The current system for regulating traffic offences is complex and changing. Existing penalties and interventions include:

- licence suspension for accumulation of demerit points
- licence suspension for certain speeding offences
- driver disqualification for certain offences after conviction in court
- the mandatory alcohol interlock program
- vehicle sanctions, such as seizure or forfeiture of vehicles
- speed inhibitor conditions
- prevention courses such as the Traffic Offender Intervention Program, and the Sober Driver Program, and
- increased penalties for certain second or subsequent driving offences.<sup>51</sup>

We note that the NSW Government response to the recommendations of the NSW Sentencing Council Review of Repeat Traffic Offenders<sup>53</sup> stated that further analysis was required for Recommendation 6.3: Imprisonment as a maximum penalty for a second high range speeding offence.

*Existing penalties for repeat offenders are pitifully low and do nothing to curb repeat offending. In fact, the current regime of higher penalties for "second or subsequent offence"<sup>54</sup> sends the wrong message to serious road crime offenders by signalling similar penalties no matter how many times the offender breaks the law.*

Penalties should be proportional to the offence, proportional to the previous behaviour of the offender and proportional to the outcome of the offending.

RTSG calls for a more structured and methodical approach to better define various categories of repeat serious offenders with a graduated and targeted scale of reform outcomes focussed on each group. This should work to better address the attitudes of repeat serious traffic offenders with penalties for these new offences scaled appropriately.

RTSG recommends that the new road crimes Act includes a hierarchy of penalties for ALL repeat offenders with stronger penalties as repeat offending recurs. RTSG recommends that definitions for repeat offending include repeat traffic offences in totality, that is not just a

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<sup>51</sup> NSW Sentencing Council, *Repeat traffic offender report* (September 2020)

<sup>52</sup> NSW Sentencing Council, *Repeat traffic offender report* (September 2020)

<sup>53</sup> NSW Government, *NSW Sentencing Council Review of Repeat Traffic Offenders NSW Government response to the recommendations* (April 2022), 10

<sup>54</sup> *Road Transport Act 2013* (NSW)

repeat of the same traffic offences but to capture the entirety of road crimes by offenders with a clear disregard of other road users. The most serious of offenders should be facing a custodial sentence with a standard non-parole period.

Holding a driver's licence is a privilege and brings with it a range of responsibilities to other road users. It feels incongruous that persons must undergo a rigorous process to obtain a licence in the first place (knowledge and driving field test) yet once the licence has been granted, serious repeat traffic offenders have a much lower bar to jump in terms of regaining their licence, despite having shown little or no respect for the safety of other road users through their illegal conduct.

In our view, serious repeat traffic offenders should be subject to the following mandatory obligations before being permitted back on NSW roads:

1. Knowledge test
2. Field driving test
3. Online education program (we regard the Traffic Offender Intervention Program TOIP as best practice in this regard, though we note it's largely voluntary nature)
4. Alcohol Interlocks including first DUI offenders
5. Telematics to monitor repeat speeding offenders
6. License conditions and restrictions
7. Victim's Impact Panel participation for all serious and repeat serious traffic offenders.

Advances in vehicle safety technology, such as the ability to impose speed limits, collect data (vehicle black box) or prevent impaired drivers from getting behind the wheel (alcohol interlocks), must be actively supported by government and communicated with the community and policy makers to ensure continual improvement in our responses to road trauma.

Driving while disqualified should be seen as a breach of parole and serious consequences are warranted such as possible jail term instead of an increase of the suspension period.

#### **4. Sentencing principles and procedures**

It is becoming increasingly evident to victims and their families, as well as the community, that vehicular homicide is treated as a lesser type of homicide because of the significantly lower maximum sentences. And relying on old case law for charges and sentencing is not producing just outcomes.

Widespread feelings of injustice prevail when there is a lack of consistency in sentencing for criminal road behaviour compared to other crimes resulting in death (e.g. minimal sentences, community service or suspended licence).<sup>55</sup>

##### **Recommendation 4a: New sentencing approach**

- that recognises that deaths and serious injuries as a result of road crime must receive sentences akin to death and serious injury in other criminal circumstances

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<sup>55</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

Ref: Consultation Paper Question 4.1

RTSG recommends that general sentencing principles are reviewed and updated following the drafting of a new road crimes Act, to better reflect the responsibility of driving on roads. Our recommendations on mitigating factors and sentencing discounts are provided below.

Having reviewed the sentencing trend of road deaths in Western Australia over 70 years, and including evidence that the trend is similar in other states, Dr Kerry King, the author of *A Lesser Species of Homicide. Death, Drivers and the Law* notes that “loved ones customarily report that a penalty is never enough, but in the case of death on the roads, sentences and charges have *invariably* not been enough. Not only have charges, if laid, and sentences imposed been distressing to victims’ families, they have been detrimental to efforts to elevate the seriousness of the wrong, the duty of care of *all* drivers, and the offence’s criminal status.”<sup>56</sup>

*Low sentences do little to deter criminal behaviour.*

“In *R v McKenna* [1992] 7 WAR 455, Ipp J (then of the Western Australian Court of Criminal Appeal) stated that “criminality is not reduced simply because the crime can be categorised as ‘motor vehicle manslaughter’”<sup>57</sup>. This approach has since been adopted in New South Wales. In *R v Lawler* [2007], the applicant appealed against his sentence of 10 years and 8 months, with a non-parole period of 8 years for manslaughter caused when his prime mover collided with the victim’s vehicle. The applicant was aware that the braking system of his prime mover and trailer was defective but continued to drive for commercial gain. In dismissing the appeal, the Court of Criminal Appeal emphasised the importance of general deterrence in such cases<sup>58</sup> and held that the applicant’s conduct involved a high degree of criminality, adding, “It is to be clearly understood that manslaughter is no less serious a crime because it is committed by the use of a motor vehicle”.<sup>59</sup>

*RTSG would like to see the Court of Criminal Appeal reviewing serious road crime cases to correct under-sentencing.*

Increasing inadequate sentences helps send the message on the seriousness of road crime and should reduce the number of cases going to the court of criminal appeal.

Ref: Consultation Paper Question 4.2

The *R v Whyte* guideline judgment<sup>60</sup> for dangerous driving offences is outdated and must no longer be the guide for sentencing of serious road crime.

In *Hili v The Queen* (2010) 242 CLR 520; [2010] HCA 45, it was said at [54]:

“In *Director of Public Prosecutions (Cth) v De La Rosa*, Simpson J accurately identified the proper use of information about sentences that have been passed in other cases. As her Honour pointed out, a history of sentencing can establish a range of sentences that have in fact been imposed. That history does not establish that the range is the

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<sup>56</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

<sup>57</sup> *R v McKenna* [1992] 7 WAR 455, Ipp J at 469

<sup>58</sup> *R v Lawler* [2007] NSWCCA 85 at 42

<sup>59</sup> *R v Lawler* [2007] NSWCCA 85 at 41

<sup>60</sup> *R v Whyte* [2002] NSWCCA 343; 55 NSWLR 252



correct range, or that the upper or lower limits to the range are the correct upper and lower limits.

As her Honour said: ‘Sentencing patterns are, of course, of considerable significance in that they result from the application of the accumulated experience and wisdom of first instance judges and of appellate courts.’ But the range of sentences that have been imposed in the past does not fix ‘the boundaries within which future judges must, or even ought, to sentence.’ Past sentences ‘are no more than historical statements of what has happened in the past. They can, and should, provide guidance to sentencing judges, and to appellate courts, and stand as a yardstick against which to examine a proposed’ ... When considering past sentences, ‘it is only by examination of the whole of the circumstances that have given rise to the sentence that “unifying principles” may be discerned’.<sup>61</sup>

RTSG agrees with the above observations and want enshrined in legislation for the Judiciary to have the ability and confidence to sentence and not be shackled by *R v Whyte*.<sup>62</sup>

Well-drafted, new road crime legislation should override the need for an immediate new guideline judgment. New legislation that improves clarity and works to address the current road death crisis, may in time be the subject of its own guideline judgment. It should also set case law time limits, so that sentencing reflects contemporary standards and views.

Many aggravating factors listed in the *R v Whyte* guideline judgment for dangerous driving offences<sup>63</sup> would need to be changed in the new legislation and the Crimes (Sentencing Procedure) Act.

Aggravating factors: an additional specific reference to committing a crime(s) (breaking the law) while in control of a vehicle should be added to the Crimes (Sentencing Procedure) Act. The aggravating factor of “involved the actual or threatened use of violence or a weapon” should be clarified in a new serious road crimes Act, to explain that committing a road crime while in charge of a vehicle, renders that vehicle a weapon.

In a recent CCA case, Justice N Adams stated that “driving a motor vehicle is like driving a weapon”.<sup>64</sup>

Previous road offences should also be considered criminal acts and count toward the definition of a recidivist driver and, therefore, trigger higher baseline sentencing.

Also, “offences committed without regard to public safety” is not enough of a mitigating factor where a driver is breaking the law by speeding, drink driving, driving under the influence of drugs, driving tired or affected by a medical condition.

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<sup>61</sup> *Hili v The Queen* (2010) 242 CLR 520; [2010] HCA 45, at [54]

<sup>62</sup> *R v Whyte* [2002] NSWCCA 343; 55 NSWLR 252

<sup>63</sup> *R v Whyte* [2002] NSWCCA 343; 55 NSWLR 252

<sup>64</sup> *Davidson v R* [2022] NSWCCA 153 [215] (N Adams J).



Mitigating factors: Conversely, in our view applying a mitigating factor of pleading guilty to the offence should not enable for a finding of remorse especially in matters where it is an overwhelming prosecution case against the offender.

The automatic reduction in sentences being reduced to age, background, psychiatric condition or moral culpability must also not result in reductions at sentence. It should be on Counsel for the accused to prove to the Judiciary that if any of those factors are to be considered they meet a higher level of evidentiary burden and if they cannot, a sentence will be ordered to send a clear message that such actions will not be tolerated in society.

Degree of speed, degree of intoxication and degree of sleep deprivation are also not necessarily accurate measures of likelihood of a crash and are too open to interpretation. They should not be used to reduce sentences.

*“The concept of an unprovable ‘microsleep’ as a standard go-to defence for car crimes must be evaluated as to whether it is a loophole being exploited by defence lawyers”.*

RTSG member

The approach to discounting of sentencing should be reviewed. The measurement of remorse, contrition and risk of reoffending cannot be systematically achieved yet we see repeated discounting applied.

RTSG seeks to differentiate the available range of sentences in specific instances from the typical utilisation of sentencing statistics and other materials indicating appropriate sentences in comparable cases.

RTSG advocates for consistency in sentencing offenders across Local, District, and Supreme Courts. However, this consistency pertains to the application of relevant legal principles outlined by new legislative instruments, rather than adhering to past practices. While past cases may establish a precedent for sentencing ranges, they do not necessarily define the outer limits of permissible discretion in imposing maximum sentences.

The historical context serves as a benchmark for evaluating proposed sentences, with emphasis placed on the underlying principles revealed and reflected by previous sentences. These underlying principles concerning road-related offenses are crucial.

Research undertaken and published by Dr Kerry King notes that “to date, no longitudinal research has been undertaken on legal responses to deaths occasioned by the use of motor vehicles in Australia.”<sup>65</sup>

Access to accurate and transparent data is essential to ensure that policy and statutory responses are evidence-based and contemporary. Regular publication of NSW road crime sentencing outcomes, as well as longitudinal research to assess trends, is needed.

### **Recommendation 4b: Victim Impact Panel program**

– to be mandated for serious and repeat offenders and enshrined in legislation

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<sup>65</sup> Dr Kerry King, *A Lesser Species of Homicide. Death, Drivers and the Law*, Perth, UWA Publishing (2020)

Ref: Consultation Paper Question 4.1 and 6.1

Recognising the profound emotional and psychological impact of road trauma, RTSG calls for the incorporation of Victim Impact Panels as part of the sentencing process (post-conviction), to be mandatory for all serious and repeat offenders and applied in addition to any other conditions (for example, alcohol interlocks).

These panels would provide a pathway to re-education for serious road criminals by supporting offender rehabilitation. They bring the human impact of crime and can help offenders understand the repercussions of road crime while still holding them accountable.

By attending a Victim Impact Panel program, offenders hear from different people who have lost loved-ones so that the offender can better understand the impact and consequences of their road crime. Panel members are not the victim families directly affected by the particular offender who participates.

Most importantly, it is essential that Victim Impact Panels are mandatory and cannot be used as a way to reduce a sentence. The sentence should be imposed and mandatory involvement in a victim impact panel program added as a condition, with parole not granted until participation is complete.

*“Undertaken properly, evidence shows that Victim Impact Panels contribute to significant reduction in recidivism by offenders.”*

*-Victim Impact Panel designer and practitioner*

Being confronted with the profound emotional and psychological impact road trauma has made to the lives of survivors and their families, evidence of similar models has been shown to significantly alter the perception and behaviours of serious offenders and reduces potential for recidivism.<sup>66 67</sup>

### **US Case Study**

Mothers Against Drunk Driving’s (MADD) Victim Impact Panel® program<sup>68</sup> brings together the criminal justice system and those directly or indirectly affected by drunk and drugged driving crashes and underage drinking. Speakers may be bereaved or injured victims, and may also include victim families, first responders or substance abuse/treatment representatives.

The Victim Impact Panel program follows a restorative justice model by allowing crime victims a healing opportunity by talking about the crime’s impact upon themselves, their families, friends, and the community as a whole.

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<sup>66</sup> Jiska Jonas-van Dijk, Sven Zebel, Jacques Claessen and Hans Nelen, *How can the victim-offender mediation process contribute to a lower risk of reoffending? A synthesis literature review*, The International Journal of Restorative Justice, vol. 6(2) pp. 207-234 (2023)

<sup>67</sup> Jiska Jonas-van Dijk, Sven Zebel, Jacques Claessen, and Hans Nelen, *Victim-Offender Mediation and Reduced Reoffending: Gauging the Self-Selection Bias*, Crime & Delinquency, Vol. 66(6-7) pp. 949-972 (2020)

<sup>68</sup> Mothers Against Drunk Driving (USA), Victim Impact Panel program (<https://maddvip.org/how-it-works/>)

During the panel, speakers describe the crash in which they, or their loved ones, were involved, and how life has changed since the crash. They do not blame or judge the audience; they simply share their personal experiences.

Victim Impact Panels are designed to provide offenders with the understanding that drunk driving is a choice that impacts the lives of innocent people—and how the resulting consequences and tragic outcomes are 100% preventable.

Victim Impact Panels are not intended to replace conventional sanctions. Rather, they are offered to enhance and supplement such programs by placing offenders face to face with real people whose lives have been permanently changed by a substance-impaired driver.

RTSG's proposed Victim Impact Panel model differs from the MADD US case study, as its primary purpose is to address serious offending and recidivism. While it could additionally serve as a restorative justice mechanism for the family of road trauma victims, existing restorative justice practices of victim impact statements and the Traffic Offender Intervention Program (TOIP) are already in place.

*Victim Impact Panels can be a torch for changing serious offender perceptions and attitudes about the social acceptability of dangerous behaviour. The evidence from the US (Mothers Against Drink Driving in US) is irrefutable that they work to reduce recidivism.*

RTSG member

While those charged with driving-related crimes are currently not required to learn about the impact of road trauma before getting their driver's license back, seven in ten (69%) members of the community believe it is an essential or high priority change to require those charged with driving-related crimes to participate in a Victim Impact Panel (where victims of road trauma share their experiences) before they can re-gain their licence.<sup>69</sup>

However, careful drafting of new road crime legislation is needed to ensure that participation in a Victim Impact Panel is not considered a mitigating factor on sentencing. We do not want to see the purpose of the process being corrupted by pretenders. Therefore, it should only be offered post-sentencing to maximise its focus upon helping victims in the aftermath of such tragic circumstances and to reduce recidivism.

We support the option described in the Consultation Paper "to legislate to prevent courts from considering participation in restorative justice as a mitigating factor in sentencing"<sup>70</sup> of serious road crime.

#### **Recommendation 4c: Standard non-parole periods**

– sentences for serious road crime that results in death must include a standard non-parole period.

Ref: Consultation Paper Question 4.3

Vehicular homicide sentences should include Standard Non-Parole Periods (SNPPs).

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<sup>69</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

<sup>70</sup> NSW Law Reform Commission, *Serious road crime Consultation Paper* (December 2023), 120, paragraph 6.66

In fact, SNPPs are a better guide for sentencing than guideline judgments. NSW Sentencing Council, Standard Non-Parole Periods for Dangerous Driving Offences, Report (2011), discusses the complexity of sentencing if both SNPPs and guideline judgments exist.<sup>71</sup>

*SNPPs are needed to reflect the serious nature of road crimes, especially those that result in loss of life, and to better align with community expectations.*

As the community witnesses more frequent road trauma caused by people that should never have been on our roads, there is an increased expectation that death and serious injury results in time served.

We would argue that the potential risks of SNPPs for serious road crimes are far outweighed by the benefits. More and more people are dying on NSW roads and other prevention methods have failed. Serious interventions are well overdue.

The NSW Sentencing Council Standard Non-Parole Periods Report (2013)<sup>72</sup> suggests that SNPPs should generally be 37.5% of the maximum penalty for the offence. But this could be reduced, or increased up to 50%, taking certain factors into account. RTSG contends that the SNPP should be set high to reflect the severe impact of serious road crime death and we would urge a 50% SNPP be considered. RTSG recommends that appropriate SNPPs for vehicular homicide are provided for further comment during consultation on drafting of new laws.

We also contend that the Sentencing Council views of 2011<sup>73</sup> that none of the dangerous driving offences should have a SNPP is outdated. At the time of the review, no submissions were made to extend the SNPP scheme to dangerous driving offences. Since that time, awareness of the inadequacy of sentencing has increased and organisations such as RTSG have been formed to advocate for change, as this submission shows. In fact, implementation of the law reform called for in this submission – creating new serious road crime legislation with stricter sentencing guidelines and dealing with offences in a jurisdiction higher than the Local Court – would address many of the concerns listed by those who opposed applying SNPPs to dangerous driving offences.

When the SNPP scheme was introduced, the second reading speech explained that the original SNPPs were set by taking into account the seriousness of the offence, the maximum penalty for the offence and current sentencing trends. The same speech also noted “(t)he community expectation that an appropriate penalty will be imposed having regard to the objective seriousness of the offence has also been taken into account in setting standard non-parole periods.”<sup>74</sup>

SNPPs provide a more objective guide for judges to determine sentences. As SNPPs consider the “community expectation that an appropriate penalty will be imposed having regard to the

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<sup>71</sup> NSW Sentencing Council, Standard Non-Parole Periods for Dangerous Driving Offences, Report (2011) 38

<sup>72</sup> NSW Sentencing Council, Standard Non-Parole Periods Report (Dec 2013)

<sup>73</sup> NSW Sentencing Council, Standard Non-Parole Periods for Dangerous Driving Offences, Report (2011)

<sup>74</sup> NSW, *Parliamentary Debates*, Legislative Assembly, Second Reading Speech (23 October 2002) 5813

objective seriousness of the offence”, applying SNPPs to serious road crimes would be a step in the right direction in aligning deterrents with community expectations.

SNPP can be adjusted upwards or downwards to consider certain factors. This includes the special need for deterrence and need to recognise exceptional harm, among other factors. The harm in this case constitutes the taking of human life and grievous body which is indeed exceptional and as illustrated in recent road crash statistics mentioned earlier, there is certainly a genuine need for increased deterrence.

## 5. Jurisdictional issues

### Recommendation 5: Appropriate jurisdiction of higher courts

– serious road crime offences to be heard in District or Supreme court only

Ref: Consultation Paper Question 5.1 and 5.2

All serious road crime should be tried on indictment and categorised as strictly indictable. A new stand-alone Act would bring together all serious road crime offences to be heard only by District Court or Supreme Court. No serious road offences, as currently included in the Road Transport Act, should be heard summarily in Local Court due to its sentencing limits and road crimes that result in death should not be heard in the Children’s Court.

A new road crimes Act should ensure categorisation of offences as strictly indictable.

## 6. The experiences and rights of victims

Our research report *The unheard trauma of fatal road crimes in NSW*<sup>75</sup> (Appendix B) outlines the widespread feelings of injustice reported by victims’ families and friends killed by criminal road crimes, and a sense of inconsistency of sentencing compared to other crimes resulting in death.

The report’s key findings noted that families who experience the sudden death of a loved one due to criminal road trauma often find themselves lost, trying to navigate unfamiliar systems with no idea where to start. They do their best to work out where to go for support and what steps to take next, but their experience is usually haphazard and traumatic, leading to severe psychological burden.

It also found that the ideal is a connected system which links people to services and supports the post-crash journey (like solid links in a chain). With the right information and resources at each step, they are connected to the right professionals at the right time and supported in their lived experience which prevents further traumatisation and allows families to move through the grieving process.

The ripple effects of criminal road crime are also felt far and wide throughout the NSW community, and the impacts are extensive and enduring. As well as law reform described above, which should simplify the system and improve transparency and accountability, it is important to minimise the secondary trauma that bereaved families experience and to better

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<sup>75</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)

support families as they navigate the current complex systems and processes imposed on them.

RTSG strongly encourages the careful review by LRC of every submission to the review that outlines the impacts and changes called for by victims of road crime and their families, friends and communities, who are also indeed victims of road trauma.

### **Recommendation 6: New approach to designing laws and services.**

– embed a victim-centered design approach to new laws and services and include road crime in the Charter of Victims Rights.

*Ref: Consultation Paper Question 6.1*

RTSG recommends that the LRC advises the NSW Government to start anew to engage and consult victims and stakeholders on development of a nation-leading policy to address the road trauma crisis and to completely shift the current paradigm and cultural support of road user privilege and provide a framework for reform that shifts mindsets and deals with road death and injury as seriously as other heinous crimes.

To understand the impact, RTSG urges the LRC and policymakers to read the detail of *The unheard trauma of fatal road crimes in NSW*<sup>76</sup> (Appendix B) and to authentically engage with victims' families and friends, who are victims themselves, and with victim support groups such as RTSG.

*Good policy starts with the community in mind, embeds victim experience and applies lessons learned from the successful shifts in other policy areas.*

We need to add the best safety technology, transparency and currency of data, education and preventative measures, to our systemic approach to saving lives.

We also need to move quickly and we call for urgent publication of review findings and response by government.

Accordingly, we are keen to work with the LRC and the NSW Government to expedite this Review and the implementation of its recommendations so that meaningful change can occur at the earliest possible opportunity and innocent lives may be saved.

Victim rights and support services must be improved and expanded. RTSG has called for the implementation of victim-centred support systems, including access to counselling services, legal and financial assistance, and community resources tailored to meet the unique needs of those affected by road trauma. As more and more NSW families and friends are left to navigate a complex justice system, expanded resources are needed – and are needed urgently. This includes outreach to regional NSW where support services in remote locations are hard to access.

As referenced in the RTSG submission to the NSW review of the *Victims Rights and Support Act 2013* (NSW), the scope of the Victims Rights and Support Act, and the incorporated

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<sup>76</sup> Road Trauma Support Group NSW and FiftyFive5, *The unheard trauma of fatal road crimes in NSW* (April 2023)



Charter of Victims Rights, needs to be broadened to include victims of serious road crime so that they are able to receive mental health support and financial support immediately after the collision.

We note the preliminary submission of the ODPP which states that “(t)he operation of the [Victims Rights and Support] Act and the definition of motor accident effectively excludes the majority of victims of serious road crime from receiving the support offered to victims of serious and violent crime”. It recommends careful consideration of any submissions received that could minimise “the complexity involved in navigating the compensation system”<sup>77</sup>.

RTSG acknowledges the recent establishment of a Trauma Support Service operated by the State Insurance Regulatory Authority. However, we need to see real impact and support, including outreach services for regional NSW. We recommend an evaluation of the service and consideration of how to recognise this right within the new legislation if appropriate.

The reform of serious road crime must also encompass any new ways to further enhance these support mechanisms, empowering victims, their families, loved ones and children for their long-term post-traumatic growth.

In 2022, RTSG called for road crime to be included in the current Charter of Victims rights or that a stand-alone Charter of Victims Rights for Road Crime be established. Victims of road crime not covered by compulsory third-party insurance, that is those not directly impacted by the road crime but are still victims, must be included in the charter and provision also made for people injured. The charter should also include financial, mental health support and support during the court process to avoid aggravated trauma.

## Other Relevant Matters

### **Recommendation 7: Road fatality reporting of all road deaths in NSW.**

drawing from safety practices in workplaces and aviation, to enhance investigations, promote transparency, and inform road safety measures while safeguarding individual privacy.

Reporting on all fatal road incidents in NSW is needed urgently to inform road safety policy and law reform. Drawing inspiration from proven safety practices in workplaces and aviation, the RTSG proposes NSW introduces fully transparent and nationally shared public reporting of road deaths.

This recommendation outlines a specific strategy for examining road fatalities, moving beyond the current emphasis on crash scene investigations and legal proceedings.

The suggested reporting framework entails detailed analyses of incidents, encompassing factors such as causes, road infrastructure design, vehicle safety features, and human behaviour contributions.

*By fostering transparency and building an evidence-based foundation, this approach aims to support the adoption of a national safe systems approach.*

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<sup>77</sup> PRC77, NSW Office of the Director of Public Prosecutions, NSW Law Reform Commission website (17 Feb 2023)

While protecting individual privacy through the redaction of names, the emphasis remains on preserving and disseminating critical insights gleaned from these analyses.

### **RTSG Contacts**

For submission queries contact Aaron Malouf, Executive Director.

For Media Enquiries contact Kristy Coulcher, Communications Manager.

### **Appendices**

[Appendix A: RTSG Law Reform Manifesto](#)

[Appendix B: RTSG The unheard trauma of fatal road crimes in NSW](#)





# Law Reform Manifesto

## Introduction

In the pursuit of justice and support for those impacted by the tragic loss of a loved one due to criminal acts on our roads, the Road Trauma Support Group NSW advocates for judicial reforms.

Our commitment lies in establishing stronger deterrents and implementing systemic changes that provide unwavering support to individuals navigating the aftermath of such devastating incidents.

Our reform agenda is founded on evidence-based research and lived experience.

All are pragmatic, specific, achievable, relevant and urgently required to save lives.

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## 1. New Serious Road Crimes Act

We propose the development and implementation of a comprehensive, singular legislation dedicated to addressing road crime. This legislation should encompass a range of provisions specifically tailored to handle cases involving criminal acts on the road, accessorial accountability and recidivist driving offenders. This singular framework will streamline legal processes, ensuring consistency and fairness in the pursuit of justice.

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## 2. Stronger Deterrents

A complete rewrite of minimum and maximum penalties and definitions of each key offence.

- Negligent driving
- Dangerous driving
- Aggravated dangerous driving
- Vehicular manslaughter

These sentences should be proportionate to the severity of the offence in parity with other serious crimes. Importantly not enabling reductions due to age or guilty pleas when proof of crime is incontrovertible – sending a clear message that such actions will not be tolerated in our society. These should include a greater focus on and more punitive treatment for serious repeat offenders.

- Licence suspension
- Means tested fines
- Driver retraining and relicensing
- National offender register

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## 3. Road Fatality Reporting

Drawing inspiration from proven safety practices in workplaces and aviation, the Road Trauma Support Group proposes NSW introduce full transparent and nationally shared public reporting of road deaths. There is a need for a more comprehensive approach to investigating road deaths beyond the current focus on crash scene investigations and criminal proceedings. The proposed report would include in-depth analyses of incidents, causes, road conditions, and contributory factors, promoting transparency and collective commitment to road safety – this data and reporting to be shared nationally to inform road safety and funding. Individual names can be redacted, not learnings.

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## 4. End the Language of Denial

We advocate for a paradigm shift in the language used to describe road incidents in all legislation and media reporting. The term 'accident' risks making crashes seem inevitable and unavoidable. Most often, these are NOT accidents but collisions that could have been avoided. We propose consistently calling road deaths caused by a criminal act of another 'Vehicular Homicide'. This change aims to accurately reflect the nature of these incidents and foster a mindset of social unacceptability for dangerous driving encouraging a generational change in road safety such as we have seen in attitudes to domestic violence and one-punch laws.

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## 5. Mandatory Victim Impact Panels for Serious Offenders

Recognising the profound emotional and psychological impact of road trauma, we call for the incorporation of victim impact panels as part of the sentencing process, especially for serious offenders and re-education of recidivists. These panels provide a platform for victims and their families to share the personal repercussions of the crime, fostering empathy and understanding while holding offenders accountable. Evidence supports significant reductions of recidivism with victim impact panels supporting offender rehabilitation.

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## 6. Mandatory Alcohol Interlocks for all convicted Drink Driving Offenders

Effective technology is affordable and proven effective. As a crucial step in preventing alcohol-related incidents on the roads, we advocate for the mandatory installation of alcohol interlocks for all individuals convicted of drunk driving. This proactive measure will contribute to the reduction of alcohol-related road trauma and influence public perceptions ensuring safer roads for everyone.

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## 7. Judicial Accountability for the Magistrates, Judges and the Office of the Director of Public Prosecution

Reduced discretion, updated sentencing guidelines, transparency of reporting and of all decisions. Emphasising the importance of consistent and effective sentencing in the public interest, we urge enhanced monitoring and accountability mechanisms for the judiciary and ODPP. This includes regular reviews and transparency in sentencing decisions, ensuring that justice is served impartially and prosecuted effectively in alignment with the public expectations.

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## 8. Road Trauma Victims Rights

We call for the implementation of victim-centred support systems, including access to counselling services, legal and financial assistance, and community resources tailored to meet the unique needs of those affected by road trauma. Starting with road trauma victims being recognised in the Charter of Victims Rights. And including but not limited to an overhaul of the Compulsory Third Party Insurance Scheme to further enhance these support mechanisms, empowering victims, their families, loved ones and children for their long-term post-traumatic growth.

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## 9. Systemic Change in Road Safety Educational Initiatives and Campaigns

Prevention is paramount. We advocate for the development and implementation of long-term systemic educational programs aimed at raising awareness about the consequences of irresponsible road behaviour. This includes mandatory programs upwards from year eight in all schools, improved early driver training and effective campaigns to targeted to high-risk groups. By fostering a culture of responsibility, accountability and peer pressure, we strive to reduce the incidence of road trauma and create safer road environments for all. Empowering people and their peers to 'speak up and step in'.

## 10. Traffic Authorities Accountability and Compliance

Transport Authorities have a general duty of care to members of the public to prevent against a risk of harm. We propose reviewing civil liability laws, systems, and processes for reporting to make road traffic authorities more

accountable and transparent for seriously defective roads and dangerous spots.

## 11. Rapid Deployment of Vehicle Safety Standards

Streamline the process for legislative and regulatory changes for vehicle safety standards to improve the uptake of new safety technology in Australia.

## 12. Collaboration with Stakeholders

Building a collaborative network is essential for effective reform. We encourage the NSW Government to collaborate with relevant stakeholders, including law enforcement agencies for more visible Policing, legal professionals, healthcare providers, the insurance industry and community organisations. By fostering partnerships, we can create a holistic approach to addressing road trauma that encompasses legal, social, and public health perspectives.

## Conclusion:

The Road Trauma Support Group NSW urges the NSW Government to take a leading role in rapidly implementing these crucial reforms to make the Towards Zero initiative possible. By enacting a singular legislation, instituting mandatory minimum sentences, prioritizing victim-centred support systems, promoting educational initiatives, and fostering collaboration, we can collectively work towards a safer and more just society for all road users.



April 2023

# The unheard trauma of fatal road crimes in NSW

**fiftyfive5**



Road Trauma  
Support Group  
NSW



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A photograph of a car accident scene. A red car is on its side, with its engine and chassis visible. A blue car is partially visible on the left. The ground is covered in debris and oil. The text "Executive summary" is overlaid in the center.

# Executive summary



# Summary of key findings

**Introduction** Formed in May 2021, The Road Trauma Support Group (RTSG NSW) represents the interests and needs of victims of criminal road deaths. RTSG exists to support and guide our members suffering road trauma related challenges to reduce the pain and suffering experienced in dealing and working through their loss.

RTSG NSW commissioned the expertise of an independent research agency, Fiftyfive5, to conduct a foundational piece of research to illuminate the reality of the experience for those who are victims of criminal road trauma, in order identify key intervention points to help drive change and action.

The purpose of this study was to obtain a deep understanding of the consequences of criminal road trauma - it's scope, scale and impact on individuals, families and close associates in order to design appropriate support services. In addition, the research was designed to identify insights into ways road trauma could be prevented in future through reform at government and community levels.

## Methodology

This is the largest study of this nature in NSW. This project employed a range of complementary methodologies, designed to explore and understand the impact of criminal road trauma from a range of perspectives within the NSW community.

This comprehensive report brings together the results from:

- A review of existing academic literature and road trauma support organisations globally
- 2,102 surveys of NSW residents
- 18 in-depth interviews with those intimately affected by road trauma living in NSW, with coverage of varying relationships to the person(s) killed in the crash, more recent crashes as well as those that occurred decades ago, and those living in metro and regional areas of the state
- 20 interviews with experts who interact with families who have lost a loved one due to road trauma in the weeks, months, and years following the crash, along with those who are involved with road trauma more broadly in research, support, and advocacy roles.

## Key findings **Prevalence of road trauma in the NSW community**

Every year, more than 300 people die and more than 10,000 are injured on NSW roads. To give context, in Australia, an average of 1,189 people are killed on our roads each year. In 2020, Australia ranked 20th out of 36 nations in terms of the fatality rate on the road.

The ripples of road trauma are felt extensively throughout the community. One in five (20%) adults have ever experienced the loss of someone on the roads in NSW (amounting to 1,600,000 people). Trauma from road crashes in NSW costs the community over \$9 billion each year.

Looking specifically at road deaths caused by **criminal driving behaviour**, 4% of the NSW community have experienced the death of a friend or relative due to the criminal act of another road user on NSW roads (equating to 253,000 people).

Underpinning the substantial size of the problem is the often-preventable nature of these deaths. Driver behaviour is a key contributing factor – including decisions related to speed, alcohol consumption, and drug use. While dangerous driving is a significant problem, it is not an issue unique to young drivers, with drivers of all ages reporting risky driving attitudes.

### **The lived experience of road trauma**

The sudden, violent, and criminal nature of road trauma deaths brings a tidal wave of mental, emotional and physical damage to the victims' families, friends and the community.

The consequences of fatal road offences extend far beyond the initial incident. Families are often confronted by ongoing financial and legal processes, interactions with police, crash investigations, distressing battles with insurance companies, intrusive media involvement and protracted judicial proceedings in the event the offending driver survives. Prolonged suffering inhibits the ability to process and grieve, so the effects on families are long-lasting.

The unique stressors associated with losing a loved one due to fatal road crimes put those who experience them at a higher risk of mental distress and create a more severe impact on their mental health in the long-term. Research has shown that bereaved family members are more likely to have severe mental disorders than the actual survivors of motor vehicle crashes and their family members.

In short, the impacts of road trauma are **profound, catastrophic, and enduring**.



## Key findings (con't)

### Existing support mechanisms

Families who experience the sudden death of a loved one due to criminal road trauma often find themselves lost, trying to navigate unfamiliar systems with no idea where to start. They do their best to work out where to go for support and what steps to take next, but their experience is usually haphazard and traumatic, leading to severe psychological burden.

The ideal is a connected system which links people to services and supports the post-crash journey (like solid links in a chain). With the right information and resources at each step, they are connected to the right professionals at the right time and supported in their lived experience which prevents further traumatisation and allows families to move through the grieving process.

A range of professionals across industries play a role in the post-crash experience. These include those more intimately involved with road trauma (e.g. first responders such as police investigating crashes, hospitals and coroners who are brought in immediately to assist) as well as those whose role is more distant (e.g. insurers dealing with CTP claims, lawyers representing one of the parties at trial).

These professionals have a profound impact on the family's experience. There is large variation in experiences – with some families reporting interactions that alleviated their grief at the time, and others reporting ongoing frustrations and a sense of fighting an uphill battle against the system.

Unfortunately, it is common for professionals to make the experience worse for families. Professionals are often under immense pressure due to a lack of adequate systems and support, meaning they are not able to offer the full assistance they might wish to provide. There is also a dearth of training for how to interact with families who are going through the unique experience of criminal road trauma, so professionals are often unequipped to provide a positive (or at least neutral) experience.

Frequently, interactions with professionals lead to further re-traumatisation of the family. Re-traumatisation can occur when processes are protracted, when families cannot access tailored support reflective of the unique nature of their situation, and/or when the media shines an unwelcome spotlight on their situation, invading their privacy and reminding them of their loss in a garish manner. Dealing with professionals that relate to court and CTP claims have the highest potential for re-traumatisation along the road trauma pathway.



## Implications

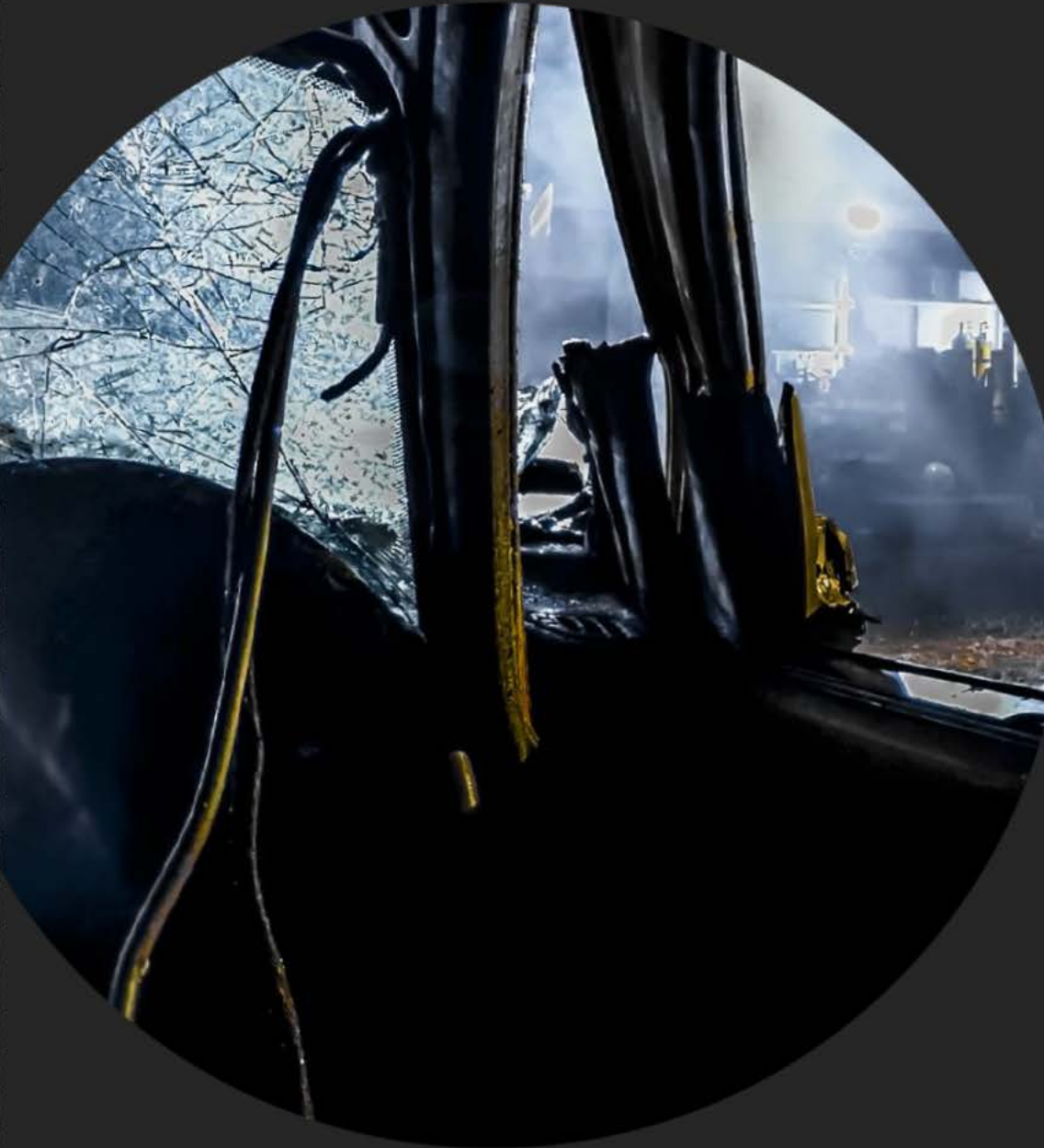
Everyone in the community can play a role in reducing fatalities on our roads and avoiding further traumatisation of the families of those killed.

### Considerations for reducing fatalities on NSW roads

- **Avoiding risky driving behaviour.** It is within our control to reduce fatalities on our roads and all road users should consider their contribution to this goal.
- **Intervening if required.** There's no excuse for driving while incapacitated. The entire NSW community is encouraged to step in and discourage drivers from getting behind the wheel when they shouldn't.
- **Sentencing guidelines:** Widespread feelings of injustice prevail when there is a lack of consistency in sentencing for criminal road behaviour compared to other crimes resulting in death (e.g. minimal sentences, community service or suspended license). Further investigation is warranted to validate this and to determine if minimum sentences are required to effectively deter this behaviour.
- **Publicising investigation results:** Much is learned through the investigations carried out following fatal crashes, however the learnings are not made public. The NSW government is encouraged to consider publicising the results so the community can benefit from the learnings. This could be done at a summary level, rather than individual level (to ensure privacy), a few times per year.

### Considerations for avoiding further traumatisation of bereaved families

- **Language change:** Language is powerful. The term "accident" is not accurate (at best) and psychologically damaging to the families of victims of road crimes (at worse). The word "crash" should be used instead – in the legislation, in the media, and amongst the NSW community when describing fatal road crashes.
- **CTP reform:** Consider tailoring the CTP legislation to account for the nature of the "injuries" caused by criminal road trauma (e.g. long-term psychological trauma, not short-term physical injury). The scheme should reflect the psychological impact of the experience and the prolonged effects of the sudden death of a loved one. Tailoring the legislation (and insurer's processes) to treat road trauma fatalities differently from physical injuries would prevent avoidable trauma.
- **Refining protocols:** To avoid re-traumatisation, the name of the victim, along with images and stories of the victim, should only be publicised with permission of the family.





A dark, industrial scene with a glowing yellow light source and a large, curved metal component. The scene is dimly lit, with the primary light coming from a bright yellow glow on the left side, possibly a furnace or a large light fixture. A large, curved metal component, possibly a part of a machine or a pipe, dominates the right side of the frame. The overall atmosphere is mysterious and technical.

# About this report





## Foreword & Acknowledgements

The research team gratefully acknowledge the participants in this research study, without whom this report would not be possible. Our findings are drawn from primary data shared with us by people affected by road trauma in NSW who have been generous enough to share their stories with us. We extend our gratitude to those who participated for their time and willingness to share intimate details of their experiences.

We thank the experts from a wide range of fields who participated in this research. Their expertise provides a valuable viewpoint into what it is like working with families experiencing the impacts of road trauma, and the processes and systems that enable them to carry out their jobs successfully (along with those that impede their ability to fully support people affected by road trauma).

We would also like to acknowledge the financial support provided by Transport for NSW which enabled this research to take place.

# Preface

**We are pleased to release this report which summarises our investigation into the experiences of individuals affected by road trauma in New South Wales (NSW), Australia. More specifically, we have examined the experience of road trauma where someone has been killed as a result of a criminal act of another. Given the widespread and deep impacts of criminal road trauma throughout the NSW community, it was clear this topic warrants further investigation.**

In this report the research team have provided population context for criminal road trauma in NSW, and from there have explored the experiences of those directly affected along with the experts they liaise with after the crash. Our focus is on looking closely at the nature of the **impact** of criminal road trauma, along with **interventions** that could improve the experiences of people who find themselves in this situation.

The authors of this report have not personally experienced the impact of road trauma. Our role in this research is objective, and our findings unbiased by our own personal views - based purely on the stories shared with us by the people who have been generous enough to share them.

Much has been written about road trauma across Australia, and indeed, in jurisdictions across the world. This report is distinct from other literature on this topic as it is the largest study of this nature in NSW. This comprehensive report brings together the results from 2,102 surveys of NSW residents, plus 18 in-depth interviews with those intimately affected by road trauma living in NSW, and 20 interviews with experts who interact with families who have lost a loved one due to criminal road trauma in the weeks, months, and years following the crash, along with those who are involved with road trauma more broadly in research, support, and advocacy roles.

The authors of this report hope the study will be put to good use, and that by sharing the stories and experiences of those affected by criminal road trauma more widely we can help to shine a light on what is needed to create positive change. By bringing these stories to the fore, our aim is to assist those in decision-making capacities to make informed decisions about interventions, legislation, and systems that affect impacted families. We hope our analysis facilitates the making of informed choices, particularly where resources are limited (as they usually are).

Our aim for this report is that it is useful both politically and personally, that it leads to improvements in the experiences of those who suffer the impacts of criminal road trauma, and ultimately that it may reduce the frequency of fatal criminal road crashes on NSW roads.

Loren Watling  
Bella Castle  
Belinda Aanensen  
**Fiftyfive5**









## How to read this report

This report shines a spotlight on the lived experience of families and close friends who have experienced the death of a loved one on the roads in NSW due to the criminal act of another road user.

In the first section of this report, we set the stage by highlighting the size of the issue, along with contributing factors. We explore how NSW compares to other jurisdictions both in Australia and globally, and provide an overview of existing efforts to reduce the number of fatalities on our roads.

The next section investigates, in detail, the wide-ranging impacts of losing a loved one to criminal road trauma. Our focus is on the families of those killed, but we also explore the impacts felt throughout communities and among the professionals who serve families affected by criminal road trauma.

Next, we investigate the existing support mechanisms in place to support families affected by criminal road trauma. We summarise the current supports available as well as the gaps in service delivery that are contributing to ongoing traumatisation of affected families.

Finally, a range of implications for policy, service, and practice are given. Readers are presented with a series of actions they can take to either contribute to a reduction in fatalities on our roads, or avoid further traumatisation of the families of those killed.



Readers from the **NSW state government** are encouraged to consider:

- **CTP reform:** Consider tailoring the CTP legislation to account for the nature of the “injuries” caused by criminal road trauma (e.g. long-term psychological trauma, not short-term physical injury). Tailoring the legislation (and insurer’s processes) would prevent avoidable trauma.
- **Sentencing guidelines:** Consider minimum sentencing requirements for criminal road behaviour that causes the death of another to ensure offenders are adequately punished, particularly compared to other crimes that result in death.
- **Language change:** Language is powerful. In the legislation, the term “accident” is not accurate (at best) and psychologically damaging to the families of victims of road crimes (at worse). The word “crash” should be used instead.
- **Publicising investigation results:** Much is learned through the investigations carried out following each fatal crash, however the learnings are not made public. Consider publicising the results so the NSW community can benefit from the learnings. This would be similar to how workplace deaths and injuries are investigated and reported publicly.

Readers from **media outlets** are urged to consider:

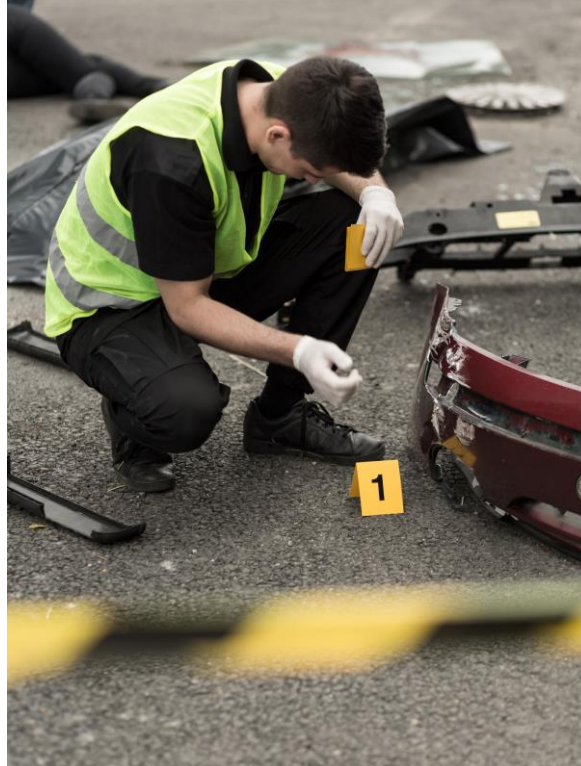
- **Language change:** The word “crash” should be used instead of “accident” when reporting about criminal road trauma events.
- **Refining protocols:** To avoid re-traumatisation, the name of the victim, along with images and stories of the victim, should only be publicised with permission of the family.

And readers from the **broader NSW community** are prompted to consider:

- **Avoiding risky driving behaviour.** It is within our control to reduce fatalities on our roads and all road users should consider their contribution to this goal.
- **Language change:** As with the legislation and the media, the NSW community are encouraged to be considerate in use of language when describing fatal road crashes, using the word “crash” instead of “accident”.
- **Intervening if required.** Step in and discourage drivers from getting behind the wheel when they shouldn’t.



# Introduction to the research



## Purpose

Formed in May 2021, the Road Trauma Support Group (RTSG NSW) represents the interests of victims of road trauma, their families and loved ones, and exists to help alleviate the pain and suffering families experience when they become victims of road trauma on NSW roads.

RTSG NSW commissioned the expertise of an independent research agency, Fiftyfive5, to conduct a foundational piece of research to illuminate the reality of the experience for those who are victims of road trauma, in order to identify key intervention points to help drive change and action.

Ultimately, this research is intended to provide tools for understanding and empathising with all audiences impacted by road trauma: the victims, their families and communities, professionals involved in road trauma events and the time that follows, and the broader NSW community.

## Primary objective

To obtain a deep understanding of the consequences of road trauma - its scope, scale and impact on individuals, families and close associates in order to design appropriate support services for people impacted by road trauma.

## Secondary objective

To identify insights into ways road trauma could be prevented in future through reform at the government and community levels.

# Glossary of key terms

The following definitions are general explanations only. Precise definitions may vary across organisations and jurisdictions.

## Road trauma

A road event resulting in the death of an individual attributable to the movement of a road vehicle on a public road.

## Fatal road crime

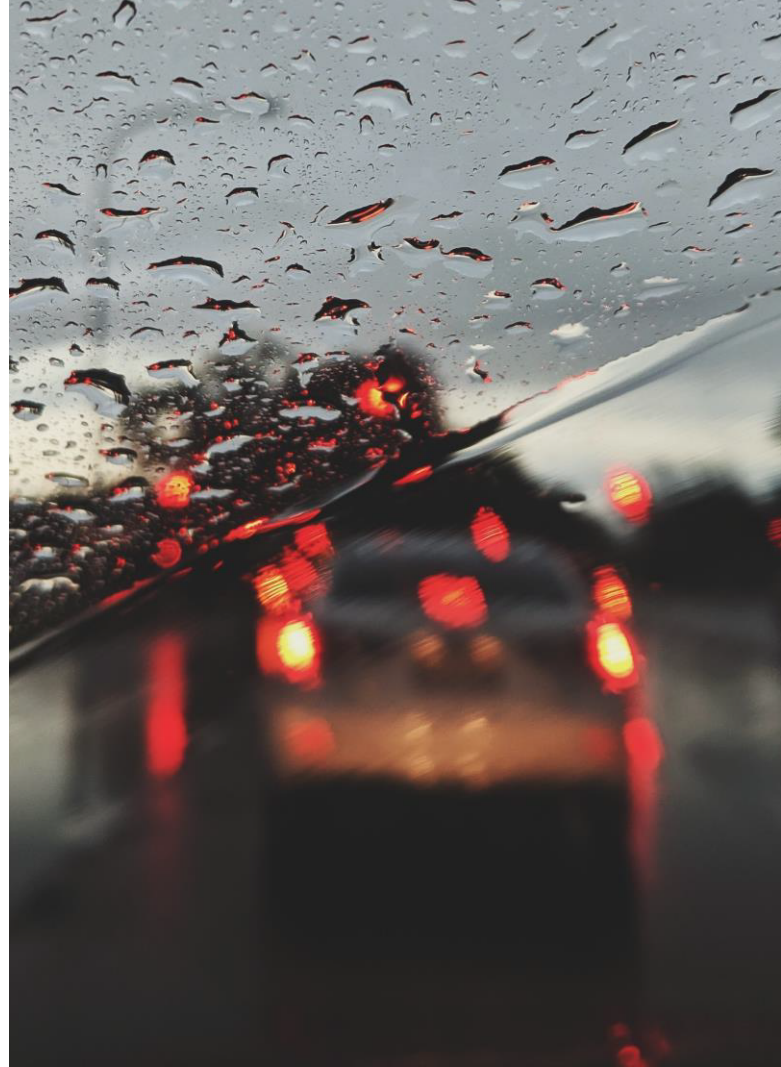
A road event resulting in the death of an individual attributable to the movement of a road vehicle on a public road due to the criminal act of another road user (e.g., dangerous driving, drinking or drug driving).

## Criminal road trauma

Encompasses fatal road crimes along with the consequences that extend beyond the event itself, including the trauma inflicted on the victims' families, friends and the community.

## Secondary trauma (also referred to as re-traumatisation)

The indirect trauma that can occur when exposed to difficult or disturbing images or stories second-hand. For bereaved families who have lost a loved one due to criminal road trauma, this occurs through ongoing exposure to systems and processes such as media coverage and contact with the criminal justice system.



## Compulsory Third Party (CTP) Claims Scheme

CTP insurance is paid at the time of vehicle registration. When a driver causes injury or death to another road user, the victim (or their family) is eligible to make a claim to the at-fault driver's insurer to cover their financial losses.

## Vicarious trauma

The indirect trauma experienced by individuals in the community or professionals working with victims and bereaved families impacted by criminal road trauma. Vicarious trauma experienced by professionals is an occupational challenge, particularly for first responders, due to their continuous exposure to distressing scenes.

# Methodology

This project employed a range of complementary methodologies, designed to explore and understand the impact of criminal road trauma from a range of perspectives within the NSW community.



## Review of existing literature

The initial activity involved a desk review of existing academic literature about road trauma and a review of road trauma support organisations in NSW, Australia, and around the world.

This provided a foundation of knowledge related to existing initiatives and processes, and the impacts of these in each jurisdiction.

More specifically, this included an examination of road death statistics within NSW and beyond, to allow international comparisons to be made. A review of National and NSW road safety policies was conducted, to aid in defining risky road behaviours and understanding available or emergent road safety technologies.

An emphasis on academic resources highlighted the lived experience of bereaved family members and the widespread impacts of facing a sudden or traumatic death.



## Qualitative research with affected families

In the qualitative phase, a total of 18 people shared their personal experiences of criminal road trauma in NSW, and the impact it has had on them and their families. These interviews were lengthy (up to 2 hours in duration) and provided extensive insight into the nuances of the experiences that families go through after the death of a loved one due to the criminal act of another.

A diverse set of perspectives was obtained through interviewing different family members (e.g. parents, siblings, partners, children) across geographies (metro and regional NSW) and across a range of timeframes since the crash occurred (some decades ago, others more recent). Interviews were conducted online due to ongoing COVID-19 restrictions between January and March 2022.





## Qualitative research with experts

There are a range of professionals who assist families who have lost a loved one on NSW roads.

To understand the perspective of those who play a role in road trauma events, and the time that follows, a total of 20 professionals participated in a comprehensive 90 minute interview.

This included those 'on the ground' (such as paramedics, police, psychologists, insurers, and legal professionals), along with individuals who are working for organisations aiming to conduct research, advocate and create change - both in Australia and overseas. The organisational roles of these professionals has not been disclosed to ensure their identity remains anonymous. This was key to the design of the research, to reduce the risk of introducing positivity bias if their feedback could have been attributed to them in this report. Further, some experts only agreed to participate on condition of anonymity.

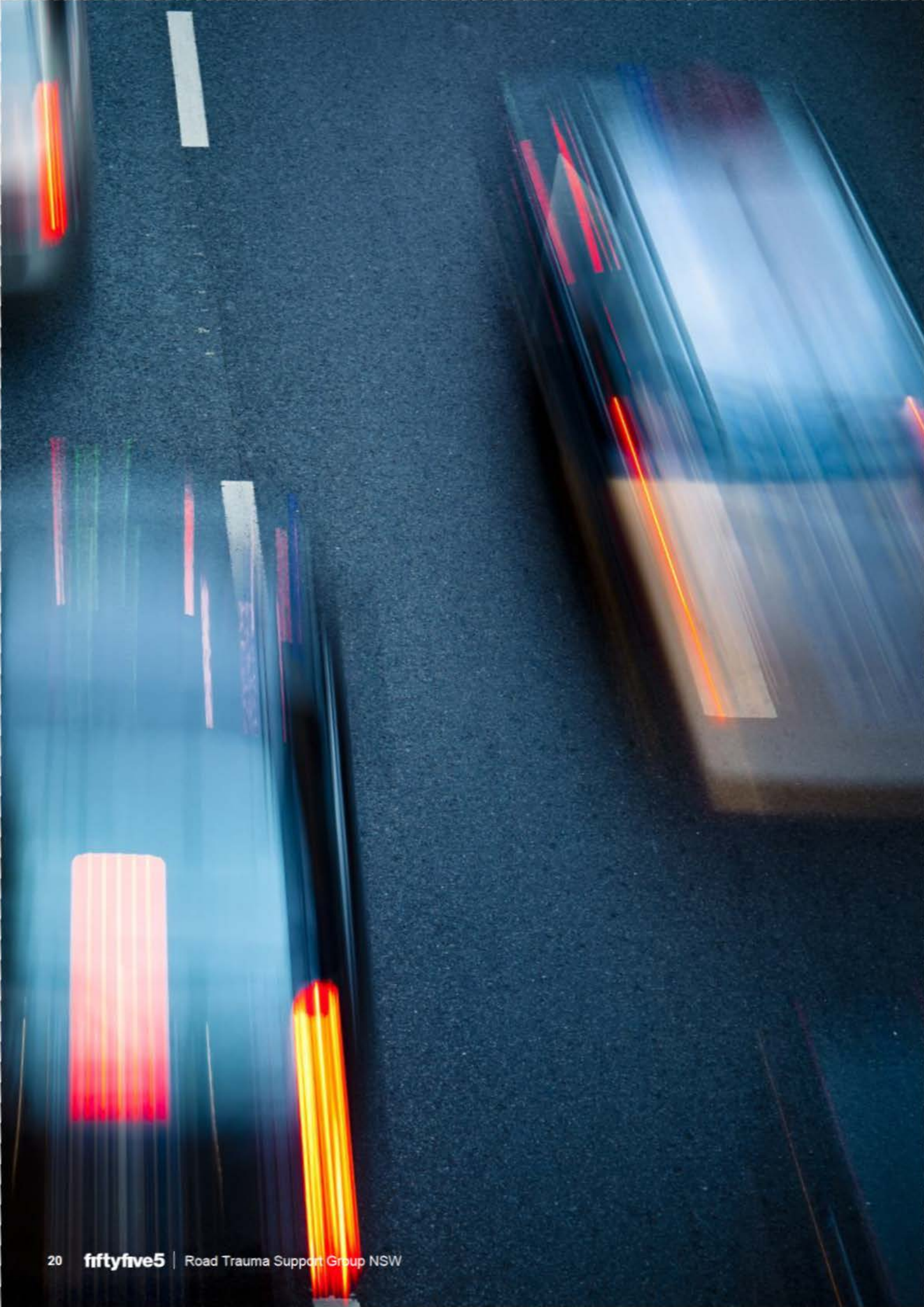


## Quantitative research with NSW community

The final stage of the research involved a robust, large-scale online survey. A total of 2,102 people completed a survey of 20 minutes duration. This encompassed a representative sample of NSW residents (n=2,052) including those who have and have not experienced road trauma. To boost responses from people most intimately affected, an additional 50 people who experienced the death of a loved one to criminal road trauma were surveyed, sourced from the RTSG NSW member database and social media. This included a spread of more recent crashes and those occurring over the longer term, among individuals aged 25-75, with a slight female skew (given bereaved individuals are more likely to be female) across metro and regional NSW.

Everyone who completed the survey was aged 18+ and a resident of NSW. The final dataset was weighted based on age, gender, and metro/regional location of residence. In this report, where figures are presented that represent the entire NSW population, the booster sample has been excluded to ensure the dataset is representative. Results were collected between July and September 2022.







# Limitations of this study

As with all research studies, this study is subject to limitations, some of which could be addressed in future research.

First, there is a nearly unlimited amount of detail that could have been captured about the experiences of families affected by road trauma. The qualitative phase of this study captured a remarkable amount of detail. However, the quantitative phase necessarily had to be more succinct and focused on capturing key data points in order to keep the questionnaire length reasonable and ensure we did not deter potential participants due to survey fatigue. As such, there is limited quantitative data about some aspects of the post-crash experience, such as specifics of each interaction with professionals after the crash.

Secondly, due to ethical concerns about researching children (<18 years old) about such a sensitive topic, only adults aged 18+ were included in this research. As such, the experiences of children and teenagers are not reflected in this report. However, adults who experienced the loss of a loved one due to criminal road trauma when they themselves were under the age of 18 have been included. In this way, the perspectives of those under 18 are presented through a retrospective view, from people who are currently adults.

Thirdly, there are several instances in which public data would have helped describe key points, however was not made available at the time of this report's publication. Therefore there are some issues that are not fully understood. For example, publicly available statistics about fatal road crashes are general in nature, not specific to fatal crashes involving criminal driving behaviour. Instances where the specific data of interest is not available have been noted where relevant.









# **Introduction to criminal road trauma in NSW**

**300+**

people die every year on  
NSW roads

**10,000+**

people are seriously  
injured every year on  
NSW roads

**1 in 5**

or 20% of the NSW  
population aged 18+ has  
experienced the death of  
someone they knew on  
NSW roads



**4%**

have experienced the  
death of a relative or  
friend due to serious  
road crimes in NSW\*



**3.5x**

those grieving a death  
due to road crime in  
NSW are 3.5x more likely  
to not be able to pay their  
rent or mortgage  
compared to those  
grieving non-criminal  
road deaths

**81%**

of immediate family  
members of victims of fatal  
road crimes in NSW have  
experienced mental health  
challenges such as  
depression, anxiety, or  
PTSD

**SOURCES:**

Deaths and Injury estimates - NSW Centre for Road Safety

Incidence of Experiencing Road Trauma – Fiftyfive5 Road Trauma Quantitative Survey 2022

\*Serious road crime includes a range of driving offenses, as outlined here:

[https://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc\\_current\\_projects/Serious\\_road\\_crime/background-note.aspx](https://www.lawreform.justice.nsw.gov.au/Pages/lrc/lrc_current_projects/Serious_road_crime/background-note.aspx)

# Defining trauma caused by fatal road crimes

Criminal road trauma is characterised by serious road crime resulting in death, and the tidal wave of mental, emotional and physical damage inflicted on the victims' families, friends and the community.

Consequences of fatal road offences extend far beyond the initial incident; families face ongoing secondary trauma throughout, and beyond, the initial experience. The sudden, violent and criminal nature of these deaths creates prolonged suffering, inhibiting the ability to process and grieve.

## A deeply complex and unique set of experiences

The knock-on ripple effect of criminal road trauma is widespread and costly.

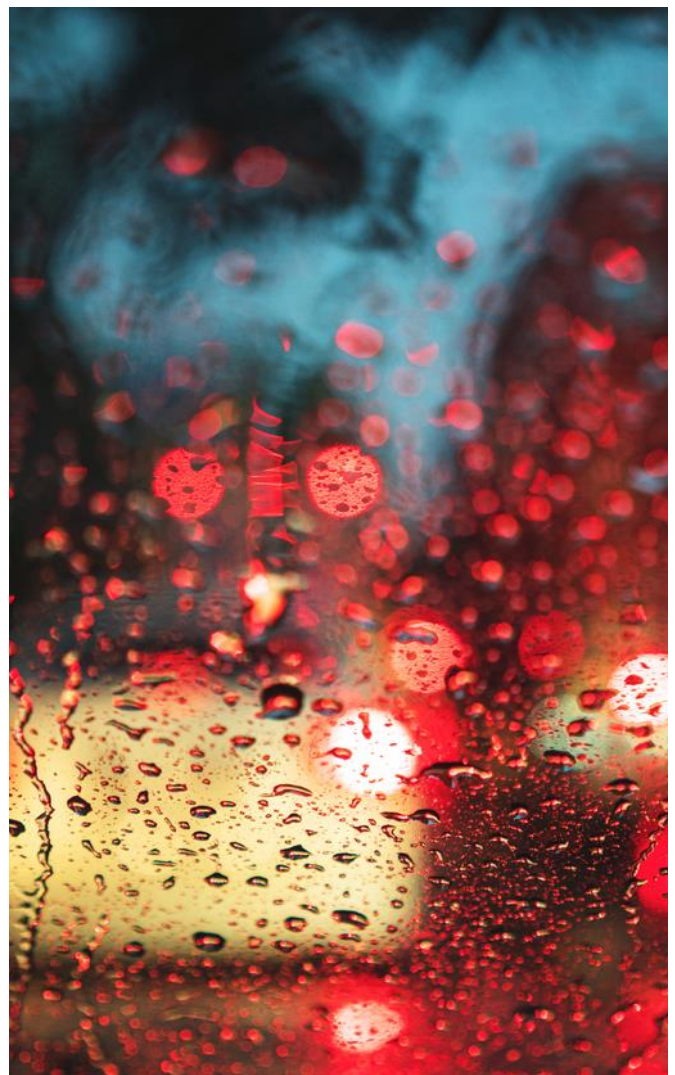
Families are often confronted by ongoing financial and legal processes, interactions with police, crash investigations, distressing battles with insurance companies, intrusive media involvement and protracted judicial proceedings in the event the offending driver survives.

The victims' families and friends may be further tormented if they feel the offender's sentence was manifestly inadequate in the context of a death that could have been avoided if not for the senseless, criminal act of another.

## Compounding trauma and severe psychological burden

It's critical that the uniqueness of these types of road trauma events is acknowledged.

The systems and processes which are intended to support should be created with these specific considerations at their centre.





# The significance of this issue



Globally, there are nearly 1.3 million deaths on roads in addition to 50 million injuries each year<sup>1</sup>.



In NSW, over the same time period, a total of 3,383 lost their lives on NSW roads<sup>3</sup>. This is an average of 338 deaths per year and includes 2020 and 2021 data which was lower than the recent average during ongoing COVID-19 lockdowns and restrictions on movement.



In Australia, over the 10-year period between 2012 and 2021, a total of 11,894 people died on Australian roads<sup>2</sup>. This represents an average of 1,189 people killed on our roads each year.

As of 5 December 2022, 272 lives had been lost on NSW roads, up from 246 at the same time last year (a 10.5% increase compared to 2021)<sup>3</sup>.



Trauma from road crashes in NSW costs the community over \$9 billion each year<sup>4</sup>.



#### SOURCES:

- 1: <https://www.who.int/news/item/28-10-2021-who-kicks-off-a-decade-of-action-for-road-safety>
- 2: [https://www.bitre.gov.au/publications/ongoing/road\\_deaths\\_australia\\_annual\\_summaries](https://www.bitre.gov.au/publications/ongoing/road_deaths_australia_annual_summaries)
- 3: <https://roadsafety.transport.nsw.gov.au/statistics/index.html>
- 4: <https://roadsafety.transport.nsw.gov.au/downloads/2026-rsap.pdf>

# International comparisons

Fatality rate per 100,000 population in 2020



In 2020, Australia ranked 20<sup>th</sup> out of 36 nations in terms of the fatality rate on roads<sup>1</sup>. Norway, Sweden, and Iceland had the three lowest rates.

Reducing fatalities on roads is a global priority, and efforts to reduce fatalities are prevalent throughout the world.

Between 2011 and 2020, Australia's fatality rate declined by 25.4%. Over the same period, the OECD median rate declined by 34.6%<sup>1</sup>.

Other jurisdictions around the world are achieving greater success at reducing fatalities on their roads.

Australia achieved 36% less progress in reducing the fatality rate between 2011 and 2020 compared to the OECD median.

SOURCES:

1: [https://www.bitre.gov.au/publications/ongoing/international\\_road\\_safety\\_comparisons](https://www.bitre.gov.au/publications/ongoing/international_road_safety_comparisons)



# The preventable nature of road crime

Underpinning the substantial size of the problem is the often-preventable nature of these deaths.

Driver behaviour is a key contributing factor to deaths on our roads. Every day drivers make decisions that can have fatal consequences for themselves or others.

Specifically looking at road fatalities which occurred in NSW in 2020 alone, amongst those in which the alcohol involvement was known, alcohol was a contributing factor in 19% of fatalities (the driver was over the legal blood alcohol limit)<sup>1</sup>. At least 46% involved speeding, and fatigue was assessed as being involved in at least 12% of fatalities<sup>1</sup>.

In NSW, in crashes where a person is killed, blood samples are taken from the drivers involved where possible and tested for drugs. Note that on some occasions, it is not possible to obtain a blood sample from the driver(s) involved, such as when some time has elapsed since the crash or where the driver is not immediately present (e.g. hit and run). According to data released by Transport for NSW, one in four (24%) road fatalities in NSW in 2020 involved the presence of illicit drugs (where drug involvement is known)<sup>2</sup>. This provides an *indicative* view of the role of illegal drugs in fatal road crashes in NSW. However, the true extent will not be known without universal drug testing of offenders who kill someone on the road.

It is important to note that circumstances relating to the driver's condition at the time of the crash (e.g. alcohol or drug use, license held) play a role in the criminal charges that are laid, and eventually the sentencing handed down to the offender if convicted. When drug testing is inconsistently carried out, there is a risk that offenders may not be held fully accountable for their actions that contributed to the death of another person.

## Factors involved in road fatalities in NSW in 2020



19%  
Alcohol



46%  
Speeding



12%  
Driver fatigue

### SOURCES:

1: <https://roadsafety.transport.nsw.gov.au/statistics/interactivecrashstats/index.html>

2: <https://towardszero.nsw.gov.au/sites/default/files/2023-02/2026%20Road%20Safety%20Action%20Plan.pdf>

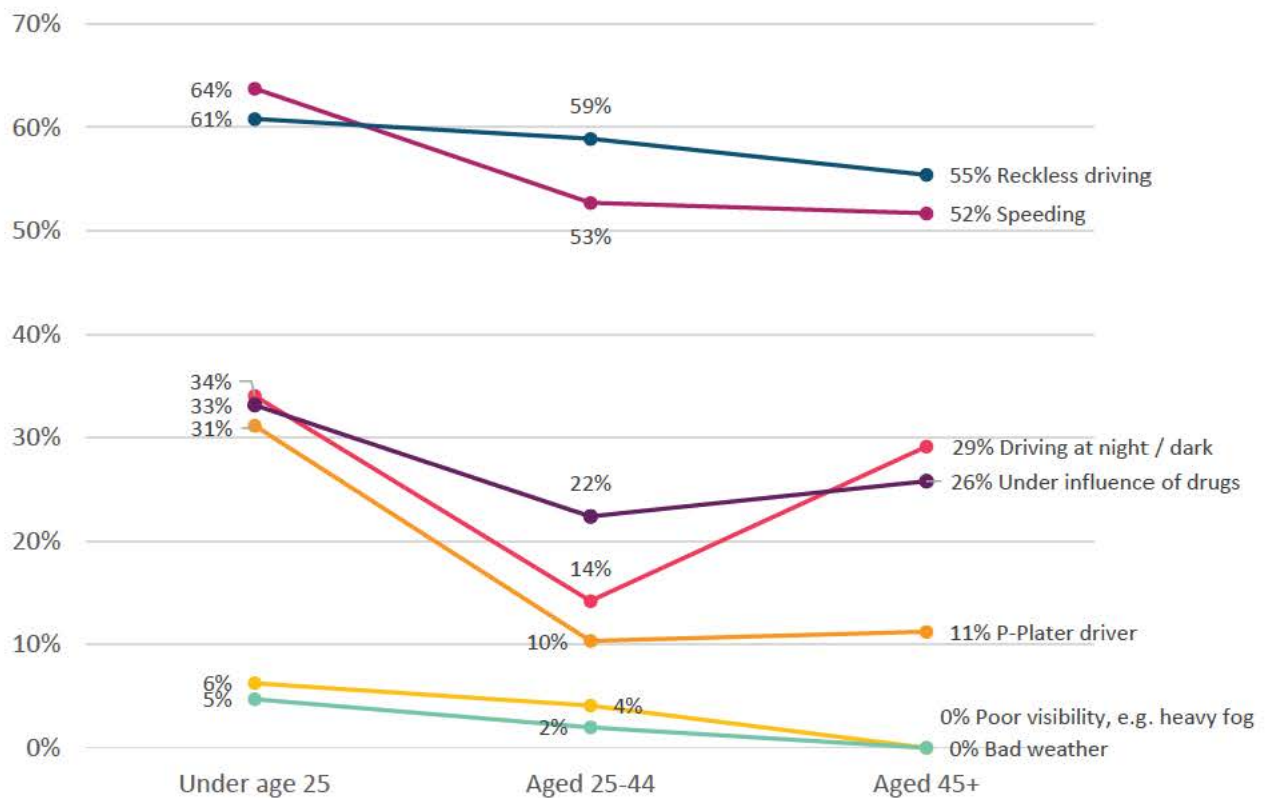


This study has shown that criminal road trauma events with younger victims are even more likely to involve preventable causes.

According to the primary research undertaken by Fiftyfive5, speeding is a particular factor in crashes which kill younger victims (under 18), along with reckless driving and driving while under the influence of alcohol and/or drugs. Further, driving during poor conditions (e.g., darkness, bad weather, poor visibility) is also more common in fatal crashes with young victims.

These results demonstrate that the criminal road trauma events which kill the youngest people in our society are more likely to have been able to be prevented.

### Factors involved in fatal road crimes in NSW, by age of victim



Graph source: Fiftyfive5 primary research. Q: As far as you know, did the crash involve any of the following? Base: n=165





## Recidivism in fatal road crimes

Recidivism compounds the preventable nature of deaths on our roads – reinforcing that drivers make decisions which can have fatal consequences.

The research is clear – recidivism (repeat offending) is a key contributing factor to fatal road crashes.

Serious repeat offenders are six times more likely to be in a serious or fatal crash than drivers who never or seldom break the road rules<sup>1</sup>. The odds of a fatal or serious crash in the next 3 years increase by 11% for every traffic infringement notice received in the last two years.

Put simply – the more a driver breaks the road laws, the more likely they are to have a fatal or serious crash.

In NSW specifically, the 3% of drivers who are high-risk repeat offenders are more than 5 times more likely to have a fatal or serious crash than those who have not committed traffic offenses<sup>2</sup>.

For the families of those killed by fatal road crimes, the preventable nature of their loved one's death can be haunting. This is exacerbated when the offending driver had a known history of repeated illegal, risky, dangerous driving behaviour and should have had their driving privileges restricted for the greater good of the community.

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#### SOURCES:

1: Meyer et al. 2021. Modelling the relationship of driver license and offense history with fatal and serious injury (FSI) crash involvement.

2: NSW Sentencing Council. Repeat Traffic Offenders. September 2020. [https://sentencingcouncil.nsw.gov.au/documents/our-work/repeat-traffic-offenders/Report\\_repeat\\_traffic.pdf](https://sentencingcouncil.nsw.gov.au/documents/our-work/repeat-traffic-offenders/Report_repeat_traffic.pdf)

“

The offender didn't try to give my wife one scrap of help at all. He hasn't shown any remorse, sorrow. He had an atrocious driving history... caught speeding 5 or 6 times, let alone the times he wasn't caught. He was in an accident only months before he killed my wife and he just got off with a charge for being negligent for using his phone while driving. I don't know why he was allowed on the road in the first place.

“

The driver who killed my nephew sped away from a police checkpoint as he was unlicensed plus had been drinking.



# Community driving attitudes

As described, many fatal road crashes may have been prevented, if not for poor driver behaviour.

To fully understand the preventative nature of criminal road trauma, it is worth acknowledging community attitudes to driving behaviour. Attitudes and behaviours are strongly linked<sup>1</sup>, so it is meaningful to understand what people think, which will influence how they behave as road users.

## Community attitudes towards risky driving behaviours

Three in four (75%) adults in the NSW community agree that traffic rules should always be followed no matter what the conditions.

This means that one in four believe there is a level of subjectivity to the traffic rules, and the driver can decide whether or not to follow the rules if they believe the conditions allow.

Looking at the specific ways in which NSW residents believe it's permissible to take liberty with the road rules, primarily there is acceptance of speeding under certain circumstances:

- There is a belief that a low level of speeding is acceptable (16% agree that speeding up to 10 km/hour over the limit is not a big deal).
- A similar proportion (14%) are not opposed to speeding (up to 10 km/hour over the limit) when road conditions are good.
- One in ten (10%) believe it's appropriate to speed up to make it through traffic lights before they turn red.

Mobile phone use while driving also has a degree of community acceptance. One in ten (10%) believe it is acceptable to use their mobile phone when their car is stopped. Worryingly, 6% accept the use of a mobile phone while driving slowly.

Alarmingly, one in 12 (8%) people believe it's reasonable to get a lift with someone **who should not be driving** if that is their only way of getting home at night. Equally as alarming, one in 13 (7%) think it is acceptable to have a few alcoholic drinks and then get behind the wheel.

Together these attitudes and perceptions influence how road users behave every day, and are an important precursor to understanding how to reduce fatalities on the road.



**of NSW residents believe the road rules are subjective**

### SOURCES:

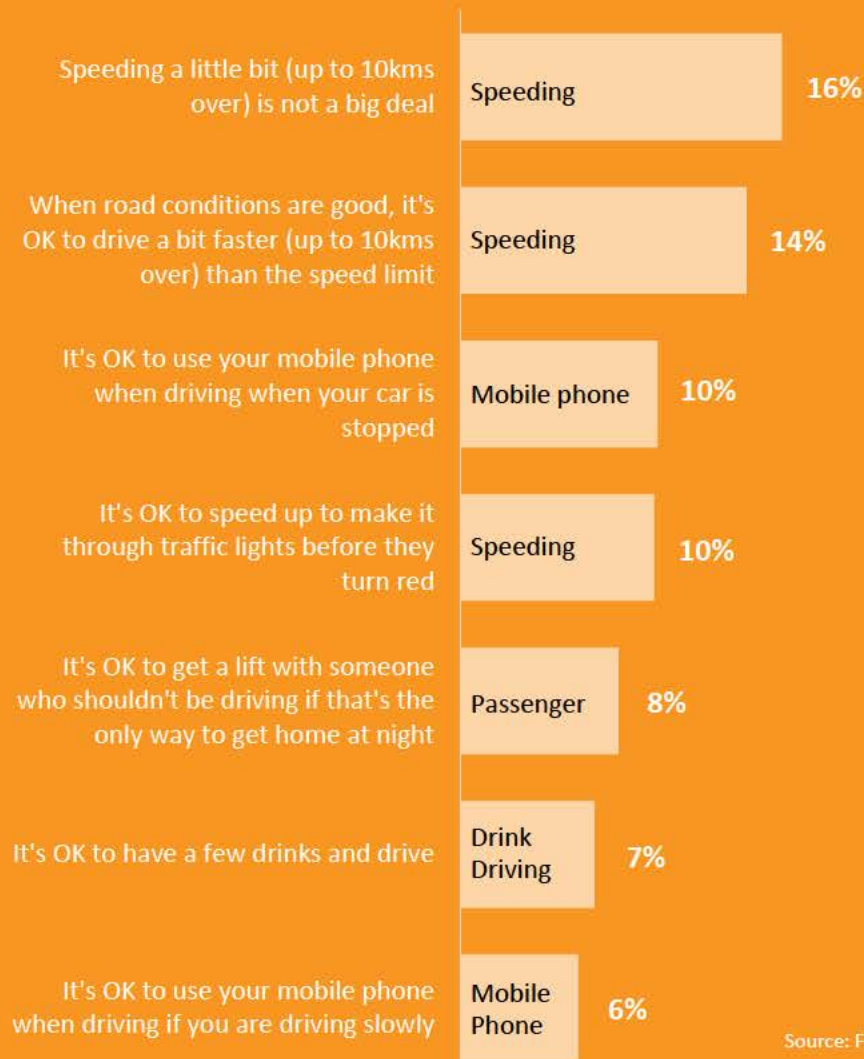
1: Iversen, Hilde. (2004). Risk-taking attitudes and risky driving behaviour. Transportation Research Part F: Traffic Psychology and Behaviour. 7. 135-150. 10.1016/j.trf.2003.11.003

Graph source: Fiftyfive5 primary research. Q: How much do you agree or disagree with each of the following statements? Base: n=2,102



## Community acceptance of risky driving behaviours

(% who agree or strongly agree with each statement)



Source: Fiftyfive5 primary research

Designing appropriate interventions to change the cultural mindset around unsafe driving behaviours will be critical to reducing fatalities and achieving the NSW government's goal of zero lives lost on the road<sup>1</sup>.

### SOURCES:

1: <https://towardszero.nsw.gov.au/>

Graph source: Fiftyfive5 primary research. Q: How much do you agree or disagree with each of the following statements? Base: n=2,102

# Reducing road trauma is a global priority

Recognising the preventable nature of this problem and the need to take action, in September 2020 governments from around the world unanimously agreed to an explicit target to reduce road deaths and injuries by at least 50% by 2030 (through UN General Assembly Resolution 74/299). As part of this resolution, the UN declared a Decade of Action for Road Safety 2021-2030. The UN's Global Plan calls on governments to implement an integrated safe system approach and emphasises the importance of a holistic approach to road safety. It calls for continued improvements in the design of roads and vehicles, enhancement of laws and law enforcement, and provision of timely, life-saving emergency care for the injured<sup>1</sup>.

In Australia, governments at all levels are working together to change the road transport system to prevent deaths and serious injuries on Australian roads. Australia's National Road Safety Strategy 2021-30 outlines key actions aimed at reducing annual fatalities by 50% by 2030. This strategy was developed based on the understanding that road safety is everyone's responsibility – we all use the road<sup>2</sup>.

# Existing efforts in NSW

In NSW, Transport for NSW's Centre for Road Safety is the primary government organisation tasked with developing solutions to reduce deaths and serious injuries on NSW roads. The organisation's vision is that there will be zero deaths or serious injuries on NSW roads by 2050<sup>3</sup>.

An intermediate goal is to halve deaths on NSW roads by 2030, outlined in the 2026 Road Safety Action Plan. This goal will be achieved through stronger local government action, community engagement and education programs, and utilising technological advancements.

Between 2010 and 2016, the Transport and Road Safety (TARS) Research Centre at the University of NSW was dedicated entirely to road and transport safety research. Other universities such as the University of Sydney and Macquarie University also conduct road safety research.

In November 2022, the NSW Attorney General announced a review of serious road crimes in the state<sup>4</sup>. The review will include assessing whether existing laws are fit for purpose, and whether new legislation is required to ensure the criminal justice system treats serious road crimes appropriately.



#### SOURCES:

1: <https://www.who.int/teams/social-determinants-of-health/safety-and-mobility/decade-of-action-for-road-safety-2021-2030>

2: <https://www.roadsafety.gov.au/>

3: <https://towardszero.nsw.gov.au/roadsafetyplan>

4: <https://www.nsw.gov.au/media-releases/road-crime-review>





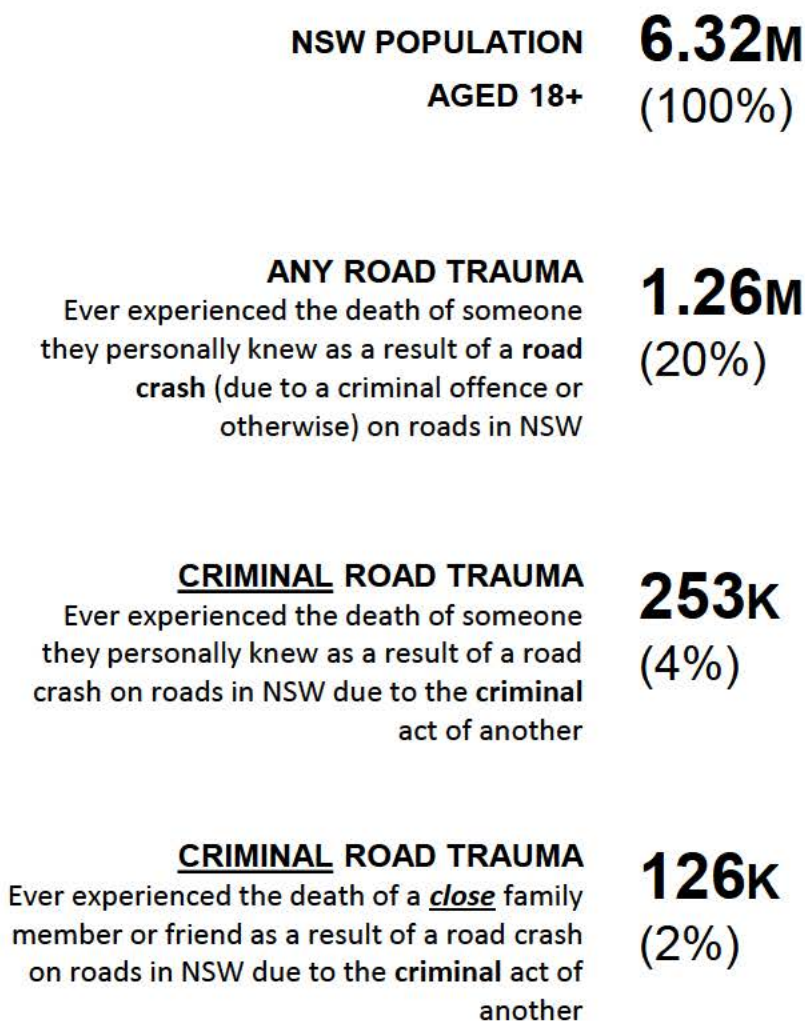


A long, straight asphalt road stretches into the distance, lined with trees and utility poles under a cloudy sky. The road is flanked by green grass and a fence on the left. The sky is blue with scattered white clouds. The text "The lived experience of road trauma" is overlaid in white on the road.

**The lived experience  
of road trauma**

# Road trauma impact on the NSW community

The ripples of road trauma are felt throughout the NSW community, affecting 1.26 million adults.



## VISUAL DESCRIPTION:

The darker coloured centre of the circle represents the community members with the most immediate experience and impact of criminal road trauma.

Reported incidence figures based on survey responses in the NSW community (representative of the state population based on age, gender, and location) and includes only crashes that occurred on NSW roads among respondents aged 18+. Sizing representative of NSW residents based on 2022 population aged 18+ and is therefore likely an underestimate of those impacted by road trauma.

NSW Population source: ABS 2022 data

Graph source: Fiftyfive5 primary research. Q: Do you personally know someone who was killed in a road crash? Base: n=2,102

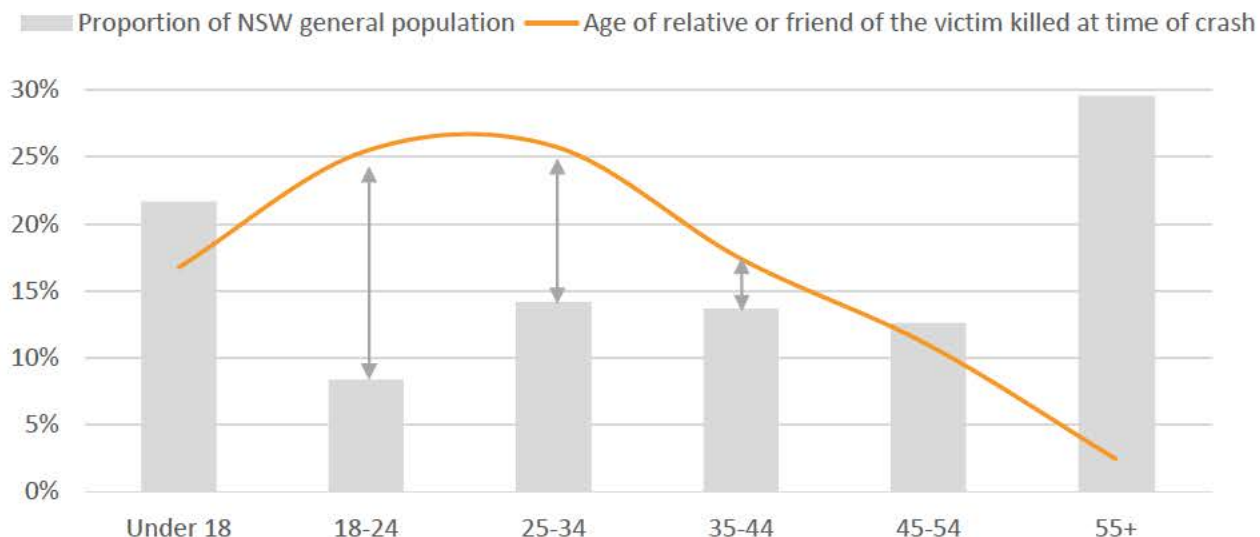






# Experience of road trauma by age

Death of a friend or relative as a result of road crime is disproportionately experienced by younger cohorts aged 18-44.



## Visual description:

A gap between the grey bar (the proportion the age group makes up in the NSW population) and the orange line (the age of those who have experienced the death of a friend or relative due to criminal road trauma) indicates the extent to which the age cohort is more or less likely to experience the death of a friend or relative due to road crime in NSW.

**Younger cohorts 18-44 are over-represented in their experience of the death of a relative or friend due to road crimes.**

- Individuals aged 18-24 are particularly vulnerable; they are 3 times more likely to be relatives or friends of victims of fatal road crimes vs. their incidence in the NSW population.
- In the recent decade (2012-2021) 17- to 25-year-olds had the highest fatality rates for all road deaths in Australia among 0-75 year olds<sup>1</sup>.

**3x**

Individuals aged 18-24 are 3 times more likely to be relatives or friends of victims of fatal road crimes vs. their incidence in the NSW population

## SOURCES:

1: BITRE Road trauma Australia 2021 statistical summary

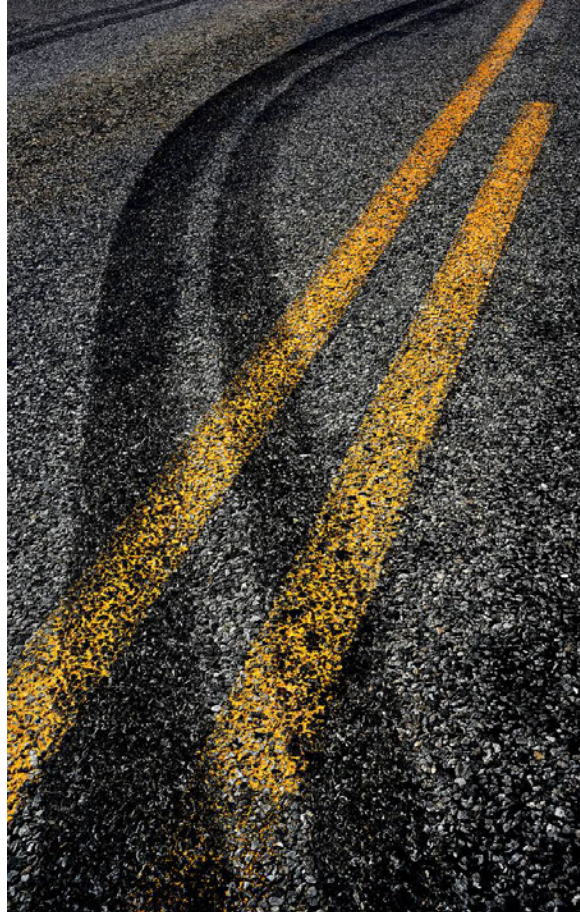
Graph source: Fiftyfive5 primary research. Q: Do you personally know someone who was killed in a road crash? Base: n=2,102

The data is clear: new drivers are at greatest risk on our roads.

In NSW, young drivers represent nearly a quarter of annual road fatalities, yet only make up about 15% of all license holders<sup>1</sup>.

New drivers are at greatest risk in the first year after licensing (holding a provisional P1 license) – they are eight times more likely than a learner driver to be involved in a crash that results in injury or death<sup>1</sup>

When the ripple effects of road trauma begin at a young age, there is a lifetime of flow-on impacts ahead for the friends and family of those who are killed.



“

My parents were on their way home from my uncle's funeral when a drunk driver hit them at an intersection, killing them both. I was at year 8 camp otherwise I would have been with them. It destroyed my life. I was 14 at the time and I've spent my whole life trying to catch up with my education and trying to achieve the things I would have if it hadn't happened.

SOURCES:

1: Transport for NSW 2026 Road Safety Action Plan [https://nswdta.com.au/wp-content/uploads/2022/04/TNSW9659-Road-Safety-Action-Plan-2026-ACC\\_1.pdf](https://nswdta.com.au/wp-content/uploads/2022/04/TNSW9659-Road-Safety-Action-Plan-2026-ACC_1.pdf)

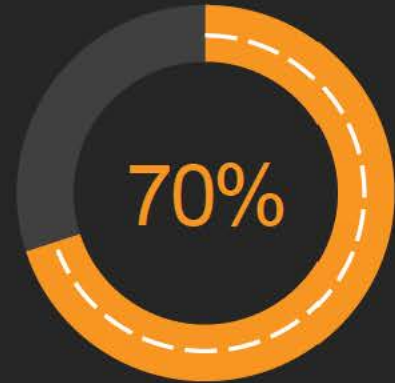


# Experience of road trauma by gender and family type

Bereaved individuals are more likely to be female.

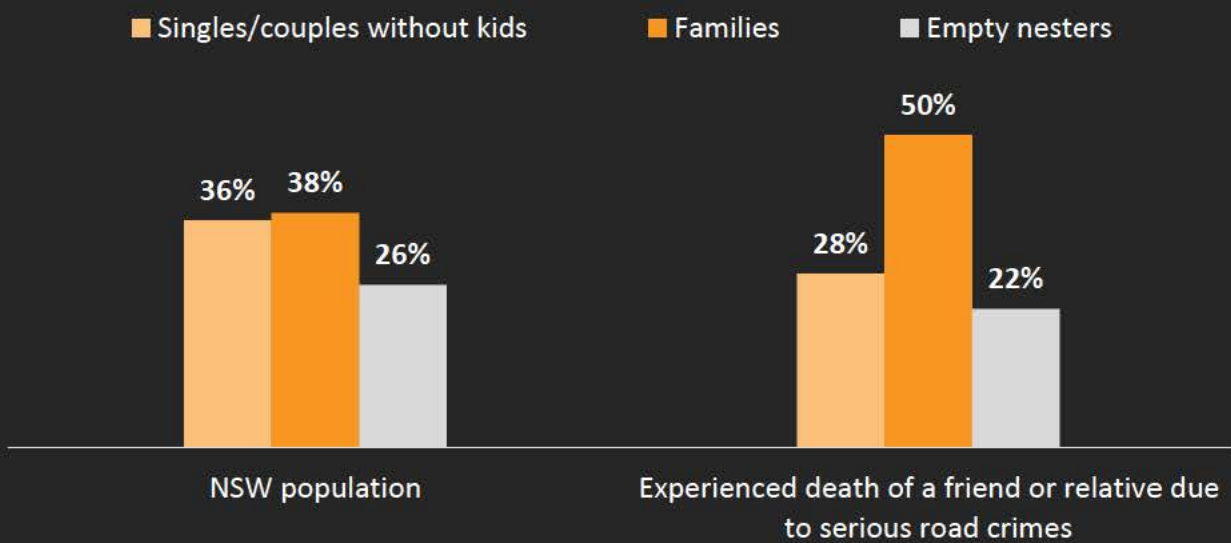
Those who have experienced the death of a relative or friend due to road crime are mostly female (with males representing 76% of road fatalities in NSW <sup>1</sup>).

Seven in ten (70%) of those who experienced the death of a relative or friend due to road crime in the last 10 years are female.



Family life stages disproportionately experience criminal road trauma.

Family life stages are significantly more likely to have experienced the death of a loved one in their lifetime due to criminal road trauma in NSW.



SOURCES:

1: Australian Road Deaths Database

Graph source: Fiftyfive5 primary research. Q: Do you personally know someone who was killed in a road crash? Base: n=2,102



Danielle\* lost her husband;  
her high school sweetheart and  
the father of her two beautiful kids

“

He was the light of everyone's lives, but he was taken away in the early hours of the morning not far from home on his way to work when he was hit by a speeding and intoxicated driver.

In those early days, Danielle couldn't eat, couldn't sleep but there were so many decisions to make...it was like having 100 tabs open. A couple of months following her husband's death, it scared Danielle that thoughts about suicide crept into her mind. She didn't want to imagine her kids growing up without their parents, so she decided she wanted to live life and give her kids a life as if their dad was still here. They have continued to go on adventures to honour their loved one and refuse to allow the perpetrator to take more from their lives than they already have.

\*Names have been changed for privacy



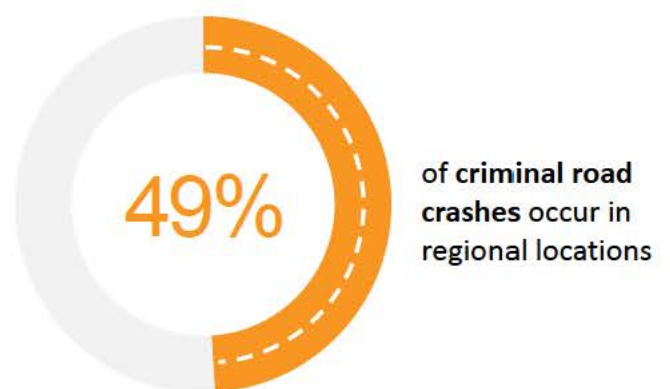
# Experience of road trauma in regional areas

Regional NSW has a higher proportion of road fatalities...

There is no publicly available data which describes the incidence of criminal road fatalities in metropolitan and regional areas of NSW.

However, this research has revealed that criminal road crashes that result in the death of another are more likely to take place in regional areas

compared to the population distribution. There are several causes of this, such as higher speed limits, roadside hazards, and poor road infrastructure. This has widespread implications for the infrastructure in place to support crash victims and their families.



Graph source: Fiftyfive5 primary research. Q: Do you personally know someone who was killed in a road crash? Base: n=2,102

“

We definitely don't have as big of a hospital as those in the city so for really serious injuries, we have to get them to Sydney. For families, this can be especially traumatic as their loved one isn't close to home.

-Medical professional

“

Sometimes finding the crash site is tricky and takes time. People only give us a vague idea of where they are (“On X Hwy, a few k's out of town”) as there are fewer landmarks and streets to reference.

- Police





We found out later that she didn't die straight away. A lady who lived nearby sat talking with her until she passed. As it was fairly remote it took a while for services to come.

### ...but victims (and professionals) in these areas have greater difficulty accessing support

Difficulty accessing support stems from two core factors unique to regional areas:

**Infrastructural differences:** In regional areas of NSW there is a greater reliance on driving as a mode of transport, as there are fewer public transport or rideshare options. There are also fewer hospitals (and fewer with a major trauma unit) to provide care when crashes do occur. Speed limits are also higher in less built-up areas.

**Difficulties in accessing crash sites:** In regional communities, the first people to discover the crash site may be members of the public who happen to drive past – which can take some time to occur. Compounding this, once the alert is raised, lifesaving help may be farther away as it takes longer to mobilise support such as first responders and the NSW Crash Investigation Unit (headquartered in Sydney). Delays in receiving medical care may exacerbate injuries and may lead to fatalities that could have been prevented with swift medical care.

These factors are compounded by attitudinal differences present in regional areas of NSW. Lack of alternative modes of transport (e.g. public transport, rideshare) means that it is

more socially accepted to drink and drive in regional areas. There is also less traffic – fewer cars on the road means there is a perception that it is not as risky to speed or drive dangerously, compounded by a prevailing thought that ‘it won’t happen to me... she’ll be right’. This research has highlighted the perceptions that underpin this attitude: 12% of those living in regional areas of NSW believe it’s OK to get a lift home with someone who shouldn’t be driving if that’s the only way to get home at night (vs. 9% of those living in metro NSW), and 15% think it’s OK to have a few drinks and drive (vs. 7% in metro areas).

Ultimately, in these more connected regional communities, there is a deeper ripple effect. The ongoing impact of the loss of the community member is felt more widely given the smaller population. Community members are more likely to know those involved in the crash - whether the victims, offender or both. Further, witnesses and bystanders may need to perform life-saving care whilst waiting for first responders. News travels fast in small communities, so often family members or other community members will present at the scene of a crash – further traumatising those who have seen the intimate details of the crash site.

There is a greater need for access to services and support for affected communities located in regional parts of the state.



# At any one time, people experiencing traumatic grief as a result of road crimes are trying to navigate multiple, intersecting journeys

Personal journey

Emotional

Mental

Physical

Spiritual

Behavioural

Legal

Financial

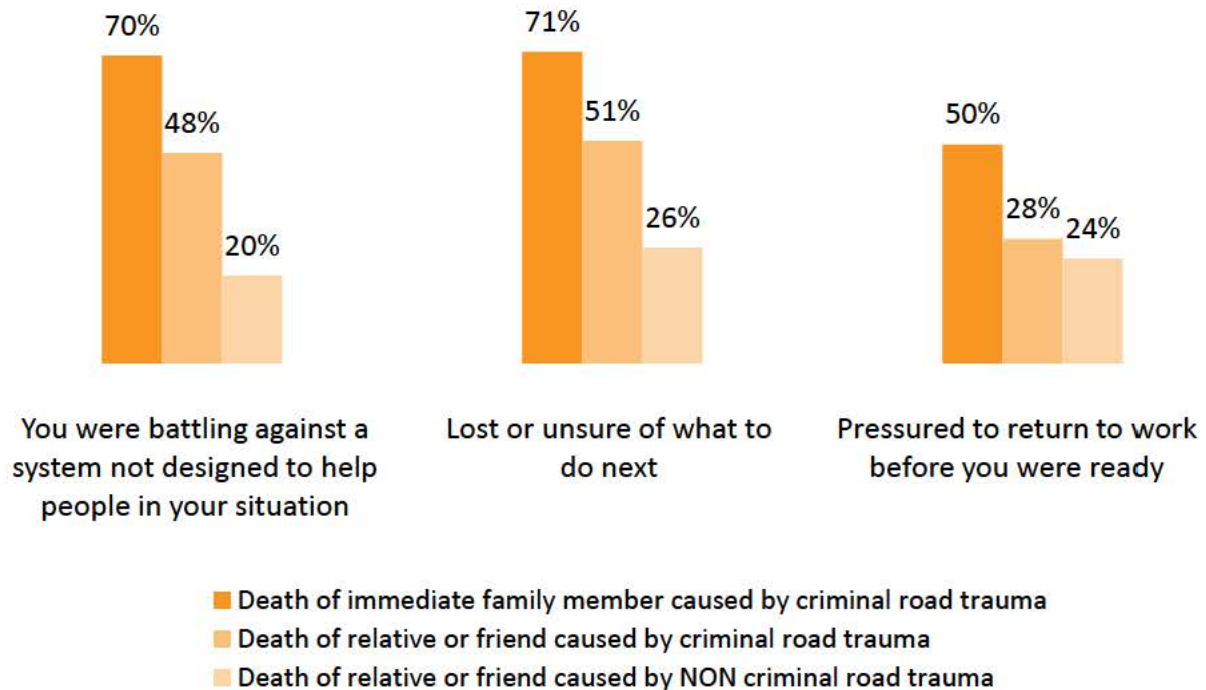
Social

Environmental

Supporting  
others

# The lived experience of fatal road crimes on NSW roads

Thinking about your entire experience since the crash, how much did you feel...  
(% who often / always felt this way)



Graph source: Fiftyfive5 primary research. Q: Thinking about your entire experience since the crash, how much did you feel... Base: n=108 to 566

## Those grieving due to criminal road trauma are...

- 2.4x more likely to often or always feel like they are battling a system not designed to help people in their situation
- 2.8x more likely to not be able to return to work after the crash
- 3.2x more likely to have a child drop out of school after the crash
- 3.5x more likely to not be able to pay their rent or mortgage
- 3.3x more likely to experience a decrease in performance at work or study (e.g. not get a promotion, lower grades)

compared to those grieving non-crime related road deaths in NSW.

Experiencing the death of a loved one due to the criminal act of another is uniquely harrowing. It is a different experience to losing a loved one in a road crash that didn't involve criminal behaviour. As such, the consequences for bereaved families are more intense, wide-ranging, and enduring.

Source: Fiftyfive5 primary research. Q: Have you ever experienced any of the following? Base: n=121





**2.3x**

Those grieving due to a road crime in NSW are **2.3x more likely to experience mental health challenges**, such as depression, anxiety, or PTSD, compared to those grieving non-criminal road deaths<sup>3</sup>

## Mental distress

The unique stressors associated with losing a loved one in fatal road crimes put victims' families at a higher risk of mental distress. The criminality of this type of road trauma creates a more severe impact on mental health in the long-term compared to non-criminal road deaths.

Research has shown that bereaved family members are more likely to have severe mental disorders than the actual survivors of motor vehicle crashes and their family members. Research has also demonstrated that 31% of bereaved family members are at high risk for mental disorders<sup>1</sup>.

Following the violent death of a child, parents experience depression, anxiety, hostility, and other distressing symptoms now commonly defined as mental distress<sup>2</sup>.

---

SOURCES:

1: Ueda et al., 2017 in Tsujimura-Ito, 2019. State of damage to and support for victims of motor vehicle accidents in Japan.

2: Derogatis, 1992 in Murphy et al., 2002. The aftermath of the violent death of a child: An integration of the assessments of parents' mental distress and PTSD during the first 5 years of bereavement.

3. Fiftyfive5 primary research

# Complicated grief

Prolonged Grief Disorder (PGD, or complicated grief) is more likely to occur if the death is violent or abrupt. PGD symptoms are chronic and persistent, including excessive bitterness or anger, unease, numbness, detachment and loss of meaning in life<sup>1</sup>, and highly associated with suicidality<sup>2</sup>.

Among the bereaved family members of those killed in a traumatic event, including those caused by motor vehicles, the prevalence of PGD is 1 in 3 (32.7%)<sup>3</sup>.

Complicated grief has implications for how bereaved family members of road trauma victims are treated by the various systems they interact with post-crash – most notably, the CTP claims scheme.

The “injury” that occurs following the traumatic death of a loved one is psychological in nature. It is not a physical injury and requires a bespoke process to adequately support impacted families. See pages 90-93 for more.



**32%** have thought  
about committing suicide

among the immediate family members of fatal road crime victims in NSW

Source: Fiftyfive5 primary research. Q: Have you ever experienced any of the following? Base: n=121

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#### SOURCES:

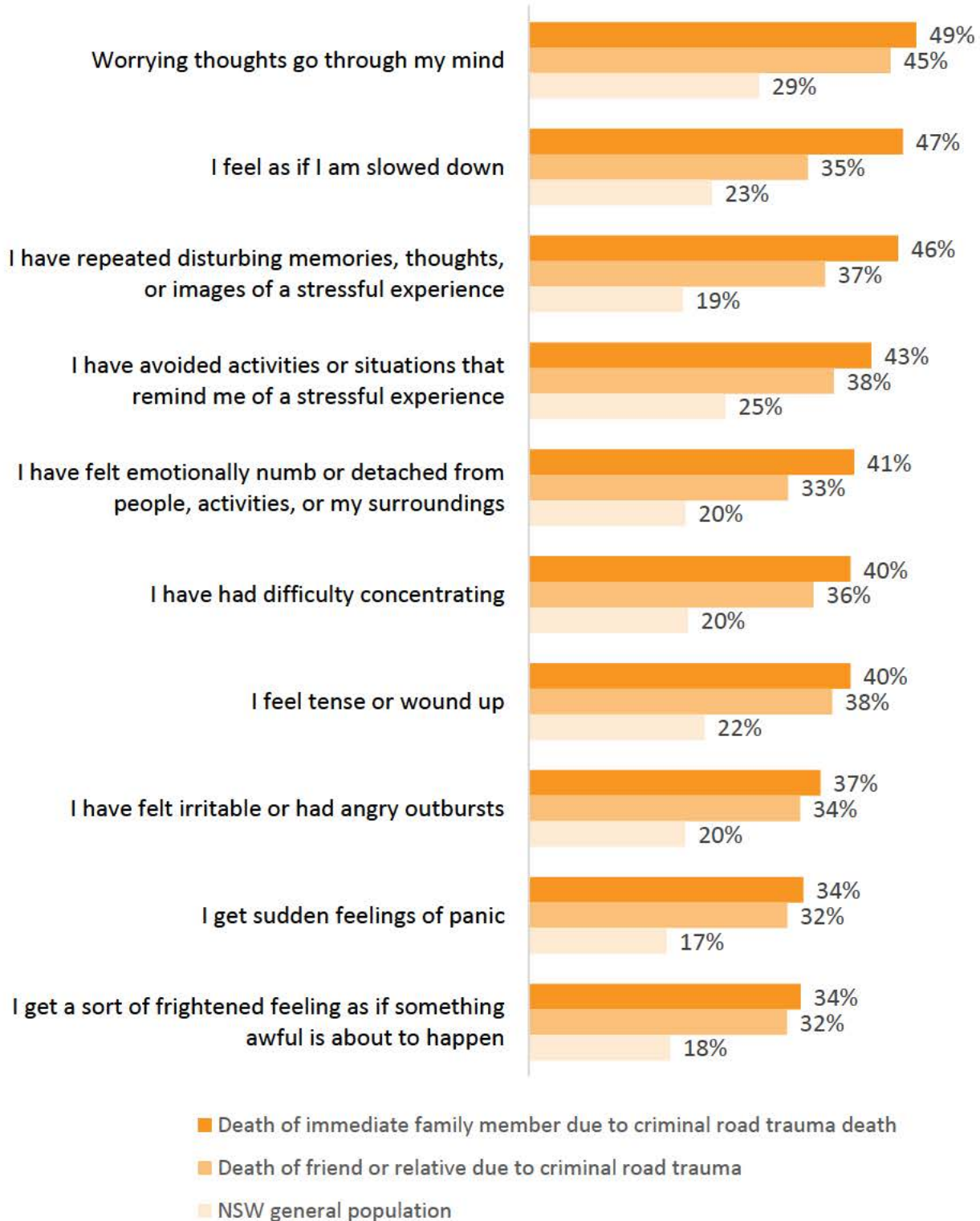
- 1: Prigerson, Holly, 2004. Complicated grief: When the path to adjustment leads to a dead end.
- 2: Heeke et al., 2019. A systematic review and meta-analysis of correlates of prolonged grief disorder in adults exposed to violent loss.
- 3: Shirai, 2005 in Tsujimura-Ito, 2019. State of damage to and support for victims of motor vehicle accidents in Japan.



# Mental & emotional health

Averse emotional indicators are significant among those touched by criminal road trauma.

(% experienced in the last month)



Graph source: Fiftyfive5 primary research. Q: Below is a list of statements that people might say in response to life experiences. To what extent have you experienced these in the past month? Base: n=2,102

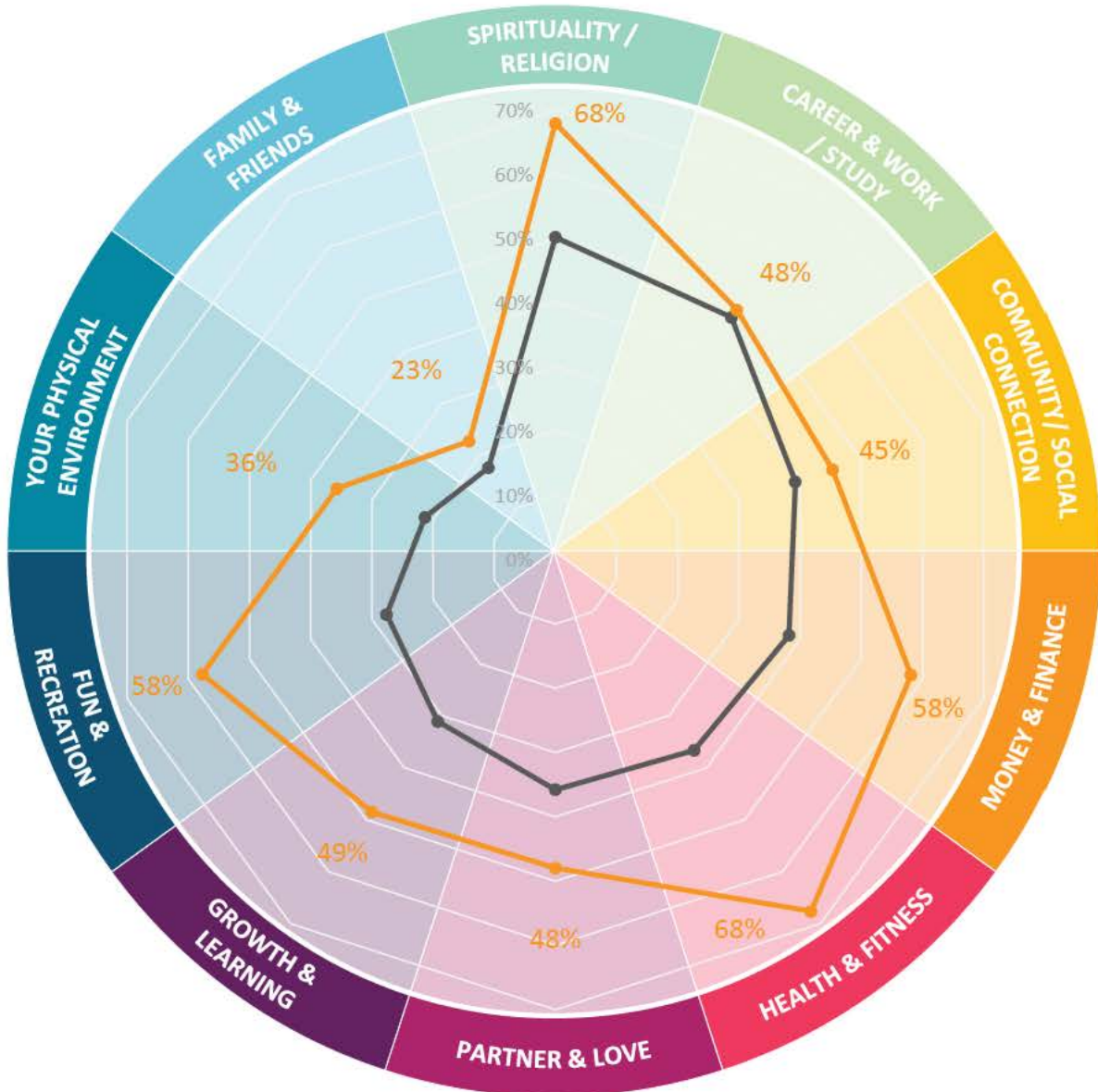


# Life satisfaction

The experience of criminal road trauma infiltrates most facets of life. Dissatisfaction is greatest for aspects of spirituality, finance, health & fun.

(% dissatisfied / neutral with each aspect of life)

- NOT experienced road trauma
- Death of immediate family member due to criminal road trauma, last 10 years



## VISUAL DESCRIPTION:

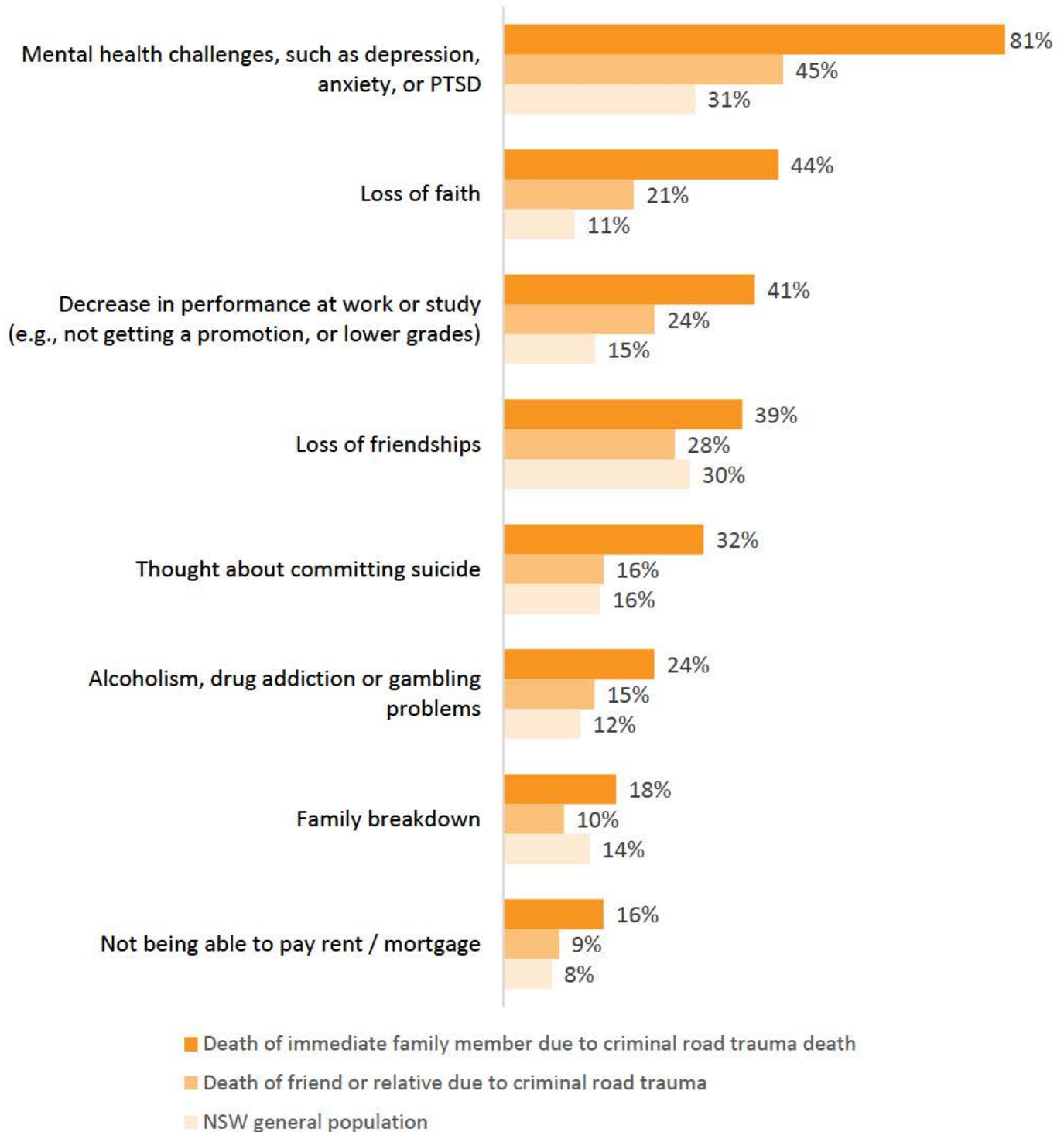
% scores represent feelings of dissatisfaction or neutrality towards each life domain. The closer the line is to the outer edge of the wheel, the more dissatisfied the cohort is on that aspect of life. For example, 58% of those who have experienced the death of an immediate family member due to criminal road trauma in the last 10 years are dissatisfied/neutral towards money and finance aspects of their life.

Graph source: Fiftyfive5 primary research. Q: To what extent are you satisfied or dissatisfied with the following aspects of your life? Base: n=2,102

# Adverse life events

Individuals most closely impacted by criminal road trauma are significantly more likely to experience adverse life events such as mental health challenges and a decrease in performance at work or study. This reinforces the chronic emotional impact and immense economic implications for those experiencing the death of a loved one due to fatal crimes on NSW roads.

(% ever experienced each adverse life event)



Graph source: Fiftyfive5 primary research. Q: Have you ever experienced any of the following? Base: n=2,102

Among the immediate family members of victims of fatal road crimes in NSW:

**1 in 4**

have experienced alcoholism, drug addiction or gambling problems

**44%**

have experienced a loss of faith

**32%**

have thought about committing suicide



**4 in 10**

have experienced a decrease in performance at work or study (e.g., not getting a promotion at work, or lower grades)



I'm in my 40s and I talk to people in their 70s who have experienced a loss like mine and I just don't know how they kept on going, living with this sadness and emptiness for 30+ years...

Graph source: Fiftyfive5 primary research. Q: Have you ever experienced any of the following? Base: n=78



# Impacts of road trauma vary depending on the relationship to the victim

Variability in responses and reactions to traumatic grief can result in different family members requiring different types of support and help to understand each other.

## Parent

- Devastation of the loss of a child is a very unique form of grief
- Many report feeling unable to parent, and needing to rely on others or seek help
- Parents may respond differently to each other, leading to additional pressure & stress
- If they have other children, they will need to work out how to explain what has happened and determine how to support the children in their grief (which may differ from how the parent grieves)

## Partner

- Intense feelings of loneliness in a now empty home are common
- Especially for younger couples, the partner can feel like their future has been robbed from them
- Additional difficulty if children involved and they're now the sole caregiver
- Can be tensions with partner's family if wishes, approaches, or responses to the death differ
- Differing entitlements depending on legal status of relationship can create additional hurdles

Gail\*'s eldest son was killed in a drug driving crash.

She was forever changed, and for many years withdrew and self-medicated in an attempt to drown out her grief and trauma.

She acknowledges that she wasn't able to be there for her children, and fears this has led to irreparable damage with her daughter Sally\* who no longer speaks to any of the family.

Gail didn't have the help or support she needed to be able to look after herself, let alone her children. She struggles with ongoing feelings of guilt and remorse, whilst also still processing the loss of her eldest son.

George\*'s wife was killed by a driver who was deliberately speeding and had a long history of driving offenses.

Before the crash, they were just an ordinary family going about their business, doing things together as a family with their young children.

The loneliness that George has felt since his wife died has been palpable and devastating. He regularly feels empty, as his wife was the foundation of the family and the glue that held everyone together.

George still has some of her things in their bedroom, her clothes hanging in the closet, photographs throughout the house, etc.

Sometimes George will have some fun and his spirits will be lifted, but then when he gets home it's back to the reality that his wife is never coming home.

The unique nature of the grief experience for different individuals should be reflected in the support services made available to them, e.g. specific support for parents vs children.

## Sibling

- Age can have a significant impact on understanding & response
- Younger children may lack ability to comprehend
- Older siblings (esp. teenagers) may have difficulty in processing, and withdraw, lash out/self-destruct, or even try to ignore the situation

## Child

- Young children grieve very differently to adults, and can often struggle to understand what has happened
- The cognitive impact presents differently - e.g. nightmares, lack of motivation, or decline in school performance
- There is greater potential for ongoing / future problems if not properly supported
- Different children in a family can respond in different ways
- If both parents are killed, there is an immediate & ongoing need for care of children

Alyssa's\* son Matt\* was killed a little over 12 months ago.

Alyssa's other son Michael\* always suffered from emotional difficulties and anxiety...this has ramped up since Matt died.

Michael and Matt were like twins, being 6 years and 1 day apart. Michael worries for his own childhood as he grows up, hoping that his parents don't wrap him in bubble wrap.

He had to grow up quickly after Matt died, and he now carries a deep worry that he will lose others close to him.

Since Oliver's\* son's death, he and his other sons have all changed – in their attitudes towards life and at times, with their behaviour.

Oliver's son was killed as a child, with his other kids still young themselves.

Since then, all of Oliver's other kids have had behavioural challenges.

They acted out at school, none have ridden a bike again (and haven't been able to teach their kids to ride one), all delayed getting their car license and some have almost taken the law into their own hands, lashing out at the offender when they cross paths in their small town.



# The full extent of the individual impact of road trauma due to the criminal act of another is **immeasurable**

*Country road, dark, on a bend, 5 minutes from home. Will never forget her and what a sudden end to her vibrant life.*

*The impact was that her father committed suicide a year later having not recovered from losing his daughter in the crash.*

*No person should be woken **Christmas** morning, by a sobbing sibling, sharing the news that his brother had been killed the night before.*

*The prolonged 18 months of court appearances and then **NO SENTENCE** at the end was **unbelievable cruelty** in addition to the permanent loss of our beautiful boy.*

*Reckless driver crossed 3 lanes to hit my loved one. **My 2 young sons were left fatherless.** Other men in the vehicle sustained serious injuries. My loved one died instantly. **Our lives were devastated.** I was the sole breadwinner after the incident.*



# It is also **enduring** – with the impacts still felt by the family decades later

*My other friend survived because he had fallen asleep across the back seat and was protected. He hasn't been mentally well since the crash.*

*It destroyed my life. Afterwards I was completely alone & spent 2 years on the streets.*

*My cousin passed away in 1995. Her mother never fully mentally recovered.*

*The driver sped away from a police checkpoint as he was unlicensed. When chased he lost control because of the speed he was travelling at. One life lost that day, and another two with **ongoing physical & mental health problems** as a result.*





# Existing support mechanisms



# Existing support mechanisms

Families who suddenly lose a loved one to road trauma find themselves lost, trying to navigate unfamiliar systems with no idea where to start. They do the best they can to work out where to find support and what to do next, but their experience is haphazard and traumatic, leading to compound trauma and immense psychological burden.

There are glaring deficiencies in existing support mechanisms in place, and a complete lack of effective and connected support systems to adequately help victims through the experience.

Investigation into the lived experience of criminal road trauma highlights:

1. Lack of **consistency** in how these events are initially treated, reported and managed across NSW
2. Lack of a **defined support pathway for victims** who can struggle on a self-directed journey, with mixed success accessing help when they need it
3. Lack of **collaboration and understanding** amongst professional organisations and individuals who play a role in the experience.

*The processes and support are so self-led and if you don't know where to go or what to do (which you don't – how could you know?), you are lost.*



*We felt like we had just been left floating and abandoned – drifting off, further and further away – no one cared. Their lives and our lives don't matter. No one really cares or is invested in helping us.*

*The police tried but there is no support for victims of crime at court. I had no idea what a court even looks like. I didn't know where to go, if I can sit down, that I had to bow to the magistrate. The information is gibberish. Workers try to help but they've got a docket a mile long and no time.*

*It was just lucky that a family friend was a lawyer and could guide us. I really don't know what we would have done otherwise because we weren't told anything.*

*There are only limited Witness Support Officers and only so many cases they can take on. Road-related incidents are not the 'priority'. It is so confusing and difficult for people like me that don't have someone there telling them what's happening.*

The ideal is a connected system which links people to services and supports following the crash. With the right information and resources at each step, they are connected to the right professionals at the right time, and supported in their journey which prevents further traumatisation and allows families to move through the grieving process.

“

**The mechanisms and systems in place need to be like a metal chain—strong, connected, all playing a slightly different role, working towards the same goal.**

# Involvement in post-crash activities

Every person impacted by road trauma has a different experience.

Experiences vary primarily based on relationship to the victim, but also age of the victim, location of residence, etc. With differing experiences come differing support needs.

Both victims and professionals portray the post-crash experience as punctuated with a lack of adequate systems and support. One of the largest issues appears to be vast inequalities and inconsistencies in the availability, awareness and distribution of support services.

There is wide variation in the post-crash activities that family members experience.

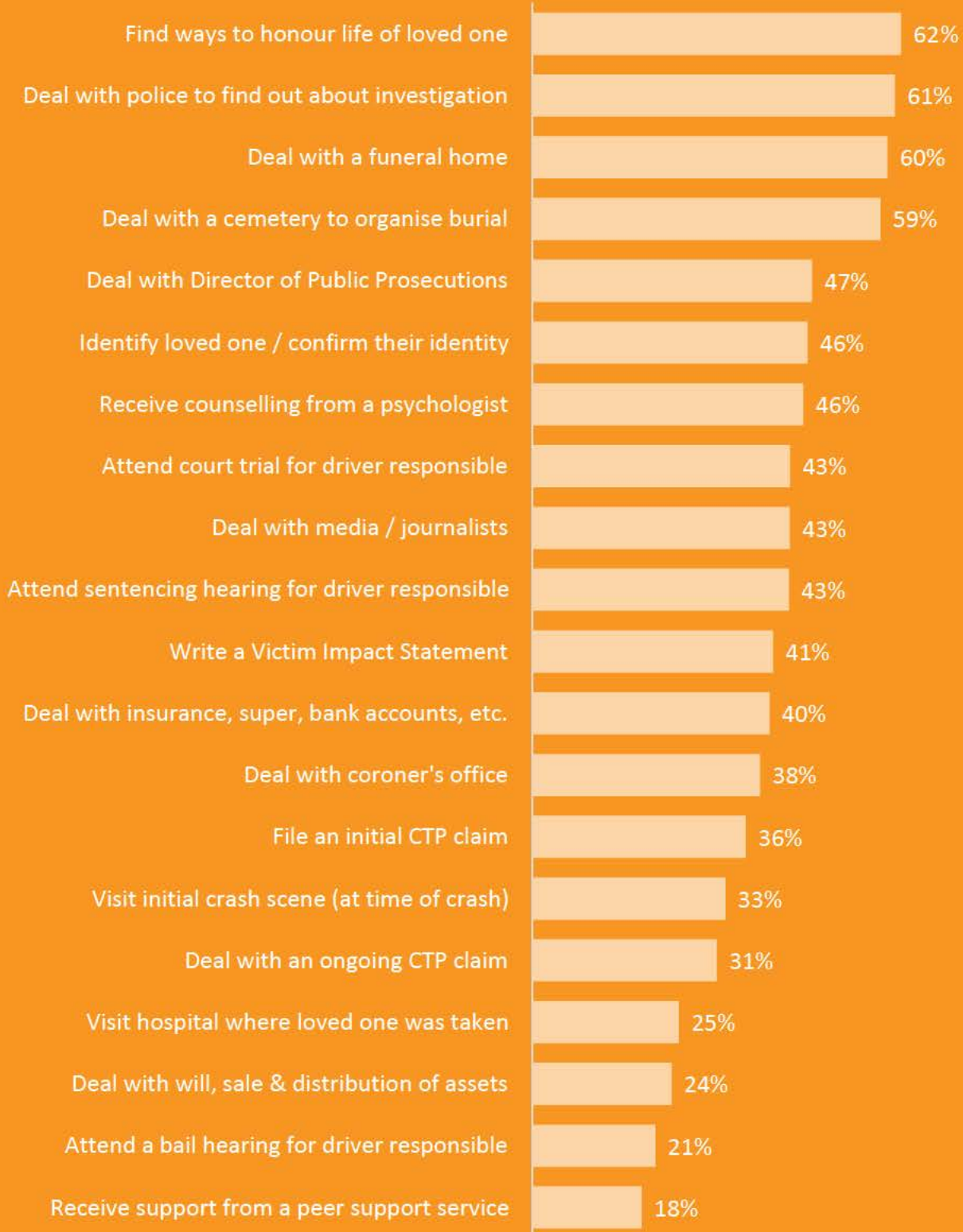
Tellingly, only 18% of family members surveyed report receiving support from a peer support service. Without support from someone who has gone through a similar experience, family members find themselves lost and lonely, trying to navigate unfamiliar territory, which compounds the trauma already experienced.





## Post-crash touchpoints

(% of family members who lost a loved one due to criminal road trauma and experienced each event)



Graph source: Fiftyfive5 primary research. Q: After the crash, which of the following have you been involved with (if any)? Base: n=74

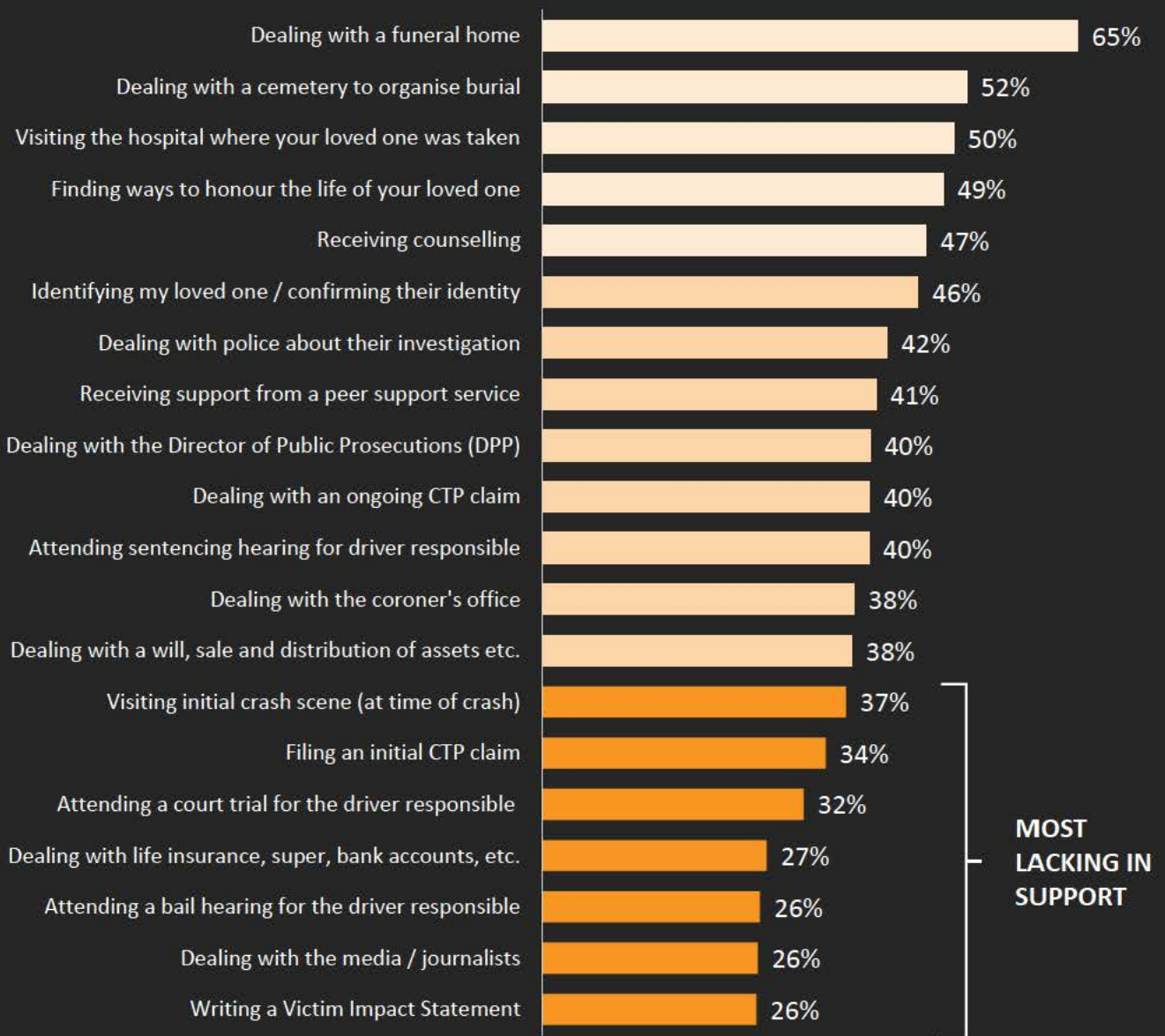
# Support gaps

Personal experiences navigating insurance claims, the media, and court processes reveal glaring gaps in the support available for individuals impacted by criminal road trauma.

Findings from the research expose the post-crash activities where support is most lacking. Only the minority of individuals involved in processes such as insurance claims and court processes felt supported in these undertakings (between 26-37% of individuals). There are clear opportunities for intervention that have emerged in light of these findings (see 'Implications for policy, service, and practice' section of this report for more).

## Support received in post-crash activities experienced

(% received a great / good deal of support at each touchpoint)



### VISUAL DESCRIPTION:

The chart depicts post-crash activities where those involved feel most supported (top of the chart) and areas where support is lacking most (bottom of the chart).

Graph source: Fiftyfive5 primary research. Q: We'd like to understand the level of support you received across the experiences you've had. This could be any type of support e.g., emotional, financial, informational and it could come from friends, family, or professionals. Base: n=19 to 181



# In their own words

*We were told we weren't allowed in court, but the driver's family had been given access to a viewing room... Why are they getting special treatment? Our son was killed by their son.*

*I've never been to court before... I went in shaking because I was so anxious. Then the driver walked in and I couldn't even look at him. I was so, so angry with him.*

*We had to go to a Barrister because the insurer sent a letter saying it wasn't their problem our son had died, and rejected the CTP claim. We did get the claim approved after getting the Barrister to send them a letter. The insurance company is scum in my opinion.*

*I wonder how this is going to impact my other son in the future... he's seeing the guy that killed his brother get away with it and it worries me that he grows up thinking doing bad things aren't punished.*



# Impact of professionals involved

Families of road trauma victims interact with a range of professionals in the days, months, and years following the crash. These professionals have a profound impact on the family's experience.

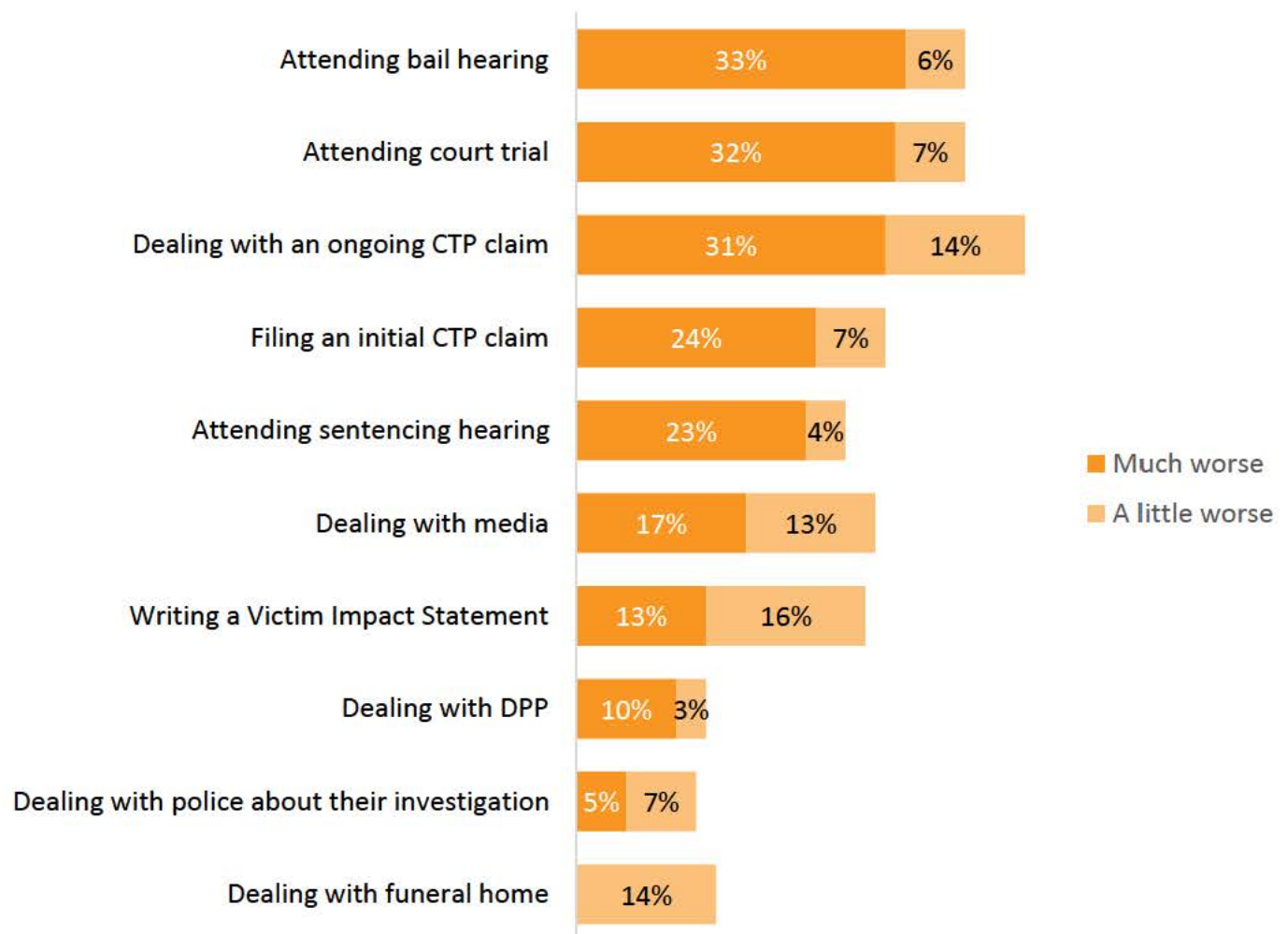
There is large variation in the experience with professionals – with some families reporting interactions that alleviated their grief at the time (or at least had a neutral impact), and others reporting ongoing frustrations and a sense of fighting an uphill battle against the system.

Unfortunately, it is common for professionals to make the experience worse for families. Professionals want to help, but they are often under immense pressure due to a lack of adequate systems, support, and training.

Dealing with professionals that relate to court and CTP claims have the highest potential for re-traumatisation along the road trauma pathway.

## Impact of professionals dealt with at each touchpoint

*(% of family members who said the professionals made their experience worse or much worse)*



Graph source: Fiftyfive5 primary research. Q: Thinking about the professionals you dealt with, did they make your experience better or worse overall?  
Base: n=18 to 56



Systematic errors or inadequacies that contribute to professionals making the experience worse boil down to five key factors.

1. Professionals can be unprepared and inexperienced, and unable to tailor their interactions with the family to suit the traumatic nature of the crash.

*"Timing had it that I was walking into my apartment complex at the same time the police were coming to tell me my partner was killed in a serious crash. They asked me what unit number I was in and my name, then turned to each other and said 'shit, that's her'..."*

-Bereaved family member

2. Current legislation is inadequate and is failing victims and their families.

*"Often, if we charge a driver with a crime, they'll get a lighter fine or just demerit points when they go to the magistrate than if we just give them a ticket." -Police officer*

3. Lack of resourcing and funding can prevent professionals from providing support.

*"I have closed off my waiting list because I am so busy. It can take months and months to see a grief counsellor and for someone who needs or wants help now, it can be hard to have that patience and resilience to keep trying to find someone that is available." -Grief counsellor*

4. Lack of access to relevant information or support (for the families and/or professionals involved) means professionals can't always do their job.

*"When we have someone that is going through the courts for a road crime, it is more difficult to find help and support for the families than other crimes because there is nothing specialised for it. It makes our jobs harder in that sense because we have to work harder to find them services."*

-Witness Assistance Officer

5. Simple systematic, administrative, and logistical errors compound the trauma that families experience.

*"The traffic surrounding my son's crash and death was diverted past my house..."*

*"My young son, who had just seen his brother get hit by a car, sat on the side of the road for 45 minutes before walking home to tell his mum that his brother had died. Nobody – bystanders nor professionals – had noticed him there."*

*"I was sent a subpoena in the mail relating to my husband's death even though I wasn't there at the time. I was told sorry, we accidentally sent that to you..."*

-All quotes from bereaved families



These factors often contribute to secondary traumatisation, explored further overleaf.

# Secondary traumatisation

Secondary traumatisation occurs through ongoing exposure to systems and processes.

This includes media coverage and contact with the criminal justice system, which can constitute an additional burden for the next of kin<sup>1</sup>, frustrating encounters with the police, the justice department and insurance companies<sup>2</sup>.

**Constant re-traumatisation inhibits ability to process, grieve and heal.**

## Circumstances contributing to secondary traumatisation

### Uniqueness of the criminal process

Often a protracted process, families fight for justice for their loved one but often feel the system is set up to favour offenders, not victims. It can be traumatic seeing the offender in court, and distress is caused when their loved one's experience is minimised and/or the offender is portrayed sympathetically.

### Difficulty accessing tailored support

The professionals who support those affected by criminal road trauma do not tend to have the skills or experience to offer personalised support for the circumstances. This includes lawyers, police, CTP insurers, etc. It can also be difficult for families to find counsellors with specialised expertise in road trauma grief.

### Offender released in community while awaiting trial

Families struggle with the psychological impact of knowing the offender is 'free' but their loved one has died. This is particularly challenging in regional areas where there is a good chance of seeing the offender out in the community.



The court process is very drawn out. At each court hearing you're re-living the crash and therefore your anxiety is through the roof.

### CTP not tailored to psychological injury

As described further on page 90, the CTP claims scheme does not differentiate between physical and psychological injuries. Families are saddled with the burden of proving their losses, which are in many respects unquantifiable. It feels impossible to assign a dollar value to their loved one's life.

### Media reviving cases

The media tend to revisit cases during key milestones, e.g. court outcomes, which are already highly emotionally charged and stressful without the added pressure of the media spotlight. Media will also revisit the case when other similar crashes occur, catching families off-guard when they turn on the news and see their loved one's story. Further, the media can sometimes encroach on the victim's privacy, accessing social media and sharing photos without permission from the family.

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#### SOURCES:

1: Gintner G. G. (2001). Sudden and violent loss: Clinical guidelines for the screening and treatment of survivors. In Sandhu D. (Ed.), Faces of violence: Psychological correlates, concepts and intervention strategies (pp. 355-376). New York, NY: Nova Science.

2: Lehman, DR, Ellard, JG, Wortman, CB, Williams, AF: Long-term effects of losing a spouse or child in a motor vehicle crash. J Person Soc Psychol 1987;52:218-231.



# Spotlight on secondary traumatisation caused by the judicial process and the media

**Stephanie\* and Bruce\* lost their son when he was 26 years old. When they got the knock on the door at 2am, they said to police they must have the wrong person, everything felt so surreal.**

The first year without their son was just a blur. They didn't have anyone or anything to guide them, especially through the court system which was the hardest part.

Facing the judicial system and the offender was an incredibly stressful experience, laced with heightened emotions. The court process was drawn out and traumatising. Hearings kept being postponed for no reason, and at one point the offender fired his legal team (in what looked like a purposeful attempt to delay court proceedings). Time dragged on and on while they waited for justice for their son.

The court process revealed completely new information about the crash which caught them off guard, and there were shocking descriptions and images of their son shown in court. Describing the crash as an "accident" was infuriating particularly as the offender showed little remorse.

The worst experience was doing the victim impact statement as they weren't notified or prepared that they would be so close to the offender in court. It was traumatic being so close to the person who took their son's life and trying to put into words the devastating impact of the offender's actions, while he was staring at them.

During the court proceedings, at times it felt like the offender was portrayed sympathetically. Stephanie and Bruce expected the offender would go to jail because he killed someone, but sometimes it looked like he would walk free.

It took 1.5 years from the time of the crash to the offender going to jail. In the meantime, Stephanie and Bruce were trying to fight for justice for their son, but felt like it was an uphill battle, with the system working against them.

The media made this worse – they kept publicising the case at key milestones. They also referred to the details of the crash whenever another crash happened – so Stephanie and Bruce would sometimes turn on the news and see their son's story splashed across the television.

\*Names have been changed for privacy





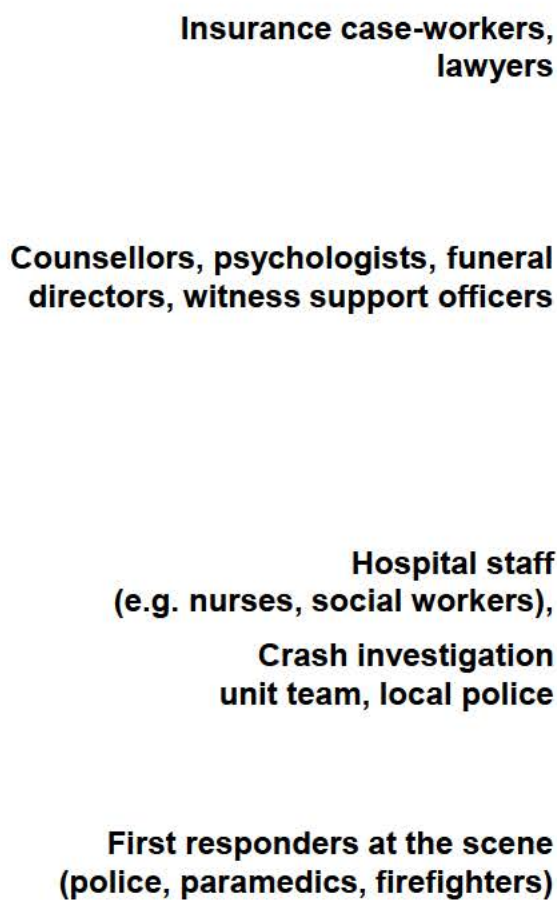
A dark, atmospheric photograph of a modern building interior. The scene is dimly lit, with warm, yellowish light from recessed ceiling fixtures and a street lamp visible through a large opening. The architecture features prominent, thick concrete pillars and a ceiling with a grid of beams. A thick, white mist or smoke rises from the floor, creating a sense of mystery and depth. The overall mood is somber and contemplative.

**The experience of  
professionals  
involved**



# Road trauma impact on professionals

The impact of road trauma extends to professionals who are involved throughout the experience.



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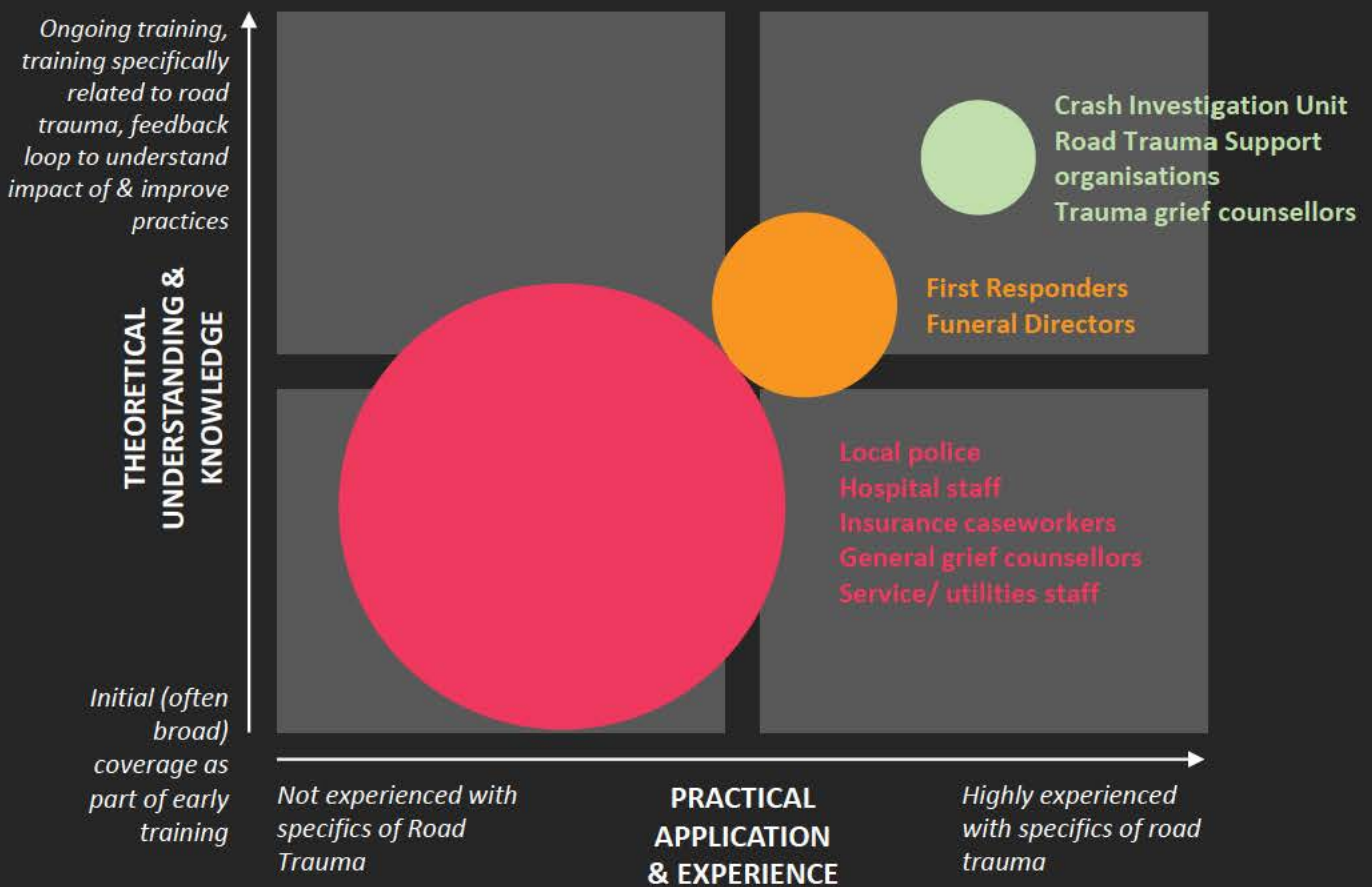
## VISUAL DESCRIPTION:

The darker coloured centre of the circle represents the professionals generally closest to the lived experience of criminal road trauma, including crash sites and/or the time immediately following the crash.

# Training and support for professionals

There is mixed availability of training and support for professionals.

The majority have minimal practical experience when it comes to specific instances of criminal road trauma, which is compounded by a lack of specialised training in this area. Only a minority of certain professions are equipped with specialist theoretical understanding and practical experience for road trauma events.



If professionals are unprepared and inexperienced they have the potential to make the victim's experience much more difficult. They are also at risk of greater trauma and suffering themselves if, despite their training, they become involved or emotionally affected by the victim's experience. This is explored in more detail on pages 80-81.

There is an opportunity and urgent need to implement specialist training and offer support for professionals who are most at risk of exposure to road trauma to improve the outcomes for all.



# Expectations of the role of professionals

A chasm exists between the bereaved family's expectations of professionals and the reality of what their roles entails. This tension appears throughout the post-crash experience, frustrating both bereaved families and the professionals themselves.

As there is no existing integrated pastoral care, or 'guidebook' for how to navigate the systems and processes thrust upon bereaved families, often families will look to the professionals they interact with for support, help, and guidance.

However, these expectations are often outside of the remit of the professionals' role, and/or are pushing the boundaries of the professionals' training and skillset.

Roles need to be more clearly defined to enable professionals to focus on their job.

These findings also reinforce that there are large gaps in the types of support needed by victim's families. Significant reform is required to link families to relevant services and reduce their over-reliance on the professionals involved.





# Spotlight: Expectations vs. reality for police

The role of police is to investigate fatal crashes and protect the integrity of their investigation. However, as one of the first professionals that families come across, families often turn to police for information, support and regular updates because they don't know who else to go to. This can lead to friction and high pressure placed on police who are unable to assist- even if they wish they could.

Families want support, detailed information, and regular updates about the crash investigation. They want to be across the details so they are prepared for the upcoming trial. They also often need help with knowing what to do next, who to speak to, where to go for support etc.

These expectations are in stark contrast to the reality for police. Their role is to investigate carefully and thoroughly, follow procedures, and ensure they do not jeopardise the investigation. Their time and efforts are focussed on carrying out their duties, not providing care and support to families.

## Families

You need to tell me everything

I want access to you for information and support and any updates

Tell me what to do, who to speak to, what comes next

Your job is to help me

I'd like to talk face to face (especially in the early moments)

## Police

I don't have all the facts / can't be certain / can't provide info at this time

I have other cases to work on, I work in shifts and am not available some days

I may not be sure on what you need or who is best placed to help you

My job is to investigate

I can't be everywhere at once. Phone is more practical for me

# Spotlight: Expectations vs. reality for CTP insurers

Insurers and families are at odds in their fundamental needs – resulting in friction and stress throughout the claims process.

Insurance companies play a critical role in ensuring families are looked after financially in the short to medium term.

However, CTP claims involving fatalities are treated the same as CTP claims for injuries.

Some families are resentful of having to “prove” their loss when the death of their loved one has had a catastrophic effect on every aspect of their life. The sensitive and private nature of the

information required by insurers (e.g. financial statements) can be seen to be intrusive and unnecessary.

Insurers are focussed on obtaining the evidence required to justify a claim for financial losses, but families often see them as untrusting organisations that are asking for impossible information during an unthinkable time.

This can lead to hostilities and insurers unable to “bend the rules” for grieving families, even if they wish they could.

While insurers and families will probably always be at odds to some degree, simple changes to how families are treated could achieve a great deal of benefit with minimal effort or cost.

## Families

You should be supporting me, not making this nightmare even harder

How could I ever put a dollar value on my loved one’s life?

I will grieve on my own timeline not yours

Don’t pressure me to do things I’m not ready for, I can’t pretend life will be “normal” again

I will never fully recover from this loss; the pain will stay with me for the rest of my life

You’re treating me like I’m on trial asking me for too much paperwork when I don’t have the capacity

## Insurers

Our role is to provide financial compensation for your loss and support you to earn an income again

We have to determine how much to pay you for the financial claim you are submitting

The quicker you give us the evidence to support your claim, the quicker we can help you

You are required by law to do your part for your recovery to get back to life pre-loss as much as possible

We are here to support your acute financial needs; we are not a long-term grief support network

You need to prove your financial losses, we can’t take your word for it because believe it or not, people can abuse the system





# Vicarious trauma experienced by professionals

Professionals are often repeatedly exposed to distressing scenes, and are at high risk of vicarious trauma.

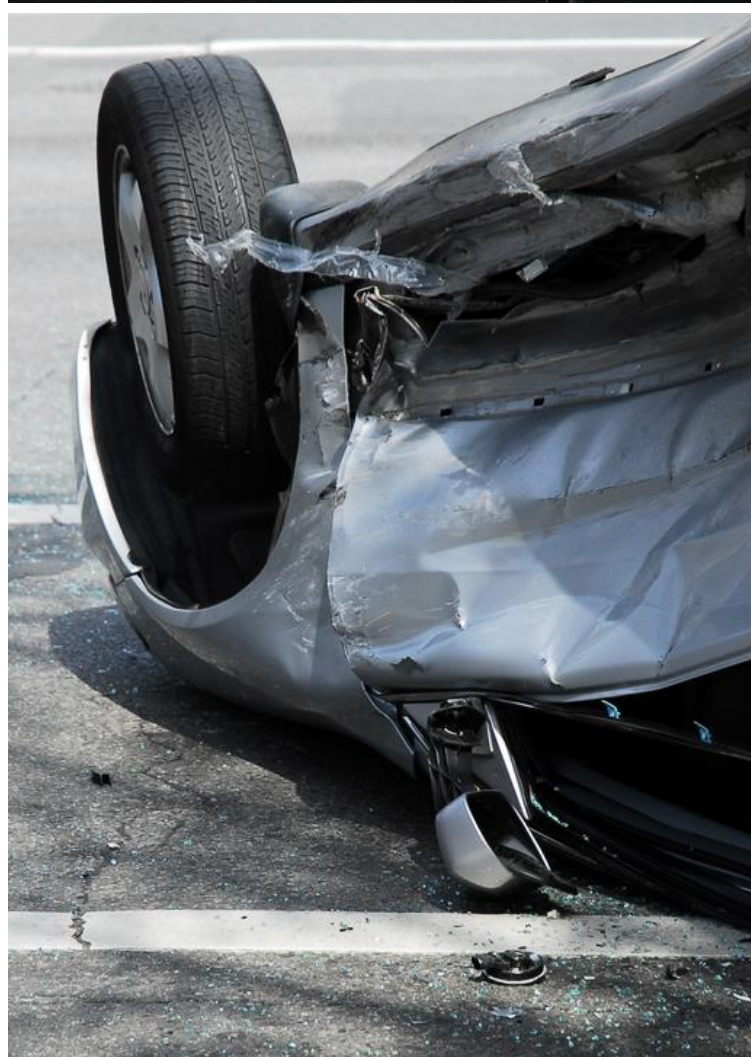
Particularly for first responders (such as those who visit crash sites, or see victims immediately after the crash), these roles are quite confronting and require an extremely high level of resilience to do the job effectively.

Professionals need to maintain an emotional distance to endure in their roles, particularly those involved with criminal road trauma cases most intimately or most frequently.

Often these professionals take great pride in their roles, knowing they are assisting families through traumatic events. But it can be extremely difficult to manage these competing needs – the need to offer support, but the need to maintain a level of emotional distance.

Vicarious trauma can cause professionals to burn out and to leave their roles.

**Greater support and education for those dealing with the bereaved is critical to safeguarding the welfare of both professionals and the community members impacted by fatal road crimes in NSW.**



*A young boy was hit by a car while riding his bike. We live in a small community and his death was the last straw for many – some police resigned or took an early retirement and a number of nurses transferred out of their department. It had such a huge impact on our community, and does to this day even more than 15 years on.*

*- Police officer*

*Over the past 6 months, we've had 20 people leave. Covid has put pressure on nurses like we've never seen before. We are consistently and repeatedly exposed to horrific things and don't have the time to process what we encounter. I fear for what the workforce is going to be like in another 6 months' time, and how those workers that stay will be doing.*

*-Medical professional*

*I had to identify the bodies of my sister and my nephew during a work shift as I was working in a hospital at the time. I did not even know they had been involved in a car crash.*

*-Medical professional*

*The hardest thing I've had to do is tell families one of their loved ones has passed away. We turn up to the door and don't want to give away that we have awful news, but can't be too bubbly either. We try to get inside and sit them down. Sometimes we don't have a lot of information, and sometimes it's too brutal to tell them. We call other family to come and be with them before we leave. We try to do everything we can to help them but once we have told them, we just have to move on to the next job.*

*- Police officer*

*Those on the front lines, speaking directly with bereaved families, are really at risk of vicarious trauma. They see sensitive materials like CCTV footage of crashes, coroner's reports with horrific details, etc.*

*We try to minimise exposure to this information and mentor our staff to make sure they are OK. Sometimes you just have to develop a thick skin if you're going to keep working on these sorts of claims.*

*- Insurer*

*I have been in the industry for over 20 years. It's not just a job to me, I see people at their most vulnerable and my role is to be compassionate and advocate for them. While it's very rewarding, it's tough. I see horrific things consistently and repeatedly and will often get emotional and cry – I'm only human.*

*-Medical professional*









**Implications for policy,  
service, and practice**



“

Just the existence of the Road Trauma Support Group will make an immeasurable existence to what people go through, but there is so much more work to be done.



# Introduction to this section

While it is impossible to fully alleviate the mental, emotional, and physical impacts of road trauma, there are clear opportunities to minimise the secondary trauma that bereaved families experience, and to better support families as they navigate the myriad of unfamiliar, complex systems and processes imposed upon them.

On the following pages we explore a range of potential reform initiatives: some legislative, some relating to the media that cover fatal road crashes, and some relevant to the broader NSW community.

For each, we have outlined the current situation and why this reform is needed. In some instances we have provided a case study to further illustrate the need for change.

Most reform opportunities were presented to the NSW community in the quantitative survey. Where relevant, we have outlined the percentage of the community that is supportive of each reform initiative (e.g. the percentage who believe each reform is an essential or high priority change).

Overall, there is widespread support for reform among the NSW community when it comes to criminal road activity that causes the death of another.



# Support for legislative reform relating to criminal driving behaviour

## Criminal charges reform

From the perspective of bereaved families, the unexpected and senseless nature of the death of their loved one compels a desire to see the responsible party adequately punished for their actions. There is a sense that the death could have been avoided if the offender had behaved differently – and not broken the law. For many their loved one is the victim of someone else’s terrible decision. This is compounded when the offender survives, but their loved one died.

Feelings of anger and frustration are common, and fuel an insistent demand for justice for the death of their loved one.

While sentencing is a separate issue (described in more detail on the next page), the sentences that apply to the offender are contingent on the specific charges they face. Hence, the quest for justice starts with the criminal charges that are applied to the offender.

In NSW, there are four criminal offenses which can apply to a driver who deliberately causes the death of another: murder, manslaughter, grievous bodily harm, or injuries caused by furious driving<sup>1</sup>.

The community was asked to consider whether they would be supportive of charging drivers with ‘vehicular manslaughter’ when they kill someone on the road.

A strong majority (62%) are supportive of this change.



are supportive of charging drivers with vehicular manslaughter when they kill someone on the road

“

I’ve come to realise that if you want to kill someone and get away with it, you hit them with your car.

### SOURCES:

1: <https://www.nsw.gov.au/topics/demerits-penalties-and-offences/offences/serious-driving-offences>

Graph source: Fiftyfive5 primary research. Q: How much of a priority do you give each of the following changes? Base: n=2,102

## Sentencing reform

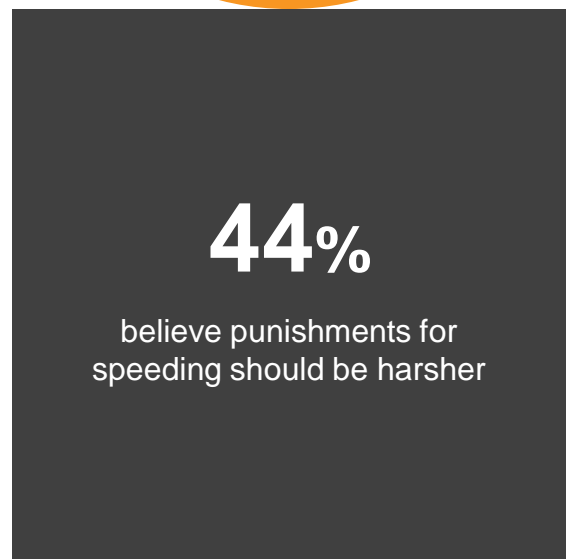
For bereaved families, the sentence the offender receives if found guilty is seen to be an assessment of the 'value' of their loved one's life. Families desperately seek justice and accountability.

The bereaved family will often believe there is a lack of justice if the convicted offender's sentence is minimal, or if they are a repeat offender. Sentences can be devastatingly low in comparison to the life lost, leaving families feeling justice has not been served.

This is compounded when the family expects the sentence to be similar to what would be handed down in the case of murder or manslaughter, which is not the case in NSW. In NSW, the **maximum** sentence that can be given to someone found guilty of negligent driving resulting in death is a fine of \$3,300 and/or up to 18 months in prison – compared to up to 25 years in prison for manslaughter<sup>2</sup>.

The NSW community was asked to consider whether punishments should be harsher for certain types of negligent driving. Among the NSW community, there is strong support for harsher punishments for people who drive while on drugs (73% of the NSW community agree that punishments should be harsher).

In addition, nearly half (44%) of the NSW community believe punishments for speeding should be harsher. As described earlier, the community is most tolerant of a low level of speeding compared to other risky driving behaviours. Although speed is a huge contributor to fatal accidents on the road, this behaviour is not seen in the same negative light as others such as drinking and driving (see page 34).



I was told from the outset that the offender was going to get off, or not the sentence I was hoping for. With road crimes, it's nowhere near a life in prison for a life taken.

### SOURCES:

1: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2013-018>

2: <https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/manslaughter.html>

Data source: Fiftyfive5 primary research. Q: How much do you agree or disagree with each of the following statements? Base: n=2,102



# Support for reform for professionals working with bereaved families

## First responder training

Currently in NSW, first responders (such as police, paramedics, firefighters) who attend fatal crash sites are not specifically trained in how to support the families who have lost someone in the crash. Only a small minority of certain professions and specialists are properly equipped to assist (e.g. trauma grief counsellors, road trauma support organisations).

If professionals are inexperienced, there are two significant consequences:

### 1. Negative impact on victims:

Inexperienced professionals have the potential to make the victim's experience more difficult. They can create additional distress when communicating with families, with some reporting feeling taken aback by cold, harsh conversations.

### 2. Negative impact on themselves:

Inexperienced professionals are at risk of greater trauma and suffering themselves if, despite their training, they become involved or emotionally affected by the victim's experience.

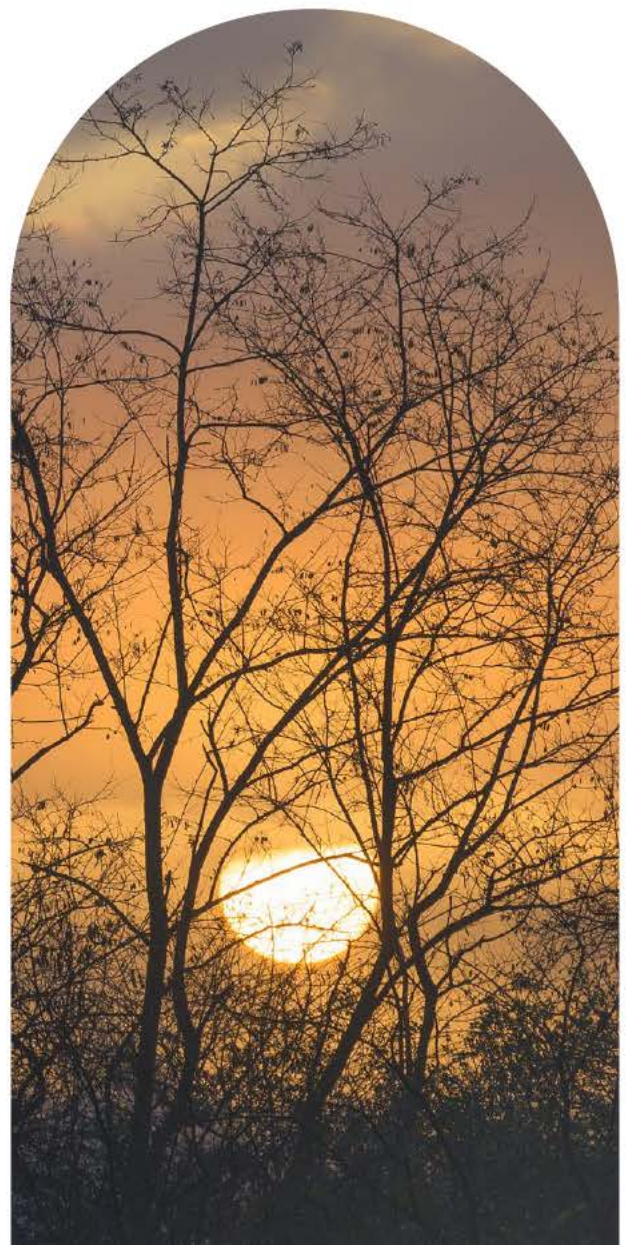
There is an opportunity to implement specialist training and offer support for professionals who are most exposed to victims of road trauma to improve the outcomes for all.

The NSW community was asked to consider whether there should be specific training for first responders so they better understand how to support the families who are affected. Seven in ten (69%) are supportive of this reform.

Data source: Fiftyfive5 primary research. Q: How much of a priority do you give each of the following changes? Base: n=2,102

69%

are supportive of specific training for first responders in how to support families who have lost a family member in a fatal road crash







“

Junior staff just don't get the exposure to complex scenes like a major crash. They'll be 3 years into their career and still either not know what to do or not feel confident in those situations... that's a problem.

-Police officer

“

We're actually not trained on language and 'best practice' ways to communicate with families. I do use the word "accident" but can see how this could be insulting or triggering... it's just second nature to call all road-related events accidents.

-Insurer

# Support for reform to support impacted families

## CTP claims scheme reform

After losing a loved one to road trauma, insurance companies play a critical role in ensuring families are looked after financially through the CTP claims scheme. Through this scheme families can claim financial compensation when they are unable to return to work and/or need to reduce their working hours.

Currently, the CTP claims scheme does not differentiate between physical injuries and emotional or mental injuries caused by traumatic events. The process is the same if the person making a claim is injured at work or if they have experienced the death of a loved one through the criminal act of another. The focus is on rehabilitation and returning the person to the 'same' state as before the crash – such as working the same hours in the same role as they did previously.

Families are at the mercy of processes which are focussed on calculating a dollar value of the life of their loved one. This compounds grief at a time when families have been stripped of so much, contributing to re-traumatisation.

Tailoring the legislation and insurer's processes to treat road trauma fatalities differently from physical injuries would prevent avoidable trauma.

The NSW community was asked to consider whether the CTP claims scheme should be tailored to account for the differences between physical and psychological injuries. Six in ten (62%) people in the NSW community believe it is an essential or high priority change to reform the CTP claims scheme to be tailored to account for the unique needs of those who have experienced the death of a loved one due to the criminal act of another.

More detail on suggested CTP reforms is presented overleaf.



We wondered if we were eligible for compensation so we got lawyers on board. They told us we'd qualify, but after a drawn-out process to determine 'mental capacity', we weren't eligible because we hadn't lost 13%-14% of our mental capacity (in the words of the insurance company).



# Spotlight on the CTP claims process



**Lisa\* and Ben\* lost their son when he was 19 years old, one year ago. Lisa can and will always remember that day as if it was yesterday when she got the call from her son's girlfriend.**

Lisa says she doesn't know how she got through this year, but hasn't really started grieving and has felt at times she's just been drifting further, and further away, with no support.

Not in the least because everything in this process has been so difficult on top of dealing with the loss.

Starting with invasive and relentless news crews who are misrepresenting what happened, with no escape from the news cycle, just hours after it happened to days and weeks after.

Then there was CTP, which she didn't know she was eligible for. She was lucky that someone referred her before the deadline to claim had lapsed, as the insurer wasn't proactive in reaching out to her to explain their obligations. It was so difficult to understand it all, the legislation is so complex.

Lisa was incredulous when the insurance company kept asking for financial documentation, as if they were trying to put a dollar value on their son's life. She felt like she was the one on trial, having to prove that her son's death had an impact on her.

She also couldn't understand why they kept focussing on what she was doing to get back to work, as if they didn't understand the cataclysmic loss she was experiencing.

The insurance company kept trying to minimise her 'injury'. In the end, the insurer bluntly said there was no access to compensation, as she couldn't prove 10% loss or more. There was no way Lisa and Ben could go back to work in full capacity.

They don't know how to get access to counselling support for their other son and for themselves down the track. They feel let down by the CTP system that is supposed to be there to help them while they get back on their feet. They also worry they will be worse off in the long term, as there's no early intervention available to help them at this critical time.





## 9 Ways to Improve CTP in NSW

The Road Trauma Support Group NSW (RTSG NSW) undertook extensive consultation with road trauma victims about their experiences with the CTP claims system to understand how best to reform the legislation. Those most intimately affected by road trauma (e.g. immediate family members of those killed) shared their experiences with CTP claims (initial lodgement, insurer review and determination of eligibility, and ongoing management of the claim if deemed eligible).

Following on from this consultation, RTSG NSW has developed nine recommendations to improve the CTP claims scheme for road trauma victims in NSW. A summary of each recommendation is provided here, and further detail is available on the RTSG NSW website:

<https://www.roadtraumasupportnsw.org/reform>

### 1. Consistency

The CTP claims experience varies greatly across insurers – some positive, others less so. It is a lottery based on which company is insuring the at-fault driver.

**Proposal:** Consider the merits of an independent body across all CTP insurers to manage all death claims to ensure greater consistency in management and administration of the most serious claims.

### 2. Administrative Burden

A significant amount of paperwork is required to be completed for each claimant at the worst time of their lives. This deters some family members from even making a claim – it's too hard, too intrusive, too controlling.

**Proposal:** Undertake simplification review to streamline necessary processes and policies to ensure those entitled to bring a claim are not deterred by the process.





# Support for language reform

## Reforming the language used to describe fatal crashes

Language is powerful.

If used carelessly or incorrectly, it can lead to greater distress for victims.

When fatal road crashes are caused by the criminal act of another, the criminality means there is another person at fault and the crash could have been avoided if the offender had made different decisions. Therefore the term “accident” is not acceptable to bereaved families. It can feel like an attempt to minimise the severity of the crash and its consequences.

Currently, both the NSW legislation and the media refer to crashes as “accidents” even when someone has committed a crime and killed someone.

The NSW community was asked to consider whether the legislation and media should use another word instead of “accident” when referring to road fatalities that involve criminal activity.

Half (50%) of the NSW community believe this is an essential or high priority change.



believe the legislation and media should **use another word** instead of ‘accident’ when referring to road fatalities that involve criminal behaviour



It was NOT an “accident” that took my husband. He was taken from me in the early hours of the morning not far from our house. He was on the way to work when he was hit by a speeding and intoxicated driver. His death would have been avoided if the other driver hadn’t broken the law. To call it an “accident” is just disgusting and insulting.

Graph source: Fiftyfive5 primary research. Q: How much of a priority do you give each of the following changes? Base: n=2,102





“

The term ‘accident’ is completely wrong. It’s a word that lessens the impact of what has happened. Even calling it a ‘car crash’ lessens the impact in the sense that it seems like the car was at fault, not the idiot behind the wheel. One of my life’s goals is to get that word changed.



# Support for reform to improve safe driving practices

## Driver behaviour change

Each day Australians make decisions that increase their risk of a crash on the roads.

Risky road use includes explicitly illegal behaviours, such as speeding, drink or drug driving, illegal mobile phone use, not wearing a seatbelt or helmet, running a red light, unlicensed driving, and 'hoon' driving.

Other high-risk behaviours include driving at inappropriate speeds for conditions, driving while fatigued, distracted or inattentive, overcrowding vehicles and walking near or on roads after drinking alcohol or taking illegal drugs.

Dangerous road behaviour is not just about extremely risky behaviours. It encompasses any action that violates the Australian Road Rules.

One of the tenets of the NSW's Centre for Road Safety's 2026 Road Safety Action Plan is reducing unsafe road user behaviour<sup>1</sup>.

**Key priorities to address this unsafe behaviour include an investment in public education on road safety, starting with school age children.**

## Driver education reform

Currently, there is no universal driver education program in NSW schools<sup>2</sup>.

Further, learner drivers are not required to learn about the impact of road trauma before getting their driver's license.

The NSW community was asked to consider whether learner drivers should be required to learn about the impact of road trauma before obtaining their license.

Seven in ten (70%) are aligned with the Centre for Road Safety and believe this is an essential or high priority change.



### SOURCES:

1: <https://towardszero.nsw.gov.au/sites/default/files/2021-07/3.%202026%20RSAP%20Community%20Engagement%20-%20Summary%20FINAL.PDF>

2: <https://education.nsw.gov.au/teaching-and-learning/curriculum/road-safety-education/teaching-and-learning/secondary-school/driver-training-implementation-guidelines>

Graph source: Fiftyfive5 primary research. Q: How much of a priority do you give each of the following changes? Base: n=2,102







# Support for reform to help prevent future fatal crashes

## Post-crash police investigations

Currently in NSW, an investigation takes place following every fatal road crash however the results are not made public.

There is an opportunity to publicise the causes and factors that contribute to fatal crashes in NSW, to highlight where there may need to be changes in government policy, driver behaviour, or education to prevent future crashes. This would be similar to how workplace deaths and injuries are currently investigated and reported publicly. By not publicising this information, there is no opportunity to learn from the causes of fatal road crashes and modify infrastructure, legislation etc. to help reduce future fatalities. This could be done at a summary level, rather than individual level (to ensure privacy), a few times per year.

The NSW community was asked to consider whether the results of police investigations should be formally collated and be made public. After each fatal road crash investigation, a report would be produced which describes what caused the incident, both human factors (e.g. drinking, drugs, speeding) as well as road safety factors (e.g. physical road condition). The report would be made publicly available.

Six in ten (59%) adults in NSW believe this is an essential or high priority change.

**59%**

are supportive of an in-depth investigation and public report about the causes of fatal crashes in NSW



## Victim Impact Panels

Researchers and academics working on road safety agree there is a need to shift the focus on 'blame culture' and look beyond how offenders who commit road crimes are punished, and instead on how road crimes can be prevented.

One suggested mechanism to discourage illegal road activity and deter criminal road behaviour is **Victim Impact Panels**. By listening to the stories of road trauma victims, drivers hear about the lived experience of those affected by road trauma. While more work can be done to assess the effectiveness of Victim Impact Panels, they would play a role in bringing to life the human consequences of risky driving behaviour.

Currently, those charged with driving-related crimes are not required to learn about the impact of road trauma before getting their driver's license back.

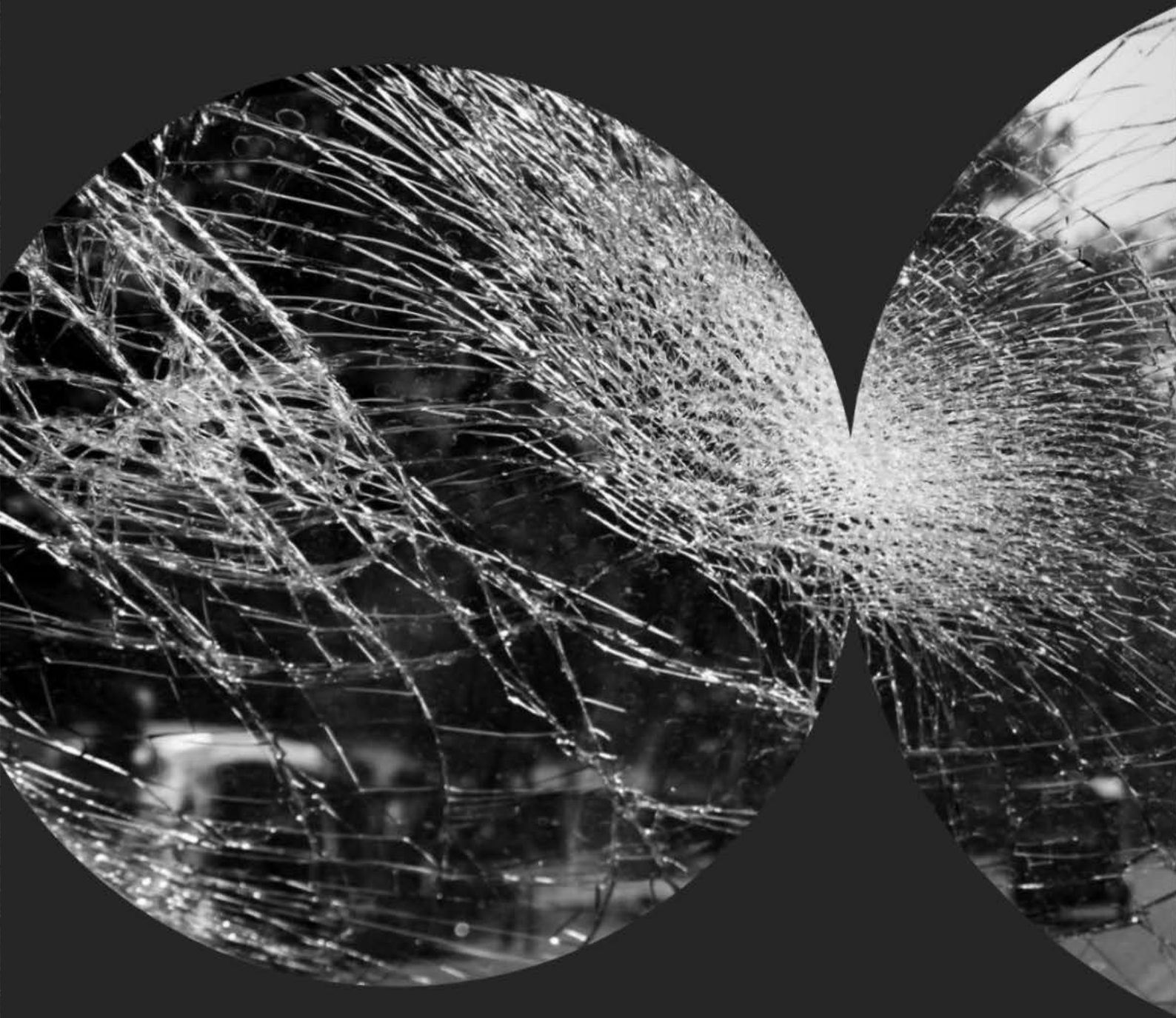
However, seven in ten (69%) members of the community believe it is an essential or high priority change to require those charged with driving-related crimes to participate in a victim impact panel (where victims of road trauma share their experiences) before they can re-gain their license.



69%

believe those charged with driving-related crimes should participate in a victim impact panel before re-gaining their license

Graph source: Fiftyfive5 primary research. Q: How much of a priority do you give each of the following changes? Base: n=2,102





A black and white photograph of a spider web. The web is the central focus, with its intricate spiral and radial patterns clearly visible. The background is a soft-focus landscape featuring trees and a bright sky, which is reflected in the web's structure. The overall mood is serene and natural.

# Summary and conclusions

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## Road trauma impact on the NSW community

One in five (20%) people in NSW have ever experienced the death of someone they personally knew in a fatal road crash on NSW roads.

One in twenty-five (4%) have experienced the death of a loved one due to the criminal act of another road user.

Underpinning the substantial size of this problem is the often-preventable nature of these deaths. Every day drivers make decisions that can have fatal consequences for themselves or others. Driver behaviour is a key contributing factor to fatalities on our roads – particularly speeding, alcohol consumption, and drug use.

## The lived experience of criminal road trauma

The ripple effects of criminal road trauma are felt far and wide throughout the NSW community, and the impacts are extensive and enduring.

The sudden, violent, and senseless nature of road trauma fatalities has a cataclysmic impact on those closest to the victim. The consequences extend far beyond the initial incident: families face ongoing secondary trauma throughout the experience. Secondary traumatisation occurs through ongoing exposure to systems and processes, such as media coverage and contact with the criminal justice system, which force families to repeatedly re-live the crash and the loss of their loved one. Constant re-traumatisation inhibits ability to process, grieve and heal.

Vicarious trauma can also affect professionals, particularly first responders, who are repeatedly exposed to distressing scenes. Without an extremely high level of resilience, professionals can find themselves unable to do their job effectively. Vicarious trauma can cause some to burn out and to leave their roles – further compounding the lack of experienced professionals who understand the nuances of criminal road trauma and are skilled at interacting with bereaved families in ways that minimise secondary trauma.

## Implications for policy, service, and practice

While it is impossible to fully alleviate the mental, emotional, and physical impacts of road trauma, there are clear opportunities to minimise the secondary trauma that bereaved families experience, and to better support families as they navigate the myriad of unfamiliar, complex systems and processes imposed upon them.

Everyone in the NSW community, including government officials, professionals who interact with bereaved families, the media, and the wider community, can play a role in both reducing fatalities on NSW roads and in minimising the traumatic aspects of the experience for those who find themselves in the horrific situation of losing a loved one due to the criminal act of another.



## Reducing fatalities on NSW roads as we move Towards Zero

### **Reconsider risky driving behaviour.**

Risky driving behaviours are a key contributing factor to fatal road crashes. The decisions drivers make while they are behind the wheel (and in the preceding time) are within the control of the driver. All road users in the NSW community should consider their contribution to reducing fatalities on our roads.

### **Step in and act if someone shouldn't be driving.**

There's no excuse for driving while incapacitated. The NSW community are encouraged to consider stepping in and discouraging drivers from getting behind the wheel when they shouldn't.

### **Revisit minimum sentencing requirements as well as application of sentencing guidelines.**

This study highlights the widespread feelings of injustice reported by victims' families and friends killed by criminal road crimes, and a sense of inconsistency of sentencing compared to other crimes resulting in death (e.g., minimal sentences, community service or suspended license). Further investigation is warranted to validate this, by comparing sentencing and punishments across different types of crimes causing death, and to determine if minimum sentences are required to effectively deter this behaviour.

### **Publicise the outcomes of crash investigations.**

A range of factors (human factors, infrastructure factors, technological factors) can contribute to fatal crashes on our roads. Much is learned through the crash investigations carried out following each fatal crash, however the learnings are lost and cannot contribute to a reduction in fatal crashes when not made public. The NSW government is encouraged to consider publicising the results of crash investigations so authorities and the general public can learn from these crashes and adapt their behaviour, processes, or attitudes accordingly. This could be done at a summary level, rather than individual level (to ensure privacy), a few times per year.

## Avoiding further traumatising of those who have lost a loved one due to the criminal act of another

### **Change language used when referring to criminal road acts.**

Language is powerful. The term "accident" is not accurate (at best) and psychologically damaging to the families of victims of road crimes (at worst). The word "crash" should be used instead – in the legislation, in the media, and amongst the NSW community when describing fatal road crashes.

### **Tailor the CTP legislation to suit the experiences of the bereaved.**

The psychological trauma experienced as a result of the sudden and violent death of a loved one is not consistent with physical injury. The CTP claims process (both initial lodgement and ongoing management) should be tailored to reflect the psychological impact and the prolonged effects of this experience. Tailoring the legislation (and insurer's processes) to treat road trauma fatalities differently from physical injuries would prevent avoidable trauma.

### **Media to refine protocols used when reporting on fatal crashes, to better respect the loved ones who are grieving.**

Pointing the spotlight on grieving families should be handled sensitively. To avoid re-traumatisation, the name of the victim, along with images and stories of the victim, should only be publicised with permission of the family. Offender's names often can't be made public due to suppression orders, and the same approach should be taken with victims unless the family specifies otherwise.

Taken together, these reform opportunities have the potential to make substantial improvements in the experiences of those who suffer the impacts of criminal road trauma, and ultimately may reduce the frequency of fatal criminal road crashes on NSW roads.



**fiftyfive5**



Road Trauma  
Support Group  
NSW