



# Response to Statutory Review of the Victims Rights and Support Act 2013

JUNE 2022



Road Trauma  
Support Group  
NSW

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## Executive Summary

We are, the Road Trauma support Group NSW (RTSGNSW) - the voice of families of road trauma death.

Formed in 2021, our focus is on victims who have experienced the death of a loved one through a criminal act of another road user. Defined as, a parent, spouse, de facto partner, child, sibling, relative or extended family member of a person who has been killed - an important service not previously available in NSW. We have established a MOU with NSW Police for referrals, and we operate under auspice agreement with the Homicide Victims Support Group NSW Inc.

Our Strategic priorities are formed around support, reform, education and evidence-based research and our mission has attracted significant media coverage.

Long after the crash, survivors, family and friends continue to feel the impact. The RTSGNSW team is here to provide support in metro and regional NSW, through monthly support groups, allowing a safe, sensitive and ongoing forum for family members as well as the provision of counselling services.

This document provides a summary of requirements for the rights of victims of road trauma. As inclusions into the current charter, **Or**, as a standalone 'Charter of Victims' Rights for Road Crime.





# About The Road Trauma Support Group NSW



# Strategic Ambition



## OUR PURPOSE

**The voice of families of road trauma.**

## OUR VISION

**That no family in NSW will ever experience the death of a loved one through the criminal act of another road user (Road Trauma Death).**

## OUR MISSION

**To work with all key stakeholders and be an active advocate for safer roads for all road users in NSW with a special focus on:**

## WHERE WE WILL FOCUS

### Support

### Education

### Reform

### Research

## HOW

Facilitate effective support to families affected by the Road Trauma Death of a loved one.

Enable delivery of educational programs and public awareness. And change the vocabulary associated with Road Trauma Death in NSW.

Driving reforms to the criminal justice system with respect to Road Trauma Deaths in NSW.

Evidence based research to inform effective change and improvements in support, education, awareness and reform.

## PRIORITIES

- 1 Referral network and database
- 2 Hire expert staff
- 3 Communicate services & information (regular group meetings, newsletter, partner support services, online)
- 4 Outreach to NSW Country

- 1 Phase 1 Launch 'who we are'
- 2 Phase 2 Publicise Research 'why it's important'
- 3 Phase 3 Awareness in key channels / partnerships 'inform who and what needs to change'

- 1 Pitch Singular Legislative Reform 'Why'
- 2 Meet with key Govt Ministers
- 3 Reform CTP via SIRA

- 1 Publish the 'Ripple Effect' report to key stakeholders and media
- 2 Act on data to drive future strategy

## OUR VALUES

**Compassion - - - Courage - - - Collaboration - - - Respect**

## OUR ORGANISATION

Build an effective organisation: 1. A charity governed by a board of directors limited by guarantee. 2. Establish effective working groups and partner networks. 3. Build volunteer and staff capacity and expertise. 4. Ensure accurate reporting of activity and outcomes.



If you have experienced the death of a loved one through the criminal act of another road user in NSW we are here to help: [roadtraumasupportnsw.org](http://roadtraumasupportnsw.org) or Help Line 0431 545 995.

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**Criminal acts that result in the death of another are not 'accidents' they are manslaughter or homicide.**



A photograph of a suburban street at sunset. The scene is bathed in the warm, golden light of the setting sun, which is visible on the right side of the frame. In the foreground, a paved road curves to the right. To the left, there is a concrete curb, a grassy area, and a brick wall topped with a metal fence. A large tree stands on the left side of the road. In the background, several houses with dark roofs and brick walls are visible, surrounded by trees and shrubs. A large, semi-transparent silhouette of a woman's head and shoulders is overlaid on the right side of the image, facing left. The overall mood is contemplative and serene.

# Strategic imperatives for Victims of Road Trauma



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## Our Ask

Provision for Road Crime in the current charter

OR

A Standalone 'Charter of Victims' Rights for Road Crime.

- Either option needs to include provision for victims of road crime not covered by CTP 'the wider ripples'.
- Provision needs to include provision for people injured (as well as those killed).
- Needs to include financial, mental health support and support during the court process to avoid aggravated trauma.
- Essential provision for full and public reporting of Road Incidents where criminal actions result in death.
- A change in language road crimes are not 'accidents'.
- Victim Impact Statements and Victim Impact Panels to limit recidivism



A woman's silhouette is shown in profile on the left side of the image, looking out over a road. The background features a road with yellow double lines, a concrete barrier, and a sunset sky with orange and blue tones. There are trees and hills in the distance, and a car is visible on the left. A green heart icon is in the bottom right corner.

# Specific Response to the Victims Rights and Support Act 2013





# 18 Ways to improve the Charter of Victims Rights for Criminal Acts that result in death on the roads

<p><b>1 Courtesy, compassion and respect</b> A victim will be treated with courtesy, compassion, cultural sensitivity and respect for the victim's rights and dignity.</p>	<p><b>8 Protection of identity of victim</b> A victim's residential address and telephone number will not be disclosed unless a court otherwise directs.</p>
<p><b>2 Information about services and remedies</b> A victim will be informed at the earliest practical opportunity, by relevant agencies and officials, of the services and remedies available to the victim.</p>	<p><b>9 Attendance at preliminary hearings</b> A victim will be relieved from appearing at preliminary hearings or committal hearings unless the court otherwise directs.</p>
<p><b>3 Access to services</b> A victim will have access where necessary to available welfare, health, counselling and legal assistance responsive to the victim's needs.</p>	<p><b>10 Return of property of victim held by State</b> If any property of a victim is held by the State for the purpose of investigation or evidence, the inconvenience to the victim will be minimised and the property returned promptly.</p>
<p><b>4 Information about investigation of the crime</b> A victim will, on request, be informed of the progress of the investigation of the crime, unless the disclosure might jeopardise the investigation. In that case, the victim will be informed accordingly.</p>	<p><b>11 Protection from accused</b> A victim's need or perceived need for protection will be put before a bail authority by the prosecutor in any bail application by the accused.</p>
<p><b>5 Information about prosecution of accused</b> (1) A victim will be informed in a timely manner of the following: (a) the charges laid against the accused or the reasons for not laying charges, (b) any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision for the accused to accept a plea of guilty to a less serious charge in return for a full discharge with respect to the other charges, (c) the date and place of hearing of any charge laid against the accused, (d) the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed. (2) A victim will be consulted before a decision referred to in paragraph (1) (b) is taken if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm or psychological or psychiatric harm to the victim, unless: (a) the victim has indicated that he or she does not wish to be so consulted, or (b) the whereabouts of the victim cannot be ascertained after reasonable inquiry.</p>	<p><b>12 Information about special bail conditions</b> A victim will be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim's family.</p>
<p><b>6 Information about trial process and role as witness</b> A victim who is a witness in the trial for the crime will be informed about the trial process and the role of the victim as a witness in the prosecution of the accused.</p>	<p><b>13 Information about outcome of bail application</b> A victim will be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.</p>
<p><b>7 Protection from contact with accused</b> A victim will be protected from unnecessary contact with the accused and the defence witnesses during the course of court proceedings.</p>	<p><b>14 Victim impact statement</b> A relevant victim will have access to information and assistance for the preparation of any victim impact statement authorised by law to ensure that the full effect of the crime on the victim is placed before the court.</p>
<p><b>18 Information about complaint procedure where Charter is breached</b> A victim may make a complaint about a breach of the Charter and will, on request, be provided with information on the procedure for making such a complaint.</p>	<p><b>15 Information about impending release, escape or eligibility for absence from custody</b> A victim will, on request, be kept informed of the offender's impending release, or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody.</p>
	<p><b>16 Submissions on parole and eligibility for absence from custody of serious offenders</b> A victim will, on request, be provided with the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody.</p>
	<p><b>17 Financial assistance for victims of personal violence</b> A victim of a crime involving sexual or other serious personal violence is entitled to make a claim under the Victims Support Scheme.</p>



# 1. Courtesy, compassion and respect

## 1 Courtesy, compassion and respect

A victim will be treated with courtesy, compassion, cultural sensitivity and respect for the victim's rights and dignity.

## Proposal

- Consider the definition of 'victim' in relation to road deaths – being similar / same as meaning of 'victim of crime' per s5 (1), (3), (4) Victims' Rights and Support Act 2013.
- Courtesy and respect needs to be extended to the Courtroom - victims should not be subjected to additional trauma of sitting alongside offender's supporters.
- Compassion should be extended for victim's families at incident site.
- Sensitivity and respect to be provided in notification of incidents and deaths - Police and media to work closely to ensure family are notified where possible prior to mainstream media / socials.

→ The death of a loved one due to road crime should not be considered any less than the loss of a loved one by other means



## 2. Information about services and remedies

### 2 Information about services and remedies

A victim will be informed at the earliest practical opportunity, by relevant agencies and officials, of the services and remedies available to the victim.

### Proposal

- Where practicable, a knowledgeable Victim's Liaison Officer should be introduced and allocated to the family who;
  - Can provide meaningful assistance and facilitate interactions between relevant stakeholders
  - Is committed to communicating with the family of the deceased person to provide transparency and consistency
- Victims of Road Crime should be referred to The Road Trauma Support Group NSW.

→ Ensure a subject expert is provided to families to balance the scale of services available to victims



### 3. Access to services

#### 3 Access to services

A victim will have access where necessary to available welfare, health, counselling and legal assistance responsive to the victim's needs.

#### Proposal

- It would be extremely beneficial to have a support person (from either RTSG/NSW Police/Other) committed to identifying potential welfare assistance, and the timeframes that each application will expire by.
- Ensure that in the instance of Death claims an extension be applied to application timeframes. Families of the victim are not going to be thinking about lodging applications within the cruelly short time limit of 30 days after the incident

→ At the time of losing a loved one families are not thinking about lodging various applications for services



## 4. Information about investigations of the crime

### 4 Information about investigation of the crime

A victim will, on request, be informed of the progress of the investigation of the crime, unless the disclosure might jeopardise the investigation. In that case, the victim will be informed accordingly.

### Proposal

- It is widely understood that the Police Investigation officer is the key contact for families in the early days.
- The ongoing investigation needs to be the officer in charge, speaking directly to appointed relatives/loved-ones plus a nominated other/support person.
- Agreement should be made with all parties, in liaison with investigation unit, regarding all relevant information before it is closed and handed to DPP, or when no further discussion, information or evidence is possible
- Police and DPP need to provide a single and consistent source of information.

→ Families are currently at the mercy of how empathetic and efficient their allocated crash investigator is.



## 5. Information about prosecution of accused

### 5 Information about prosecution of accused

(1) A victim will be informed in a timely manner of the following:

- (a) the charges laid against the accused or the reasons for not laying charges,
- (b) any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision for the accused to accept a plea of guilty to a less serious charge in return for a full discharge with respect to the other charges,
- (c) the date and place of hearing of any charge laid against the accused,
- (d) the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.

(2) A victim will be consulted before a decision referred to in paragraph (1) (b) is taken if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm or psychological or psychiatric harm to the victim, unless:

- (a) the victim has indicated that he or she does not wish to be so consulted, or
- (b) the whereabouts of the victim cannot be ascertained after reasonable inquiry.

## Proposal

- (1)a. ...The charges laid should always be the highest available.
- (1)b. The Prosecution should very seriously consider the wishes of the Victims relevant to this section and be held accountable for differing decisions.
- (1)c. ...and any further Court hearings or appearances.
- (1)d. The Victim to be supplied with a copy of the transcript as soon as possible after each Court hearing.

→ Ensure that support and education is provided to families, for their continued communication with broader loved ones.



## 6. Information about trial process and role as witness

### 6 Information about trial process and role as witness

A victim who is a witness in the trial for the crime will be informed about the trial process and the role of the victim as a witness in the prosecution of the accused.

### Proposal

- Ensuring that families understand the process and varying aspects of the process.
- Assist families in their communication of the process and what it means – many families of road trauma have never dealt with the policing or judicial systems
- Families are the key link to all who wish to remain informed about the offender and the process under which they may be prosecuted, and in many cases become defenders of the judicial system.

→ Victims' families are the key communicators with a broad range of communities following their loss – they need support.



## 7. Victims as witnesses

### 7 Protection from contact with accused

A victim will be protected from unnecessary contact with the accused and the defence witnesses during the course of court proceedings.

### Proposal

- Out of respect to the victims it would be appropriate that the victim is contacted prior to the court hearing and asked the number of supporters attending and have seats allocated to avoid seating next to the accused's supporters.

→ This should be carefully considered in remote and regional locations





## 8. Identity Protection

### Proposal

#### 8 Protection of identity of victim

A victim's residential address and telephone number will not be disclosed unless a court otherwise directs.

- Under no circumstances must the victims personal data be shared with the perpetrator or insurance companies without consent.

→ Personal information should be managed in accordance with any National Privacy Principals



## 9. Attending hearings

### Proposal

#### 9 Attendance at preliminary hearings

A victim will be relieved from appearing at preliminary hearings or committal hearings unless the court otherwise directs.

- It is understood that there is generally no legal requirement for this in any case unless a subpoena has been issued. However, victims will be encouraged and welcomed by the Court system and be given preferential treatment to that of the accused and their associates.
- Victims **MUST** be informed of all court matters, and it is up to their discretion to attend or appear by video link.

→ preferential treatment should be provided to victims than that of the accused and their associates



## 10. Returning victims property

### 10 Return of property of victim held by State

If any property of a victim is held by the State for the purpose of investigation or evidence, the inconvenience to the victim will be minimised and the property returned promptly.

### Proposal

- All property in the vehicle and in possession of the Deceased must be returned to the family. It is the responsibility of the Police to collect the Property as the Police are in control of the incident scene and must secure all property prior to the vehicle been taken away.
- It is the responsibility of the Police to follow-up on any missing property.
- It is not expected that the victim needs to attend the crash scene to recover property.

→ Every effort must be made to ensure all property is located and returned



# 11. Protection requirements

## 11 Protection from accused

A victim's need or perceived need for protection will be put before a bail authority by the prosecutor in any bail application by the accused.

## Proposal

- For any bail that may be imposed on any offender where a death has occurred, an electronic device must be enforced upon the offender for the period up to and including the trial.
- Consideration must be given to small and regional communities where access to victims are likely to occur

→ In remote and regional locations, the fear of seeing the offender is a great threat for victims



## 12. Bail conditions

### 12 Information about special bail conditions

A victim will be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim's family.

### Proposal

- Victims to be afforded the opportunity for input into any 'special' bail conditions.
- Prosecution teams to strongly oppose all efforts of defense's bail requests which may be detrimental to Victim's wishes.
- Any changes that occur to said bail conditions, or imprisonment due to a breach of bail conditions, should be communicated with the victims' family as soon as possible.

→ Victims to be afforded the opportunity for input into any 'special' bail conditions.



## 13. Outcome of bail applications

### 13 Information about outcome of bail application

A victim will be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.

### Proposal

- Should be extended beyond sexual assault or other serious personal violence and include family members of loved ones killed on the road due to a criminal act.

→ A criminal act on our roads should not be seen as any lesser than the charges outlined in this section



# 14. Victim impact statement

## 14 Victim impact statement

A relevant victim will have access to information and assistance for the preparation of any victim impact statement authorised by law to ensure that the full effect of the crime on the victim is placed before the court.

## Proposal

- Victims impact statement should not be made available to the defence lawyer or the Judge prior to the victim reading the statement in the court room. The impact of the statement should be felt in its entirety.
- This is the only opportunity the victim has, to express how they have been affected.
- It is also the only time that the matter is reflective of the person/s deceased allowing all parties to understand the life and character of the person taken due to the offender's actions.
- The DPP should refrain from editing the VIS and clearer guidelines provided (including examples).

→ The statement is the only time victims are allowed to outline the life and about the person taken by the offender



## 15. Release, escape or eligibility for absence

### 15 Information about impending release, escape or eligibility for absence from custody

A victim will, on request, be kept informed of the offender's impending release, or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody.

### Proposal

- Release dates need to be communicated to the victims.
- Consideration should be given to families that may not wish to have continued updates regarding offender's movements – however, this communication should be balanced because this has varying effects in remote and regional locations.
- Any alcohol interlock measure must be enforced and standards for ongoing driving restrictions implemented during these times.

→ Ensure strict standards are applied for behaviors and requirements of the offender during these times





## 16. Parole and absence eligibility

### 16 Submissions on parole and eligibility for absence from custody of serious offenders

A victim will, on request, be provided with the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody.

### Proposal

- Attempts by defense for parole to be forwarded in writing to victims prior to any submissions to the Court.
- The Prosecution to also supply historical offences and indiscretions of the offender whilst in custody.
- Consideration should be given to families that may not wish to have continued updates regarding offender's movements – however, this communication should be balanced because this has varying effects in remote and regional locations.

→ Ensuring strict compliance measurements are in place and communicated to victims is essential



# 17. Financial assistance for victims

**17 Financial assistance for victims of personal violence**  
A victim of a crime involving sexual or other serious personal violence is entitled to make a claim under the Victims Support Scheme.

## Proposal

- The Victim's Support Scheme to be extended to include victims of deaths caused by the deliberate, criminal actions of other road users.
- The V.S.S. to be afforded legislation to pursue compensation from the relevant criminal, without impact to the entitlements available under the CTP Scheme.
- Victims of Road crime should be entitled to a one-off payment to assist in the early post stages of the crime. Compulsory Third Party payment for road crime victims are not received until a considerable time after the crime, this payment would assist to meet immediate expenses and supports early intervention for victims

→ Victim's Support Scheme to be extended to include victims of deaths caused by criminal actions of other road users.



## 18. Charter breaches and Complaints

### 18 Information about complaint procedure where Charter is breached

A victim may make a complaint about a breach of the Charter and will, on request, be provided with information on the procedure for making such a complaint.

### Proposal

- Complaint procedures to be simplified with increased scope on accountability on the entire judicial and legal system and all processes involved in upholding Victim's rights.

→ Simplify & increase scope on accountability on the entire judicial and legal system



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# Thank you



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Support Group  
NSW

The Road Trauma Support Group NSW



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