

MEDIA RELEASE

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ATTENTION: Chiefs of Staff, News Directors



Report examines criminal liability of drivers who fall asleep causing motor vehicle crashes

A new report has recommended changes be made in relation to police practices, in particular the collection of evidence and the interviewing of drivers and witnesses, in suspected fall-asleep driving cases in Tasmania.

The Tasmania Law Reform Institute (TLRI) has released its Final Report on the criminal liability of drivers who fall asleep causing motor vehicle crashes resulting in death or other serious injury.

The TLRI recommends that Police prosecutors, with guidance from the Office of the Director of Prosecutions, prepare a precedent for the particularisation of negligence where it is alleged that the driver involved in a motor vehicle crash has fallen asleep.

TLRI Director Professor Kate Warner said the report does not recommend any changes be made to the substantive law.

“However, Police policy and procedures ought to reflect the need for the investigation of crashes to be conducted by members of the Tasmania Police with training in the legal principles set out in the leading High Court decision in *Jiminez*,” Prof. Warner said.

‘In *Jiminez*, the High Court held that for a person to be found guilty of causing death or injury by driving, it is necessary for the prosecution to establish that the accused’s act of driving was voluntary.

“If the accused was asleep at the time of the crash, their driving cannot be considered voluntary. However, the period of driving that immediately precedes falling asleep can be considered voluntary and this is where the prosecution must focus their case.”

The Institute has made a total of 10 recommendations in its Report, including a need for greater community education about the risks of driving while drowsy.

The TLRI recommends that the Tasmanian Road Safety Council and the Road Safety Task Force consult with experts in the field of sleep medicine and research in developing an effective education campaign.

“Drivers need to be aware of the dangers of driving while drowsy or after a lack of sleep and that the only effective remedy for drowsiness is sleep,” Prof. Warner said.

The full report can be downloaded from: www.law.utas.edu.au/reform

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