

**Question taken on notice during the hearing**

***The Hon CATE FAEHRMANN: We have heard from the Government this morning that this is an area that increasingly needs more attention, particularly research and data capture. Do the police have the power at the scene of an accident to request from the driver their mobile phone to have a look at whether the driver was calling texting at the time?***

Response: Police, or any other person, may make such a request but compliance would be voluntary as there are no powers prescribed under Road Transport Legislation that compel a driver involved in a collision to give police access to, or present, a mobile phone.

There does exist the possibility of seizing the phone as an exhibit pursuant to the provisions of the Law Enforcement Powers and Responsibilities Act, if there is supportive evidence, (eg witness or admission) that the phone was being used at the time of the collision. In the event that such evidence was available the phone may be able to be seized.

Additionally, it may be worthy of note that call charge records do not of themselves provide comprehensive proof of mobile phone involvement in road trauma in that it can be difficult to link the exact time on the call charge record to an exact time of impact and thereby draw a conclusive nexus between the phone use and a collision.

Finally, notwithstanding the fact that police could obtain call charge records for a particular mobile phone number, the handset itself may have value, if for example a text was being written but had not been sent.

Questions of Notice

**1** *In their submission, the Australian Mobile Telecommunication Association claims that 'there is a clear tendency for police to overstate the impact of mobile phones on crash statistics rather than to under-report their involvement in crashes.*

*What is your response to claims that the Police may overstate the impact of mobile phones on crash statistics.*

Response: There is no overstating of the impact of mobile phones on crash statistics by the NSW Police Force (NSWPF), indeed in the evidence given by Assistant Commissioner HARTLEY during his examination by the Committee he indicated that there were nine (9) cases since 2005 where police can definitively state that mobile phones were a factor in fatal crashes. It is suggested that this statement could not be categorised as 'over stating'.

Further, the NSWPF is not the official source for crash statistics in this state and any data pertaining to the involvement of mobile phones in crashes would be rightly reported by the Centre for Road Safety.

Finally, it is noted that the portion of the AMTA submission which asserts a tendency for police to overstate the impact of mobile phones centres around pages 16 and 17 and provides examples of academic reviews and media reports in apparent support of that claim. Upon examination it is noted that the particular academic review cited was a 2006 paper prepared for the Insurance Institute for Highway Safety, Arlington Virginia, USA and was apparently conducted by way of reviewing published studies. It is unclear, but seems unlikely that the paper would have much focus on NSW or the NSWPF.

Similarly, media pieces used by the AMTA to illustrate their point appear to refer to instances outside of NSW.

Accordingly, it appears that the assertion by the AMTA is a generalisation with no apparent correlation to the NSWPF.

**2** *The NSW Government submission claims that a majority of drivers are unaware of penalties applying to the use of mobile phones while driving.*

- *Based on your own observations and those of your colleagues, what is your assessment of the contribution of mobile phones to road user distraction on NSW roads?*

Response: The experience of police is that such use is a contributor to driver distraction and can manifest in a variety of observable forms on the road network such as veering in or between traffic lanes, fluctuating speed of travel and sudden braking in normal traffic conditions.

This experience is not formally recorded or assessed and therefore cannot be used as the basis of quantification of the contribution of mobile phones to road user distraction.

- ***What additional measures can be taken to make drivers, particularly younger drivers, more conscious of the penalties for using mobile phones while driving?***

Response: As indicated during the hearing, it is the view of the NSWPF that the introduction of a new offence targeting second and subsequent instance of driving while using a hand held phone, with the application of increased penalties or additional sanctions for these instances, would act to raise public awareness.

- ***Have you had any direct input into the communications campaign being developed to establish an enhance compliance strategy for mobile phones? If so, what is the nature of your contribution.***

Response: The NSWPF has already met with the Centre for Road Safety to discuss this strategy. At this point the consultation is on-going but it is expected that the NSWPF will be able to assist in these deliberations by advising on any enforcement aspects, should they arise, as part of the strategy.

### ***3. Other electronic devices also pose increasing risks for vehicle drivers.***

- ***Do you have any suggestions about how to improve overall interagency collaboration to monitor and enforce road rules and regulations governing distraction.***

Response: The current working relationship between the NSWPF and Centre for Road Safety is very healthy and has already produced great benefits to each organisation through enhanced collaboration. It is expected that this excellent working relationship and existing practice of collaboration will be equally beneficial to the efforts to address driver distraction issues.

Additionally, it is thought that the involvement of Federal Government in the researching and requiring manufacturers to implement vehicle technologies to minimise the opportunities for electronic devices to distract drivers could produce worthwhile road safety outcomes nationally.