

Help, I Was Involved in a Car Crash!

Driving accidents can range from a scratch in a busy car park to a tragic accident causing death. But if you've been involved in an accident somewhere in between, you might be wondering what to do.

Do you need to wait until police arrive? Can you be charged with an offence and be [required to attend court](#)? This blog takes you through what to do if you've been involved in a car crash.

Do I need to wait for police to arrive?

Whether or not you are free to leave after exchanging details with the other driver depends on the seriousness of the collision.

Police only need to attend the scene if:

1. Someone is killed or injured;
2. The other driver drove off and didn't give you their details; or
3. If it appears that one of the drivers was under the influence of drugs or alcohol at the time of the accident

However, there is an obligation to report crashes which result in one or more vehicles needing to be towed from the scene, although this can be done over the phone at a later time. Minor accidents do not need to be reported at all.

If police do get involved, they may choose to take further action. This may mean dealing with the matter by way of an infringement notice, or giving you a Court Attendance Notice, which means that you will have to go to court. You may also

face arrest, depending on the seriousness of the offence.

Negligent Driving

'Negligent driving not occasioning death or GBH' is one of the most common charges that drivers involved in a collision will face.

A person is negligent if they "drove a motor vehicle in a manner involving a departure from the standard of care for other users of the road to be expected of the ordinary prudent driver in the circumstances"; [*DPP \(NSW\) v Yeo and Anor \[2008\] NSWSC 953*](#).

Whether or not you have to go to court for negligent driving largely depends on how serious the crash was.

If no one was injured, it will most likely be dealt with by a simple fine of \$425, even if a vehicle was towed from the scene. This may be issued on the spot, or it may come later in the mail. If you pay the fine, you will lose 3 demerit points and that will be the end of the matter.

However, it is possible for police to send you to court for negligent driving instead. In that case, the maximum penalty will be a \$1,100 fine, which will come with a criminal record. There is no 'automatic' period of disqualification from driving, although the magistrate has power to disqualify you for 12 months.

If a person suffered grievous bodily harm as a result of the accident, the maximum penalty will be nine months imprisonment and/or a fine \$2,200 and/or. If it is a second or more major traffic offence within five years, the maximum penalty will jump to 12 months imprisonment and/or a fine of \$3,300.

These are the absolute maximum penalties that the court may impose. In reality, many people found guilty of 'negligent driving resulting in grievous bodily harm' will receive a fine and a lengthy period of disqualification. The automatic period

of disqualification is 3 years, although this may be lowered down to 12 months at the discretion of the magistrate.

More serious still is the charge of negligent driving causing death. Under [section 117 of the Road Transport Act 2013 \(NSW\)](#), the maximum penalty is 18 months imprisonment and/ or a fine of \$3,300. If it is a second or more major traffic offence, the maximum penalty rises to 2 years imprisonment and/or a fine of \$5,500.

Dangerous driving

You may face a [dangerous driving charge](#) if police believe that you were:

1. Under the influence of drugs or alcohol;
2. Driving at a speed dangerous to another person; or
3. Driving in a manner dangerous to another person or persons

Dangerous driving is more serious than negligent driving, and can result in more severe penalties in court. There are several different dangerous driving offences, including:

1. Dangerous driving occasioning death (max penalty = 10 years imprisonment);
2. Aggravated dangerous driving occasioning death (max penalty = 14 years imprisonment);
3. Dangerous driving occasioning grievous bodily harm (max penalty = 7 years imprisonment); and
4. Aggravated dangerous driving occasioning grievous bodily harm (max penalty = 11 years imprisonment).

The penalties for dangerous driving can be harsh, but again these are the maximum penalties only. The particular penalty you might receive will depend on the facts specific to your case.

If you have been involved in a car crash and are facing charges or are unsure if you will need to go to court, the best course of action is to speak to an experienced traffic lawyer who will be able to advise you about the best way forward.

A good lawyer may be able to have your charges 'dropped' where the evidence against you is weak, or get the charges thrown out of court if police go ahead with the charges anyway.

If the evidence against you is very strong, a specialist lawyer will be able to ensure that you are in the best position for your 'sentencing hearing' in court, and seek to persuade the court to give you the most lenient penalty possible.

In some cases, they may even be able to convince the court to give you a '[section 10 dismissal](#) or [conditional release order](#)' – which means that no criminal conviction is recorded against your name even though you are guilty.