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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
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Submission Cover Sheet

Inquiry into Dangerous Driving

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Submission to the Inquiry on Dangerous Driving by the Standing Committee on Justice and Community Safety

Summary:

This submission addresses vehicle penalties when it comes to dangerous driving offences,

The Australian Capital Territory has in recent times maintained one of the best road safety records of any jurisdiction in the world. Although the past year has seen an increase in fatalities, it is not clear this is a trend nor does it indicate that the laws are inadequate.
The ACT has adequate laws for dealing with dangerous driving but police resourcing has been inadequate of late, with an associated increase in the number of car thefts. As the perpetrators of theft and dangerous driving are often linked increasing police resourcing and dedicating it to theft reduction and enforcement at periods perpetrators are usually active (at later night) will solve both problems.
The ACT's road safety law already cover 'hooning' to a similar extent to those in other states but are less arbitrary as they do not use a single threshold for speed. The harsh penalties inflicted by other states' laws for doing certain speeds are vastly disproportionate for offences where there is no victim. No arbitrary speed thresholds should be introduced and instead the current penalties should remain.
To make stricter laws would be inconsistent with the Government's policy in other areas such as drug use, which is more accommodative and rehabilitative, as is consistent when the crime is victimless. As the ACT already has laws with covers the remaining aspect of 'hoon laws', there is no need to change the legislation, but simply to enforce it more effectively. Otherwise issues not related to 'hooning' are far more important to improving road safety.

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What is the current issue?

There has been an anecdotal increase in reports of dangerous driving in the ACT over about the past year. These are predominantly late-night offenders in stolen vehicles and often under the influence of drugs or alcohol. There has also been a measurable rise in the amount of vehicle theft.

Canberra, which is one of the wealthiest and highest-ranking cities socioeconomically not just in Australia but in the world, has the highest rate of car theft of every state and territory except the Northern Territory, by a distance Australia's poorest and most crime-afflicted state or territory. Police resources in the ACT, never particularly high, have been rapidly outstripped by higher than expected population growth.

It is pretty much certain that the current increases in vehicle theft and reports of dangerous behaviour are linked. This therefore means that the primary solution is to increase police resources to reduce theft and target traffic enforcement at the times when such offenders are active (i.e. at night). In particular there needs to be improvements to the prosecution of recidivist offenders [9] and it needs there needs to be an increase in the efforts in the prosecution of car theft, potentially combined with increased ease of obtaining a conviction, as it is rare that investigations are carried out even with strong evidence [8].

What is the current risk?

The Australian capital territory has, in general, possessed by a distance the lowest rate of traffic fatalities of anywhere in Australia, and indeed the ACT's rates are some of the lowest of any jurisdiction in the world.

Only a proportion of driving risk is attributable to speed. This varies depending on who is doing the measuring due to differences in crash investigation methodology and data handling. In the United Kingdom, which is generally considered to have significantly more accurate data than Australia, about 25% of fatal and serious injury crashes have exceeding the speed limit as a primary factor (Australian data combines 'speeding' and 'inappropriate speed for conditions' and often has curious artefacts where speed is automatically infilled where the cause is unknown, as noted by the Motorcycle Council of New South Wales in an NSW Parliamentary inquiry). In Victoria, the percentage was recently identified at 20% [4]. An even smaller proportion of this is from 'hoon' driving. No separate data exists country-wide for this, but deaths due to 'hoon' driving are generally anecdotal in nature, restricted to a handful of incidents. They overall likely do not make up more than a relatively small proportion. In comparison, crashes with non-speed related issues as the primary factor make up 71% of all crashes [5]. These factors, such as distraction and inattention pose a far greater risk to road users yet far less effort is put into combating them. Ironically, the number one problem is issues that can be grouped under 'apathy' – as describes the road safety community's attitude to it.

Furthermore, comparison should be given to the relative risks of driving compared to other activities. The rate of fatalities for cars in Australia over the past ten years is about 3.1 per billion vehicle kilometres [1]. The average speed of vehicles in Australia is about 60 km/h [2]. This means a rate of about one death per 5.37 million hours of driving. The ACT's fatality rate is about 1.5 per BVKT, or one per 11 million hours of driving.

In the years 2019 to 2021 the ACT did not experience any motorcycle fatalities at all, a remarkable achievement. This was done with the popular motorcycling roads having speed limits of 100 km/h until June 2021 (in many states they have been reduced years ago), no, somewhat narrower 'hoon laws' and no targeted enforcement campaigns of the type regularly used by other states (and that many riders consider to be discriminatory harassment).
The average fatality rate for motorcyclists per billion kilometres travelled is about 90 over the past ten years. If it is assumed that motorcyclists travel faster than cars and average 70 km/h, this comes out to 1 fatality for every 159 thousand hours.
A comparison can be made to forms of aviation analogous to driving cars and motorcycles, light vehicles carrying a small number of people. The data are from [3] between 2014 and 2018. General aviation, licenced by the Civil Aviation Safety Authority, saw 5,692,300 hours flying time and 153 fatalities, a rate of one every 116 thousand hours.
Sport aviation is a category of aviation activities that has been created in response to perceived regulatory issues in general aviation impacting recreational activities. Aside from general flight rules its regulations are delegated to a series of associations around Australia rather than being administered directly by CASA. This is a similar model to that used in boating and diving. There were 1.835 million logged hours from 2014-18 and 49 deaths, a rate of one every 37.4 thousand hours.
It can be seen that these forms of aviation have a significantly higher rate of death than even motorcycling. Yet there is no moral panic about the number of deaths in aviation. While driving deaths are a significant societal burden due to the fact a very large number of people drive, actual assessments of the risk fail to reproduce the 'war on our roads' rhetoric often used by activists. In comparison to some activities such as recreational flying driving is in fact very safe.

Lastly the overall burden, though significant, is not as high as some other phenomena. During the period when the ACT has been averaging about seven or so traffic deaths per year it has been averaging about 50 suicides per year. This does not include drug overdoses, often also caused by mental health issues. Yet provision of mental health services remains inadequate. Suicide is the leading cause of death for young Australian men yet while they are expected to refrain from action that enrich their lives (such as driving cars fast), society has shirked its responsibility to provide the same people with a good start in life, for example with affordable housing (the lack of which also inflicts a massive economic cost as prime-age spenders are forced to put their income into rent or a mortgage rather than goods). Overall the moral panic over driving seems somewhat overblown compared to the deaths from other causes, which are quieter but no less impactful.

A comparison of Canberra's laws

Canberra's current laws have conditions and penalties that are very similar to the 'hoon laws' employed in other states. These are 'hoon laws' in all but name, having been instituted without the fanfare that accompanied the introduction of the laws in Victoria.
The relevant laws in the ACT are contained in the *Road Transport (Safety and Traffic Management) Act 1999*, Division 2.3.
Impoundment offences include:

- Burnouts

- Drifting
- Wheelies
- Street racing
- Speed trials
- Other offences that come under racing and speed trials and improper use of a motor vehicle

The prescribed penalties for such offences are:

- For a first offence, 3 months impoundment
- For a second offence, permanent seizure

The police can impound vehicles by the roadside (and in recent cases have [6]). The impoundment or seizure must be confirmed by the Magistrate's Court, this is comparable to the procedure usually used for serious offences in other states. There is no given time period for when a second offence is committed, which may mean a person could have their vehicle confiscated many years after the first offence.

The table below shows the penalties in other states for comparison:

State	1st	2nd	3rd	4th	Notes
Vic	30 days	30 days	May seize		Offences within 6 years
NSW	3 months	May seize			Offences within 5 years
Qld (Type 1)	None	7 days	90 days	May seize	Type 1 offences include exceeding the speed limit by 45 km/h. No given time period.
Qld (Type 2)	90 days	May seize			Type 2 offences includes racing and dangerous driving No given time period.
NT	2 days	3-6 months	May seize		Only applies for racing, burnouts etc, not for speeding.
SA	28 days	28 days	May seize		No given time period.
WA	28 days	3 months	Court: 6 months - May seize		Greater penalties for third offences must be convicted in court.
Tas	28 days	3 months	Seize		Can apply to seize after second offence. No given time period.

The main difference between the ACT and some other states such as NSW is that there is no arbitrary speeding threshold (often set at 45 km/h), a person must be engaging in what would normally be considered actual 'hooning'. Queensland splits the difference by treating speeding much more leniently than actually engaging in racing.

Most of the remainder of this submission will deal with the unfairness of how harsh the penalties are when arbitrary measures such as a 45 km/h speed threshold are used,

especially when contextualised, as well as when they are inflicted against people who have not hurt anyone.

Contrary to popularly expressed beliefs (including from the AFP association), the laws in the ACT are fully consistent with those in other jurisdiction with the exception of a few minor details and definitions. Their powers to seize offending vehicles are fully spelled out in Division 2.3 and to assert otherwise is disingenuous.

Also worth mentioning is how the penalty is actually applied. The vehicle is usually physically impounded in all states for offences such as street racing. This involves the incurrence of an extremely expensive fee on top of any other fines already imposed to have the vehicle released. South Australia recently drew condemnation for removing the possibility of payments over time (normal for fines), which has resulted in numerous people having their vehicles sold and later being found innocent. Note that the costs imposed are often vastly higher than the actual costs incurred by the impounding contractor – in South Australia the cost is about $1,400 whereas in New Zealand it is just $400 for the same time period. The laws have had no effect on SA's road toll.
In New South Wales, and increasingly other states such as Queensland, offences involving speeding are often penalised *not* with impoundment but with the confiscation of the number plates (a person may even be allowed to drive the vehicle to their residence or storage). This is a significantly less costly punishment and correctly recognises the lesser nature of these offences, even if they fall under the arbitrary constraints of the law. If the ACT was to adopt stricter laws, then this would be a fairer outcome.

A last point to make is the disposal of seized vehicles. Advocates of 'hoon laws' often obsess over crushing offender's vehicles, to a degree that seems to show vindictiveness as being a factor. Crushing vehicles is unfair to the wider motor enthusiast community and is simply a waste of resources. For example, some vehicles (such as many models of sports motorcycles) are actually quite rare and if such a vehicle was seized then selling it would not only allow the government to recoup their costs and even make a profit, but the vehicle could be bought by any number of law-abiding riders who wish to obtain such a model. This means a greater net good, whereas crushing a vehicle gives nothing more than a few minutes of vindictive satisfaction and a 'strong message'. Only if the vehicle's monetary value is less than the cost of storing and selling it should it be crushed.

If arbitrary speed thresholds are not used, and the offences limited to those currently prescribed, then the ACT's laws at the current time will arguably produce the most fair outcomes of the laws of any state or territory.

Overall there is no proof that the ACT's slightly narrower laws than NSW's and lack of measures such as automatic licence suspensions for higher range speeding offences contributes in any way to road safety issues in the ACT. The powers are all there needed to combat the most problematic offenders, but the police simply do not have the resources to use to them at the most effective times, nor do they have the power and resources to tackle car theft and nip the problem at the bud.

Proportionality

The idea of proportionality, that ‘the punishment must fit the crime’, is one of the oldest societal concepts. The penalties imposed by ‘hoon laws’ often fail to meet a reasonable standard of proportionality, being capable inflicting devastating losses on those penalised even when there were no harms to persons from the offence. Despite legislative scrutiny committees regularly making comment that the laws significantly infringe upon human rights, they rarely ask the question of whether it is proportionate.

The trite soundbite ‘if you don’t break the law you’ll be you won’t be penalised’ is often trotted out in this situation. This is a deflecting argument designed to prevent discussion of the proportionality of the punishment.
A very good example of this is England in the eighteenth century. The ‘Bloody Code’ is a term applied to an accumulation of laws in England for which the violation incurred the death penalty. This included, amongst other offences, the theft of any property worth more than one shilling, about half a day’s wages for a skilled worker at the time. A modern equivalent would be being executed for stealing $150. Despite the clear violation of the law most people would argue that being executed (and even being imprisoned) for stealing such a sum would be a totally disproportionate penalty.
A more modern and analogous situation is the ‘three strikes’ laws used in some states in the USA. These are laws that prescribe mandatory sentences for crimes defined as felonies, with the third offence being a mandatory life sentence. While some examinations have claimed these laws are effective in reducing crime, they are widely opposed on moral grounds. This is because the offenses that can mandate a life sentence include ‘petty felonies’, such as the theft of property of a low to moderate value.

The comparison of these situations to ‘hoon laws’ as widely employed in Australia (and increasingly a few other countries, such as Denmark and some German states) is very apt. A penalty under these laws may mean the seizure of a vehicle of several tens of thousands of dollars (or more) value. There is not just a large financial cost involved, but a massive mental and emotional cost as that vehicle may be very important to the person. Some offences are often a victimless or nearly victimless crime (with the only inconvenience coming from noise), yet will incur a penalty far about than more harmful actions. It is unjust to inflict a penalty massively larger than most traffic penalties on a person because is happens to espouse a few disliked activities.
We don't treat driving offences the same way as most offences, by the seriousness of the consequences. For example, illegal possession and use of a firearm are treated more seriously if they are associated with the commission of another crime, and even more seriously if they involve harm to other people. In comparison despite the severity of the penalty (potential loss of a vehicle), 'hoon' offences are treated the same regardless of the situation. This doesn’t make sense nor is it fair, and is inconsistent with the normal consequences-based approach. The argument is usually presented that the action has the *potential* to cause a death but this is inconsistent with the way that crimes and negligence (in a civil suit) are legally penalised. Swinging a baseball bat can cause serious injury and death, if it impacts someone. We do not heavily penalise people for swinging a bat when it contacts nothing but air.

Furthermore, the idea of always applying such an excessive punishment does not account for when the benchmark for an offence has changed. For elaboration, please see the succeeding section “arbitrary definitions”.

One unifying aspect of ‘hoon laws’, the Bloody Code and ‘three strikes’ laws is that the harshness of the punishment is partially meant as a deterrent. Yet their effects were and are not marked, in fact crime in England fell a large amount after the adoption of more lenient policy. Overall societal conditions are far more important. If people are supported they will commit fewer crimes. In the case of traffic offences this means providing a venue where they can engage in their desired actions. Unfortunately, ‘sending a message’ as a deterrent often takes a backseat to getting a genuinely just outcome.

This can further be contrasted with the penalties inflicted for similarly clear violations of law that result in serious or fatal injuries, but do not fall under the category of ‘hooning’. Violations of right of way are the most common cause of serious to fatal multiple-vehicle motorcycle accidents, the classic situation being a driver making a right turn across the path of a rider. The fault in this particular scenario almost always lies with the driver. Such accidents are more pervasive risk in terms of infliction of harm to others (motorcyclists engaging in hoon behaviour pose most of their risk to themselves) yet are not treated anywhere near as seriously as ‘hoon’ offences. It is common for a driver to escape a serious injury crash with at most a licence suspension for a moderate period and a fine.
One particular feature of these types of accidents is that the possible penalties are often not enforced, there are many examples of clearly at-fault drivers escaping the maximum prescribed penalty even for serious injury or fatal crashes.

Overall it is clear that ‘hoon laws’ regularly inflict disproportionate penalties and do not address what are actually the major overall causes of crashes. Offences that are vastly differing in risk are treated the same. The ACT’s current laws are better in that they clearly define behaviour that any person can agree as being dangerous, not just an arbitrary level speeding.

An extension should be made to this argument – some advocates of tougher laws even want imprisonment for ‘hoon’ offences where no harm has been caused to other road users. This is even more disproportionate, to a point that is insulting to the victims of crashes caused by simpler negligent actions.

Arbitrary definitions

Some offences incorporated in laws in NSW (particularly the 45 km/h threshold) are completely arbitrary and mean that 1 km/h may make a massive difference to the penalty people will face.
Actions which are easily achievable, not necessarily apparent to other road users, or not as dangerous as other actions may fall afoul of 'hoon laws'. For example, the popular roads for recreational motorcycling in the ACT have a variety of speed limits, some more reasonable than others, that mean an unremarkable speed would lead to a 'hoon offence'. The speed limit along the entirety of the Brindabella Road used to be 100 km/h. In June 2021 a section was lowered to 60 km/h, effectively restoring a speed limit that had been implemented due

to construction traffic during the new Cotter Dam build. In February 2022 the 60 km/h zone was extended and much larger portions were reduced to 80 km/h. As a measure of the credibility of the speed limits, even cyclists regularly exceed the limit on the 60 km/h section, and most traffic does substantially above the limit. It is not a reasonable limit but is set due to a rigid matrix. Although an accident prone-road the accidents were either mostly concentrated in corners which feature low vehicle speeds and an addressing of these corners could have gained the same safety benefits without lowering the speed limit, or caused by people doing well over the 100 km/h limit.
In the 60 km/h section even a small LAMS-approved motorcycle such as a Kawasaki Z300 can easily do 105 km/h and this speed would formerly have attracted a small fine and 1 demerit point prior to the change. In the 80 km/h sections again almost any motorcycle and many cars can easily attain 125 km/h.
Although it is indisputable that doing these speeds significantly raises the risk (mostly to the user doing it compared to other road users), it is disproportionate that a person might have their vehicle seized for being caught doing such a speed (especially at widely spaced times). In the case of the 60 km/h zone the change in speed limit so vast that only a person completely unmoved by the idea of fairness and common sense think that someone's vehicle should be seized or impounded for doing a speed that would formerly have got only one demerit point, if they were pulled over at all. The threshold has shifted even though the actual risk hasn't. Even if it not considered a safe speed, very few people would consider doing 105 km/ on that road to be genuinely 'hooning'.

The same also goes with someone doing 145 km/h on the section of Uriarra Road west of Uriarra Crossing. This is certainly a speed that is dramatically more dangerous, but on a road that has very low traffic, long sight lines and few roadside hazards the current penalty of six points and a very hefty fine (about $1850 at current) seems proportionate to the offence, as the risk to other road users is simply nowhere near as elevated compared to say, racing on a suburban street.

In comparison, someone who chooses to do 1 km/h less than the threshold, no matter the situation, will be subject to much lesser penalties. Doing 124 km/h on Parkes Way east of Commonwealth Avenue poses a far greater risk to other road users than any of the above outlined scenarios on country roads, yet the driver will escape with merely a fine, demerit points and possibly a licence suspension. The arbitrary speed threshold in laws such as NSW's does not clearly accord to the actual risk posed by the situation at all and leaves a 1 km/h threshold between a merely painful punishment and a disproportionately devastating one. The ACT's current laws do not have this issue currently, and arbitrary numerical criteria should be excluded from the laws.

Who do hoon laws actually affect and who is most problematic?

Hoon laws most affect licenced drivers driving registered vehicles, as they have the assets to lose. Many people, especially licenced drivers, will deliberately seek a quiet country road if they want to drive at high speeds. This is not just because there is possibly a lower chance of being caught (although the intensive police operations on many popular motorcycling roads means the chance of being caught is often higher than in a suburban area) but because such roads have far less traffic on them. This means that there is far less a chance of harm

coming to other road users. Furthermore, someone who is merely speeding (as opposed to racing) represents less of a risk because they are more likely to be concentrating on their environment, rather than another person, as they are not engaging in competitive behaviours are less likely to be pushing their limits. They would like to be able to ride or drive their vehicle for another day, and to have it intact rather than having it written off, so are more careful and are unlikely to be intoxicated.

In contrast hoon laws will be much less effective against drivers who are driving unregistered, often stolen vehicles, often without a licence. If there is no sense of ownership then the seizure of a vehicle is no longer a deterrent. The effective penalties against these types of offenders will instead be fines and imprisonment. It is these types of drivers who are the most problematic. They are also much more likely to be on drugs or drunk, and they account for most of the reported incidents recently. These people have no regard for their vehicles (hence why they behave in a way that puts them at much more risk, whereas the owner of an expensive car or motorcycle wants it to be intact), and so the threat of a loss of the vehicle is not a big deterrent.
A good example of this is a very prominent recent case which has led to a public advocacy campaign, the death of Matthew McLuckie. McLuckie's father has been understandably very upset and is campaigning for stronger laws against dangerous driving, including changing the ACT's laws to match NSW's. The issue is that the driver that killed McLuckie has been alleged to be driving a stolen vehicle and to have been on drugs at the time of the accident, although charges have not yet been pressed so these allegations remain unproven at the current time. It is apparent that this was the kind of incident that would have been prevented by having a police officer to apply the ACT's current rules, or to enforce non-'hoon' related laws, and that a large number of severe penalties could be incurred by this person when charged. Changes in the law are not the answer because the law is already good enough. It just needs time to work.

Put simply, the arbitrary speed threshold employed in many states means they are much more likely to affect people of the kind I know who go riding on a Sunday afternoon and would like to do 100 km/h or a little bit over on a road that used to be 100 km/h but is now limited to 60 km/h. None of these people are malicious, they are ordinary tradies, public servants, marketing assistants and so on. You will find the whole spectrum of society amongst these very ordinary people, who are united by a passion for riding a motorcycle with a decent turn of speed.
In the absence of a Nürburgring-like facility that can recreate the geometry and experience of a mountain road while being a closed course, and indeed in the absence of any appropriate motorsport facilities at all, these people have no place to go other than public roads. They are simply seeking the unique feeling that comes from controlling a small machine at a good speed. It would be totally unjust to these fundamentally good people to seize their machines for going such an unremarkable speed. They will accept the consequences of being caught in the form of fines and points. But to inflict the loss of their machines on them when they have no other place to go and are doing a speed that was barely illegal only a year and a half ago defies any definition of justice. These are good people who, even though knowingly defying the law, do not mean any harm by it, and would be happier if the rules had not suddenly and dramatically changed on them.

By maintaining the law and its definitions as they currently stand, offenders who are behaving with deliberate malicious intent and engaging in highly dangerous activities such as street racing can easily be prosecuted to the extent that anyone wants, including taking their vehicle. The lesser danger simply from higher level speeding should remain reflected by its lesser penalty. Most of all, there needs to be a greater effort to intercept the kind of people these rules are least effective against, the driver or stolen vehicles.

Moral and emotional judgements disguised as policy making

Emotions are one of the most basic human traits. Unfortunately, their instinctual nature and lack of consistency between people makes a poor substitute for logic when it comes to policy making. A good example of this is the saying that 'a car is weapon', even though the lifetime risk of dying from one is significantly lower than the risk from an ordinary fall. It sounds snappy, but is easily disprovable. Weapons are directed with intent to injure or kill. A gun has no other purpose than to kill things and it was designed to do so. Cars were designed for transport and in the case of many vehicles (especially motorcycles), recreation. Those who use them very rarely use them with intent to kill. Cars are a weapon no more than a cricket bat or a heavy spanner are weapons. They can easily be used to kill a person but that it not the intent of their use or the normal effect of it. Indeed, it would be an incredibly ineffective weapon that took millions of hours to kill a person. The very use of the phrase 'hoon laws' shows excess emotion is policy making. 'Hoon' is a derogatory word, an insult, and not at all indicative of a morally sound way of dealing with fellow human beings.

While individual deaths are absolutely tragic, the advocacy for harsh laws due to certain causes diminishes the importance of the vast majority of deaths that are due to other causes. Perspective needs to be kept, and yes this does include the human rights, not just of the perpetrator, but of people who are performing actions that are similar but have not caused any harm. People regularly inflict greater actual harms, often through seemingly more innocuous actions, yet do not get anywhere near the amount of opprobrium. This is because advocates are only directing their guns against the obvious targets that personally displease them. A 'hoon driver', and these advocates often have a broad range (pretty much including any motorcyclist), is offensive not necessarily because of the danger, but the annoyance.

And indeed, it will annoy many advocates of 'tough' laws to admit the real motivation for wanting them. It is not safety, but vindictiveness. This can easily be discerned in mocking, condescending tone often used by these people in more informal setting such as internet comments. The desire to crush vehicles of offenders who have caused no real harm is a particular giveaway. Some actions can be annoying, and the advocates of such policies often feel helpless to remove this issue. By implementing stricter laws, they receive not satisfaction from being (a tiny bit) safer, but the most satisfaction from seeing those falling afoul being reduced to a greater level of helplessness through the destruction of a prized posession. Vindictive retribution is not a reason to create laws (especially when adequate laws already exist) in the modern progressive era.
No matter cause, perspective needs to be kept and hot-headed emotions excluded from the policy-making process.

Accommodative policy for some but not others

In the potential adoption of laws stricter than those currently used for dangerous driving in the ACT, a contrast can be made with proposed reforms to drug offences that are currently being considered by the Government. Not only is the possession of an amount of marijuana to be decriminalised (despite the fact that decriminalisation leads to increases in traffic accidents [7]), but there are further proposals to extend this to small amounts of all 'hard' drugs, such as cocaine and ice, as well as reducing penalties that are not for trafficking and dealing. The Author actually considers this approach has merit, in contrast to the societal wreckage that the 'War on Drugs' has produced in many parts of the USA. But it is nearly certain that these reforms will increase harms stemming from the actual drug use itself (such as when driving).

The most radical point is that the drug use is not only treated as victimless crime, and often not as a crime at all, reversing the predominant course. Even though drug use is significantly associated increased harm to the self and others this is disregarded when harm is not actually found.

In contrast, if stricter penalties and broader laws than currently exist for 'hooning' are brought in, this would be the opposite approach of very heavy (and emotionally damaging) penalties for victimless crimes.

The most notable difference is the complete lack of accommodative policy. Australian governments consistently ignore both the needs and the benefits of motorsport. Some, such as Gold Coast Council, have actual been proactive in shutting down motorsport facilities on the flimsiest noise-related pretexts while lobbying the state government for more anti-'hoon' measures. A striking example of this was the shutting down of Wakefield Park Raceway, the closest race track to the ACT. The massive community benefit from the track was completely ignored by both the then-council (the current one is more supportive) and the Land and Environment Court in favour of benefiting a tiny number of people using a framework totally inconsistent with motorsport noise management in other states.

Even where facilities exist they are often expensive to use (and hence hard to attend frequently), do not provide the kind of unstructured 'play' that many 'hoons' would like to engage in, and do not replicate the driving conditions of a mountain road. There are very few places that provide the opportunity for burnouts at all. And preparing a vehicle can be very expensive.

By far the biggest obstacle is biased noise management policy that prevents venues from being established and makes it too easy for them to be shut down.

But the next biggest is liability. Motorsport venues have a massive liability burden that makes them subject to a much higher duty of care than the Government has for public roads. Even a single negligent breach – for example leaving an unprotected obstacle where it can be hit by a vehicle – would leave the venue open for potentially millions of dollars in damages. If someone was to create a burnout pad – simply a large area of flat asphalt – and only run on it vehicles that were limited to 100 km/h, they would still have to ensure that all vehicles and participants have the proper safety equipment (which is not cheap), and will still be subject to massive insurance costs for public liability. In comparison on rural roads dangerous obstacles abound and almost no money is spent on upgrading roads to a higher standard (or even to a minimum standard). Yet the cost is borne by taxpayer without any penalties accruing to the politicians and administrators.

Not one government in Australia has tried a genuinely accommodative policy by creating a venue that is free or cheap to access and caters to the wide variety of activities that people would like to do. The closest there is to this in the world is the Circuit Carole near Paris, which is free for motorcyclists half the weekends of the year. Unfortunately, it is currently under threat due to France's refusal to protect motorsport venues from noise complaints and use reasonable rules. Even then it only provides for a portion of potential user groups. Most importantly, there is a failure to recognise that for many people, these activities represent a positive, constructive and important part of their lives. Many people who excessively speed are not doing so maliciously, they are simply seeking an uplifting experience that cannot be found any other way. Yet they are subject to discrimination from people who deny them a safe venue and who want to then crush (literally) their expressions of their desires in the only places they have. They get no engagement and have no say over the rules imposed on them. If the ACT Government is going to get serious about 'hoons', they could at least perform an Australia-first and give them an easily accessible safe space, and this would be befitting of their progressive ideals.

Summary and suggestions

In concluding, the ACT's laws covering dangerous driving are adequate but simply lack the resources and effort in enforcement. There is no need to change course, but simply ensure that people are in the right place at the right time to tamp down on untoward behaviour. Preventing car theft will nip the problem in the bud. Any changes to laws are likely to inflict disproportionate punishments on people who do not deserve them.

- The laws that cover vehicle offences in the *Road Transport (Safety and Traffic Management) Act 1999* should remain as they currently are and not expanded to include arbitrary speed thresholds such as 45 km/h over. If such an offense is included it should be treated more leniently, as is done in Queensland.
- Offences should be time limited as in Victoria
- The Police should have it made clear to them their power under the existing laws and be encouraged to use it
- Seized vehicles should be sold, and only wrecked or crushed where the monetary value of the vehicle is less than the cost of storage until sale. Confiscation of number plates or immobilisation should be used instead of impounding.
- Less lenience needs to be given to repeat offenders of theft and related offences.
- Much greater effort needs to made to investigate and prosecute car theft, which will reduce the problem of dangerous driving on its own
- Greater effort needs to be made to have police out at the right times – i.e. in the late evening, rather than the middle of the day
- The government should consider a low-cost, easily accessible motorsport facility and support programs that engage people who might not be able to afford to use them
- A more positive and engaging approach needs to be taken similar to that being pursued for drug offences. The fact that engaging in offending activities is a positive thing for 'hoons' lives needs to be acknowledged and a safe space found for them

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