



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Submission Cover Sheet

Inquiry into Dangerous Driving

Submission Number: 040

Date Authorised for Publication: 7 December 2022



JUSTICE REFORM INITIATIVE SUBMISSION TO THE LEGISLATIVE ASSEMBLY INQUIRY INTO DANGEROUS DRIVING

OCTOBER 2022 (AMENDED NOVEMBER 2022)

ABOUT THE JUSTICE REFORM INITIATIVE

The Justice Reform Initiative (JRI) is a national justice advocacy organisation working to reduce over-incarceration in Australia and to promote a community in which disadvantage is no longer met with a default criminal justice system response. The JRI alliance includes people who share long-standing professional experience, lived experience and/or expert knowledge of the justice system. The Justice Reform Initiative is committed to reducing Australia's harmful and costly reliance on incarceration. We seek to shift public discourse and policy away from building more prisons as the primary response of the criminal justice system and move instead to proven alternative evidence-based approaches that break the cycle of incarceration.

Our patrons include more than 120 eminent Australians, including two former Governors-General, former Members of Parliament from all sides of politics, academics, respected Aboriginal and Torres Strait Islander leaders, senior former judges including High Court judges, and many other community leaders who have added their voices to end the cycle of overincarceration in Australia.

The JRI's patrons in the Australian Capital Territory (ACT) are:

- **Professor Lorana Bartels (co-chair)**, Australian National University (ANU); Adjunct Professor, University of Canberra (UC) and University of Tasmania;
- **Professor Tom Calma AO**, Chancellor, UC; Co-Chair, Reconciliation Australia; former Aboriginal and Torres Strait Islander Social Justice Commissioner and Race Discrimination Commissioner;
- **Kate Carnell AO**, former Chief Minister of the ACT; Deputy Chair, BeyondBlue; Australian Small Business and Family Enterprise Ombudsman;
- **Simon Corbell**, former Deputy Chief Minister, Attorney General, Minister for Police and Emergency Services of the ACT; Adjunct Professor, UC;

- **Dr Ken Crispin QC**, former ACT Director of Public Prosecutions, Justice of the ACT Supreme Court and President of the ACT Court of Appeal;
- **Shane Drumgold SC**, ACT Director of Public Prosecutions;
- **Gary Humphries AO (co-chair)**, former Chief Minister of the ACT and Senator representing the ACT in the Australian Parliament;
- **Rudi Lammers APM**, former ACT Chief Police Officer;
- **Dr Michael Moore AM PhD**, former Independent Minister for Health and Community Care, ACT Legislative Assembly; Past President, World Federation of Public Health Associations; Distinguished Fellow, The George Institute, University of NSW; Adjunct Professor, UC;
- **The Honourable Richard Refshauge**, Acting Justice of the ACT Supreme Court; former ACT Director of Public Prosecutions; and
- **Dr Helen Watchirs OAM**, President, ACT Human Rights Commission.

We are supported by our ACT Advocacy and Campaign Coordinator, Indra Esguerra.

INTRODUCTION

The Justice Reform Initiative urges the ACT Government to stay focused on **evidence-based criminal justice policies**, as it considers whether harsher penalties are required for dangerous driving offences. This submission provides a number of suggestions for practical measures that will enhance community safety, promote equity and reduce court workload.

JRI is keen to promote solutions that address the reasons for offending and that seek to minimise the likelihood of such events recurring. Our position is that **increasing prison sentences is not the answer to the problem of dangerous driving**. Our submission offers a range of measures that will better support and educate ACT drivers, to minimise such tragic events. We have put forward a range of recommendations with the overall aim of increasing road safety and reducing the number of occurrences of dangerous and negligent driving in the ACT.

KEY RECOMMENDATIONS

Making our roads safer

1. Noting the demographic factors, the Committee should focus on responses that address the underlying causes of dangerous driving, especially substance use, including alcohol.
2. The Committee should closely examine and respond to the criminogenic factors around this issue.
3. Government responses should be targeted specifically at supporting young men to become safer drivers. In particular, programs that support young men to become safer drivers should be more readily available and strongly promoted.
4. The Government should run a public education campaign, especially targeted at young males, about the potential consequences of dangerous driving behaviours, and addressing issues around masculinity.

Sentencing and reducing traffic offences, including unlicensed driving

5. The ACT should maintain its policy of not having mandatory sentences in relation to dangerous, negligent and culpable driving offences.
6. The Committee should investigate the disproportionately high level of traffic offences in the ACT courts, in comparison to other jurisdictions.
7. The Committee should examine why the ACT has an automatic mandatory licence disqualification regime, where other jurisdictions do not and examine ways to reduce unnecessary restrictions on obtaining a licence.
8. The Government should provide more support for people to get their driver's licences.
9. The Road Ready course should be made available in the Alexander Maconochie Centre.
10. The Road Ready course should be made free of charge for everyone in the ACT.
11. The Government should explore ways to reduce the barriers for people who cannot easily complete the 100 hours of required practice to obtain their P-plates.
12. The Government should review the cost of licences, to ensure that the ACT is in line with other jurisdictions, with appropriate discounts available.
13. The Government should urgently reinstate and appropriately fund the Aboriginal Legal Service's driver's licensing support program.
14. The ACT's alcohol interlock program should be examined more closely, including investigating lessons from the NSW model.

KEY ISSUES

CONTEXT – DEMOGRAPHIC FACTORS

To best consider the issues around dangerous, culpable and negligent driving offences in the ACT, it is important to start with looking at the data around who is committing these offences. This is key to helping identify the likely dangerous driving cohort and assisting with strategies to reduce the relevant behaviours.

Sadly, there have been a number of recent high-profile deaths on ACT roads.¹ Indeed, the 2022 road toll is already higher than every year since 2015.² Every road death is one too many as well as major tragedy for family and friends of the deceased. However, the following table³ demonstrates that, on a per capita basis (using 2021 population data), the ACT road death toll for 2021 and 2022 (to date) is amongst the lowest in the country. Responses therefore need to recognise this context.

Table 1: Road fatalities, by jurisdiction, 2021 and 2022, per 100,000

Jurisdiction	2021	2022 (to August)
ACT	2.5	2.5
NSW	3.3	2.3
NT	14.2	14.6
Qld	5.3	3.9
SA	5.6	2.7
Tas	6.5	7.4
Vic	3.5	2.5
WA	6.2	3.7

Sources: Australian Government (2021, 2022)

The most concentrated numbers of people engaged in dangerous driving are generally **young and male**. For example, national data on the number of individual defendants finalised for all ‘traffic and vehicle regulatory offences’ (hereafter ‘traffic offences’) in

¹ Albert McKnight, ‘Drug-driver pleads guilty to causing death of Sue Salthouse’, *RiotAct*, 29 March 2022 <https://the-riotact.com/sue-salthouses-killer-mitchell-laidlaw-pleads-guilty-to-causing-her-death/545141>; Peter Brewer, ‘Matthew McLuckie, Lachlan Seary among lives lost to heartbreaking road trauma’, *Canberra Times*, 26 May 2022 <https://www.canberratimes.com.au/story/7753500/cradled-in-his-hands-was-all-a-grieving-father-had-left-this-never-leaves-you/>.

² Australian Federal Police, *Road Toll* <https://www.policenews.act.gov.au/crime-statistics-and-data/road-toll>. As at 26 September 2022, there had been 12 deaths this year, compared with 5-11 between 2016 and 2021.

³ See Australian Government, *Australian Road Deaths Database* (2022) https://www.bitre.gov.au/statistics/safety/fatal_road_crash_database; Australian Government, *National, State and Territory Population, June 2021* (2021).

Australian courts reveals that 75% were male and 20% were aged up to 24, with a further 15% aged 25-29.⁴

It is important to note that the definition of 'traffic and vehicle regulatory offences' refers to offences such as driver licence offences, vehicle registration offences and drink-driving. The offence of 'dangerous driving causing death' is classified within 'homicide and related offences', while 'dangerous or negligent operation of a vehicle' is classified within 'dangerous or negligent acts endangering persons'. Motor vehicle theft is classified under 'theft and related offences': Australian Bureau of Statistics (ABS), *Australian and New Zealand Standard Offence Classification (ANZSOC)* (3rd ed, 2011).

A driver's age and level of driving experience contributes significantly to reducing road accidents. We know that male drivers under the age of 25 are highest among the drivers causing road trauma, and this is largely due to the risk profile of people under 25 (hormonal, meaning less ability to correctly judge risk).

The combination of young people undertaking partying activities with their peers, usually with alcohol and/or drugs, is often the scenario where dangerous driving incidents occur. This is borne out in the road accident and road toll data, overlaid with drug and alcohol data, with a New South Wales (NSW) report⁵ finding that **86% of road fatalities where the driver was under the effect of an illicit drug were male; 23% were aged 25 or under, while 32% were aged 26-39.**

While these statistics for male-induced fatal crashes are reduced when examined without illicit drugs being present, the data still strongly shows that young males are more likely to cause fatal accidents.

It seems that over time these numbers are improving, which seems to imply that general public education campaigns and improved driver licensing education is having a positive effect. It is particularly noteworthy that a recent study in Victoria⁶ found that the proportion of traffic fatalities involving alcohol was decreasing by 9% each year. This may suggest that reduced alcohol consumption by young people⁷ and/or increased awareness of the impacts of drink driving are having a protective effect. Again, examination of these data highlights **the need for responses that address the underlying causes of dangerous driving, especially substance use.**

⁴ Australian Bureau of Statistics (ABS), *Criminal Courts, Australia, 2020-21* (2022) Table 3.

⁵ NSW Government, *Drug Driving Trauma Trends* (2017).

⁶ Jennifer Schuman et al, 'The prevalence of alcohol and other drugs in fatal road crashes in Victoria, Australia' (2021) *Accident Analysis & Prevention* <https://doi.org/10.1016/j.aap.2020.105905>.

⁷ Sarah MacLean, 'Why are young people drinking less than their parents' generation did?', *The Conversation*, 24 December 2021 <https://theconversation.com/why-are-young-people-drinking-less-than-their-parents-generation-did-172225>.

Noting the abovementioned demographic factors, we believe it is important that **responses are targeted specifically at supporting young men to become safer drivers.**

- One such program is the Reducing Aggressive Driving (RAD) program, developed by ACT Road Safety for drivers aged 18-25. Undertaking this course is voluntary, although a recent evaluation⁸ found support among participants for making it compulsory. Participants in the evaluation (most of whom were not in fact ACT-based) also found that the program was helpful in managing their frustrations and reducing aggression while driving. Accordingly, it was suggested that RAD helped participants to reduce anger (including outside of driving contexts) and aggressive driving.
- Two programs that run through the Victorian courts - the Road Trauma Awareness Seminar (RTAS) and Drive To Learn program (DTL) were reviewed by Clark et al,⁹ also from the Monash University Accident Research Centre. RTAS targets first-time or recidivist traffic offenders of any age, although participants are typically young males aged under 26), convicted of a 'hoon' type offence, while the target group for DTL is predominantly male young people aged up to 17 years (pre-licensing) who have been charged with (or are facing) a traffic offence. The review found that both programs align well with overall youth justice system principles and therapeutic approaches. They are based on restorative justice and diversion from entering the system. They are also community-based and include cognitive-behavioural therapy components and the program implementation, content, structure and staffing was compatible with best practice approaches.

Consideration should be given to making programs of this nature more readily available and promoting their uptake. Such programs can also contribute to the 100 hours of learner driving, and could be made mandatory as part of the course as long as they were readily available.

It may be fruitful for any public education campaign and reoffending reduction campaigns to be informed by Michael Flood's groundbreaking research about the 'Man Box', which has found that young men who subscribe to traditional masculine ideals are

⁸ Amanda Stephens et al, *Evaluation of the Reducing Aggressive Driving Program (RAD)* (Monash University, 2021).

⁹ Belinda Clark et al, *Enhancing Offender Programs to Address Recidivism* (Monash University, 2015).

much more likely to be involved in traffic accidents (38% vs 11%).¹⁰ They were also more likely to both experience and perpetrate bullying, binge drink and have poor mental health. **Addressing issues around masculinity are therefore likely to yield a range of benefits for these men and the broader community.** Similarly targeted advertising is currently running to address family and domestic violence, and could be expanded to capture aggressive driving behaviours.

PRISON SENTENCES, FINES, SANCTIONS AND CORRECTIONS RESPONSES

Although it is tempting to invoke the threat of harsher penalties when tragic events on the roads occur, we need to be very realistic about the likely impacts of these policies. It is very clear that prison is ineffective when it comes to controlling crime or protecting the community.¹¹ Evidence shows that sending people to prison does not reduce offending behaviours and increasing the length of a sentence doesn't reduce the likelihood of occurrence either. In summary, **imprisonment often leads to more crime – not less.**

Nearly 40% of adults leaving prison in the ACT return within two years of their release¹² and 78% of adults in prison in the ACT have been incarcerated before, the highest rate in the country.¹³ The evidence is entirely clear that imprisonment is itself 'criminogenic', making it more likely for people to commit crime, and more likely to return to prison again.

We would like the Committee to closely examine and respond to the criminogenic factors around dangerous driving responses.

It is also very clear that 'toughening' laws often has unintended consequences. For example, when the Victorian Government restricted access to bail, following the Bourke St rampage that killed six people,¹⁴ lawmakers presumably didn't intend to lock away more women, especially First Nations women, many of whom are family violence

¹⁰ Michael Flood, 'Australian study reveals the dangers of 'toxic masculinity' to men and those around them', *The Conversation*, 16 October 2018 <https://theconversation.com/australian-study-reveals-the-dangers-of-toxic-masculinity-to-men-and-those-around-them-104694>. See also Barbara Krahé and Ilka Fenske, 'Predicting aggressive driving behavior: The role of macho personality, age, and power of car' (2002) 28 *Aggressive Behaviour* 21

¹¹ Productivity Commission, *Australia's Prison Dilemma* (2021).

¹² Productivity Commission, *Report on Government Services* (2022).

¹³ ABS, *Prisoners in Australia, 2021* (2021) Table 29.

¹⁴ Gareth Boreham, 'How Victoria's bail laws are changing following the Bourke St deaths', *SBS News*, 23 January 2017 <https://www.sbs.com.au/news/article/how-victorias-bail-laws-are-changing-following-the-bourke-st-deaths/x551pua8k>.

victims, homeless and otherwise vulnerable, in relation to offences for which they have not yet been convicted. Yet this is precisely what has happened.¹⁵

The JRI is strongly opposed to mandatory sentencing for these types of offences.

We believe it is important to create laws and sentencing options that allow the judiciary to examine each case in detail and make appropriate sentences that suit the individual and all the circumstances of each specific case. This has long been the ACT Government's position.¹⁶ It is also consistent with the position of the Law Council of Australia¹⁷ and Australian Law Reform Commission,¹⁸ especially in light of the disproportionate impact mandatory sentencing has on Aboriginal and Torres Strait Islander peoples in particular. Criticisms of mandatory sentencing include that it:

- can lead to unjust, harsh and disproportionate sentences, where the punishment does not fit the crime;
- fails to deter crime;
- increases the likelihood of recidivism, as people may be sent to prison unnecessarily, exposing them to its criminogenic effects;
- fails to address the underlying causes of crime;
- displaces discretion to other parts of the criminal justice system, especially law enforcement and prosecutors;
- can lead to perverse verdicts, as juries may refuse to convict, if they do not consider the required sentence to be fair;
- undermines the community's confidence in the judiciary and the criminal justice system as a whole; and
- is inconsistent with ACT legislation and Australia's international obligations, including the prohibition against arbitrary detention as contained in s 18 of the *Human Rights Act 2004* (ACT), which is the ACT enactment of Article 9 of the International Covenant on Civil and Political Rights.

We note that, although there may sometimes be perceived public support for mandatory sentencing, this is not supported by research. For example, when 420 Victorian jurors were asked how much discretion judges should have in deciding upon an appropriate sentence, only 4% answered 'none at all'. As *Alternative Law Journal* authors observed,

¹⁵ Emma Russell, Bree Carlton and Danielle Tyson, "It's a gendered issue, 100 per cent": How tough bail laws entrench gender and racial inequality and social disadvantage' (2022) 11 *International Journal for Crime, Justice and Social Democracy* 107.

¹⁶ See eg Alexandra Beck, 'Attorney-General Simon Corbell stands firm on one-punch laws', *Canberra Times*, 24 April 2018 <https://www.canberratimes.com.au/story/6054883/attorney-general-simon-corbell-stands-firm-on-one-punch-laws/>.

¹⁷ Law Council of Australia, *Mandatory Sentencing: Discussion Paper* (2014).

¹⁸ Australian Law Reform Commission (ALRC), *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (2017) Recommendation 8-1.

‘this indicates very little support for mandatory sentences in the sense of a fixed sentence for a particular offence with no discretion’.¹⁹

It is also important to ensure that we create laws with maximum sentences that are in context of other laws. The legislative maximum penalty for dangerous driving causing death is 14 years (*Crimes Act 1900* (ACT) s 29(2)). There are various other offences that may be applicable in similar circumstances, such as manslaughter (with a maximum sentence of 20 years: s 15), culpable driving causing grievous bodily harm (s 29(4)), negligent driving causing death (2 years: *Road Transport (Safety and Traffic Management) Act 1999* (ACT) s 6(a)) and drug driving (2 years: *Road Transport (Safety and Traffic Management) Act 1999* (ACT) ss 7, 7A). In some of these cases, intention is the difference, not necessarily the outcome, and we note that in all of the fatal driving offences, none of the drivers would have realised – or likely desired – that a fatality would be the outcome. Similar recent tragedies interstate have involved the deaths of the driver’s family and friends.²⁰ This is, in itself of course, a punishment greater than any thing that the criminal justice system can do, though it must still be invoked. **This reinforces the need for a public education campaign, especially targeted at young males, about the potential consequences of dangerous driving behaviours.**

As set out above, the ACT roads are not in fact more dangerous than elsewhere, on the basis of fatality data. However, **traffic offences do occupy a disproportionately large part of the ACT courts’ workload:** in 2020-21, they accounted for 62% of all defendants with a guilty outcome in the ACT courts, compared with 29-41% elsewhere in Australia.²¹ **The reasons for this should be the subject of further research,** but this suggests that there is scope to improve the way traffic matters are investigated and regulated in the ACT and that this would have significant benefits on the courts’ administration.

These statistics show that mandatory sentencing may well hugely impact on a large number of people whose offending is not linked directly, or sometimes at all, to the causes of deaths from dangerous driving and will impose a penalty that may not be just or fair in all the circumstances.

¹⁹ Kate Warner et al, ‘Mandatory sentencing? Use [with] discretion’ (2018) 43 *Alternative Law Journal* 289, 292

²⁰ See eg ‘P-plate driver who killed best friend in crash spared jail’, *Sydney Morning Herald*, 29 March 2022 <https://www.smh.com.au/national/p-plate-driver-who-killed-best-friend-in-crash-spared-jail-20220329-p5a94p.html>; Rayane Tamer, ‘Driver arrested following deaths of five Sydney teenagers in “deeply distressing” car crash’, *SBS News*, 7 September 2022 <https://www.sbs.com.au/news/article/driver-arrested-following-deaths-of-five-sydney-teenagers-in-deeply-distressing-road-accident/ksga52cat>.

²¹ ABS (n 4) Table 8.

It is noteworthy that **most jurisdictions do not have the ACT's automatic mandatory licence disqualification regime.**²² In 2017, NSW reformed its driver licence regime, resulting in a 56% reduction in average licence disqualifications and 24% reduction in average prison sentences imposed for unauthorised driving offences. A review by the NSW Bureau of Crime Statistics and Research (BOCSAR) found **no immediate negative impact on road safety in the three months following the reforms.**²³ **Consideration should therefore be given to reviewing the ACT's framework, to ensure that penalties are not imposed unnecessarily.** This is likely to have ancillary benefits. For example, we know that employment is associated with reductions in reoffending however job ads routinely require a current driver's licence.²⁴ We are aware of judicial and correctional officers who have at times expressed frustration about the lack of flexibility in applying these rules on a case-by-case basis.

We also believe that it is important to avoid knee-jerk reactions around bail and parole. Over 90% of offences committed on bail are minor offences.²⁵ There may also be a range of reasons why people do not comply with their conditions, including failure to understand the conditions, mental illness or homelessness. In the context of driving offences in particular, it may be a condition of bail that a person not drive, but this may place them in an invidious position. If someone needs to drive (for example, to get to work in places without public transport, especially if starting shifts very early in the morning), but haven't completed all the assessment requirements, the temptation to drive without a licence could be high. We are anecdotally aware of people breaching their court orders in order to engage in legitimate activities, such as employment. **We certainly do not endorse disrespect of courts' orders, but urge a nuanced approach that will promote genuine public safety.** This may require careful examination of the reasons why these behaviours occur.

It is easy to have populist appeal, especially with those agitating loudly, by making promises about 'getting tough on crime', tightening bail laws and bringing in harsher penalties. Denial of bail may effectively impose a denial of liberty to people not convicted and some of whom will never be convicted or will be convicted of a crime that does not require imprisonment. In fact, this response goes against the evidence of what works to address crime, which is to target the underlying drivers and the entrenched disadvantage within large parts of our society. This means properly resourcing the

²² Traffic Law, *Serious Traffic Offences in the ACT* <https://www.gotocourt.com.au/traffic-law/act/serious-traffic-offences/>.

²³ Suzanne Poynton and Felix Leung, *Early Indicators of the Impacts of the NSW Driver Licence Disqualification Reforms* (NSW Bureau of Crime Statistics and Research, 2018).

²⁴ For discussion, see eg Caroline Doyle et al, "If I don't get a job in six months' time, I can see myself being back in there": The post-prison employment experiences of people in Canberra' (2022) 57 *Australian Journal of Social Issues* 627.

²⁵ Amanda Nuttall, quoted in ACT Government, *Inquiry into ACT Budget 2021-22 – Answer to Question Taken on Notice, 28 October 2021*, Hansard, 1.

community to deliver supports that genuinely allow and support people to build their lives in the community instead of being 'managed' in justice system settings.

TRAUMA AND SUPPORT SERVICES

Victims of crime are not a homogenous group and experience very different responses in different circumstances to tragic events. While some victims of crime seek harsher penalties; some very publicly express forgiveness.^{26 27} Most victims of crime seek outcomes that will ensure their own experience is not replicated.

JRI believes it is very important that families of victims of dangerous driving offences are able to obtain support from the Victims of Crime Commissioner, and the sooner that this support is made available to the families the better the outcome in terms of feeling supported by the system and the community.

Equally, it is important that restorative justice processes are made available as soon as is possible within the confines of the justice system processes. We believe that this is a key element in the healing process for both the people who engage in dangerous driving and the families of the victim.

DRIVER'S LICENSING FRAMEWORK

Noting the importance of having a driver's licence for people who need to drive to get to work, JRI believes **it should be an ACT Government priority to provide more support for people to get their driver's licences.**

The first step for obtaining a driver's licence in the ACT is completion of the Road Ready course, which runs for 10 hours.²⁸ This is delivered for free, as part of the Year 10 school curriculum, but otherwise costs \$188.²⁹ There is no similar requirement in NSW.³⁰ Victoria requires completion of an online course; since August 2022, this can be

²⁶ Sally Pryor, "I don't think anybody's irredeemable": Ross Dunn on his daughter's killer', *Canberra Times*, 8 February 2019 <https://www.bluemountaingazette.com.au/story/5894806/i-dont-think-anybodys-irredeemable-ross-dunn-on-his-daughters-killer/>.

²⁷ 'How Danny Abdallah forgave his children's killer', *Triple M*, 27 April 2021 <https://www.triplem.com.au/story/how-danny-abdallah-forgave-his-children-s-killer-173711>.

²⁸ Road Ready Centre, *Pre-learner Road Ready course* <https://roadreadycentre.com.au/getting-a-licence/road-ready-course/>.

²⁹ Road Ready Centre, *Learner course* <https://booking.bookinghound.com/fe/booking?mode=ap&og=841dcdd8-321b-4e4b-b87a-7823dea46d17&uniqueid=17%20>.

³⁰ NSW Government, *Apply for a learner driver licence* <https://www.service.nsw.gov.au/transaction/apply-learner-driver-licence>.

attempted once for free.³¹ There may be a range of reasons why some young people do not participate in the Road Ready program through school, including disengagement from formal education, poverty, disability and poor literacy. If the objective is for drivers (and ACT residents generally) to learn the road rules, **we recommend that the Road Ready course be made free of charge for everyone in the ACT** who is required to complete it.

The Road Ready course is available in the Bimberi Youth Justice Centre. **Steps should also be taken to ensure that it is made available in the Alexander Maconochie Centre** and support provided to detainees with disability, literacy and/or language issues to complete it successfully. **This is particularly important, given that 5% of ACT detainees have a traffic offence as their most serious offence.**³² **This is higher than in all other jurisdictions:** in most jurisdictions (NSW, Vic, Qld, SA, WA and nationally), it is 0-1%, while it is 2% in the Northern Territory and 4% in Tasmania. The reasons for this are doubtless linked with the fact that a higher proportion of matters in the ACT courts are traffic matters than in other jurisdictions and indicate that upstream efforts to improve driver safety will have downstream impacts on the justice system more broadly.

After completing the Road Ready course, learner drivers are required to practise driving for 100 hours (including 10 hours at night). This is of course important to ensure they become a safe driver, but necessitates access to a car, petrol, and a licensed driver able to supervise driving practice. Clearly, not all members of the community have equitable access to all of this, especially in light of cost-of-living pressures. **We would urge the Government to explore ways to reduce the barriers for people who cannot easily complete the 100 hours of required practice to obtain their P-plates** (eg, funding community organisations to supervise driving practice, providing access to road-worthy cars, underwriting the cost of petrol for people living in financial difficulty). It may also be appropriate for ACT Corrective Services and Bimberi services to explore whether some forms of community-based supervision could be undertaken concurrently with supervised driving practice.

In addition, it costs \$51 to obtain a learner's licence and \$129 for a provisional licence.³³ These fees are more expensive than in NSW, where these licences cost \$26 and \$61 respectively.³⁴ There are discounts available for renewing licences, but these are not

³¹ VicRoads, *Learner permit test online* <https://www.vicroads.vic.gov.au/licences/your-Is/learner-permit-test-online>.

³² ABS (n 13) Table 16.

³³ ACT Government, *ACT driver licence information* <https://www.accesscanberra.act.gov.au/s/article/act-driver-licence-information-tab-forms-fees-and-concessions>.

³⁴ NSW Government, *Driver and rider licence fees* <https://www.nsw.gov.au/driving-boating-and-transport/driver-and-rider-licences/fees>.

available for learner or provisional licences.³⁵ **Consideration should therefore be given to reviewing the cost of licences, to ensure that the ACT is in line with other jurisdictions, with appropriate discounts available (eg. for people who are unemployed, living on a disability pension or have parents on low incomes).**

There is also an urgent need to address the specific issues facing Aboriginal and Torres Strait Islander people in the ACT. As the ACT Government acknowledged in its submission to the Australian Law Reform Commission's *Pathways to Justice* inquiry:

Aboriginal and Torres Strait Islander people experience significant barriers to obtaining and sustaining a licence relating to low level literacy, low income, challenges navigating a mainstream system and limited access to both licensed drivers and registered vehicles for supervised practice. What starts as a social justice issue often becomes a criminal justice issue.³⁶

The ACT has the highest over-representation of Indigenous people in prison in Australia.³⁷ Although the number of people incarcerated for traffic offences is small, Indigenous people in the ACT are more likely than anywhere else in Australia to have traffic offences as their most serious offence, as Table 3 demonstrates.

Table 3: Proportion of prisoners with traffic offence as their most serious offence, by Indigenous status and jurisdiction

Jurisdiction	Indigenous	Non-Indigenous
ACT	6%	3%
NSW	1%	1%
NT	2%	0%
Qld	1%	1%
SA	0%	2%
Tas	5%	3%
Vic	1%	0%
WA	1%	2%
Aus	1%	1%

Source: ABS (2021)

The ACT Government previously funded a program delivered by the NSW/ACT Aboriginal Legal Service (ALS), which supported Indigenous people to get their licence. Although there is still information about this program on the website,³⁸ we were advised by the ALS while preparing this submission that this is not currently operational, due to

³⁵ ACT Government, *ACT driver licence information* (n 33).

³⁶ ACT Government, Submission 110, cited in ALRC (n 18) 414. See generally Chapter 12 for discussion.

³⁷ ABS (n 13) Table 18.

³⁸ ALS, *Driver Licensing* https://www.alsnswact.org.au/driver_licensing.

COVID. The program was previously the subject of an independent evaluation,³⁹ which found that, between December 2017 and October 2019, the program reached 74 Aboriginal and Torres Strait Islander people, with 50 clients successfully obtaining a provisional licence. Accordingly, the evaluators determined that the program had met two of its seven objectives and partly met a further three objectives. It was found that '[a] key strength of the project was the provision of flexible case management in a culturally safe environment, that was highly acceptable to Aboriginal and Torres Strait Islander people seeking a licence in the ACT'.⁴⁰ **We therefore support urgently reinstating and appropriately funding this program**, taking on board the recommendations of the evaluation to further improve the program. **This will help to promote safety on the roads and reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the ACT prison.**

TECHNOLOGICAL SOLUTIONS

The ACT already has an interlock program, although data are not readily available on how widely this is used. We draw to the Committee's attention recent evidence from BOCSAR on the Mandatory Alcohol Interlock Program (MAIP) in NSW, which was introduced in 2015 for people convicted of refusing a breath test, high-range drink driving and repeat drink-driving. This study⁴¹ found that interlock devices significantly reduce drink-driving while they are installed and (to a modest extent) following their removal. In particular, **high-range drink drivers were 86% less likely to commit a new drink-driving offence while the device was installed**. A related study⁴² found that people were less likely to start MAIP if they were:

- already disqualified at the time of the offence;
- aged 55 years and over;
- Indigenous; or
- sentenced to imprisonment at the index contact.

Nearly all of those who started MAIP (91%) completed the program. In light of these promising findings, it would therefore be **of benefit to gain greater insight into the operation of the ACT interlock program and adopt lessons from the NSW model**, including addressing any barriers to the use of such technology.

³⁹ Bobby Porykali et al, *Evaluation Report of the Australian Capital Territory Aboriginal and Torres Strait Islander Driver Licensing Pilot Project* (The George Institute for Global Health, 2019).

⁴⁰ Ibid 3.

⁴¹ Sara Rahman, *The Effectiveness of Alcohol Interlocks in Reducing Repeat Drink Driving and Improving Road Safety* (BOCSAR, 2022).

⁴² Sara Rahman, *Predictors of Commencement and Completion of the NSW Mandatory Alcohol Interlock Program* (BOCSAR, 2022).

CONCLUSION

The JRI understands the pressure to respond to recent tragic events on the ACT roads. In this submission, we have provided a range of evidence-based suggestions that will help make our roads and communities safer. The ACT courts spend more of their time dealing with traffic offences than in other jurisdictions, while our prison has a higher proportion of people incarcerated for traffic offences. Dealing with these issues in a way that addresses the underlying causes of dangerous driving will therefore help to resolve broader issues in the justice system.

We urge the Committee to focus on measures that will actually reduce aggressive and dangerous driving behaviours, barriers to accessing licences and the risk of negative unintended consequences, especially for Aboriginal and Torres Strait Islander people. Adopting a holistic approach may also assist people to obtain employment and reduce aggression and improve mental health generally.