



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair),  
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## Submission Cover Sheet

### Inquiry into Dangerous Driving

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## **MOTORCYCLE RIDERS ASSOCIATION of the ACT Inc.**

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### **SUBMISSION**

TO:

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

### **INQUIRY INTO DANGEROUS DRIVING**

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## Chair and Committee Members

The Motorcycle Riders Association of the ACT (MRA ACT) is pleased to be invited to provide a submission to the Inquiry into Dangerous Driving in the ACT.

The MRA ACT is a volunteer organisation dedicated to promoting the safe and lawful use of motorcycles and scooters within the ACT and region. It achieves this through advocacy for motorcycle safety, supporting ongoing rider training, and promoting visibility through charity rides and motorcycle safety awareness campaigns.

The MRA ACT and individual members also participate in the advocacy efforts of a variety of national motorcycle organisation such as Ulysses and the Australian Motorcycle Council where ongoing work ranges from road rules development to clothing and equipment safety assessment.

Motorcycles and scooters provide riders with cost effective transport that is both efficient and enjoyable. Whether travelling to work or riding for pleasure, riders enjoy the benefit of low operating costs, reduced environmental impact, and road priority such as use of bus lanes, lane filtering, and free parking.

Motorcycle and scooter riders are classified as Vulnerable Road Users (VRU). Handling skills and a keen defensive riding approach have never been more essential to rider safety in a city whose roads are experiencing an increase in vehicle numbers and vehicle size. The perceptible increase in aggressive or non-defensive driving on Canberra's roads is a persistent topic of concern and unfortunately many riders now limit their riding in order to manage this risk.

In making this submission the MRA ACT has assumed that the primary focus of the Committee's Inquiry is on the extremely dangerous driving practices that are causing injury or death, directed at Police, and being committed unlawfully such as in stolen vehicles or involving unlicensed drivers. As VRU's however, riders are also at serious risk from much lower levels of dangerous driving behaviour. We therefore encourage the Inquiry to consider the full scope of dangerous driving and the context of motorcycle and scooter riders.

The MRA ACT regards road behaviour and safety as primarily a cultural issue. Acceptance of injury and death as an unavoidable risk of road use, advertising including inappropriate vehicle sporting characteristics, and promotion of unsafe driving styles are just a few of our historical issues that persist and require change if the "Towards Zero" vision is to be realised. Advanced training for riders and drivers is a proven method of improving their standards and promoting a safe roads culture. The MRA ACT has supported rider development and road user motorcycle and scooter awareness through ACT Government Road Safety Fund grants and continues to promote the ongoing development of advanced rider and driver training using modern systems and facilities, preferably located within the ACT.

Please find below our specific comments against the published Terms of Reference.

# **MRA ACT Response to Terms of Reference**

## **Inquiry into Dangerous Driving**

### **Criminal justice response to dangerous driver offending in the ACT**

Dangerous Driving offending causes a direct threat and indirect deterrent to other road users, particularly Vulnerable Road Users (VRU) on motorcycles and scooters. The perceived lack of safety on the roads caused by all levels of dangerous driving deters riders and negatively influences the support of their families and friends in the use motorcycles and scooters. An inadequate justice response to dangerous driving amplifies the perception of a lack of safety. The Criminal Justice response to dangerous driving should consider the impact of dangerous driving on other road users by the imposition of suitable legal consequences and penalties for dangerous driving offenders in order to protect the rights of motorcycle and scooter riders.

### **Police response to dangerous driving in the ACT (both in prevention and post-crash response)**

The Police response to dangerous driving requires excessive use and distraction of valuable Police resources. This distraction and consequential reduction in Police road presence has resulted in an obvious lowering of driving standards that is a frequent discussion point of concern amongst riders. The distraction of responding to dangerous driving also reduces proactive Police participation in road safety education programs, particularly those that are relevant to motorcycle and scooter riders who hold Police motorcyclists in high regard. A recent attempt to generate a Road Safety Forum by the MRA ACT was abandoned due to the inability of Police to attend due to operational workload. The consequences of dangerous driving on the Police capacity to participate in ongoing road safety activities causes a reduction in safety to motorcyclists and scooter riders. Police resources need to be managed so that the primary Police purpose of maintaining safety and efficiency on our roads can be restored and advanced.

### **Capacity of trauma services and support services to respond to the post-crash event**

The ACT is a relatively small area and therefore the response to post crash events by our excellent trauma and support services is invariably rapid. There are, however, some parts of the rural ACT that

suffer from poor mobile phone coverage and therefore affects the ability of those present at a crash or collision event to provide timely warning to emergency services to reduce suffering and save life. Some of these areas are close to the city and therefore frequently used by motorcycle and scooter riders. They include Cotter Reserve/Mt McDonald and Tidbinbilla valley that have proven histories of crashes and dangerous driving. Improving mobile phone coverage of all ACT and regional roads will not only reduce trauma and support services response times but also facilitate reporting of dangerous driving.

## Prison sentences, fines and vehicle sanctions legislated for dangerous driver offences in the ACT

The deterrence value of existing legal punishments for dangerous driving offences has been shown to be tragically insufficient. The legal system with respect to sanctions, fines and sentencing requires a wholistic review with respect to its future role in contributing to road safety and protecting road users such as motorcycle and scooter riders. Legal developments overseas provide potential directions for investigation and adoption. The adoption of Strict or Presumed Liability where a road traffic offence, injury, or death is imposed on a Vulnerable Road User by a larger vehicle is one such development direction. Another is to not regard injury or death caused by dangerous driving as a traffic offence but one like those caused by offensive weapons.

The definition of dangerous driving also requires strict definition to separate it from less consequential traffic offences.

Finally, consideration should be given to significantly increasing dangerous driving penalties and consequences for offences involving the presence of drugs, alcohol or other substances that reduce human performance or stimulate careless behaviour.

## Support for victims of dangerous driving offences through the justice system

Victims are currently “victimised” within the justice system due to legal precedents developed prior to the “Towards Zero” road safety vision. Fundamental legal principles such as “innocent until proved guilty” are being inappropriately applied, especially where road users who may have engaged in dangerous driving are involved in collisions resulting in injury or death. It is antithetical to the systems approach to road safety that a dangerous driver can be excused from being required to provide proof of action(s) while the burden of proof is placed on the victim. Recent examples of this injustice include rear end collisions of VRUs due to dangerous driving in rural areas resulting in fatalities where there have been no witnesses or other evidence to support a conviction. The legal

position of victims with respect to dangerous driving needs review so that victims, and in the worst case their surviving families, can expect justice that supports them and not dangerous driving offenders.

## Corrections responses and the sentencing regime for dangerous driving in the ACT

Assuming that deterrence of dangerous driving and repetition of dangerous driving by legal consequences appears to be reducing, consideration should be given to devising and employing alternative or novel approaches that would reverse this trend and also contribute to road safety. For example, enforced participation of offenders within the range of road safety activities from infrastructure to education would potentially provide some societal benefit by offsetting the costs of prosecution and legal consequences such as confinement, as well as positively contribute to offender rehabilitation. A study should be conducted of complementary practices for the treatment of proven dangerous drivers and recidivist based on the nature of their anti-social behaviour and future potential in society.

## The effectiveness of rehabilitation and driver re-education at reducing recidivism

Recidivist drivers are among the highest risk driver categories who consistently cause serious injury and death to themselves, their acquaintances, and others. Drivers who have lost their licenses, drive unregistered or stolen vehicles, or have a history of convicted road abuse will invariably be known to others such as family, friends, colleagues, employers and neighbours. All citizens have a responsibility to society to monitor and report dangerous driving. Consideration should be given to developing a legally acceptable process of identifying and informing those who know the potentially recidivist driver and provide them with formal responsibilities and guidance to assist them to prevent further dangerous driving behaviour that threatens others.

## Police and other related technological advances to identify and prevent dangerous driving

Technology exists to fit vehicles with “black box” recorders that record vehicle parameters and environment. Like dash cameras and aircraft flight recorders but including data such as historical speed and location, “black box” recorders would perform a valuable role in evaluation of offence data by Police and post incident/accident investigation. Technological advances such as these would

complement other measures such as Strict Liability and reduce the requirement for eyewitness and testimonial proof including judicial or jury determination of guilt. A study of suitable road safety technological advances for all road users should be conducted to assess their suitability for supporting the eradication of dangerous driving to achieve the “Towards Zero” vision.

### Any other related measure with respect to the administration of corrections, courts and sentences in the ACT with respect to dangerous driving.

Dangerous driving is primarily a cultural issue. Sole reliance on the legal system’s corrections, courts and sentences that are applicable only after an offence has been committed treats only the consequences of dangerous driving and not the causes. The causes of dangerous driving behaviour therefore need to be reviewed if the unacceptable consequences are to be avoided.

Dangerous drivers invariably have a range of factors that contribute to their driving behaviour. Driving training history, peer group attitudes, psychological health, and physical/mental capabilities are just some of the factors that require to be considered when assessing a driver’s predisposition for dangerous driving.

Driver training and inculcation of road safety behaviour is largely left to family and friends. Once obtained after a short period of learner and provisional status, a driver’s competency to hold a driving licence is not retested until legally compelled or medically required. Periodic road safety campaigns and enhanced penalty periods demonstrably do not influence the driver groups who engage in dangerous driving.

Aviation is also a demanding transport environment in which the consequences of poor or dangerous human behaviour are catastrophic. Within aviation, the Flight Safety culture is a well-defined, proactive, and systems cultural approach that complements the aviation legal framework. All aviation domains have demanding processes to continually train and assess pilots. A significant part of the training includes safe behaviours and awareness of what constitutes dangerous flying. Australia has a world leading reputation and record for flight safety that importantly does not rely on the justice system to achieve its equivalent “Towards Zero” vision.

It is recommended that relevant areas within Australian aviation and the Flight Safety approach be considered when seeking solutions to reduce dangerous driving behaviour.