



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

(Reference: [Inquiry into Dangerous Driving](#))

**Members:**

**MR P CAIN (Chair)  
DR M PATERSON (Deputy Chair)  
MR A BRADDOCK**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 27 OCTOBER 2022**

**Secretary to the committee:  
Ms K de Kleuver (Ph: 620 70524)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## **WITNESSES**

<b>CARUANA, MR ALEX</b> , President, Australian Federal Police Association .....	<b>96</b>
<b>CHALMERS, MR ERIC</b> , Chairperson, ACT Chapter, Australasian College of Road Safety .....	<b>92</b>
<b>COLLINS, MR BRETT</b> , Coordinator, Justice Action .....	<b>106</b>
<b>COX, MR KEVIN</b> , Treasurer, Living Streets Canberra .....	<b>83</b>
<b>GEMMELL, MR BILL</b> , Chair, Weston Creek Community Council.....	<b>83</b>
<b>HAGAN, MR JEREMY</b> , Uriarra Valley Residents .....	<b>83</b>
<b>HUGHES, MS LOUISE</b> , Committee member, Weston Creek Community Council .....	<b>83</b>
<b>KING, MS GILLIAN</b> , Convenor, Living Streets Canberra.....	<b>83</b>
<b>McLUCKIE, MR THOMAS</b> , Father of Matthew McLuckie, ACTnowforsaferroads.....	<b>70</b>
<b>ROBERTS, MR TROY</b> , Manager, Media and Government Relations, Australian Federal Police Association .....	<b>96</b>
<b>TRAHANA, MS KIRA</b> , Team member, Justice Action.....	<b>106</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

**The committee met at 1.00 pm.**

**McLUCKIE, MR THOMAS**, Father of Matthew McLuckie, ACTnowforsaferroads

**THE CHAIR:** Good afternoon and welcome to this public hearing of the Standing Committee on Justice and Community Safety’s inquiry into dangerous driving. The committee will hear from a number of individuals, organisations, ministers and their officials over today and in the coming hearings. I would like to note that the Victims of Crime Commissioner, who was scheduled to appear today, will now be appearing on another day, yet to be advised.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. We acknowledge and respect their continuing culture and the contribution they make to the life of the city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today.

These proceedings are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and web streamed live. When taking a question on notice, it would be useful if witnesses used these words, “I will take that as a question taken on notice”.

In the first session we will hear from ACTnowforsaferroads, and I welcome Mr Tom McLuckie. Mr McLuckie, please let us know if you are finding the hearing difficult and need to take a break. The secretariat also has information on support organisations if it is so needed.

I remind you of the protection and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr McLuckie:** I do.

**THE CHAIR:** Thank you. The committee would be pleased to hear an opening statement from you.

**Mr McLuckie:** I would probably prefer to do a closing statement. Mr Chair, I would like to acknowledge that I initially declined to attend today. That was on learning that the petitions I submitted in terms of the judiciary—a couple of the views of the judiciary in terms of sentencing and bail application and the appointment process—were not going to have their own standing committee and would be heard as part of this inquiry. After a discussion last week, I have since agreed to attend, with assurance that those matters could be discussed. As such, I would like to request an extra 10 minutes towards the end and/or throughout the hearing to make a statement with regard to those specific issues.

**THE CHAIR:** In the interest of time, is this a statement that you have produced that you could lodge with us?

**Mr McLuckie:** I would quite like to state it on the record, if I could. It would take about

five to 10 minutes. I will be quick.

**THE CHAIR:** And you would like to do that at the end?

**Mr McLuckie:** At the end, yes.

**THE CHAIR:** Okay. Thank you for coming before us again and, again, our condolences for the loss that you and your family have experienced.

**Mr McLuckie:** Thank you.

**THE CHAIR:** We obviously understand that that has driven you to have a really intense and well-researched investigation into sentencing and dangerous driving in the territory. I will start with something I started with yesterday with the affected families who were here before us. If you could change one thing right now, what would you do?

**Mr McLuckie:** One thing that I think certainly needs to be looked at is the support arrangements, particularly in those very early stages of the process when families are informed of the death of their loved one. We had the police turn up in the morning when Matthew died. They had a very busy weekend that weekend. They had three fatalities over a period of three or four days. They then went off shift. We had minimal information as to the event of the crash, and subsequently found out through social media. We had to engage a family friend, who is a commander in ACT Policing, to actually confirm the details that had been reported.

After the police left the house, there really was no support. There was no reach out. You start working through the logistics of funerals, arranging to get to see the coroner's office to identify the body, and then there's the minefield of paper work from financial assistance to victim support and also the current Motor Accidents Injuries Act. You really are left alone to try and manage your way through them. So, if I could change one thing, it would be that.

I have had engagement with Donna from SupportLink. I understand that those services used to be provided in the ACT until 2016, when the funding was removed. I see that Donna and Rick, who spoke yesterday, provided an absolutely critical service that should be provided and have even advised that, if the government cannot find the funding, I would help launch a campaign with them to urge them to provide that funding for that particular activity.

**THE CHAIR:** It was obviously a very broad question that I started with, but are there any supplementaries?

**DR PATERSON:** Just in terms of the Motor Accident Insurance Agency. How soon in the piece did you have engagement with them? Did you have to contact them yourself?

**Mr McLuckie:** Matthew had had a complicated case. He was travelling back from work. His employers were magnificent. They contacted us within a couple of days of the accident and had engaged with us very early on. They had made inquiries with the GIO, who were also their insurer for his work cover. The complication was that Matt's insurance for his MAI was also with GIO. That is probably where the experience

fell down.

I contacted GIO around Matthew's death. I did not really get any advice on whether I should approach the funeral benefits, for example, through WorkCover or whether I should approach it through MAI. I was sent three forms, with no advice. It was: "Good luck. We are not the at-fault party here. You need to find out the other insurer. You need to find out the incident number. You need to fill in the forms yourself. When you have that information, get back to us." So it was a very poor experience.

I then spent another four weeks. By that stage I had the invoice from the funeral directors with 21 days notice to pay. I was then chasing my tail through the coroners and through ACT Policing and I tried Victim Support to see who could provide the information for the MAI form. It is more appropriate for somebody who has been injured in an accident, but not really appropriate for families. You have to track down an incident number, you have to track down the name of the other driver, the registration of the other car, the details of the accident, the percentage at fault et cetera. It took me almost until the first week in July before there were any answers.

I did send a couple of emails to Minister Barr in this regard. Eventually someone called me from the MAI Commission advising me, "Why did you not look at this free phone number? Why did you not know this?" That was six weeks after the process, and it was the first time anyone had mentioned it. All the other support agencies had not even heard of it.

The form clearly states that there is a 13-week limitation on getting the forms in; otherwise, you may struggle to get your benefits paid. The MAI Commission guy said, "Well, that is not quite right," but that was the information we were given by the insurers.

To be honest, the whole process was a debacle. It was so complex that Matthew's mother has not even bothered trying to fill it in then, and her doctor refused to fill in the MAI benefit form because she was not involved in the motor accident. I have given up even considering trying to get compensation, because I apparently earn too much. So I did not even endeavour to go back to work part-time, because it is capped. It is a defined benefit, and my loss of income cannot be facilitated through that.

The insurance on Matthew's car did not cover his. Even though Lachlan Seary, for example, was also a not-at-fault driver, his insurer did pay for those MAI benefits. The insurance for the other car was backdated on 26 May, seven days after Matthew's accident. As far as a legal principle, I would expect that that insurance should still have been applicable. If it was still insured at the time of the accident, that insurance company, NRMA, should still be liable for the MAI benefits. I have been told consequently, no and that, because that was backdated, I had to then deal with the nominal defendant's office.

So the whole process has been a complete shambles. There is no-one in any of the support services that actually understand it. If you are an actuary, you may actually understand the index of benefits form. I have a degree in Maths, and I struggled to comprehend that it was not actually a benefit for settlement or lost income; it was a capped benefit. That is what I would change.

**THE CHAIR:** I wonder, given the time at the end, whether we might go straight to Andrew for his substantive.

**MR BRADDOCK:** Sure. Your submission touches on the issue that you got charges for murder, manslaughter and then culpable driving causing death. I wanted to hear more from you in terms of whether we lesser charge for the culpable driving compared to those other offences?

**Mr McLuckie:** We do. Under the definitions in the Crimes Act, murder is not only an intent to kill someone; it can also be reckless behaviour with the likelihood that you may kill someone. I do not have the exact definition in front of me. Manslaughter is anything that does not come under the classification of murder. In the UK, the event that occasioned Matthew's death would highly likely be charged as a manslaughter case under Scott's Law. With the culpable driving charge, there are multiple stages but, culpable driving causing death is a reduced offence with a lesser maximum sentence.

I was initially confused as to why there would not be at least a manslaughter charge raised. The young lady is still in hospital. When I spoke to the detectives and some of the other police involved, there was muttering and a shaking of heads. I think there has been one attempted murder charge. That was the incident up at the Arboretum where a few police officers were driven at. I think their brief is that the vehicle was used as a weapon. But no other charge has gone through as a murder charge for a culpable driving causing death offence in the territory.

**MR BRADDOCK:** Thank you.

**THE CHAIR:** I might be overlapping a little bit or even affect your closing, but I am happy to ask you this question: is there a jurisdiction in our country where you think the appointment and the monitoring of judicial decisions is done effectively? You have expressed a dissatisfaction with it here through your petitions, in particular. Have you kind of spotted some ideas from other jurisdictions that you think could be helpful here, from your point of view?

**Mr McLuckie:** I will be honest; I have not searched other jurisdictions. I am a Canberran and I have been here for 17 years, and I am not really concerned with what goes on in New South Wales, Queensland and Victoria and how they appoint their judiciary. When I spoke to Mr Rattenbury about it, he advised me that he wanted it to be more transparent. But I do still have a concern, and it has even been alluded to by the ACT Bar Association in an article in 2018, that there is a possibility of political influence, as the appointments are made by the executive and they are interviewed by a politically appointed Attorney-General to influence the political and legal bias of the appointments to the judiciary.

**THE CHAIR:** Okay. Thank you. Dr Paterson, a substantive?

**DR PATERSON:** Thank you. Yesterday we heard from the Law Society, and they were quite clear that community expectations should not come into sentencing and that there was nothing wrong with the system. I am interested in your perspective. We have the laws which have, for example, aggravated culpable driving, I think, 16 years. You have conducted a lot of research, and I am interested to know what you have found

through that research and where the sentences you are reading are sitting in the ACT?

**Mr McLuckie:** I do not agree with the Law Society. I put on notice that the members of the ACT Law Society Criminal Law Committee are often private practitioners in the area of defence, and they also have their own views. Quite frankly, I do not agree with their position that there are no problems.

There was one point yesterday that I did agree with them on. We have motor vehicle or criminal behaviour and motor vehicle covered across a number of acts. We have the Crimes Act for culpable driving and the Crimes Act again for culpable driving causing grievous bodily harm and also the aggravated offence and death and harm. You also then have the Road Transport (Safety and Traffic Management) Act, which covers a lot of the other offences, such as dangerous driving, aggravated serious driving and driving that can potentially cause injury, not resulting in death. So I do agree that maybe a consolidation into an act would be make it clearer for a practising legal practitioner to be able to comprehend the complexities of the law.

But I do not agree that there are no issues with the sentencing here in the ACT. I have only looked at Supreme Court rulings. I think the Magistrates Court, has lesser offences and probably are even more lenient. I can give you the numbers later on from some of the research I have done on that, and I am happy to make that research publicly available. It is using the ACT Sentencing Database.

**DR PATERSON:** Okay. Thank you.

**THE CHAIR:** Mr Braddock, a substantive?

**MR BRADDOCK:** At the end of the submission, you talked about the human rights of the victims and you also talk about how other victims have referenced a charter of rights for victims of crimes and how it falls short in actually delivering the services. Can you just expand on that statement a bit more for me?

**Mr McLuckie:** The Human Rights Act is a great piece of legislation. I think it is important here as a territory that we also try and adhere to human rights principles. In terms of a victim of a crime, the Human Rights Act, despite stating that we are all equal under the law and we all have a right to life, is very heavily written on the rights of people who are facing a criminal charge, for example, and there are very few other mentions on the rights of a victim of a crime.

I have seen the victim charter from the Victim Support agency. It is a nice document, but it has no teeth. I certainly do not agree with some of the concepts. For example, through the judicial process, a victim is allowed to give a victim impact statement. Under the current precedents we have under the law, those victim impact statements are a tick-box exercise and, of course, is then totally discounted in terms of the rehabilitation requirements for the offender. I do not think the law is equal in terms of how it treats victims of crime as opposed to how it treats the perpetrators of the crime. There needs to be a balance.

**MR BRADDOCK:** Thank you.



**THE CHAIR:** We heard from the Law Society and some of the other parties that appeared before us yesterday that, when it comes to sentencing, the subject of the sentencing is the offender, of course—stating something very obvious—and the impact of their offence on others has happened and so now it is almost like looking forward to, “How do we treat this offender?” I asked a few: “What about the proportionality and the actual impact of the offence?” How do you see about getting that balance right—in that, yes, we have an offender to deal with, with the hope that they might be an improved person through whatever that process is, as opposed to the impact of the crime itself?

**Mr McLuckie:** Under the Crimes (Sentencing) Act there are very clearly several principles of sentencing, and it is not all just about the offender. So I do challenge some of the precedents we have set and some of the judgements I have read and statements such as, “There is nothing we can do that will ever bring back your dead loved one, but we have to look fairly at all the other options and the principles of sentencing.” For me, those principles are fundamental. They should reflect the impact on the victim; they should reflect any element of deterrence, general deterrence as well as subjective, to the offender; and they absolutely should have an element of punishment where it is applicable.

I do not think sentencing is purely for the purpose of, “What can we do for the offender?” I think it also has a part in restitution to satisfy the victims.

**THE CHAIR:** Thank you. Dr Paterson, a substantive?

**DR PATERSON:** Outside of the criminal justice system, have you had thoughts around deterrence of this type of behaviour and what you think could be helpful?

**Mr McLuckie:** The behaviour that killed Matt was a stolen a motor car travelling up the wrong side of Hindmarsh Drive. Obviously, car theft is a big issue. I think we are second, or close to running first, as having the highest car theft rates in the country. Technology may be a method to actually prevent car theft. People simply not leaving their car fobs sitting on their kitchen bench may also help with that issue. But I think we are four, five or six years away, to be honest. I do know that some brands of car, like Toyota, are looking at two types of identification and an SMS to verify you can start your engine et cetera. That might be an option in the future.

I think education is huge factor as well. I think if the impact of some of these crimes could be explained to some of these repeat offenders that would have a substantial impact on the behaviour. It certainly worked on the UK example in Glasgow of knife crime. Policing is only part of the solution, with education and rehabilitation. As alluded to by the Law Society yesterday, a lot of the car thefts are linked to drug addiction. So, again, rehabilitation is a critical element here in the ACT. It is disappointing that sometimes it can take six months to get into rehabilitation, and sometimes if you cannot do a detox before the rehab, you cannot get in either way. I think there are a number of measures that we need to improve on as a territory to address not just with motor vehicle crime but also crime in general.

**THE CHAIR:** I might go to your substantive, Mr Braddock, and then we will allow Mr McLuckie to make his closing statement.

**MR BRADDOCK:** Sure. Do you want to take just a moment to tell us about Matthew?

**Mr McLuckie:** Yes. I was very fortunate to have Matt as a son, and I had a very close relationship with him. I coached him for 11 years at soccer. He transformed himself in the last few years of his life. During COVID we spent a lot of time together as he was studying uni from home and I was working from home. So the home gym became a big thing for him. He was a very quiet lad. He was quite shy, but he also had a really great sense of humour—quick, cutting and could be quite sarcastic. He and I had different political views. He was much more right wing than I. He was a lovely boy. I will be honest: he was a lovely, generous and thoughtful kid.

He was hardworking. He was working 30-odd hours a week at the airport and he was studying. He marked it all off—his 34 hours a week. He would take his laptop to the airport. The wi-fi was not great, and there was only one seat where he could actually get his hotspot to work.

He was just a really dedicated loving kid, and he was well loved by the family. He loved his family too. That was the biggest thing for him. He loved his extended family in the UK. He still saw himself as actually quite Scottish. Unfortunately, he was taken from us, and there is nothing we can do to bring him back.

**THE CHAIR:** Thank you.

**MR BRADDOCK:** Thank you for sharing that with us.

**THE CHAIR:** Would you like to make your statement now?

**Mr McLuckie:** Yes.

**THE CHAIR:** Please begin.

**Mr McLuckie:** I do not attend this inquiry representing a campaign. I attend this inquiry to represent my wife, Matthew's mother Amanda, his brother Joseph, his grandparents, step-grandparents, his aunts and uncles across the globe, and his many cousins, work colleagues and friends. Most importantly, I am here to represent Matthew.

Matthew was 20 years old. He was killed, not due to an accident but by a purposeful criminal act. On his way home from work at the airport, on Hindmarsh Drive, he had a head-on collision with a stolen car driven by a young woman, travelling at excessive speed and driving on the wrong side of the carriageway. The noise from the impact of the crash has been described as sounding like an explosion by people who lived in nearby Red Hill and O'Malley.

He did not die immediately after the crash that occurred at 10:50 pm on the night of 19 May. As one of the first responders advised us, he fought for his right to life right to the end. He died in the early hours of the morning on 20 May due to his horrific injuries, despite the best efforts of the medical team. One nightmare we have is imagining the pain, trauma and sheer terror he must have experienced in his final moments, with no loved ones around to comfort or console him—to hold him close one last time.

In the morning, I noticed his car was not at our house and his dinner was still waiting for him in the fridge. Not knowing of the most terrible events of that evening, I texted and called him asking if he had maybe gone to his mother's house, and I texted his mother asking the same question. The police arrived at our house with Amanda at approximately 7:30 am and, in horror, we learned of his death.

We implored the police that we be able to visit the coroners in Woden that day, as otherwise we would have to wait until the Tuesday of next week due to the public holiday. We saw him that afternoon, in the coroners laid out, smashed, broken, bruised, scarred, cold and dead, and still intubated from the attempts to save him and with a central line in. I sat with his brother Joseph as his mother Amanda begged him to just wake up one last time. Our hearts were broken and will be forever.

The next few weeks were like a bad dream. There were phone calls to family and friends to inform them of the tragedy. There was a funeral director to find, a priest and church to be organised, a coffin to be picked out, a plot in the cemetery, an obituary to be read at the funeral, the funeral service to be organised and a realisation that there are a multitude of forms to fill in for funeral benefits and victim support assistance—all with limited and disconnected support from the VLO, FLO and Victim Support. I state we are immensely grateful for the limited assistance that we did receive.

We were supported by the strength and love of other families who experience our shared grief: Garry and Janice Seary, Andrew Corney and Camille Jago, and Shane and Claire Wood. In meeting with them we began to realise the futility of having any hope of justice in relation to the people who killed our son.

We were advised early on by the police that the behaviour of driving on the wrong side of a road was a daily occurrence. It is a known method among the criminal elements to ensure the police stop the pursuit and also a “thrill-seeking” activity undertaken by several drivers in Canberra. Driving down the wrong side of Hindmarsh Drive is a common occurrence. This was an accident waiting to happen.

As we buried our son at the Woden cemetery, I promised him I would never give up fighting for justice for him or working to ensure that what happened to him is not an accepted norm. He was an exceptional young man who was loved very much by all who knew him and who was robbed of his right to life and to his future. That is what motivates our campaign for safer roads.

We met with the transport minister and Attorney-General on 15 July as a right to first respond to our petitions. In the subsequent responses we were advised there were no systemic issues with motor vehicle crime, the judicial system or corrective services, including rehabilitation here in the ACT. The Attorney-General undertook a media campaign to highlight his position. He gave several press statements advising that, while he had the deepest sympathy, he believed in “an evidence-based justice policy” and incidents like the one that killed Matthew were isolated incidents. Minister Steel advised that the review of transport offences, ongoing since June 2021—as per correspondence with the AFPA—would take at least another 12 months as there were complex human rights issues to consider.

The Attorney-General and the Chief Justice pronounced the success of the Drug and

Alcohol Sentencing List treating recidivism and saving money. Neither is a fact. Eight of 106 people in the program does not reduce recidivism by the margins they inferred and no real cost savings occurred. They cherrypicked the ANU report to suit their own bias and failed to mention that 23 of the 46 people not only failed the program but also were of the more violent offence types and increased their crimes by 67 per cent.

The petitions called for the following: to support an independent review of the ACT judiciary and its appointment process; to review fines and convictions for motor vehicle offences and crimes and consider meaningful review of the legislation and provide sentencing guidelines and specifically consider Matthew's law to address recidivist motor vehicle crime; to ensure there is appropriate funding for mental health and drug and alcohol treatment programs for the community, which have a waiting list for up to six months; and to ensure we have rehabilitation programs in place in our corrective services, properly funded, measured and assessed.

The government response to date has been one of denial: "We are not a lenient jurisdiction—we have more custodial sentences here in the ACT than New South Wales, Victoria, and Queensland." I am paraphrasing the Attorney-General during estimates in response to a question from Mr. Braddock. "Breaches of bail are likely to be procedural matters"—the Attorney-General again speaking to the ACT Assembly. "Reducing Recidivism by 2025 policy is working. The data is proof of this position." "There is no systemic problem with our sentencing, including intensive corrections orders, suspended sentences and diversion programs." "There are no problems with rehabilitation and corrective services." "There is no under-resourcing of police." "We must avoid knee-jerk changes to legislation based on emotions and focus on an evidence-based approach." "Our appointment process is open and transparent." The Attorney-General even suggested that the Director of Public Prosecutions winning 68 per cent of all appeals to the ACT Court of Appeal shows that the system is working.

The legislation covering driving offences is across various acts We have the Crimes Act, with, in particular, sections 29.2, 29.3 and s29.4 covering culpable driving of a motor vehicle causing death and grievous bodily harm. We have the Road Transport (Safety and Traffic Management) Act 1999, with specifically sections 6, 7 and 7.A covering injury not occurring death and furious and aggravated furious driving. There are more sections but I do not intend to cover them here today.

As our Attorney-General alluded on the day our petitions were lodged at the Assembly, the law is complex. Each case needs to be determined in the specifics of the offence. Without reading the judgements we cannot understand the sentencing of the judiciary. I have read all these judgements.

The Attorney-General informed the Assembly of the seven processes of sentencing. I will paraphrase: ensure the offender is adequately punished; prevent crime by deterring the offender and other people; promote the rehabilitation of the offender; protect the community from the offender; make the offender accountable for his or her actions; and recognise the harm done to the victim of crime and the community. I repeat: to recognise the harm done to the victim.

He did not mention, as he alluded, that we have a strict jurisdiction here due to the custodial sentences we apply or the composition of those sentences. This is plain

semantics. A better measure would be to actually measure the time served in prison. Under the Crimes (Sentencing) Act, part 3.2, a term of imprisonment includes, imprisonment, intensive corrections orders, suspended sentences, and deferment to drug and alcohol treatment. That is how the ACT reports its custodial sentences. When the Justice Reform Initiative submitted their data for sentencing, it is worth noting that they are including all of the above as defined as a custodial sentence in their calculations for average and medium custodial sentences given. Under the Common Law, our combined legislation is considered as part of the judicial judgements and decisions and, in turn, these set the precedents in the territory.

I wish to raise the case of *Samani v The Queen*, an appeal case, for the attention of the inquiry. This was not a motor vehicle accident case but one of motor vehicle fraud. Mr Samani served six months in prison and a suspended sentence of 3½ years and lost his appeal. However, from the judgement it is important to note the following: A sentence of imprisonment is a sentence of last resort such that it is not to be imposed if some lesser sentence would be adequate. A fully suspended sentence of imprisonment involves significant leniency. The deterrent effect of a wholly suspended sentence is likewise significantly less than a sentence that involves full-time imprisonment. Offences involving insurance fraud are not victimless crimes.

I wish to point out that, despite the legal jargon, culpable driving causing death is equal to killing a person with agreed acceptance of culpable behaviour responsible for the death. It too is certainly not a victimless crime. There is no more heinous an act than to deprive someone of their life.

The precedents we have regarding the offence of culpable driving causing death are manifestly lenient in the ACT. Like the Justice Reform Initiative and the ACT Law Society, I also have access to the ACT Sentencing Database. There are problems with data integrity, where the same cases are listed twice or are incorrectly classified. Contrary to both these respected groups' submissions, the actual number of cases involving culpable driving causing death is nine not 15, as reported in the Sentencing Database. The average sentence component comprising incarceration, which is actual imprisonment is 3.1 years. Excluding the outlier of Monfries case, the incarceration rate is an average of 2.14 years. Unlike other submissions, I will make my background research publicly available and not just produce a table.

The precedents we have regarding the offence of culpable Driving causing grievous bodily harm, often leaving the victims with lifelong trauma, disability and ongoing medical problems, are also manifestly lenient. The average sentence component comprising incarceration for these is 1.98 years. Excluding the outlier of Monfries, Shearer and Williams, who had a multitude of other offences, the average incarceration time is 0.71 years. N reported in the database is 28; in fact, it should be 17.

The precedents we have regarding the offences under the Road Transport (Safety and Traffic Management) Act with respect to sections 6 and 7 are also extremely lenient. The average sentence component comprising incarceration is 1.47 years. Excluding the outliers of cases with significant other offences, one of which includes charges of over 100 offences, the average incarceration time for these offences is 0.82 years. N reported in the Sentencing Database is 48 when in fact it should be 32.

These include multiple instances of driving at police, purposefully driving up the wrong side of the road, driving through red lights, often aggravated by speed, alcohol and drugs, and often part of other crimes. The stolen car is often the Uber for criminals for other offences.

Despite the assurance of our Attorney-General, the ACT Bar Association and the ACT Law Society advising there is recourse for victims through their ability to submit a victim impact statement and the appellant process, this is simply not true. I have been unable to find any appeal ever undertaken by the DPP for any culpable driving causing death, culpable driving causing grievous bodily harm or any of the offence's listed under the Road Transport (Safety and Traffic Management) Act.

The DPP is quite rightly focusing on the bigger ticket appeals such as murder, sexual assault and child abuse. The DPP is winning in 68 per cent of all appeals to the ACT Court of Appeal, which, according to our Attorney-General, shows the system is working. Despite our Human Rights Act 2004 stating under s8.3 that "Everyone is equal before the law and is entitled to the equal protection of the law without discrimination," a victim has no rights in the ACT to appeal a sentence if the DPP is not prepared to challenge a manifestly inadequate sentence. The convicted person has every right to appeal.

The intent of our judicial system, as articulated by Shane Drumgold SC, Director of Public Prosecution, is: "Our job is to make sure that the precedents are correct and reflect community values." He also states: "Rehabilitation, while an important factor in sentencing, was only one of many considerations."

The reason I am requesting an independent review of the judiciary is due to the clear evidence of a failure in our sentencing and bail. The reason I am asking for a review of our appointment process is I believe it to be politically influenced, appointed by the executive and involving current members of a stacked judiciary. If there is no influence from the executive, why would our appointed Chief Justice be of the opinion, when she was sworn in, that a primary purpose of her role was to keep people out of an overcrowded prison system.

The reason I am asking for legislated sentencing guidelines, not minimum sentencing, is to address the manifestly inadequate application of the law, giving predominant weighting to rehabilitation over all other purposes of sentencing. Our recidivism rate is at 83 per cent and our Aboriginal and Torres Strait recidivism rate is even higher—in the area of 90 per cent. Police-generated data has revealed over 940 breaches of bail by offenders in the ACT for the first half of the year, placing the territory on target to record the highest number of breaches ever. Operation TORIC is clear proof that we have problems with recidivism. More than 90 people were arrested for over 200 serious and reckless criminal offences from August to 14 October 2022.

Of the motor vehicle offences that I have been tracking from ACT social media, from 20 May to 3 October, this included 24 bail breaches out of 82 reported crimes and another 19 for breached community orders, parole, suspended sentence conditions and parole. Our car theft rate is in competition with the Northern Territory to lead the country and is more than three times higher than our neighbour, New South Wales. The ability of our under-resourced ACT Policing to successfully arrest people for these

motor vehicle crimes is about seven per cent, as per the Commonwealth Productivity Commission reports. Our Attorney-General has alluded in the Assembly: “I wish to remove all rights to bail.”

The Chief Minister has accused our petitions of seeking to introduce mandatory sentencing and a US-style appointment process. In typical political rhetoric, the best approach to defend your political ideology and the failing policies of Community Not Prisons and Reducing Recidivism by 25 per cent by 2025, is to hide behind a hysterical claim of extreme conservatism that in principle he has to object to. If the Chief Minister had actually bothered to read the petitions, he would clearly know that this is not the case and not what has been in the press to be considered. But let’s not allow facts to get in the way of a false accusation.

He implored the opposition to lay down their weapons. The only person who has weaponised this argument is the Chief Minister and his Attorney-General by their clear denial of accepting facts, also known as evidence, regarding failing government policies. I am presenting an inconvenient truth and, if the Chief Minister was intent on true collaborative dialogue, he would lay down his weapons.

The precedents set in recent years over culpable driving causing death are truly appalling. In the case of the death of young Blake Corney, Akas Livas served two years and two months in prison. The judgement used a precedent of R v Richardson from 2016 and stated the following:

I appreciate that no sentence I can impose will resolve the tragedy that the [family] of [the deceased victim is] experiencing and the trauma suffered by [the victim’s family]. The sentences I impose should not, in any way, be seen as reflecting on the value of the [life] of [the deceased victim]. It would be wrong to attempt any such equation for our law simply does not allow that to be made even were it possible. I have to judge [the offender] not merely according to the awfulness of the tragic results of his actions but in accordance with the law and the principles of sentence which I must apply.

The Livas precedence was then used in the Peter Loeschnauer case. He was responsible for killing Lachlan Seary. Despite being so intoxicated and drug-affected that he did not even know he had hit another vehicle whilst speeding down the Monaro highway, he is available for parole in two years and 11 months.

How does this apply previous precedents from Samani that advise deterrence should be considered? How do these judgements apply to the principles of sentencing with regard to ensuring that the offender is adequately punished; to prevent crime by deterring the offender and other people; to make the offender accountable for his or her actions; to denounce the conduct of the offender; and to recognise the harm done to the victim of the crime. I repeat: to recognise the harm done to the victim of the crime. How do these reflect the DPP view that the precedents set are correct and reflect community values and that rehabilitation, while an important factor in sentencing, was only one of many considerations? I repeat: only one of the many considerations.

In the Laidlaw case, where the culpable driver was responsible for killing Sue Salthouse, three months was served in prison and the rest of the sentence was wholly suspended—for two years and three months. As per Samani: “A fully suspended sentence of

imprisonment involves significant leniency. The deterrent effect of a wholly suspended sentence is likewise significantly less than a sentence that involves full-time imprisonment.” These are now the precedents we have set here in the ACT.

Sometimes in life the only option a person is left with is their refusal to accept. The Legal fraternity have closed ranks. There are apparently no problems with our judicial system. They are in many ways a vested interest group. Why have someone appear at court once when you can guarantee you can get to represent them 10 or 11 times through the current revolving door? We all have a living to make, after all. We have a judicial process in the ACT, not justice—a system that does not provides justice to the victims of crime.

I do hold our judicial system and many of the judicial officers in contempt. I am more than happy to plead guilty to that charge. They may have a problem getting any one of our serving officers in ACT Policing to execute the said warrant. I refuse to sit through the court proceedings. I refuse to sit through some putrid justification of a benevolent justice to hear, despite my son being killed by a purposeful criminal act, why we must consider the perpetrator, their background, their difficult life and their drug addiction. I have no interest in hearing a perpetrator impact statement. In the Orwellian tragedy that is our justice process, all animals are equal but some animals are more equal than others. The judgement is, quite frankly, predetermined due to the judicial bias prevalent here in the ACT.

I implore our Chief Minister and our Attorney-General to stop politicising the right to safety of our community. Put aside your political ideologies and bias. I implore our Chief Minister and our Attorney-General to truly engage in a collaborative dialogue. I implore them to be true to their word and principle in support of an evidence-based justice policy. The evidence is overwhelming. Lay down your weapons, and please reconsider the petitions for Matthew’s Law, a review of the judiciary and the appointment process. Our community deserves better and our voices should be heard.

**THE CHAIR:** Thank you Mr McLuckie for your submission on behalf of ACTnowforsaferroads. Again, the committee expresses its condolences to you, your family and friends affected by this tragedy.

**Mr McLuckie:** Thank you.

**Short suspension.**



**KING, MS GILLIAN**, Convenor, Living Streets Canberra  
**COX, MR KEVIN**, Treasurer, Living Streets Canberra  
**HAGAN, MR JEREMY**, Uriarra Valley Residents  
**GEMMELL, MR BILL**, Chair, Weston Creek Community Council  
**HUGHES, MS LOUISE**, Committee member, Weston Creek Community Council

**THE CHAIR:** I apologise that we are running a little over time but we will certainly be allowing you the allocated period or as much of that as we need going forward. In this session we will hear from Living Streets Canberra, represented by Ms Gill King and Mr Trevor Cox; Mr Jeremy Hagan on behalf of Uriarra Valley Residents; and Weston Creek Community Council represented by Mr Bill Gemmell and Ms Louise Hughes. We might start with one at a time just to see how we go. It is quite open. There are formalities to this but the formality is there to encourage discussion. We will start with Living Streets, then move to Mr Hagan and then to the Weston Creek Community Council. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement? Could you confirm for the record that you each understand the privilege implications of this statement?

**Ms Hughes:** Yes.

**Ms King:** Yes.

**Mr Hagan:** Yes.

**Mr Gemmell:** Yes.

**THE CHAIR:** Thank you so much. We will not be inviting opening statements, so we will get straight into things.

Living Streets, your submission was not so much about sentencing, but about creating roads where particularly pedestrians and cyclists and what you call vulnerable road users are able to access safely. I am interested in your 30 k limit proposal. What would you say to the argument that obviously the slower you make people travel the longer it takes to get to work, to their activities? In other words, does it create unnecessary time? It would in the eyes of some. What is your response to that?

**Ms King:** Gillian King. I am Convenor for Living Streets. There is a huge raft of evidence that 30 kilometres an hour is a sweet spot for speed in urban areas. Above 30 kilometres an hour, the chance of a robust adult being killed or severely injured dramatically increases; the road noise associated with a car, even an electric car, goes up; but the time it takes you to get somewhere in an urban area is only marginally different. There is a whole raft of evidence around those things. There has been a lot of technology measuring all of this evidence and that is why it fits into the technological advances that prevent dangerous driving.

**DR PATERSON:** You are suggesting a 20-kilometre reduction, so from 50-kilometre streets to—

**Ms King:** We have a raft of speed limits in Canberra. That may in fact be part of the problem—that there are so many signs and so many speed limit signs that people do not necessarily see them or they might see them but it might not register. But a speed limit itself is not enough. Our culture is a very car-oriented culture—entitled to drive, drive everywhere, not paying attention to what is going on—if the way our roads are designed and if the road or the street says drive fast, people tend to drive to what the street says. I presume you all drive. You would know that on some streets and roads it is very hard not to speed, because the visual and physical feedback you are getting, the signals you are getting say “Drive, drive fast, take this corner fast.”

**DR PATERSON:** With the driver education and the level of community awareness work we would have to do to reduce the speed limit to 30 kilometres an hour, could we use that work instead to actually get people to be driving safely on the roads where they currently are?

**Ms King:** Canberra is a car-driving culture, unlike some other places where they are not so much that. But if you are focusing on behaviour of individuals, that is actually a strawman—and particularly if you are focusing on bad behaviour, because we know that crashes happen everywhere. We know that 30 kilometres an hour is the sweet spot. There is a whole world-wide move to that, led by the United Nations, WHO and whole heap of organisations. So it is happening around the world. It has been flagged in the draft *Active Travel Plan*. This is an opportunity for ACT to lead. We have led on a number of other attitudinal, behavioural and legislative changes. This is an opportunity for ACT to demonstrate that it is leading.

**MR BRADDOCK:** Another question for Living Streets: I notice your submission talks a lot about design of infrastructure to create safety. I was interested why you have not addressed technology within the cars that could potentially also give the same level of safety, if not even quicker than the infrastructure could?

**Mr Cox:** I think that is right. I think that is one of the things that we can concentrate on—that is, giving people aids in order to be able to know they are driving safely. Now that is now feasible. In other words, if we have a culture whereby we are reminded that we are driving at the right speed, or going over the speed, then people will adapt to that quite quickly. Everyone has a mobile phone now. There is no reason why we cannot use those, for those people who want to, to be able to know that they are driving at a reasonable speed or at the speed limit that are supposed to be driving at. If we have the attitude that people want to do the right thing then we have to give them the tools in order to be able to know that they are doing the right thing. Then people will do that. As well as concentrating on people who are doing the wrong thing, of course, if we put more of an emphasis on doing the right thing then I believe we will get to a better state.

**Ms King:** So helping them to do that, be it through technology, be it through car designs—our cars are getting bigger and bigger and bigger, which makes it harder to drive safely and see where you are going. The road design, the street design, helps with that. There is a lot of technology that can be used for that in terms of measurements and what is needed for safe corners or safe widths or other visual signals.

**Mr Cox:** It is really similar to the problem of the floods. We spend 90 per cent of the money on fixing up after the flood and 10 per cent stopping the floods. We should do

the same thing here. We should spend more money on prevention as opposed to correction after it has happened.

**Ms King:** And making our streets safe for everybody, regardless of their age or ability or mode of transport. At the moment most of the technology and rules and so on are about making the system safe for the occupants of a car, with buffers, paddings and armour and so on. But if you are not in the car, that does not help.

**THE CHAIR:** Thank you.

Turning to Uriarra Valley Residents, it does sound like a very sorry story out at Uriarra on the roads there. Thank you for the submission. Is this the first time you have approached either the Assembly or the government with your concerns? What kind of response have you received, if not?

**Mr Hagan:** Jeremy Hagan, Uriarra Village. Me personally, I have made several calls to 131 444 for police action at the time the unsafe driving behaviours are happening—specifically around the car mobs doing burnouts late in the evenings and into the night. Other village residents have told me they have made submissions to Chris Steel in previous makeups of the Assembly when he has been in his role, in the long term, and have been told, “We are looking into this. We are looking into ways of traffic calming. We are looking into different road surfaces.” But there has never really been anything to say we are going to look into these things and then at a certain time we are going to have assessed the most appropriate response and at a certain time we are going to take action based on the recommendations of what we were looking into.

During COVID, a lot of the anti-social behaviour did calm down a little bit. But as soon as the COVID lockdown was lifted, it just blasted back to full force. There were recent media reports that the incidents of dangerous driving had reduced, but for us out at Uriarra Village we have not had any reduction. We just got sick of calling. Lots of stories go around in our community, you know, if you get 10 people to call then it has to get escalated to someone else at Police Operations. But it is all just lore, and we prefer a bit more law and less stories.

**DR PATERSON:** Can you describe for the committee how the dangerous driving impacts Uriarra residents?

**Mr Hagan:** Sure. It is a number of ways. If you talk about the most minimal impact that is just noise and nuisance. So you are trying to go to bed at night, all of a sudden, the burnouts start. It is more aggravation than anything. But recently it has escalated somewhat in that the times they have been coming out have been earlier and earlier and the numbers of cars have increased dramatically.

I can personally attest to two occasions where I have gone to pick my son up from work. He is a lifeguard at the Stromlo Leisure Centre and I pick him up usually about 9.30 to 10 o'clock at night when the centre closes. On two occasions we have been caught up in a convoy of 10s and 10s of cars coming out and they come from both directions. There is two ways that you can get to Uriarra Village. One through the Cotter and one via Uriarra Crossing. I usually go by Uriarra Crossing, but the approaches of cars come from both directions and they convene at one of two large intersections. Typically the

ones that they were doing recently are Mountain Creek Road and Uriarra Road. It is quite a large intersection.

When we have arrived, or when we have been on our way out there in the 60 zone, just the cars overtaking us on the double yellow lines. One time in particular they just pulled in and around the corner came another car from the blind corner. On arrival, from 100 metres on either side of the intersection there will just be cars lining the road, burnout smoke in the air. I would estimate that there was probably 50 to 100 cars on site. They come out with trailer loads of spare tyres and they have them in stacks, just sitting there on the side of the road, ready to swap them on the cars. They do their burnouts. They blow the tyres.

Another resident, on the same night that we were caught up in that particular last mob, reported to a group chat we have set up for people who are more concerned about it, that she was driving through and a car pulled right out in front of her and did a burnout. She had to slam on the brakes to avoid it.

When they do get word that police might be coming—and police have come on occasion—then they just clear out in both directions. On one occasion I was abused—well there was mutual abuse happening—from one of the cars that had stopped and decided to relieve himself in the street in our village. I was driving home from having gone out to dinner with my wife and picked up my son from his work and the guy was just standing there in the middle of the street. I yelled at him to go away. He yelled back. Eventually he did a burnout in my face and drove off. So that is the impact of the burnouts.

The other impacts that we have are from difficulty in sharing the road with the cyclists, because it is very difficult to pass large groups of cyclists on windy roads where there is no visibility of oncoming traffic. Learner drivers find it very difficult. You might have to drive at 20 or 30 kilometres per hour behind a bunch of cyclists for several kilometres. They make no move to reduce the width on the side of the road—some do, some do not.

Then there are the motorcyclists and sports cars that use the winding section, from the Cotter up Brindabella Road to the front of the village, do a U-turn, drive back down, speed back up again. In fact, the boss at my work claimed that he has his open wheel Lotus car up to 250 kilometres an hour. I did not believe him. He was boasting and I am just like, “I am taking a very dim view of this, mate.” I just cannot believe that someone would even think of doing it, let alone tell someone that they can do it! It is just ridiculous.

**DR PATERSON:** In terms of solutions, in your submission you mention cameras and—

**Mr Hagan:** So I will just give them props that did they come out and put some giant logs in where the people would park; they just parked somewhere else. And there are enough people out there that they could just move those logs.

I have been told that there are road surfaces that they have been trialling in Tuggeranong that will just pop their tyres the instant they try and do a burnout. I do not know if that

is true or not. I can think of quite a few different things that will just completely prevent them from doing burnouts. Like you could put those concrete barriers down to make it a divided road but that presents a hazard to road users if they run into it. So I do not think is a very viable solution.

To me, the only viable solution is surveillance and response. So if there were fixed official police safety cameras there that meant that they could not actually use that intersection without police coming out and responding, I admit that they would just move onto another intersection or find somewhere else. But I would hope that they would go somewhere where people do not live.

**THE CHAIR:** Thank you. We might move to Weston Creek Community Council. I noticed one of your recommendations recommends the government engage with the public about how it perceives the corrections response and sentencing regime. Obviously the Attorney-General has come out and said there will be a sentencing review committee but not agreeing to an independent inquiry into sentencing. What kind of model do you think and engagement on this issue should take about sentencing and correction options?

**Mr Gemmell:** Firstly, I support everything my colleague here is saying. We have not met or caucused on this but the same experiences are going on in Weston Creek. In addition when you dial the 131 444 number often you cannot get through to report the incident. I will just put that out there. It is a major issue.

Moving onto sentencing, we tried to steer clear of it because there are so many people in the space. But we think there needs to be consideration of the current options that are available. I think our only real substantive comment is get on and do the work. The other comment we made is around mitigation. Now my understanding is when people are being sentenced or having licenses disqualified, they then plead, "I need my license because I cannot possibly catch a bus or light rail." Now I cannot understand that. They have a privilege. They have been granted a privilege by the community to drive a motor vehicle and act appropriately. We should be withdrawing that privilege once people basically offend our good will. Give them time to go and cool their heels and realise the implications of what they have done. Other than that, I think we are pretty silent on sentencing. There are legal minds, there are people who have researched it more than us, so let them have a go and we will watch.

**Ms Hughes:** One of the things that has been discussed is seizing cars. I agree that once a crime is committed in a vehicle the car should be confiscated, initially maybe for a 28-day period. Then after that, the car is taken. There was a silly comment about how the cars should be crushed. Cars should not be crushed. They should be sold, interstate maybe, and any proceeds should go to the victims of crime, after paying off any fees that there might be.

We also, at our committee meetings, have talked about what if it is not your car? Well certainly if it is a stolen car then that is a different story all together. But we are seeing parents' cars being used, grandparents' cars being used, repeatedly for the same crime. Again, I think it is time we start confiscating those as well. We put the parent, the grandparent, the friend on notice that your car has been used in a crime. It has been confiscated for 28 days. If it is used again in the next four years, for example just pulling

a number out of the air, then the car should be sold, removed. We cannot continue allowing the same people to do the same thing time and time again.

**DR PATERSON:** Can you describe how long dangerous driving has been an issue that has been discussed at the Weston Creek Community Council?

**Mr Gemmell:** We stopped looking back at minutes at 2015, but in annual visits by the police, neighbourhood watch, et cetera, it is usually the second thing that comes up. When we do any surveys, it is right up the top. What are we doing about dangerous driving, hooning, et cetera? Our previous chair wrote to the relevant ministers in 2020 and I have supplied you with copies of the correspondence and the response. That left us pretty underwhelmed and also nothing happened.

We recently ran two surveys. One was on women's safety and I have provided you with the comments that came in that. That surprised me. When you are hearing that people are walking on ovals, walking in parks, in underpasses and somebody drives a car at them. That is purely unacceptable. These are the sorts of things that should attract a confiscation and the strictest penalties. These are the sorts of people who cannot get through to that police number to get help, as well. We also have in there a comment about the band width on the policing website. These people are being told to send us a video if it is safe, but 10 megabytes does not take much video I am afraid. They cannot even get the substantive evidence on there. So if you want to give the video evidence to the police you actually have to go to their office and hand it over on some sort of medium. This all take times, delays it. The event is over. It is gone. The people are gone. It gets hard to reconstruct.

**Ms Hughes:** Further to Bill's comment, in Weston Creek we are seeing bad driving earlier and earlier in the day. Just for example, yesterday morning the road was clear, fairly clean. This is on Hindmarsh Drive and Darwinia Terrace. By 7 o'clock in the evening, it is covered with black tyre marks. This is during the day. This is when kids are out. It has got to stop.

**Ms King:** I just wonder if I might follow up on some of that. One is that the dangerous driving happens pretty well all over ACT. If you look at the crash map, you will see it basically follows that wherever there is a road or settlement, there are crashes. So the dangerous driving is happening all over the place. Some of it is regarded as casual. You have probably seen the New South Wales ads that are talking about casual speeding saying it is speeding and it is dangerous.

Things like hooning also happen all over the place. I live in a quiet suburban area three parallel streets with a cross street there. When we had some younger people down the street, we had multiple burnouts not only at the intersection but just on our normal suburban street, quite a narrow one. People accelerating at speed, with the resultant death of a dog. Thirty seconds earlier, it would have been a child! Someone coming down the top street down, the joining street along, clearly affected by something, at high speed, and I rang 000 to say "You have to get to Manuka or down there because that is where they are heading. This is what the car looks like," it was very distinctive, "They are going to kill somebody". But if our streets made it hard to do that driving, that would not happen—if they were narrower, for example.

The second thing is about penalties. In our submission we said that penalties for dangerous driving need to reflect the seriousness of the crime. We have referred you to our submission to the Inquiry into Road Safety. I have copies here if you want them. I am happy to provide you all with a copy of that—

**THE CHAIR:** If you could provide a copy to the secretary at the end of the session.

**Ms King:** Yes, I will do that. The other thing, and I think it has been picked up a lot in the commentary—all these points that I am making have also been picked up on the radio this morning too and in some other submissions—when it comes to penalties there needs to be some certainty involved. You need to know that if you do this, this is what the consequence is. I draw your attention to a very good podcast that picks up a lot of these things. The podcast is *The Politics of Everything*. The episode is “Too Fast or Too Furious?” One of the people in there, who wrote the book *There Are No Accidents*, demonstrated the importance of having guaranteed consequences. In New York City they dramatically increased the number of speed cameras and red-light cameras. The speed at which people were driving dramatically dropped and the crashes dropped. It was guaranteed. It was automatic. This was one of the things the previous inquiry looked at. It was automatic. They did not lose points off their license. It was \$50. Just like that. It only took a maximum of two or three before they just stopped. So it is that guarantee of an outcome.

**THE CHAIR:** A similar point has been made earlier and yesterday as well.

I guess you have been aware of this inquiry running from yesterday. I just want to ask each of you very briefly, but again we can sort of become a little bit more informal, if there was one thing you could institute right now to address your concerns, what would that be? We might start with Weston Creek first, then we will go to Uriarra, and then to Living Streets.

**Mr Gemmell:** Again, I am going to be a bit bold here. We would like to see good strong leadership across the Assembly on this issue, not excuses for the behaviour but it to be taken seriously, for people’s concerns to be taken seriously and that be echoed down through the bureaucracy and into the policing service. I think we are all playing ducks and drakes here, and we are not actually getting to the seriousness of the issue and the consequences, which is people are getting hurt and people are getting killed. We do not really understand the depth of injury in the community. We do not really understand how long it goes for in people’s lives. If I am sounding unhappy about it, I am, because people are telling me they are very concerned. It goes down, right down, including into shopping centres. When you hear from somebody that they are not able to cross the road in a shared zone outside a major supermarket, and they are upset and they want someone to help them cross the road, I think that is a cause for concern and it says to me we have lost the plot.

**Mr Hagan:** Yes, I agree with what Mr Gemmell said. What I would like to see is a shift in community standards. Young men are always going to engage in risky behaviour. It is the makeup of a young man’s brain. They do not mature until their mid-20s. They essentially just do not see what they are doing is wrong, if it is not signalled to them that what they are doing is wrong and it is not just a bunch of old fuddy-duddies complaining about noise and so forth. If it is signalled to them to say, “Look we do not

mind you doing these big car gatherings so long as you do not bother anyone,” they are going to take that as licence that what they are doing is okay. We need to reflect the behaviours that we want to them to do, as Mr Gemmell said, through leadership from the top down. There needs to be consistent messaging about what is acceptable behaviour and what is not acceptable behaviour. You can talk a lot about harsh sentencing or other things like that. Young men are going to make stupid split-second decisions and we do not want them ruining their lives. We do not want them ruining other people’s lives. We want them to just have a better sense of what is normal.

**THE CHAIR:** Just to reflect, the gatherings you have described are not split-second decisions obviously.

**Ms King:** I think we would pick up on what the others have said that it is about culture. Canberra prides itself on being a caring community and leading on that. We have seen that in a raft of things. I think what we need to do is to change the attitude from one of individuals and, “It is my individual right to do this,” focusing it back onto community, to looking out and caring for other people. If we can make that the norm that would dramatically, I think, change the way people drive and would also have huge benefits in a raft of other areas across the territory.

**Mr Hagan:** If I may add, people need to understand that they live in a community and they actually get benefits from the community that they live in. It is a benefit that they just happen to have by luck. They are lucky they were born here in this country, in this community, and they have clean drinking water in bottles, their electricity on tap, they do not have to walk 20 kilometres a day to get a 10 litre can of dirty drinking water to drink. But they do not appreciate that it is just by the luck of the draw that they live in such a fantastic society. They do not see it as a benefit that they need to continue to contribute to, to continue to have. It is just not, I do not think, reflected in the front of people’s minds.

**Mr Cox:** I would like to say one thing. Just picking up on that, perhaps the Assembly can find ways in which they can enlist the support of the community in doing things—rather than trying to think you have to do everything, ask us to do more. If you ask people to do more, then they very often do. But they have to be asked.

**THE CHAIR:** Just in case there is a misconception; I do not think there is—obviously we are here as Assembly members. The bureaucracy and policing are administered by ministers in government. So there is the Assembly as a separate branch of government, then there is the executive, which administers the laws and provides the services.

**Ms King:** I think the point Kevin is making is that so often we think the government needs to do this, but the community has a huge role to play.

**THE CHAIR:** Thank you.

**DR PATERSON:** On education, and I get we are talking about culture and acceptable behaviour, are there any thoughts you have specifically? A lot of the submissions we have looked at particular research on who the dangerous drivers are. They do tend to be younger males. I am interested if you have any other thoughts around, rather than punitive measures, what we could be doing to support young people in the community



that they do not feel they have to drive like idiots.

**Mr Gemmell:** I will just add here I do not think at any stage in our submission we referred to young people. We think dangerous driving is across the spectrum. We all see things out there and we just shake our heads. Often it is the grey haired we shake our heads at, and we are all heading into that area! It is a matter of the long-standing culture out there. There is a long-standing culture that they will take risk because they will not get hurt or they will not get caught. A traffic crash, I will not call them an accident, is a rare event in most people's lives—once or twice maybe in a lifetime. It is the consequences that can come from that that are catastrophic. We need to somehow get that message through to these people. You cannot walk out of a club for 40 years with a skinful every Friday and not eventually come to grief. It goes on. We do see people drink driving. You cannot get on your prescription barbiturates because of your arthritis or your previously broken leg or whatever and not take that into account in your behaviour. It is the same as the young people and their risk-taking. It is across the spectrum. Mobile phone use. How do we turn it around? I think operation TORIC is a great initiative. It said to us that we were correct in saying it has been going on for a long time. Why did not operation TORIC come in earlier? It is a cultural thing and it needs to be turned around.

**Ms Hughes:** Having listened to Tom now a couple of times, one of Tom's comments resonates, and that is we need to look at rehabilitation. We need to not just let someone go home after they have committed a crime and go: "You naughty boy. But I hear you are looking after your grandmother, so we are going to let you off." We actually have to take that person, work with that person and hopefully make them a better person.

**THE CHAIR:** Thank you for your submissions. Obviously the committee will be contemplating all of the submissions and what has happened in the public hearings to come up with some recommendations in a published report, probably early next year at this stage, but we will see how we go. So on behalf of the committee I would like to thank you all for representing your organisations and your residents. I do not believe there were any questions taken on notice.

**Short suspension.**

**CHALMERS, MR ERIC**, Chairperson, ACT Chapter, Australasian College of Road Safety

**THE CHAIR:** Apologies for running a little bit over time. In this session we will hear from the Australasian College of Road Safety. I welcome Mr Eric Chalmers. Mr Chalmers I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you confirm for the record that you understand the privilege implications of the statement?

**Mr Chalmers:** I do.

**THE CHAIR:** Thank you. We are not inviting opening statements, but we will have the option perhaps for something in closing. We will go straight into questions, if that is okay with you?

**Mr Chalmers:** Yes, that is fine.

**THE CHAIR:** Thank you. I have asked this of each other group, and again it is a broad question. If you could change one thing right now, what would that be?

**Mr Chalmers:** The focus of our presentation has been that we really need to look at the whole system. To look at one part in itself is not really going to save lives, we do not believe. We have to look at the whole. I think a thing like dangerous driving is a good example of one of the horrific parts of the system, for which one particular activity or one particular attempt to change just is not going to work.

**THE CHAIR:** What is the system you are talking about?

**Mr Chalmers:** The system is the whole lot: it is the roads, it is the cars, it is the drivers, and it is the community and environment within which the drivers live. I think dangerous driving comes out of a whole series of things. We have tried in our presentation to give some examples of where those causes lie and some of the evidence that is around that gives us directions in where we can go to change some of those things. I think for example, directing the courts to give more severe penalties within itself is not necessarily going to save a lot of lives. We need to look at where it starts, where people get the behaviour from that creates the dangers that we see later.

**DR PATERSON:** We know a large percentage of the fatalities that are on our roads are in some way, shape or form due to excessive speed. In your submission you talk about Canadian excessive speeding legislation where there is an immediate license suspension. This also comes up in the AFP Association's recommendation saying that police should have a discretionary power to immediately suspend a driver's license if they are over 45 kilometres over the speed limit. I was wondering if you can speak further that and what your views are on that?

**Mr Chalmers:** I think this is one of the examples of the need to have good evidence in these situations. A number of changes have been made, like we mentioned in the presentation. In some of those cases where the changes have been, dare I say appropriate, they have enabled quite significant changes or reductions in injuries and in people making far too great speed out of their cars. But you have also got to keep the whole

thing into balance. I think that is the key to it.

**MR BRADDOCK:** I am interested in the role of technology like intelligent speed adaptation which may limit or provide warnings to the driver. What role do they have to play in this system to prevent people from excessively speeding or dangerous driving?

**Mr Chalmers:** My own view is I think we are just getting to the start of being able to use some of this technology. There is a lot of technology we have. It is like the technology in our cars to keep us on the road, to do all sort of things, is I think beyond our capacity at the moment to use it. But we have to learn how to use it within the whole system. The ultimate of that I guess is to have driverless cars, where the cars communicate with each other. But I suspect we are quite a long from that. I think the last I heard Volvo has difficulty in recognising kangaroos on the road. I think back to where I started and we were saying we need to look at the whole system. Technology will play an important part. Early education of people will play an important part. We think, for example, we need to get police more into the schools to make sure they are able to pass on some of the better behaviours and practices to people before we put them behind the steering wheel of a car.

**THE CHAIR:** You talk throughout your submission you talk about sentencing. I note at the top of page 6 you say, “However harsher sentencing in itself will not address the issue ...” I think we know what the issue is.

**Mr Chalmers:** Dangerous driving.

**THE CHAIR:** Are you then acknowledging that harsher sentencing, compared to our current regime, is actually part of an answer?

**Mr Chalmers:** We call it appropriate sentencing. The evidence when we look at it properly should be able to tell us whether sentencing is adequate for the environment that we have today. We are not talking about harsher sentencing. But as we said in part of the paper if you look into the several studies in Victoria, increased demerit points and license bans up to 12 months reduce subsequent casualty rates after the ban period. So there are a number of things we can do. What we are suggesting is that each of the steps we take needs to be taken with good evidence and planned out properly and that purely increasing sentencing by itself may not have any effect at all. It is only if we have sentencing that is appropriate, that gives the right messages to people and we have the education and the systems at the beginning that make sure people are aware of that, that helps them to change their behaviour. We mention in here we need a mechanism for improving the capacity to stop repeat offences but to do that through the right sort of education and support for people who are involved and so we go on.

**THE CHAIR:** Do you think the sentencing, as is happening now on this issue, is appropriate? Or is there need for some review and change?

**Mr Chalmers:** We suggest in here that in Victoria they undertook a review of sentencing—I have to find where it was now—

**DR PATERSON:** It is in the conclusion. Victorian Sentencing Advisory—

**Mr Chalmers:** We are suggesting a review like that to compare what we are doing here with other jurisdictions, where there is good evidence of structures that have worked and make sure what we have in the ACT suits the environment that we have in the ACT.

**THE CHAIR:** Some are calling for an independent review as opposed to a government initiated advisory council. What is your view on that?

**Mr Chalmers:** The better and more reliable the evidence, the more secure we are in using it. I did not directly answer you, no. To me the real test is that the review is believed by everybody and we can comfortably rely on its outcome. I think that is the real test, whether it be an independent review or a review by the people who have to use it. It depends also how well it is integrated into a review of the whole system.

**DR PATERSON:** Your submission refers to a fair few different programs in terms of reducing recidivism and offender education programs. I was wondering if you have any thoughts around if we could just implement one type of program in the ACT tomorrow, what do you think would be the one we should prioritise?

**Mr Chalmers:** I do not have the answer to that one. I think the question is something that should be looked at quite early on in the review of whatever you are going to do, because in a lot of these issues on road safety, there is a lot of work being done, both in Australia and overseas. Often we do not have to reinvent wheels. We can have a good look at what has worked elsewhere. We can make sure that we can adjust it to what will work here. Put that into place. But then, as we talk about in a number of places, connect it back into the rest of the system. Repeat offending is an issue, so is the way we educate young children and young people as they start to drive, the way we teach them to drive, the way the police can engage with them, and so we go on.

**MR BRADDOCK:** On page 4 of your submission you talk about data loggers or black box data potentially being an available tool. Have any jurisdictions successfully started to utilise that information to address road safety?

**Mr Chalmers:** I do not know off hand. But if you like, I can look into that.

**MR BRADDOCK:** Yes, I would appreciate that.

**Mr Chalmers:** One of the benefits of the college is we have a lot of academics and police and all sorts of people as members. There will be someone in the college that will be able to feed back to you that sort of information, I think.

**MR BRADDOCK:** Is there any evidence that demonstrates the seizure and or potential crushing of cars is actually—I suppose, what is the evidence out there in support of those actions?

**Mr Chalmers:** That is another one where I do not have them here but I am happy to put you in the right direction of someone. I am sure there will be evidence. It is just that I have not seen it.

**MR BRADDOCK:** I would appreciate if you took it on notice. I would be interested

to see.

**THE CHAIR:** Is anything you would like to say in closing?

**Mr Chalmers:** No. I think we have been quite specific in our suggestions in our paper. Apart from the one we have not spoken about, which is we strongly support the police, their role in this issue and the difficulty of what they have to do. I think there is a great need for us to support police and other on-the-spot workers who, apart from the terrible things that the families go through, have to keep going through this time and time again. Our overall statement is the eventual aim should be zero road deaths and zero serious injuries. We have seen cases around Australia even today where there have been no deaths for some time in particular local government areas. So things can be done to improve it.

In particular, a systematic view should be taken looking across the entirety of the road transport system. The ACT, as we were talking about earlier, should conduct a similar review to the 2015 Sentencing Advisory Council report in Victoria that enables us to benchmark dangerous driving and the current sentencing responses. I think that will start to answer some of those questions you had.

The other thing was a case management approach for repeat offenders, which will enable us to focus more directly on what is causing some of these repeat offences and how we can overcome those. The key things to success we believe are to draw in all ideas and input—we believe the whole approach of this inquiry is important—to base our decisions on evidence and to take the whole of the system approach to it.

**THE CHAIR:** On behalf of the committee, I would like to thank you Mr Eric Chalmers for the representation from the Australasian College of Road Safety. You have volunteered to take some questions on notice. Hopefully I do not frighten you now, could you please provide answers to the committee secretary within five working days or request an extension.

**Mr Chalmers:** We will do one of the two. I will have to check back with the college about how long it will take to get an answer for you.

**THE CHAIR:** Okay. Thank you.

**Short suspension.**

**CARUANA, MR ALEX**, President, Australian Federal Police Association  
**ROBERTS, MR TROY**, Manager, Media and Government Relations, Australian Federal Police Association

**THE CHAIR:** In this session we will hear from the Australian Federal Police Association. I welcome Mr Troy Roberts and Mr Alex Caruana. I apologise that we are running a little bit late. Can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement? Could you each confirm, for the record, that you understand the privilege implications of the statement?

**Mr Caruana:** I do.

**Mr Roberts:** I do.

**THE CHAIR:** Thank you. We will go straight to questions if that is okay with you gentleman?

**Mr Caruana:** That is fine.

**THE CHAIR:** One of your recommendations is that an independent review be undertaken into sentencing and bail in ACT. Why is not the establishment of a sentencing review committee adequate in your eyes?

**Mr Caruana:** Similar to the previous person that was up here, I think a systematic review needs to occur over the whole system. It is not just one piece of the pie that needs to be looked at, it is the entire pie. I think in order to keep the community safe we need to know what is working and we need to, more importantly, know what is not working and how we can fix it. We can keep putting band-aids over things and we can keep trying to treat the symptoms but we need to look at what the root cause is, how we can better meet community expectations and how we can better keep the community safe. We think the best way to do that is by an independent review of the entire judicial and bail system.

**DR PATERSON:** I am wondering in respect to bail, what do you see the issue there is and why a review would be necessary?

**Mr Caruana:** Sure. When one of my members pulls over somebody for speeding or breaking the law in any type of crime, but we are specifically talking about road injuries or road issues here, it is not uncommon for them to have a pre-existing conviction or a pre-existing court outcome, usually bail outcome. We had one member recently who had been released on bail four times and he drove a car at police officers. We have had another member who tried to injure and harm police officers and emergency responders, then drove his car at police officers, injuring three of them, and got bail. On what planet is this okay? On what planet is this good? What message are we sending to the community about road safety, about bail and about the road users?

**Mr Roberts:** If I may? In support of what Alex said, I think you just need to look at the results of Operation TORIC over the last couple of months to see that there is a problem

there. It was only two days ago where they apprehended a driver who was in breach of a good behaviour order, a drug order and an intensive corrections order, and he was charged with seven additional criminal traffic offences. So Operation TORIC is doing an outstanding job. If people cannot see the evidence there then they are not looking hard enough.

**DR PATERSON:** One of your recommendations is police having discretionary power to issue an immediate suspension notice for someone speeding over 45 kilometres an hour. Can you speak to why you see that as important? And why a fine, for example, is not perhaps sufficient?

**Mr Caruana:** When a police officer pulls someone over they are obviously doing it for a reason. It is obvious to that officer. Generally that reason is that a crime has been committed or some rules or regulations have been broken. The police need discretion for excessive speeding. We are not talking about absent mindedness here. If someone has passed from an 80 zone through a 40 zone clearly that could be absent mindedness and that should not result in an immediate suspension or a confiscation of their vehicle. However, when a police officer pulls someone over and they are excessively speeding, where they have intent, where they are going to be negligent, or cause harm, or cause danger, I think the police definitely need to be able to issue a suspension notice.

When a police officer pulls someone over and gives them the fine immediately that person is allowed to drive away. They could potentially—and in many instances do—go away and break the law in that similar way again. They continue on racing, essentially driving away with two fingers in the air to the police officer, “Thanks. See you later,” now if there is not that discretion. When you bring in that discretion it immediately sends a message to that road user, “What you have done is incorrect.” It immediately keeps the community safe from that negligent driving, from that person that clearly has no regard for anybody else.

**Mr Roberts:** In support of that, under the current system you may have one demerit point left on your license and you get caught speeding at 45 kilometres per hour over the limit, police watch you drive away. Even though the police officer will know that the license will eventually be suspended, that person still gets to drive away. It may take a couple of weeks for the system and the administration process to occur before that license is actually suspended. How much damage can that person do in those weeks, with their driving behaviour? They are already going 45 kilometres per hour over. They are obviously reckless in their behaviour. Why should not police have the power to stop that then and there?

**THE CHAIR:** That would sound like a sensible approach to many. What has been the response from government when you have presented that kind of suggested change and other things that seem to align with the policy intent?

**Mr Caruana:** It has been lukewarm, I think is a fair comment to say. There have been comments they will review the sentencing or review the provisions and see what can be done to amend that or to fix that. Some members of the Assembly have been much more supportive than others. I think that is fair to say. That being said, I do not think we can afford to wait much longer. Our road toll at the moment is very high. It is higher than it was this time last year and the year before that. People are dying on our roads, and

we need to do something. We need to send a message today—in fact, we needed to send the message last year. But, as soon as we can, we need to send that message to the ACT community that the government and the police are there to keep you safe and this is what we are going to do to do that.

**MR BRADDOCK:** A clarification because the wording of the recommendation implied that the discretion was about the seizure of a car: but you are also saying it is discretionary for the officer as to whether to suspend the license as well. Is that your recommendation?

**Mr Caruana:** That is right. So if someone is passing through an 80 zone into a school zone for instance and in absentmindedness, they think it is 4 o'clock but it is actually 3 o'clock—depending on the circumstance, it probably does not deserve that immediate suspension or seizure. However if the person is on the parkway doing 150 kilometres an hour and there is another car next to them doing the same speed, it does not take a rocket scientist to figure out what may have been occurring there. The person that has the car seized has the ability to fight that in court, has the ability to apply to have that car and their license back. We do not want to take away any of those human rights nor compliance with all that sort of stuff. If a police officer has made a mistake or there is a reasonable explanation for why that person was going that fast the community member needs the ability to appeal and to have that overturned, if that is the case.

**MR BRADDOCK:** In other jurisdictions they have the destruction of cars as well, do you have evidence that the seizure and potential destruction is important as part of the system to ensure we keep people safe?

**Mr Caruana:** I think Northern Territory do a similar thing where they seize the vehicles. They put those vehicles out in public and have the offender paint on the vehicle “I was caught speeding” or “I was caught hooning”. That vehicle stays out and around in a public place. It is similar to a signpost, “If you drink and drive, you are an idiot,” those sorts of things. It is a way to get out to the community, to remind the community, “I have seen that car around and we finally got that person”. So it is reminding the community that the policing is there and the government is there to keep the community safe. It also reminds the offenders that if I get caught, this might happen.

In other jurisdictions they cube the vehicle. Nothing sends a message to a young person that is investing tens of thousands of dollars into a race car—because essentially that is what they are—like having it taken away and turned into a nice bit of street art to remind them that what they have done is wrong and could have put community members in danger.

**THE CHAIR:** We have just heard from Living Streets Canberra, Uriarra Valley Residents and Weston Creek Community Council that there is not just a local hooning and dangerous driving problem but a widespread one. I think you were here for much of that time. There were some comments made to the effect that, “When we contact the police little happens or nothing happens.” In one case, “We have given up calling.” On behalf of your members, how do you respond to that experience and perhaps even perception of some residents?

**Mr Caruana:** It is not something that is new to us. We hear this often. Ultimately it



comes down to resourcing. AFP or ACT Policing prioritise these calls. Obviously where there is an offender on premises or there is a domestic violence incident, those sort of incidents are going to take precedence. In some instances we do not have the resources. I will be honest with you, we do not have the resources to police that far out. Uriarra is a long way away. It could be a 40-minute drive. Knowing that you have left your partner back in the office, who might be attending to domestic violence or a violent criminal and who does not have the backup because I am 45 minutes away is a really daunting task. Similarly, the other way around—watching your colleague drive away. I certainly know down towards the Tharwa area there is a bit of hooning and in Tidbinbilla. Again it is a long distance to go out there. We just do not have the resources sometimes to get out there. It is purely coming down to a numbers game. You can only spread the vegemite on a piece of toast so far before pieces of the toast miss out. Unfortunately, while street hooning is dangerous and those street races are dangerous, there are other incidents occurring in the ACT that are taking the police resources away from proactively and reactively responding to those sort of instances. I do not know if you have anything to add?

**Mr Roberts:** To be brutally honest, you just have a look at the RoGS data. Since 2016, ACT has ranked third in the nation for community concerns about dangerous driving and noisy driving. I am happy to table that information if you would like it?

**THE CHAIR:** Thank you.

**Mr Roberts:** Anyway, last year we led the nation. It is okay to say yes police can go out there and enforce it, but what is the government also doing to assist police in that space? It gets down to resourcing. It gets down to funding. We have seen what a dedicated taskforce can do, but once again the police are put in a position to rob Peter to pay Paul. They had to take resources from general duties or from criminal investigations, which are already understrength, to put into this environment. So what has to suffer and how will the community suffer by this shuffling of resources?

**THE CHAIR:** A ballpark figure, what extra resourcing do you need as a percentage of your current workforce?

**Mr Caruana:** A percentage? I do not think we can tell you about numbers. I could say about 150 additional police officers is about right to meet the national average. We are asking for 200 additional. That will take into consideration members that go out on maternity or long-term leave as well as training commitments. We think it is important that whilst you are in ACT Policing you still have the ability to train and upskill. And it would allow us to look at other avenues, to be proactive. Would it not be good to have police officers out there proactively policing instead of reactively policing when it comes to traffic crimes and those sort of things? Back when I first started in the AFP, we had a dedicated stolen motor vehicle taskforce here in the ACT. We were leading the nation in terms of very low numbers of stolen motor vehicles. Now, per capita, I think we are up in first, if not second, in Australia. So being able to proactively attack the crime and proactively educate the community that we are here to help you and if you do something wrong we are you going to catch you, is important. But we need to have the resources to do that.

**THE CHAIR:** And obviously being the national capital attracts nationwide issues

sometimes?

**Mr Caruana:** That is right, and then you factor in the rise in crimes that we are having. Homicides have almost doubled in the ACT, violent domestic violence crimes have increased in the ACT, violent and sexual crimes against children have increased, as well as stolen motor vehicles. ACT Policing are the most stretched police force in Australia. I do not want to say it but most of the members are suffering and they are pushing that aside, putting their own wellbeing aside, to help the community. We need to do something and the government needs to do something to help them.

**DR PATERSON:** I wanted to talk about drink driving. I grew up in Melbourne. Multiple times a year, I would be random breath tested. I have been random breath tested once in 17 years in the ACT. We heard from ATODA. They were saying the randomness is really important in terms of getting the message out about this. In the ACT Policing's submission they said they have moved away strategically from random to a more intelligence-based testing. ATODA was saying that our numbers, our percentage of breath tests returning an over the limit response is actually very high in the ACT, which is probably because police are targeting those people. But I am wondering do you think we need to go down the path of actually more very random breath testing to send the message to the community about drink driving?

**Mr Roberts:** Every breath test is random to a degree. Every police car out there is a random breath test station. I am guessing you are talking in the more traditional sense of seeing the booze bus on the side of the road, 10 constables along the road pulling every car over to get breath tested. That is not a great use of resources or time. Those exercises are really good as a PR exercise to say, "You could be breath tested," but you do not get the results from that exercise compared to a targeted approach, which ACT Policing do. Personally I would rather see 10 police officers in five police cars cruising the suburbs and known hotspots, around clubs and licensed premises, pulling cars over, than 10 constables lined up on the side of the road doing 10,000 tests but maybe only getting one or two positives.

**Mr Caruana:** The other part to that is setting up the booze bus and that big instalment. It is quite resource intensive and we do not have the capacity to do it. Traditionally you would have seen a lot of recruits out there and they use that as part of their training. The recruits are out there next to the truck doing it but we are not having the numbers of recruits coming through so therefore we do not have the need to train in those larger quantities. We do not have the resources to do it. So, AFP have had to work smarter as opposed to harder. My personal opinion is that it is a great education piece in getting that bus out there. To say, "Drink and drive and you are an idiot," is a great way to educate the community. I would classify that as proactive policing. But when you do not have the resources to do that you have to go to a smarter way and that smarter way is that strategic evidence-based approach.

**Mr Roberts:** To properly run a proper RBT station in the old traditional sense you are looking at between eight and 10 officers. There are not eight to 10 officers in a patrol zone on one shift. So, once again where does your priority lie? Is it responding to other jobs, domestic violence, all those types of other jobs, or is it having 10 constables doing one task which as a result may not be very successful? I know where the resources should go.

**MR BRADDOCK:** One of your recommendations is about suspending the licence of a person taken into custody for a drug-detecting blood test. Can you please walk me through the necessity of that? I need to particularly understand the timelines of how long could that blood test result take and hence when the licence could be suspended?

**Mr Roberts:** Under the current regime and moving forward into the decriminalisation of drugs, police cannot test for a number of substances which are going to be decriminalised. The only way they can test is to have the person in custody, drive them to a hospital and have blood taken. That obviously puts pressure on the health system because we need to find a doctor or a nurse who can take the blood. We have to do it within two hours. There are no immediate results of that blood test. The person could still be under the influence of the illicit substance; however, police do not have the power to stop that person from returning to their car and driving away. So, what we are saying is we take the person to hospital, they give blood and, until the test results come back either confirming a positive test or a negative test, their licence is suspended. If it comes back negative obviously the suspension is lifted and they can continue to drive. If it comes back positive then we need to have the system in place for how that suspension either continues or is revoked until they go to court and then the court can impose that suspended sentence.

**MR BRADDOCK:** Sorry, just sorting out the time in my mind. Would you not arrest that person for the purposes of taking them to hospital for that blood test, hence they would not be driving anyway if they are arrested. I get the after test after hospital.

**Mr Roberts:** We actually do not know if they have committed a crime until we get the analysis back. The only way to get the blood is to take them to the hospital, or they can voluntarily declare to provide blood, which does not happen, truth be told. To prove the offence, you need to take them into custody to get that blood sample. Then it may take ACTGAL, and they are under the pump as much as anyone else at the moment, it may take them seven days, 10 days for results. I do not know what their timeframes are, but I know it is not a 24-hour turnaround.

**THE CHAIR:** Page 5 you mention drug driving and that the movement towards decriminalisation of cocaine, heroin, ice et cetera will make the roads in the ACT more dangerous. As you are aware, it was passed in the Assembly last week, commencing in 12 months. What steps do you think you will need to undertake to meet that possibility?

**Mr Caruana:** I think there needs to be money spent on research into roadside drug testing for all the drugs that have been decriminalised. At the moment, things like cocaine, heroin and magic mushrooms cannot be tested for. Someone could be behind the wheel of a car with heroin in the system, on the nod and police are unable to roadside test. That is when blood will need to be taken.

The fact is that in other jurisdictions in other countries where drugs have been decriminalised, we have seen there has been an uptick or an increase in drug use. We then of course see an uptick or an increase in people getting behind the vehicle with drugs in their system. I think technology needs to catch up. Money needs to be spent on research to catch up to that technology but also on education campaigns and resourcing police officers to get into the schools to say this is what can happen. I think we need to

be bold and we need to be a little bit brash.

We did it with cigarettes and it was quite successful putting on the packet of cigarettes, “This is what happens when you smoke”. I think we could do a similar thing when it comes to drugs and alcohol for schoolchildren, “When you are drinking, this is what happens when you get behind the wheel of a vehicle,” so that people will think twice. It might allow their peers to say, “Hey so and so, you have had a joint or whatever, you have taken whatever. I am not getting in the car with you.” So you can actively have your peers discouraging it. From the policing point of view, that comes down to resources. We do not have as many police officers in the schools educating. Ultimately it comes back to the resourcing issue that we have here in the ACT. It is not a silver bullet and it should not be looked at in isolation. However, that will go a long way to alleviate some of those issues from the policing point of view.

**Mr Roberts:** I think if you had utopia, you would look at it in terms of an education campaign based on a PACER model where you have police, ambulance and maybe an ED doctor or a drug counsellor going to schools and talking to the young kids about the dangers of drug taking and driving. New South Wales have a really good program which focuses on teenagers just before they get their licence. When I did my research for this, we identified a gap in the ACT that once you have got your licence there are programs in place but there is nothing leading into getting your licence apart from reading the ACT road handbook. The New South Wales model talks about driving but it also educates about passenger behaviour because we know at that age peer pressure and stuff like that impacts on driving behaviour. So, we really need to start getting into the schools again and starting not once they have their licence but just prior to when they have their licence.

**DR PATERSON:** In ACT Policing’s submission one of the things that really struck me was the link between failing to stop for police and other serious offences. They say that cannot be overemphasised and talk about the fact that people failing to stop is the biggest red flag. I was wondering, do you have thoughts or ideas about how to tackle that or how to address that issue? I will ask police the same question, but I am interested in your perspective.

**Mr Caruana:** I think that comes back to that review that we are calling for. We do not know what we do not know—what works, what does not work, what are we doing well, what are we not doing so well. So I think part of that holistic review would pick up some of those issues.

Certainly, anecdotally, people do not want to stop, because they think they are going to get in trouble, so they ram a police car and drive away knowing that they have an out. The police are not going to engage in a pursuit, because there is a loophole there. So people would try to evade police, in that sense. If we did not have such high recidivist offenders or people out on bail or intensive correctional orders, and if people were given a disincentive to offend, then we probably would be seeing lower numbers. I do not have empirical data on that. I do not have statistics on that. However, anecdotally police officers are saying: “We saw Troy behind the wheel today. I arrested him. He went before the courts today and he is out on bail. I saw him two days later. Same thing. He has rammed me.” It is the same people; police get to know them; you recognise them et cetera—the same people doing similar crimes, or minor crimes after they have been

charged and bailed for a much more serious crime.

So I think we need to review that process and what is occurring. What is making that happen? What is the catalyst for that and what can we do that is better? I actually do not think that sentencing in itself is an issue nor that the legislation is. It is how the sentences are being applied. I think we need to create some real disincentives for people ramming police cars, attacking police officers, including speeding at police officers et cetera, to discourage them from doing that sort of behaviour and endangering the community. While they are trying to evade police, they are putting the community in danger.

**DR PATERSON:** Do you think there is more work that could be done, particularly with these recidivist offenders who have had multiple interactions with police, to build the relationships or change the culture with these offenders so that they do not bolt and then potentially cause significant harm to others or themselves—that they actually do stop? Do you think there is culture change work that could be done there?

**Mr Caruana:** Getting police officers in the schools and building that rapport early so police officers are not seen as the stick carriers—you know, someone that is going to give you a penalty in every instance or every interaction. That would be good sense, but again it comes down to resources.

We have already spoken about not having enough resources to actively respond to hooning in certain parts of Canberra. How are we going to have the resources to build those relationships with these offenders and, even before that, in the schools before they become offenders? Again, I think we need to do a review of the whole system and see what we can do better and then implement that. Pick some low hanging fruit. Do those ones in the short term and then have some long-term goals to see what we can do that is actually going to keep the community safe. Like I said, putting band-aids over things and making small changes is good for the short term, but holistically in the long term we need to really think about what the community's expectations are and about how we can break through and get those people to have a relationship with police officers, "Okay, you got me, boss. I am turning myself in. I am not going to put anyone else in danger, because I know you are going to get me tomorrow." Ultimately that is what happens. We know where you are. We turn up at your house and we get you or we get you at another location. Why not just turn yourself in? "Yes, you got me."

**MR BRADDOCK:** With some other witnesses, we have been discussing the idea of reforming a lot of the laws and taking the five different laws with the different offences and bringing them into one. Is that an idea that you would support?

**Mr Caruana:** The devil is in the detail. I would have to see what they are actually looking to put together. I am open to any suggestion for any changes. Something needs to happen to keep the community safe and to keep my members safe. I would not mind having a read of that and I can get back to you out of session if you like, but the devil would be in the detail.

**DR PATERSON:** We have spoken to SupportLink and very much through yesterday's hearings recognise the need for that immediate trauma service. I am wondering, in terms of your members and the trauma that they may go through presenting at these scenes,

is there adequate support for police post an accident scene?

**Mr Caruana:** I think one of the key recommendations for us is money be spent on SupportLink or a SupportLink-type service for all emergency or first responders and early responders, the public, all the volunteers as well as the families. Just like we are in the ACT Policing, the AFP is also stretched. So the resources for assistance, whilst it is there, having an external service provider is often better. Being able to have your family members attend with you to the external provider to say, “Why is dad screaming in the middle of the night?” or having night terrors and actively screaming in bed. Being able to educate and to assist the families is really important, especially for my members but for everyone as well. I think spending money and investing in a SupportLink service that is going to help everybody is a really important step that we need to take.

**Mr Roberts:** In relation to the members on the ground, ACT Policing Welfare do a fantastic job. They attend the scene. They have come a long way. When I first started in the job nearly 20 years ago, it was non-existent. I had a fatality of an eight-year-old girl very early on in my career. I still carry those scars today, and I did not get very much support. So they have come a long, long way since then and as I said, the welfare team do a fantastic job in supporting the guys on the ground.

**THE CHAIR:** Would you each like a brief closing statement before we finish?

**Mr Caruana:** I am happy to just say a quick closing statement because I am mindful of the time. I think this is a good first step where we are at today. But like I have been saying for a number of months now, we need to have a holistic review of this and a holistic approach on the whole system, on what we can do to keep the community safe and on assuring the community that police will be there to keep people safe.

There are three main points we want to emphasise. The first two are giving the police a discretion to be able to seize the vehicle at the time, to be able to confiscate it, or to stop someone from driving immediately. They are two very important things to discourage people from putting other community members at harm.

The third and final thing is SupportLink, that support service. We think it is really important we have that and we have it available to everyone. Not taking away from ACT Policing and ACT Policing Welfare and the good work they do, but being able to provide assistance to all emergency responders, to the volunteers at the scene, to the victims, to the victim’s family as well as opening it up to police officers’ families is important. Police officers carry those scars home. Often it is the family members that notice it first and they need somewhere to go to get assistance and to get help. Whilst the AFP provide it, sometimes you do not want to go to your partners’ employer, out of the fear of, “Is this going to affect their career?” So having those support services outside the police I think is a really important thing that I think we need to invest in.

**THE CHAIR:** Sorry, Alex, what was that second one?

**Mr Caruana:** The ability to stop someone from driving on the spot. The discretion to suspend a licence.

**THE CHAIR:** Thank you.

**Mr Roberts:** I think this inquiry has been one of the most important ones that we have had in the last few years. I really hope the government take a really good hard look at what the committee can come up with, because things need to change. For our members it is a war zone out there, and it is getting more violent, it is getting more dangerous. This is a good opportunity for the government to sit back, have a review, look at the excellent work that you have done as a committee and let us look towards a better future and a safer future.

**THE CHAIR:** Thank you. I speak for all of us in passing on our appreciation and respect for ACT AFP Policing and your members and we will certainly be taking your recommendations into close consideration.

**Mr Caruana:** Thank you.

**Mr Roberts:** Thank you.

**THE CHAIR:** On behalf of the committee I thank Troy Roberts and Alex Caruana for your attendance today. I think there were some questions taken on notice. If you could respond within five working days it would be appreciated, or seek an extension.

**Short suspension.**

**COLLINS, MR BRETT**, Coordinator, Justice Action  
**TRAHANA, MS KIRA**, Team member, Justice Action

**THE CHAIR:** Welcome to the public hearing on dangerous driving. Please be aware that the proceedings are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice it would be useful if you would use the words, “I will take that as a question taken on notice”. In this session we will hear from Justice Action who are joining us by Webex. I would like to welcome Mr Brett Collins and Ms Kira Trahana. Can I remind you each of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement? Could you each confirm that you understand the privilege implications of the statement?

**Mr Collins:** Yes, I do.

**Ms Trahana:** I confirm.

**THE CHAIR:** Thank you. We are not inviting opening statements so we will go straight into questions if that is okay by you?

**Mr Collins:** That is fine.

**THE CHAIR:** I read from your first page your concern about public calls for an increase in the length of dangerous driving prison sentences. We have been hearing from some, perhaps even many, concerns that sentences do not seem to be approaching anywhere near the maximums in the current penalty regime with a maximum period of time in incarceration. Is that a concern to you or do you feel the system is working at the moment?

**Mr Collins:** No, we are concerned at any suggestion there should be an increase in sentences. We have had the benefit of looking at the submissions of other participants and we agree entirely that there is everything against increasing the sentences. In fact, taking a person out of their community and putting them into prison is criminogenic, and the facts show that to be the case. Any suggestion of deterrence, in fact, you can negate that; the destruction in people’s lives is totally inappropriate—

**THE CHAIR:** Can I just clarify one thing there? Obviously we have the penalties in the legislation so that is one thing that one could speak of. Then given that legislation there are the sentences actually being delivered by the courts at the moment. So do I take your comment to mean the current sentencing under the current legislation is working okay and the sentencing itself should not be increased? Or are you happy with the actual maximum penalties? Or are you concerned about those as well?

**Ms Trahana:** We are happy with those. I understand you are discussing that often currently sentences fall far short from the maximum penalties. We think that is important and good because we think court discretion takes that into account. We note that perhaps one of the reasons why those penalties fall short of the maximum is because they are often perpetrated by young offenders, particularly young men. Youth is considered a sentencing factor so magistrates tend to sentence a little bit more leniently for those offenders. We think that any programs that divert offenders away from prison



and incarceration are far preferable.

**DR PATERSON:** On recidivist offenders, we have police Operation TORIC happening at the moment which is really highlighting the level of recidivism. How do you address that?

**Ms Trahana:** We are aware of Operation TORIC and the large number of charges that have been laid down since its introduction. In terms of recidivism, we think that recidivism is obviously a complex issue but we know two things. First, we know that after going to prison there is a far higher chance of recidivism. We have talked about how prisons entrench that. Second, we think there are a lot of programs that are available, or could be available, to prevent recidivism. Particularly we want to draw your attention to the current ACT Reduce Aggressive Driving Program which targets the personality factors, for example, of young males tending to engage in hooning behaviour. But we think there are other forms such as peer mentoring programs, where we position other young men who have been convicted of dangerous driving offences, or things like the Victorian drive to learn programs that target recidivism. We think those are far more effective because they target the root causes and personality factors that lead to dangerous driving.

**DR PATERSON:** We have not heard about restorative justice as much as I would have liked in the submissions, and your submission mentions it. I was keen to get your views. Currently we have a restorative justice process if you plead guilty and there is quite a select set of offences that it applies to. Do you believe that a more holistic restorative justice process should be offered particularly to offenders or to victims of dangerous driving?

**Mr Collins:** Well yes, actually. We certainly do. In fact restorative justice for young people has been proved to be satisfying, not just for them but also for victims of the offences. So joining those two things together is really important. As Kira mentioned earlier, so far as peer mentoring is concerned, this is an area which is being increasingly adopted because after all we are talking about young people and often young Aboriginal people. The fact is you have six times the rate of Aboriginal people having driving as being the reason they go to jail. That seems a lot. What we are talking about is disadvantaged people who find the only area for excitement, for a challenge, is in fact in driving and quite often illegally. What we should be talking about really is ensuring that those people have some challenge in their lives, have some opportunity to express themselves, get the excitement that others have, to have a chance to properly direct the energy they have in a way that other young people have.

**Ms Trahana:** I might add to that in terms of victims. With dangerous driving offenders and young offenders perhaps less-rational decisions are being made off the cuff. We think that a lot of the penalties in terms of things like licence disqualification and incarceration tend to be seen as very punitive, sort of the system inconveniencing them. Whereas for these offenders the more emotional aspect of restorative justice, hearing from victims or victims from other offences about the actual emotional and psychological trauma that their driving can result in, we think that is far more effective than simply stripping young people of their licences.

**MR BRADDOCK:** On the second page of your submission you talk about whether a

collision between a police car and the offender's car is a deliberate ramming or an inadvertent collision. Can you please provide a bit more detail about the anecdotal stories that you are receiving that lead you to that conclusion?

**Mr Collins:** Well, we have just been talking to people who have been in that situation before who have been driving away, in chases. They have actually said it was totally irrational to think that a person in this situation would deliberately ram a police car. So I think each situation should be looked at quite carefully. It should not be seen as just skylarking, a deliberately malicious destructive act. Because it does not resonate at all with the people whom we have talked about the subject of the inquiry and what appears

**MR BRADDOCK:** Is it a case of they are trying to escape or just loss of control of the vehicle is what caused the collision?

**Mr Collins:** Look, it may be that the police themselves have actually blocked the road. That is the other alternative. We have looked at what could possibly have caused such a large number of collisions and I think it is probably a combination of several things. But you would not expect to have a police car in front of a car escaping, you would expect them to be behind. So unless there is a deliberate attempt to block the road it would be hard to understand how and why that could occur.

**MR BRADDOCK:** I am trying to understand the logic of, where the police have blocked the road, why the offender would collide with the police car.

**Mr Collins:** Well, the assumption would be, they would not. They would be trying to escape, to head for an area and not be able to escape, or maybe even a police car is around the corner and the drivers are trying to escape, get a little bit out of control and the police car is positioned in such a way that it cannot be avoided.

**MR BRADDOCK:** Thank you for clarifying.

**THE CHAIR:** You mentioned you have consulted with prisoners and that is the picture you are getting. Did you also consult with police who were involved in such incidents?

**Mr Collins:** No we have not had that opportunity. We know that the ACT Police and the Federal Police are giving evidence to this inquiry so I am sure they would have an explanation for why those figures are as they are. We are talking on behalf of people in those situations and they say, no, no, no, it would not make sense. If you were going to be stopped you would not render your car useless so you could not get away. You would not be upping the ante and deliberately ramming a police car. So that did not resonate at all with the people with whom we talked.

**THE CHAIR:** Okay. I am just suggesting the people involved in those situations includes the police as well, so consultation with them was what I was alluding to.

**Mr Collins:** Absolutely. Clearly that is something within the committee's opportunity to question the police themselves on that issue but we just point out that it does not make sense from the offender's point of view to do that. It does not resonate with the people with whom we have talked.

**THE CHAIR:** You say prison sentences emotionally and economically detriment offenders well beyond their time spent in custody. How do you respond to the proportionality position where, as we have seen in hearings and in submissions an innocent loved one is taken by what is concluded to be a criminal act? How do you respond to them when the impact on them is obviously lifelong? Should a sentence in some way be impacted by the effect of the crime itself?

**Mr Collins:** We have been working in this field for decades and we have been in the situation of defending a lower sentence for people despite the immense trauma caused by the offence. What we found, especially when there is an effort by the community to show community concern, to support the victim and that goodwill is offered at the earliest possible opportunity and continuously is there, is that it is actually extremely important and satisfying to the victim. Then for them to be engaged in the restorative justice process, if they are ready for it, is a really important opportunity for them to assuage their anger.

But most times we have found and this is quite clear, when they understand it is a young person and they understand who the young person is and they have a chance to understand a bit of background to the person, then the anger is not nearly expressed as sometimes the media would present it. It is of course a major anguish for the victims. Loss of a life can never be dealt with lightly. But the reality of it is that a young child, a young person, 18-, 20-, 25 years-old, is an impulsive character who is quite capable of doing things without thought to others. Most adults and most older people acknowledge that.

**THE CHAIR:** There are two things that an affected family, for example, could be looking at. One is the behaviour of the offender but then there is also the outcome from the courts as to sentencing. So you could distinguish those two. Sometimes, as we saw in the tragic case of children lost in Sydney a couple of years ago, the parents expressed immediate forgiveness, but the sentencing itself is obviously of concern to some as well.

**Mr Collins:** Yes. We have looked at that. The restorative justice process plays an important part. That is the way that the victims can actually be heard and it becomes a personal interaction between themselves and the offender. So we looked at that. All the research shows that victims themselves find that an extremely important part of the process. No one can bring back a dead person of course. The sentencing itself afterwards is a judgement by the community, the judge acting on behalf of the community and that has to be a consideration of the future of the youth.

If the actual reconciliation of the offender and the victim can be achieved in the earlier stages then the sentencing of course becomes easier. The community itself has to take into account the research—the effects that we know of on the young people, how often people's lives are destroyed, how damaging imprisonment itself is for anyone who is taken out of the community and put into an area where they lose their identity, they lose any of their positive connections with the community with their job, and lose access to their family. Those things are all destructive. Of course in imprisonment the young people can build up relationships which actually are negative, perhaps learning for the first time to use drugs inside jail and learning other sets of behaviours which are only negative that can only impact on them in later life.

**Ms Trahana:** I might add to that. In terms of these very tragic outcomes, we know that a high percent of prisoners in the ACT have driving offences as their most serious offence. In those cases, often they are culpable driving occasioning death, there are those very instances where it does occur. Our stance is that those offenders whose driving has resulted in death are unlikely to reoffend. Often also they are very remorseful and traumatised.

We think that where we need to divert our attention and our resources is preventing more of these accidents in the first place. This again targets young offenders. It targets young people who think it will not happen to them. It means letting disadvantaged drivers being able to access learner licenses and access learner driver hours so they actually learn how to drive safely, because we think that the real group we should be targeting are those young people who think it could not happen to them.

**Mr Collins:** That of course is where the peer mentoring is very useful. We propose people who have been through the process, have been before the courts and have understood the impact of their behaviour. They are the exact people who then have an opportunity, or should be given the opportunity, to talk to other offenders. I think Kira mentioned we have discovered the youth field is a really useful space where you can actually take the very people who have offended before and they can communicate to another young person in a way that an adult or a court cannot. We see peer mentoring and the training of those people as very significant. It provides them an opportunity to do something positive, because we are talking about disadvantaged people, the ones who are being charged with these offences who get engaged in that sort of risky behaviour. So if you can put something positive in their lives and show that there is something positive that can come out of their tensions or concerns or just being bored and offer them good opportunities, positive opportunities then we have succeeded. That is really what we are looking for, dealing with the cause of the problem.

**DR PATERSON:** What needs to happen in the ACT to allow for a broadening of the restorative justice program so that more people can access it? Particularly potentially at a point where the crime may be less than having killed someone?

**Mr Collins:** We can see there are a lot of restorative justice process that have been quite well researched and presented. It includes the person themselves, the victim, normally a trained facilitator and families on both sides. So it gives the chance for people to talk to each other and then, after that, some sort of follow through because of course it is naïve to think that is the end of the matter. There should be some sort of follow through, which can include building up the young person's life and ensuring they have something positive to do. That is really underlining all of it. With their weaknesses, it is vulnerable young people who are the ones who carry out these sorts of offence, with high energy and nothing to do with it—no way to properly express that energy. To support them in some constant ways is essential.

**Ms Trahana:** We would also like to note in terms of New South Wales at least, there is circle sentencing available for some re-offences which include some of the lesser driving offences. We think that community-based circle sentencing—whether that is elders or other community figures involving ex-offenders with people with similar histories to also give advice—do it far more effectively. It is also more fulfilling to both victim and offender than a cold magistrates courtroom.

**Mr Collins:** Another proposal following from that is there should be an advisory group set up of peer mentors. The very people who are involved in these sorts of offences should become an advisory group to assist in ensuring you are reaching out effectively to the people who are the offenders. That is a positive way in which you can redirect resources and it ensures you are really touching ground with the ones who are involved.

**MR BRADDOCK:** The Australian Federal Police Association were just on talking about seeking recommendations that police could suspend licenses if someone was excessively speeding or even seize and impound vehicles. Does the Justice Action have any opinions on those sorts of steps?

**Mr Collins:** We would think taking away people's licenses is a totally negative approach. In fact, we spoke with a number of people who have been in this situation and they said, "We have been driving without licenses for years. I mean, obviously you avoid where the policeman who knows us is normally stationed and we swap cars with somebody else." I think it is really almost a challenge in some ways. To take their licence away or to stop them from driving would be a shame because once again you are removing something that the person feels is important to them and you are creating a position of frustration. You really should be talking about a positive inclusion in the person's life rather than it being withdrawing the few things that are important to them.

**Ms Trahana:** With that, especially considering the ACT's geography, we have rural areas and limited public transport where offenders do end up driving unlicensed, for example, to go to work. That kind of snowballs the effects once they get caught and escalates and escalates until they end up, yes, in prison or with a lengthy criminal history.

**DR PATERSON:** A couple of the submissions talk about putting recidivist motor vehicle offences and driving at police in a neutral position for the granting of bail as opposed to a positive presumption of bail. I was interested to know what your thoughts around that are.

**Ms Trahana:** We believe bail serves several purposes. The most important of course being to protect the community while also recognising that offenders also need to be able to go back into the community, where appropriate. We think the presumption for bail at the moment is important because it reflects that we recognise these offenders, with other methods, do not need to be locked up—that there are far more ways to protect the community rather than simply keeping offenders on remand. We would be happy to support things like, for example, alcohol interlock. They are effective and we think those are fair. That would protect the community effectively. We would support other methods, especially for young offenders such as community monitoring and families being involved there. We think that putting people on bail has a similar recidivism effect to putting them in prison. They are still in those environments where they are exposed to things like over more serious forms of criminality.

**DR PATERSON:** What about shifting to no position on bail? Not against bail but just to a neutral position of bail. Do you think that would have any impact, a positive impact?

**Mr Collins:** I think there is no question that it would cause more problems. I think it is

really important the committee recognises that dangerous driving is bad behaviour. It is not malicious behaviour. It is an expression of excitement. So, it is not the same as some other activities that will cause a sense of anger from the community. It can be unintended consequences of over-excitement of our impulsive children. That is a different area entirely. So to put them in jail misunderstands the motivation for the young person. I think that is where you have peer mentoring and support. So you need to make sure there is some way in which that young person can use their energy. We are dealing with young people all the time, and if they are engaged in university or engaged in a job they really enjoy and are able to express themselves, they are the same as you and I. They want to go ahead and do those things and are excited by their activity. We should recognise that and not be talking about punitive measures by taking away and removing bail. That would be a gross mistake.

**Ms Trahana:** In terms of the neutral position, we think we have some judicial discretion in terms of bail. We think because these offenders are often disadvantaged often they have other minor offences on their criminal histories and that would simply entrench the disadvantage there, because we think that neutral is leaning dangerously close to putting these young offenders in jail.

**DR PATERSON:** Can I just challenge you on some of your language around that it is young offenders, young people, children? A lot of the people, for example in Operation TORIC are well into their 20s. They are adults who should be well aware of the consequences of their actions. I am interested in how your framing is quite different to how a lot of other people who have given evidence to us have framed things.

**Mr Collins:** We did look at the statistics of the age of the young people who are offending. Certainly, it is generally accepted that the age of 25 is thought of as a young person's brain, but then the same attitudes can become entrenched and that can be the consequence—people are an older lout, if I can use the term. In fact I had a laughing conversation with somebody only a couple of hours ago talking about louts. The guy is 70-years-old and he regards himself as still being a lout. No malice there. I think you have to recognise there is an attitude there which is one that is not taking consequences into account, which you cannot displace like that. You can actually displace with a positive intervention and then encourage them to do something new. But to try to deter the people with jail is counterproductive. It does not recognise the vulnerability of the people with whom you are dealing with. Sorry, I used word young but it can also be young in responsibility, young in attitude, young in maturity as well. They do equate to a large degree.

**Ms Trahana:** Perhaps the offenders we associate with “hooning” we associate with young people and impulsiveness. As those offenders get older and they have less impulsive tendencies, we think a lot of those reasons then split into things like drug and alcohol dependency that lead towards dangerous driving and driving under the influence. We think that rather than putting them in jail where they are exposed to even more drugs and substances, we are very happy to support those other preventative mechanisms like interlocks.

**MR BRADDOCK:** I have a difficult question and I am struggling how to articulate it. You are talking about impulsiveness or looking for a thrill from a young person albeit they happen to be in control of a vehicle which escalates the risk of something

significant happening. Do we have a double standard here in society where if you do it in a vehicle it is seen as a lesser issue than if they were doing it in any other way in society?

**Mr Collins:** Obviously being in charge of a vehicle you are in charge of something that can kill people, and that is a responsibility of course. That is where the driving lessons, access to tuition and all those things give a chance for a person to understand how serious it is to drive. There should certainly be a number of opportunities given to people to learn how to drive safely. We understand that a lot of the people who do not get access to year 10 classes in the ACT where you have free driving lessons, then struggle to pay for those lessons. There should clearly be an opportunity for those people to have access to lessons for nothing, and encouragement to do so, especially if there is any indication they are likely to put themselves or other people at risk.

**Ms Trahana:** Where driving and other offences perhaps differ is that when we look at things like harm and assault those are often quite personal. They seem to be intentional whereas when we have vehicle accidents it often involves strangers. They often involve split second decisions whether accidental or partly contributed to by reckless driving. We think the standards perhaps differ because there is less of that intention. We think that often there is a very split-second sort of slamming into a strangers car rather than waiting or getting in a fight for example.

**THE CHAIR:** Thank you for your appearance and your paper. On behalf of the committee I would like to thank you both on behalf of Justice Action for your attendance today. I do not believe there are any questions taken on notice. Thank you again for your submission and for appearing. On behalf of the committee I would like to thank all the witnesses who have appeared throughout the day. Thank you.

**The committee adjourned at 3.52 pm.**