Title: Keeping up, and keeping on: Risk, acceleration, and the law-abiding driving offender

Key Words: Mobile Phone, Speeding, Risk, Acceleration, Law-Abiding, Driving

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Abstract:

Roads policing has been described as "the public face of the police" for many citizens (Corbett, 2008a:131), but fails to excite much criminological interest. This is despite the fact that vehicle use is the most likely generator of an adverse-outcome encounter between the general public and the police (Corbett 2008b:13) and is therefore one of the most likely situations in which individuals are confronted with their own 'law-abidingness' or lack of it. The paper will propose that the concepts of 'risk' (as a political as well as sociological concept) and 'acceleration' (of technological change, as well as everyday life) can be used to explain the controversial and apparently unsettling image of roads policing in recent years. This paper reflects on how speeding offences (researched between 2002-2006) and mobile phone use by drivers (researched between 2013-2016) reveal much about how drivers see themselves, their priorities, and the law.

Introduction:

It is frequently observed that societies appear able to accept high levels of road death and injury (Corbett, 2003:27) – levels that would produce uproar if caused in some other way. It is possible that we are able to tolerate a certain amount of 'collateral damage' in exchange for the freedom offered by personal mobility (Johnson, et al., 2014:28). Alternatively, it may be that we are unwilling to condemn others for behaviour we engage in ourselves and which -'but for the grace of God'- would see us change place with the offender (Plowden, 1971:368), or that we believe that we are better than the average driver so it will never happen to us (Delhomme 1991; Svenson, 1981). Perhaps it is significant that the frequent, yet dispersed, nature of road deaths sees their attenuation in the media (Anderson, 2006), preventing them from getting their rightful (actuarially conceived) place on society's risk radar. If the reality of *actual* road death and injury fails to excite much interest, it is perhaps unsurprising that attempts to take action against common behaviours that *sometimes* increase the chances of it happening have met with resistance (Wells, 2012). Given that driving licenses and road crashes are both ubiquitous in contemporary societies, road traffic law is a particularly apt focus for exploring the crimes of ordinary, 'law-abiding' people.

This paper concerns itself with two forms of behaviour that are both pervasive and against road traffic law. The first, breaking the speed limit, has been proscribed by law in some form since 1861. It occurs when an individual drives a motorised vehicle at more than the miles-per-hour limit set for that stretch of road and is premised on the logic that the faster a vehicle is driven, the less time the driver has to react to danger, and the more damage is done if and when they collide with something else. Whilst it is impossible to know how many times this offence is committed (Snow, 2015:159), it has been detected millions of times over the last 15 years on UK roads, with recent increases being made possible following the introduction of automated speed cameras (Home Office, 2016a). The second offence with which this paper is concerned is the use of a hand-held mobile phone while driving. Part

of the Road Traffic Act since 2003, the law is premised on the logic that 'using'- that is holding, and communicating via - a mobile telephone will increase a driver's reaction time, make it more likely that they will fail to react sufficiently quickly to changing circumstances, and therefore be more likely to cause harm. It is an offence detected by a human traffic officer who observes that the phone is 'in use', and is an offence that has been prosecuted around 1.2 million times since December 2003 (Home Office, 2016b).

Whilst both offences may sound relatively simple, whilst the underlying logic is seemingly apparent, and whilst campaigns to communicate that logic have been both emotive and persistent, the enforcement of both has been complex and the behaviours seem somewhat entrenched. Although we would not expect that something as simple as the creation of a law would be sufficient to see a behaviour cease, we propose that there is 'something about' the type of person to which they apply, and 'something about' contemporary society that means that the existence of these laws is only a small part of the story. Furthermore, there is 'something about' the targeting of these laws on the act of *driving* in contemporary society that sees those laws take a back-seat to a range of other pressures that, seemingly, make the illegal actions worth committing. This paper therefore considers two recent attempts to reduce the numbers of road deaths and injuries recorded in the UK by tackling, at an aggregate level, driver behaviours that are shown to increase the likelihood of a crash occurring at an individual level. These two offences form particularly good examples of where the 'crimes of the law-abiding', whilst often perceived as minor, can frequently result in injury and, on occasion, death.

Risk, acceleration and identity

The continued existence of, and response to, the offences of speeding and mobile phone use whilst driving, can be usefully understood, we suggest, through viewing them as symptomatic of life in postmodernity. Below, we draw on the concepts of *risk* and of *acceleration* to more fully understand what enforcement against these offences means for the identities of those experiencing it. Risk provides both the explanation for the existence of the law, and a framework for understanding

reactions to it, whilst employing the concept of acceleration reinforces the importance of situating analysis within an understanding the post-modern condition and the challenges of contemporary life. Both concepts suggest a generalised sense of uncertainty - of instability and of insecurity - which speeding and mobile phone use while driving may appear to help alleviate in the short term.

Both of the laws on which this discussion focuses are attempts at preventative action following the demonstrated association between a behaviour and a harmful outcome – of 'risk'. Indeed an increasing tendency to think in risk terms, even to the extent that we might consider ourselves to live in a 'risk society' (Beck, 1992) can be seen to be at the heart of many of the issues with these types of offences and has been identified as an emerging theme of the policing of the roads (PACTS, 2005). Firstly, conceptualising problems in 'risk' terms means that we are talking about the probability of something harmful happening, not a guarantee that it will happen. This means that false positives are inevitable, and *these* are the offences that end up in fixed penalties for speeding or mobile phone use, and in drivers attending educational courses for both offences. They therefore punish individuals for apparently disproving the promoted causal relationship between the behaviour and the outcome. Risk, as a justification for enforcement in the roads policing context, does not (indeed need not) concern itself with issues such as motivation, prior record, or mitigation and, for this reason, brings whole new populations (previously unused to being conceptualised as 'the problem') within the enforcement gaze, many of which may feel that they offended unintentionally, or with good cause (Wells, 2007). Previous research has noted that the self-proclaimed 'law-abiding' and respectable identity of drivers subject to speed limit enforcement – and challenged by a new focus on riskiness rather than intent - has been a major factor in their sense that the enforcement was unfair and unjustified (Wells, 2007, 2008). Whilst it may have been the case that we could assume that law "provide the necessary architecture in which people can plan and carry out good-faith social cooperation" (Luban, 2002:296) and that being law-abiding would allow us to live without interference from legal authorities, this is no longer the case when a concern with risk (rather than morality) dictates what is legal and illegal, what attracts censure and what does not.

Giddens has suggested that, within a risk society, the maintenance of an individual's 'protective cocoon' relies on their ability to construct and defend a reasonably coherent 'narrative of self-identity' (Giddens, 1991:54). However, freed from the burden of inherited identity, identity itself becomes more fluid, requiring constant reaffirmation and reconstruction in an effort to stave off a sense of ontological insecurity (Giddens, 1991; Mythen, 2005, Jenkins, 2008). If our status in respect of the law is more contingent than previously, then so are other elements of our identity such as where we live, who we live with, and who we work for – all of which become more temporary (Castel, 2000) and more subject to continued consideration and evaluation. Reference points for identity, such as job role, marital status, community, are increasingly experienced as fluid and are the products of *choice* rather than *chance*, bringing with them certain freedoms, but also the possibility of making the wrong choice. A wrong choice in such circumstances may mean the difference between success and failure on a variety of measures. In such circumstances Bauman suggests, the question "'[h]ave I used my means to the best advantage?' is the consumer's most haunting, insomnia-causing question." (Bauman, 2000: 63).

Beck suggests that changes in the nature of employment in recent decades, for example, have led to a requirement that all employees are both flexible and mobile, able to respond to changes in demands placed upon them, or otherwise be replaced by other more flexible and mobile individuals (Beck, 1992:94). Failure to adapt is, furthermore, transformed into a personal failing reflecting badly on the individual who could not keep up, rather than on a system that made him or her expendable (ibid:89). Total flexibility, adaptability, and mobility can therefore be seen as prerequisites for wage earning, and in turn for participation in consumer markets, for purchasing goods and services; for active citizenship (Rose, 2000: 190). However, the possibility of unemployment and issues surrounding job insecurity also impact negatively on an individual's relationships and home life, with longer working hours and increased work effort required (Nolan et al., 2000). With relationships already characterised by increased fluidity (Rosa, 2013), such pressures may add to the stress experienced within the home and between friends and family members.

Maintaining attractiveness and competitiveness – one's 'viability' as a 'human resource' (Ericson and Haggerty, 1997: 197) - becomes a constant pressure, and one that does not dissipate when one gets behind the wheel of a car. The pressure to perform is not simply experienced within the traditionally recognised 'workplace' but follows individuals everywhere (Wajcman, 2015). Getting from place to place quickly, or maintaining contact with others whilst moving from place to place become significant concerns in what Rosa has characterised as the 'acceleration society' (Rosa, 2013: 160). Rosa writes that the apparently exponentially increasing pace of life creates a world of increasing fluidity where time flows faster, relationships are increasingly transient and we experience a "contraction of the present" where familiar reference points from the past are quickly rendered irrelevant (Rosa, 2013:157). For him we are all constantly seeking to climb "slippery slopes" (Rosa, 2003:11), ever conscious of the potential for imminent descent and the loss of what we have worked for. Under such circumstances, the risk of failing to achieve or decelerating becomes apparently more 'real' and perceptible than, for example, the risk of a collision or being caught committing a traffic offence. In this sense technological developments such as the car and the mobile phone are both a blessing and a burden, and effective functioning requires the negotiation of a careful path whereby their benefits are experienced but their threats avoided. Indeed Rosa and Scheuerman (2009:5) highlight that the process of acceleration as a concept can be attributed to the "profound effects of the acceleration in transportation and communication" over recent centuries, making driving, speed and mobile phone use particularly apt cases studies.

Speed, mobile phone use and the law

The action of pressing the accelerator or answering the phone is an action woven through with concerns about acceleration. Time spent driving is increasingly being seen as time that can (also) be used for other purposes, and technological developments such as mobile devices contribute to the idea that we should be able to do everything on the move as we "pursue novel, purportedly time-

saving technological devices in order to tackle the imperatives of an increasingly hectic everyday life."

(Rosa and Scheuerman, 2009:24).

Speeding apparently has obvious (if perhaps routinely overestimated – Fuller et al, 2009) benefits within a society plagued by a "scarcity of time" (Rosa and Scheuerman, 2009:15). It appears to allow a driver to reach a destination sooner, potentially providing an individual with additional time to perform any of a number of activities that the accelerated society requires for us to maintain our current position (Rosa, 2003). In the case of speeding, time pressures are routinely offered as reasons for why drivers speed (Alonso et al., 2013; Hatfield and Soames Job, 2006; Kanellaidis et al., 1995).

When a traffic jam inflicts involuntary 'deceleration' on a driver, the use of a mobile phone may become even more appealing as a method of keeping upright on the "slippery slope" of an accelerated society (Rosa, 1999). If time spent driving (or queuing) cannot be avoided, then it may be tempting to look for ways to make it work for us – to liberate "wasted time" (Lyons & Urry, 2005) that would otherwise be lost to that activity on arrival at the destination and to avoid 'slipping back' domestically, socially and professionally, even whilst we are prevented from progressing physically.

Our phones offer us a means to reduce an array of pressures. We can not only phone or text, but we can virtually replicate our office environment with email, progress our social life via updates to social media, reclaim lost time for leisure activities by watching films, and complete necessary domestic tasks such as shopping and banking. The ubiquity of 'stuff' *installed* in or *enabled by* connectors and adapters is a clear message from car manufacturers: 'look what else you can get done *while you are driving!* (You can keep in touch, you can be entertained, you can do business, you can organise your life)'.

Furthermore, the laws that regulate drivers behaviour are similarly striving to 'keep up' with the reality to which they need to apply. Common arguments against the legitimacy of speed limits have included the idea that the law is outdated and that cars now have better brakes than when the law was introduced; that modern cars won't 'go' at 30mph in 5th gear; and that (since the speeding aspect of the research reported here took place) cars are now routinely fitted with a variety of devices that

claim to make a crash virtually impossible (AAA Foundation, 2014). In the case of mobile phone use, despite being a much more recent law, it is clear that the core terms of the legislation ('mobile phone' and 'use' and even, potentially 'driving') have become unrecognisable. A law passed in 2003 would have conceptualised a mobile phone as a device held in the hand, on which the user could talk, text, and perhaps take pictures. As such, the ways in which you can 'use' a 'mobile phone' as described in the law would predate smart phone technology that essentially recreates the home computer and home entertainment system in a hand-held device. Beyond this then come the range of other gadgets that may now be a feature of our cars, such as satellite navigation systems, driver-assisting technologies, and Bluetooth hands-free kits, not to mention wearable technologies, such as Google glass(es), iWatches, smart fitness trackers and the like – devices that are not technically 'phones', are arguably as distracting, but had not even been imagined when the law was devised. Even the concept of 'driving' is now one that is challenged by the development of various types of 'driver assist' technology and (increasingly) by the stages of technological development leading to the fulfilment of the concept of the driverless car. As such, the laws that drivers are asked to abide by are increasingly removed from the risk that they were designed to reduce, so even if a driver were able to identify what behaviour qualified them as 'law-abiding' and adhere to it, it is not clear that this is in the spirit of the legislation as passed, nor that it would keep them safe.

As Rosa notes it is technological development that has given us greater speeds, better and more mobile communication, but also many of the novel risks associated with the sheer pace of change within contemporary society (Rosa, 2013). This is mirrored by Beck's concept of manufactured risk, produced by the very technologies that were the success stories of modernity (Beck, 1992). Within the roads environment, developing vehicles and the technologies embedded within them allow for faster movements and multi-tasking, both of which enhance the ability to accelerate, to progress, to achieve greater productivity. Given the instability noted above on the employment and domestic fronts, these may increasingly appear not just attractive, but potentially *necessary*, if we are to continue to compete with the other insecure, uncertain, pressured individuals with whom we make up 'traffic'.

Methodologies

The empirical data relating to speed limit enforcement that follows is drawn from a project ('project 1') conducted at the height of the speed camera debate which sought to explore the views of drivers about their experience of speed limit enforcement by speed camera. Data were gathered via focus groups with drivers with different driving biographies (convicted drivers, new drivers, experienced drivers, professional drivers) – categories that had emerged as significant from the earlier Internet-based research. All participants gave their fully informed consent and were asked to discuss their feelings about speed limit enforcement generally. This was supplemented by non-participant overt observation of 20 sessions of a Speed Awareness Course, where course attendees were aware that agreement to be observed as part of the research in no way impacted upon the outcome of their case. Full details of this methodology can be found in Wells (2012).

The data relating to the enforcement of mobile phones whilst driving is drawn from a research project ('project 2') exploring driver and police perceptions of mobile phone use whilst driving and methods of attempting to reduce the behaviour. As well as a longitudinal survey element (not reported here) nine interviews were conducted with drivers experiencing education as an alternative to prosecution ('detected drivers') and 19 with those experiencing the same education as part of their employee's training provision ('employees'). They were conducted between four and six weeks following attendance at that course and only where the participants had emailed the researcher indicating interest in partaking in an interview. No change in outcome in terms of the charged offence resulted from participating in an interview. Thirteen further interviews were conducted with police officers having some experience of stopping drivers for mobile phone offences. Again, interviews only took place with those who indicated interest in the research following an invitation to take part.

The data obtained from both projects were analysed using an inductive thematic analysis approach whereby the research concepts and literatures were drawn from the analyses of the data gathered

(Braun & Clarke, 2006). Quotes have been selected on the grounds that they most appropriately capture the themes raised in the projects as a whole.

Law versus law-abidingness: losing a sense of direction?

Whilst, presumably, few drivers intend to be deliberately dangerous (perhaps believing they are not causing danger, or not being fully conversant of the links between actions and harms) the law is actually not a very good guide to what behaviour is least dangerous in these cases. The two contexts explored here are both compromises that ostensibly relate to the need to reduce risky behaviours, but in reality do not. The speed limit is a proxy for risk, a compromise designed to reflect the level of risk posed in certain circumstances in certain locations, but it can only ever be a guide when it does not change with the weather, or when an area is full of pedestrians or entirely without them. It also does not (indeed cannot) reflect the driving (dis)ability, mood, attitude or any other circumstances of the driver, nor the age of the vehicle, its state of (dis)repair, or its on-board technology. Speed limits have long been criticised for failing to reflect actual circumstances, with motorists even at the turn of the nineteenth century "argu[ing] there was no single 'dangerous' speed; it could be entirely safe to drive across Salisbury Plain at 50 mph, dangerous in the extreme to do more than 5 mph down Piccadilly. No general speed limit could cover all cases" (Plowden, 1971:17). Contemporary drivers have exhibited similar concerns when asked for their general views about speed cameras:

Pat: Eighty [miles per hour] in some situations is safer than thirty in others …
Dave: Yeah, that's true enough.
Pat: … and there's a well-used saying that "there's nothing wrong with speed so long as it's used in the right place and at the right time", and that's quite true.' (Professional driver focus group, project 1)

'I know there's good reason for certain speed limits in certain areas but I mean there is also a good argument to suggest that speed limits, you know 24/7, is nonsense. Because O.K. outside a school 20mph, got no problem with that, but when its school holidays, why keep it at that level? Why not have sort of variability to do with time of day and congestion?' (Male, mid 40s, convicted speeder focus group, project 1)

Those that find themselves cast as offenders by these laws may well therefore question the extent to which they have done 'wrong', or the extent to which other choices might have represented the 'right' choice.

Likewise, the law relating to mobile phone use prohibits the use of a hand-held mobile phone but permits the use of a hands-free device that is, according to increasing amounts of research (Caird et al., 2008; Strayer et al., 2014), just as distracting and therefore just as likely to cause the harms that the law claims to be focussed upon. Therefore, just as speeds of 20mph may be dangerous in certain 30mph limits (but are legal), and speeds of 80 mph may cause no discernible risk in some circumstances (but are illegal), drivers may find, for example, that their apparently safe mobile use in a stationary queue is illegal:

> 'I didn't realise. I thought if you're stopped you're ok, so that was a big reality check for me, so since I've been on the course[1] I've stopped using my phone like that, it wasn't as bad as using your phone while you're driving but it was still something.' (Lucy, employee, project 2).

> 'One thing I was staggered about was when the policeman told us that they considered the highway to be hedgeway to hedgeway. So if you're parked in a layby with the engine running you can actually still get in trouble for using your mobile phone and I've done that countless times where I've pulled in a layby, and I always thought I was doing the right thing.' (Kevin, detected driver, project 2).

Kevin is doing something potentially harmless as his car is stationary and out of the stream of traffic, but is acting illegally. If he were to drive off and continue the conversation on a hands-free kit he would be posing danger but would be acting within the law. Kevin is motivated by a desire to 'do the right thing' (an allusion to a presumed moral basis to the law) and yet still finds himself in trouble with the law. His story is similar to many speeding drivers who claimed that they had (for example) been caught driving at 38mph in what they thought was a 40mph limit but turned out to be a 30mph limit (Speed Awareness Course observations, project 1).

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[1] Drivers detected using mobile phones whilst driving can, at present, be offered the chance to attend an educational course rather than receive a fixed penalty fine and points on their licence.

The law, it seems, simultaneously claims its legitimacy from risk, and exists in apparent denial of it. This means that, contrary to common sense perhaps, the law is a poor guide to what behaviour is *safe* – only to what is *legal* and drivers may have to choose which is the most important to them, within a context where they also are under pressure to choose the behaviour that is the most *useful* to them – that is, which allows them to compete or progress most successfully (Rosa, 2000: 63). In many cases, as shown, these three pressures cannot be accommodated in the same action so individuals are choosing which pressure is the most real and the least resistible every time they drive. With continual reminders of the importance of time and speed (Wajcman, 2015), and the need to develop and defend identity (Jenkins, 2008), coupled with both a decline in roads policing (House of Commons Transport Select Committee, 2016) and a contradiction between what is legal and what is safe, those actions that are deemed to be most *useful* in achieving desired outcomes in the short term may logically be preferred.

A common feature of both projects was therefore drivers' insistence that their law-breaking did not mean that they questioned their 'law-abiding' self-identity. In the circumstances outlined above, it is not easy to 'do the right thing' and, though unsettled by a brush with the law, drivers appeared to resist any inherent implications for their identity as a result of being accused of wrongdoing. Their defended identity was, it seems, based around other concerns and attributes than simply an adherence to the law:

> 'I have never been in trouble with the police in my life but now suddenly I'm a criminal? I am not. I am a hard-working, respectable citizen and a very responsible person.' (Female, mid 50s, convicted driver focus group, project 1)

> 'I am a respectable upstanding member of this community and I object to being treated like a criminal'. (Female, late 50s, Speed Awareness Course, project 1).

As such, other elements of the 'respectable' identity that do not use the law as a reference point are drafted in to challenge any unpleasant implications of legal problematisation. Mobile phone using offenders were similarly unsettled by the discovery that their good intentions were not enough to

insulate them from the attentions of the police, (as described by Kevin thinking he was 'doing the right thing', above), but that their law-abiding behaviour did not guarantee they were safe either.

As the drivers above suggest, you cannot (or more accurately *should not*) 'suddenly' change from law-abiding citizen to criminal just because enforcement activity has increased for a particular behaviour, even if that behaviour is against the criminal law (Corbett, 2003:25). It is, perhaps, no wonder that drivers may become disillusioned with the road traffic law, given that their choices appear to bear little relationship to the possible outcomes for them as 'law-abiding' drivers. What drivers seem to mean when they claim this identity is that by-and-large they are not bad people, they don't routinely break laws, and they don't intentionally wish to cause harm. But what action places them in the right category in this context is confusingly illusory.

Perhaps the law, and some good intentions, would previously have been a good guide to what would allow you to proceed through life unhampered. Strict liability laws based on *mens rea* have an intuitive logic about them, but risk-based laws are increasingly *mala prohibita*, making it significantly easier to become an accidental offender (by misreading the speed limit, or by misunderstanding the subtleties of the law against 'mobile phone' 'use'). Those laws are also demonstrably a compromise when they permit harmful behaviour and outlaw safe behaviour, perhaps encouraging us to believe that our decisions about when and what to obey can also reflect a need for compromise. Debbie's internal negotiation of what is acceptable has led her to cut out the 'chatting' and she now only allows herself to make 'important' calls whilst using her hands-free kit:

> 'I've made much fewer calls using my hands-free than I had before. I used to use it as, you know, if I've got 2 hours to drive to a meeting that's a good time to phone my mum because it will save me some time, that kind of thing, and I cut down on that a lot and thought actually I shouldn't really be on the phone at all, unless it's an important call. So I've really only made important calls using a hands-free kit since the course and only then brief, you know, "I'm going to be 10 minutes late" or that kind of thing, rather than phoning people using a hands-free kit to chat.' (Debbie, detected driver, project 2).

Similarly, drivers can claim 'I only speed when it's safe' (male, late 20s, experienced driver focus group) and 'I wouldn't do it if it were dangerous' (male, late 40s, Speed Awareness Course) – neither of which use the law as their basis for determining what is the right thing to do and what is not. When the law fails to reflect the danger it was claiming as its justification, perhaps we begin to feel that we have room to manoeuvre within it and negotiate with ourselves a set of acceptable and unacceptable actions that adhere to a personal set of rules, not the rules of the law itself. The following discussion considers what those 'important' calls might be, why they are important, and how they represent loyalties that conflict with loyalty to the law.

Playing by the (other) rules

Both research projects suggested that the law is, indeed, only one influence on people's choice of behaviour. Drivers reported pressure to perform as a good employee, a good parent, a good partner – with such present and real influences seemingly competing quite effectively with the threat of enforcement of the road traffic law. Drivers described finding themselves in situations that required them to choose between useful but illegal behaviour, or legal behaviour that threatened their ability to compete, to perform, or to participate – choosing between being a law-abiding citizen and an alternatively constructed 'good' citizen of the acceleration society.

For Keith, a foster parent to five children who were being temporarily looked after by another family, the identity of 'responsible parent' conflicted with that of 'law-abiding driver':

> 'I was running late because there were motorway repairs going on and it had taken me longer to get to Stoke-on-Trent than I expected… I'd got it on speaker though I couldn't quite hear it and I lifted it to my ear and just then the policeman pulled up by the side of me and all I wanted to do of course was to tell these people that I was going to be half an hour, three quarters of an hour late.' (Keith, detected driver, project 2).

Rather than appearing to necessarily describe themselves as 'law-abiding', such individuals can instead be seen to reference other more immediately pressing aspects of their identity, which override commitment to safe choices and/or the law (which, as has been shown, are not necessarily coterminous):

'I know you shouldn't be doing it and I don't do it, as a regular thing. I wouldn't do it because I've got a hands-free kit but it hadn't connected to my Bluetooth in my car and I was all a panic because I was that late picking my daughter up and she was 14 at the time and erm, I was just in a state anyway because I was late picking her up.' (Rachel, detected driver, project 2)

'It's like your brain has got two halves, you know that you should be safe but there are all sorts of things that, when you're busy or you're in a rush, you've got something else on your mind.' (Jean, detected driver, project 2)

These individuals describe themselves as trying to balance competing pressures. They are 'signed-up' to contemporary social expectations in a range of ways, as 'good' citizens, with obligations to a particular form of social contract that happens to exist in parallel to what the law dictates. For Kevin (below) speeding is a necessity in a time-poor existence – an opportunity to try to claw back some precious minutes, even seconds, to fulfil obligations to others:

'I think most offences, speeding especially, come down to time pressure. I don't think it's actually someone's intention to put their foot down and speed. I don't think there's any thrill to driving your van at 90 miles per hour down the road… I think they do it because of time constraints that they're trying to meet, deadlines, and trying to get through their working day.' (Kevin, detected driver, project 2)

Other UK research by Stradling et al. (2009:240) reported that 41% of drivers would speed when running late, with 19% reporting they would speed when their passenger was running late. In these cases it is clear that external pressures are responsible for some offences, with the expectations of others captured in the desire not to be personally late or to make others late. In trying to be good parents, good employees, good partners and good friends, and to achieve and maintain these aspects of the identity, drivers may find themselves driving that bit faster, reaching for their mobile to make that one call. In such circumstances, and at a time of decreased police patrols, the law takes a back seat. In these instances where the law and risk clash, the law becomes a risk in itself, as drivers reconsider the law in terms of how it can be less impactful upon their everyday accelerative needs, rather than the risk that was the original subject of the legislation (Wells, 2007). Rather than being viewed as a source of protection, the law becomes a threat as it tries to stand in the way of efforts to

present oneself as a productive citizen, responsible parent, or hard-working employee. It is therefore a contributor to ontological insecurity, rather than a stable reference point in efforts to resist it (Giddens, 1991).

Kevin (above) was not alone in highlighting the particular pressure of obligations to employers specifically, and this is supported by research in this area. McKenna suggests that "for those who have been caught speeding at a high level and who were engaged in work related driving at the time of the offence…time pressure was quite important" (McKenna, 2005:99). Many employers were considered to be complicit in the criminalisation of their employees, setting targets and arranging schedules that were achievable only by breaking speed limits and then dismissing drivers who were caught:

> 'Mike: [W]e are under pressure to meet targets, and it's difficult to get the company to reflect the target with the cameras and all that….[….]
> Pete: I don't think they care, really. At our company they check our licences every six months, so on that basis they want to check if you're legal. I don't suppose they really care, really. if you're banned, you're banned. You're a number.
> Ray: They just bring somebody else along. That's all they do. (Professional driver focus group, project 1)

For the above drivers speaking at the height of the campaign against speeding as part of the National Safety Camera Programme, the pressure of work manifested in specific pressure to speed to meet targets set by their employers or face dismissal at a time when employment markets were seen to be becoming increasingly insecure and competitive (Mythen, 2005). Some ten years later, in the mobile phone research (and see BBC news, 2016), it is not just those drivers that need to physically move themselves and their cargo around within increasingly tight schedules that feel the pressure of work expectations. As Simon comments, the time spent driving has been assimilated into the productive working day and is now a requirement for getting the job done:

> '*Not* to use your mobile phones will be a stressful situation for a lot of people when they're driving, and it will alter their work environment and a load of other things, so it will mean they will have to work longer hours, because a lot of people phone on their way home in the evenings, to finish off that last meeting, that last discussion, to get hold of that person they needed to, they are going to have to work an hour later or 40 minutes later.' (Simon, employee, project 2).

Advances in technology have meant that more and more types of employment *can* be conducted on the move, and because they can, drivers sense a pressure that they *should* be – that being on the move was not an excuse for being unavailable:

> 'People just feel obliged when someone's calling them because, you know, it's quite a personal thing, if people call you to do business and you can't answer for two hours they'll say 'I called you two hours ago, why haven't you called me back?' and if you say 'well I've been driving for the last two hours', they'll just go 'well ok but I needed to speak to you.' (Jamie, detected driver, project 2)

Therefore, rather than freeing up time as it was supposed to (Keynes, 1933), technology creates increased expectation (Rosa and Scheuerman, 2009:8). Adeptly demonstrating the competing pressures of work and home life, Debbie (below) describes how she broke the law whilst trying to recapture her feelings of usefulness as a 'good partner' that she has lost by staying later at work in order to be a 'good employee':

> 'The day I got caught was the day I had been phoning my husband and my hands-free kit had conked out and I was just on the end of the call, 5 minutes from home just saying "do you want me to go to the chippy on the way home?" because I was late home from work.' (Debbie, detected driver, project 2)

As such, the conflicting demands of the (increasingly insecure and contingent) domestic and work spheres are being reconciled via the use of the mobile phone. Whereas she may previously have broken the speed limit to get home, Debbie can now call ahead and make her journey more useful; the takeaway is recompense for her decision to prioritise work over family. The vagaries of the (inconsistently enforced) law are a poor third to the need to balance these competing pressures.

Rachel, on the other hand, was caught whilst trying to reassert her status as 'good parent' by responding to her daughter's calls:

> 'I was late picking my daughter up, I'd forgotten what time it was, she was ringing and ringing and ringing me, "where are you, where are you?" I knew I'd got 5 or 6 missed calls while I was driving so I literally went to pick the phone up off the seat to say I was on my way, you know, and that's what happened, I got caught.' (Rachel, detected driver, project 2).

Drivers often admitted to offending at times where the perceived benefits to life outweighed the potential risks. To be able to make it to a meeting on time, check up on the welfare of family members or inform an individual of late arrival were seen as acceptably valuable reasons to maintain the smooth order of life and risk adopting the offender behaviour. It appears that rather than obtaining any particular benefit from breaking the law, drivers are more preoccupied with avoiding dis-benefit – not being late, not being fired, preventing some from worrying, or missing a train. The dilemma is, of course, that these actions can result in prosecutions that make many of these things *more* likely, as in the following cases:

> 'If I get any more points I lose my licence and as a result will lose my job. Then I can't pay the mortgage so my family will lose their home as well. I can't see my wife putting up with that! It's as simple as that!' (Male, late 50s, professional driver focus group, project 1)

The risks associated with a revoked licence were also understood in terms of reduced utility to the family, and even reduced worth as a person:

> '[Losing my licence] would make me a burden on my friends and family. I couldn't pull my weight with the kids any more. The wife would have to do it all, shopping, visiting, taking them to school and all that. I'd be no use at all.' (Male, mid 40s, experienced driver focus group, project 1)

> 'That hits home, not just the repercussions of death, the injury, but the prison sentence, the fines, the cancellation of driving license which therefore can stop money, which sometimes is a bigger deterrent to people than "oh, you're gonna get, you might die".' (Carl, employee, project 2)

Speeding, using a mobile, buying a camera detector, or investing in a hands-free kit that allow you to reap the benefits of offending, without exposing yourselves to the risks of enforcement, can all therefore be understood as actions taken to avoid variously construed 'bads' rather than to achieve the 'goods', as Beck so rightly identified as characteristic of the 'risk society' (1992). Whilst the act of speeding and using a mobile phone may protect against potential damage to individual identities, their enforcement (and the potential for accumulation of points leading to a driving ban) operates as a direct threat to performance on all those fronts. However, with reduced evidence of enforcement, and reduced consequences of being caught (a course, rather than fines and points for example), the

balance may tip in favour of taking that chance, and the law further drops down the list of relevant influences on driving behaviour.

Conclusion

The slow, careful and bureaucratic process of the development of new law is, clearly, unable to respond to or reflect changes in technological capability that happen on a (seemingly) daily basis. As Rosa and Scheuerman (2009:12) note, the democratic state cannot hope to keep up with high-speed capitalism and, because legislation cannot keep up with the pace of change, it is possible that the law ceases to be a good guide to avoiding harmful behaviour. As they suggest if, as part of the process of acceleration, we see stable identity as having been replaced by more "open, experimental, and fragmentary images of the self" (ibid:11), then there becomes room for manoeuvre within concepts like 'law-abidingness' that speak to other masters than a commitment to the law – itself a rather out-of-date and inflexible restriction on behaviour (in these cases particularly).

Road death – the reality with which we began this paper - is sudden, brutal and violent. It is perhaps 'the' mode of death for an accelerated society and yet it was conspicuously absent from much of this discussion. Whilst increasingly shown to be risk factors for harm on the roads, the risks of speeding and using a mobile are, it seems, understood primarily in terms of the risks posed by their illegality – curtailing the perceived potential benefits that these behaviours offer, and acting as a force for *deceleration*[2].

Given these conditions, assumptions about the impact of creating a law to reduce a certain behaviour can be seen as having a somewhat myopic view of the context on which they are operating, assuming perhaps that it is the law (and what it allows and what it prohibits) that is front and centre for drivers as they make their journeys. Calls to 'ban' or 'clamp down' on certain behaviours or to 'toughen up'

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[2] Whilst enforcement is perhaps understandably the foremost concern of those drivers who took part in the projects following detection, many of the participants had not been caught, for example the drivers receiving the education as part of their employment, and the drivers who took part in many of the focus groups.

penalties (see for example BBC news, 2016) exhibit a potentially misplaced faith in the power of laws to solve complex problems. Laws, education campaigns, levels and types of enforcement, are some of the factors that exert pressure, but so are expectations from beyond the road-using context - where the car and the journey may increasingly be seen as a vehicle for achieving other tasks above and beyond the basic process of getting from A to B. From this perspective it becomes apparent that 'law-abidingness' is only one element of the identity that is relevant to road traffic law enforcement, which simultaneously confronts other key aspects of the fluid and reflexively constructed and defended post-modern identity (Giddens, 1991; Mythen, 2005)[3]. Whilst it has been shown that knowledge of the law cannot be assumed, and therefore that not all drivers are necessarily aware that what they are doing is anything other than law-abiding, it can also be seen from these studies exploring mobile phone use whilst driving and speed limit infringements, that some drivers engage in the behaviours knowingly – in many cases when other pressures weigh more heavily on their conscience than the need to obey the law. This is potentially significant for efforts to persuade drivers of the need to conform to the law in order to bring about improvements in road safety. Such 'compliance-based' roads policing approaches also suffer when, as shown above, the law does not accurately reflect behaviours which do, or do not, cause harm.

Increasingly based upon 'risk' thinking, rather than having the luxury of being *mala in se*, road traffic law seems unable to defend itself from other conceptualisations of 'good'ness which are not premised on a starting point of being 'law-abiding'. A *mala prohibita* law can easily be devalued by an apparently more moral obligation to being a 'good' parent, spouse or employee. Whilst many drivers referred to the law, and to their positioning of their identity in relation to it, this research suggests that the real influence on drivers, and the aspects of their identity that they deploy with most conviction, are those related to their other obligations in the accelerated world. The law was increasingly an inconvenience -

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[3] The law is actually, perhaps, an example of where expectations based on past experience cease to be a useful guide to future action, or to what one can reasonably expect, as suggested above.

a threat to the strategies they used to negotiate modern life and a handbrake on their ability to compete.

The act of driving is therefore subject to a range of influences, only one of which is the law. A driver who speeds or uses their hand-held mobile phone whilst driving may do so deliberately, or accidentally. They may do so believing that they are acting legally, or they may do so intentionally because they do not subscribe to the logic of the law. They may do so because other influences are more pressing, or because they do not believe that they are likely to get caught. They may do so because they believe that they will not cause harm, because they have never caused harm before. These concerns have implications for responses to risky road user behaviour - it seems that the law (or at least laws like these) have ceased to be a yardstick for demonstrating commitment to being a 'good' citizen for some. For others, who do continue to obey the law 'because it is the law', there is a need to ensure that the law accurately targets risky behaviours as they manifest in the 'now', not fifteen years ago, or potentially not (given the accelerated pace of technological development) even yesterday. For a third group, who obey the law because they fear prosecution, sufficient enforcement of the law is necessary to act as a deterrent strong enough to counter the many benefits that drivers continue to believe accrue from speeding and using their mobile phone whilst driving – from keeping up and keeping on.

References

AAA Foundation (2014) *Evaluating technologies relevant to the enhancement of driver safety*. Washington: AAA Foundation for Traffic Safety.

Alonso F, Estenan C, Calatayud C and Sanmartin J (2013) 'Speed and Road Accidents: Behaviors, Motives, and Assessment of the Effectiveness of Penalties for Speeding'. *American Journal of Applied Psychology* 1(3): 58-64.

Anderson A (2006) Media and Risk. In Mythen G and Walklate S (eds) *Beyond The Risk Society: Critical Reflections On Risk And Human Security: Critical Reflections on Risk and Human Security.* Berkshire: McGraw-Hill Education, pp.114-131.

Bauman Z (2000) *Liquid modernity*. Cambridge: Polity Press.

BBC News (2015, February 9) Drop in Number of Traffic Police in England and Wales. Available at: http://www.bbc.co.uk/news/uk-31260003 (accessed 9 February 2015).

BBC News (2016, November 11) Amazon drivers 'work illegal hours'. Available at:
http://www.bbc.co.uk/news/uk-england-37708996 (accessed 11 November 2016).

Beck, U (1992) *Risk Society*. London: Sage.

Braun V and Clarke V (2006) Using thematic analysis in psychology. *Qualitative Research in Psychology*,
3 (2). pp. 77-101

Caird JK, Willness CR, Steel P and Scialfa C (2008) A meta-analysis of the effects of cell phones on
driver performance. *Accident Analysis & Prevention*, *40*(4): 1282-1293.

Corbett C (2003) *Car Crime.* Devon: Willan.

Corbett C (2008a) Roads Policing: Current Context and Imminent Dangers, *Policing: A Journal of Policy
and Practice,* 2: 131–42.

Corbett C (2008b) Techno-Surveillance of the Roads: High Impact and Low Interest. *Crime Prevention
and Community Safety*, 10: 1–18.

Delhomme P (1991). Comparing one's driving with others': assessment of abilities and frequency of
offences. Evidence for a superior conformity of self-bias?. *Accident Analysis and Prevention*, 23(6):
493-508.

Ericson, R. and Haggerty, K. (1997) *Policing the Risk Society*. Oxford: Clarendon

Fuller, R, Gormley, M, Stradling, S, Broughton, P, Kinnear, N, O'Dolan, C and Hannigan. B (2009)
'Impact of speed change on estimated journey time: Failure of drivers to appreciate relevance of initial
speed' *Accident Analysis & Prevention* 41(1) pp10–14

Giddens A (1991) *Modernity and self-Identity*. Cambridge: Polity Press.

Hatfield J and Soames Job R (2006) Beliefs and Attitudes about Speeding and its
Countermeasures. *ATSB Research and Analysis Report* ATSB.

Home Office (2016a) *Police Powers and Procedures, England and Wales, year ending 31 March 2016.*
Statistical Bulletin 15/16. Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/562977/police-
powers-procedures-hosb1516.pdf (accessed 30 December 2016).

Home Office (2016b) *FPN.02 Fixed Penalty Notices Issued by Offence Type, England and Wales, 2001 to
2015*, Available at: https://www.gov.uk/government/statistics/police-powers-and-procedures-
england-and-wales-year-ending-31-march-2016 (accessed 22 November 2016).

House of Commons Transport Committee (2016) *Road traffic law enforcement: second report of
session 2015-16 HC 518*. London: The Stationery Office.

Jenkins R (2008) *Social identity*. Oxon: Routledge.

Johnson I, Muir C and Howard E (2014) *Eliminating Serious Injury and Death from Road Transport: A
Crisis of Complacency.* Florida: CRC Press.

Kanellaidis G, Golias J and Zarifopoulous K (1995) 'A survey of drivers' attitudes toward speed limit violations'. *Journal of safety Research* 26(1): 31-40**.**

Keynes, J.M. (1933). Economic possibilities for our grandchildren (1930). *Essays in persuasion*, pp. 358–73.

Luban, D (2002) 'The Publicity of Law and the Regulatory State'. *Journal of Political Philosophy*, 10(3) pp296-316

Lyons, G. and Urry, J. (2005) 'Travel time use in the information age'. *Transportation Research Part A Policy and Practice*, 39 (2-3). pp.257-276

McKenna F (2005) Why do drivers break the speed limit? *Behavioural Research in Road Safety 15th Seminar*, London.

Mythen G (2005) 'Employment, individualisation and insecurity: Rethinking the risk society perspective'. *The Sociological Review*, 8(1): 129–49.

Nolan JP, Wichert IC and Burchell BJ (2000) Job insecurity, psychological well-being and family life. In E Heery & J Salmon. (eds.) *The insecure workforce*. London: Routledge. pp.181-209.

PACTS (2005) Policing Road Risk: Enforcement, Technologies and Road Safety. London: Parliamentary Advisory Council for Transport Safety.

Plowden, W (1971) *The Motor Car and Politics in Britain*. Middlesex: Penguin.

Police Foundation (2012) Is Roads Policing Taken Seriously Enough? *Report of the Twelfth Oxford Policing Policy Forum*, 6 December 2012.

Rosa H (2003) 'Social acceleration: ethical and political consequences of a desynchronized high–speed society'. *Constellations*, *10*(1): 3-33.

Rosa H (2013) *Social acceleration: A new theory of modernity*. West Sussex: Columbia University Press.

Rosa H and Scheuerman W (2009) Introduction. In Rosa H and Scheuerman W (eds) *High-speed Society: Social Acceleration, Power, and Modernity.* Pennsylvania: Pennsylvania State Press, pp.1-29.

Rose, N. 2000. 'Government and Control'. In D. Garland and R. Sparks (eds) *Criminology and Social Theory.* Oxford: Clarendon, 183–208

Stradling S, Gormley M, Fuller R, Broughton P, Kinnear N, O'Dolan C and Hannigan B (2009) A typology of speeding drivers: extent of, and motives for, exceeding the speed limit. *Behavioural Research in Road Safety* 2007 Seventeenth Seminar. London: DfT.

Snow AJ (2015) *Understanding the experience, meaning and messages of on the spot penalties* (Unpublished PhD Thesis, Keele University, UK).

Strayer, D, Turrill, J, Cooper, J, Coleman, J, Medeiros-Ward, N and Biondi, F (2015) 'Assessing cognitive distraction in the automobile'. *Human Factors: The Journal of the Human Factors and Ergonomics Society*, *57*(8): 1300-1324.

Svenson O (1981) Are we all less risky and more skillful than our fellow drivers?.Acta Psychologica, 47: 143-148,

Wajcman, J (2015) *Pressed for time: The acceleration of life in digital capitalism*. London: University of Chicago Press.

Wells H (2007) 'Risk, Respectability and Responsibilisation: Unintended Driver Responses to Speed Limit Enforcement'. *Internet Journal of Criminology*: 1-17. Available at: www.internetjournalofcriminology.com/Wells%20-%20Risk,%20Respectability%20and%20 Responsibilisation.pdf.

Wells H (2008) 'The techno-fix versus the fair cop: Procedural (in) justice and automated speed limit enforcement', *British Journal of Criminology*, *48*(6): 798-817.

Wells, H (2012) *The fast and the furious: Drivers, speed cameras and control in a risk society*. Surrey: Ashgate Publishing, Ltd.