



Traffic Police and other enforcement agencies

THIS BRIEFING COVERS

- Headline messages
- CTC's view
- Key facts and arguments (role of police, traffic policing levels, police training and collision investigation; The Health and Safety Executive; Traffic Commissioners)
- Policy background
- Good practice (police online reporting systems); advice for cyclists (Stop SMIDSY)

HEADLINE MESSAGE

In the interests of road safety and traffic law enforcement, there should be more traffic police, well designed incident reporting systems and the commitment to investigate all collisions thoroughly, particularly those involving non-motorised users. The Health and Safety Executive and other enforcement agencies with road safety responsibilities should prioritise these more highly and be adequately resourced to do so.

CTC VIEW

- The Home Office and police should prioritise roads traffic policing far more highly
- Local Authority Crime and Disorder Partnerships must identify excess speed and dangerous, careless and inconsiderate driving as key issues to be addressed in their strategies.
- The police should be trained so that they understand the practical and legal issues facing cyclists and other non-motorised users
- Wherever possible, the police should respond to any reported collision involving a cyclist or pedestrian by:
 - Attending the scene, taking statements and gathering evidence from witnesses
 - Investigating incidents that result in severe injury as thoroughly as those that result in death
 - Investigating reports of seriously bad or aggressive driving even when no injury occurs and allocating sufficient resources to do so – such drivers are often involved in other criminal activity
 - Investigating and where possible charging motorists who fail to stop with 'leaving the scene of the accident'
- The police should facilitate collision and 'near miss' reporting (e.g. via online systems)
- The Health and Safety Executive should take a more proactive line over work-related road safety and should receive adequate funds to do so.





working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies



KEY FACTS AND ARGUMENTS

1) Role of the police: investigations and prosecution

England & Wales: It is the responsibility of the police to investigate allegations of crime and to gather evidence. They then pass selected cases on to the Crown Prosecution Service (CPS).

The police have more discretion over what to do about road traffic offences than they have over other types of crime. For most *non-driving* offences it is not the police, but the prosecution service that decides on charging; but, with certain exceptions (see below), the police are responsible for determining the charge for *"...any offence under the Road Traffic Acts or any other offence arising from the presence of a motor vehicle, trailer, or pedal cycle on a road or other public place."*¹

Generally speaking, the circumstances in which the police do have to pass on the case include those where there is *"an allegation of dangerous driving"* (although it's not clear from the applicable guidance² who decides this); if someone has died; or if the offender has been driving whilst disqualified (and refuses to admit it); and/or whilst unfit from drink/drugs.

In practice, this means that the police filter out many, if not the majority of reported collisions and little or no action ensues - the driver may simply be referred to a 'Driver Improvement Scheme' or a 'Speed Awareness Course', for example. In fact, this is the most common outcome (although there are variations – each police force is independent and some take a tougher approach than others). More resources, better training, meticulous collision investigation procedures and best practice reporting systems would help solve this.

CPS charging guidance: www.cps.gov.uk/Publications/directors_guidance/dpp_guidance.html#_01

Scotland: the Scottish prosecution service is the Crown Office and Procurator Fiscal (COPFS). Its relationship with the police is very similar to that of the CPS, although in theory, Procurator Fiscals (PFs) have a unique position in that they are responsible for both investigating and prosecuting serious crimes. The PFs also have the power to direct the police in their investigations, but in lesser cases, the police usually complete their enquiries before involving the PF. With respect to road fatalities, the police are not allowed to charge until instructed by the PF.

COPFS guidance on the investigation of road traffic deaths: www.copfs.gov.uk/Resource/Doc/9/000097.pdf

2) Traffic policing: benefits, strength and resources

CTC view: The Home Office and police should prioritise road traffic policing far more highly

Road traffic policing offers significant road safety benefits:-

- **Less bad driving:** there is good evidence (see below), that fear of detection and prosecution is a highly effective deterrent to irresponsible or unlawful behaviour – more so than the severity of the resulting sanctions.
- **A greater chance of successful prosecutions for bad driving:** more resources would improve the capacity of police forces to detect and investigate acts of dangerous driving. This would improve the prospects of successful prosecutions and personal injury claims.
- **More reporting & follow-up:** clearly more resources for roads policing would increase both the number and quality of police reports relating to cyclists' collisions, not least because it would help make cyclists more confident about reporting incidents in the first place. Some



working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies

police forces not only offer online reporting systems, but actively follow them up by, for example, visiting the address of the vehicle's registered keeper, issuing warnings or referring the matter to the DVLA (see 'GOOD PRACTICE' section below).

- **More data on collisions and 'near misses':** more and better reporting would in turn lead to more comprehensive data on the causes of road collisions. This would help inform local and national road safety policies to reduce them.
- **More 20 mph:** many police forces are reluctant to support widespread 20 mph limits because they feel they don't have the capacity to enforce them, particularly if schemes are not 'self-enforcing' (i.e. by costly physical traffic calming measures that councils can't or won't pay for). See also CTC's briefing on speed policy (to be produced).
- **More crime detection:** it would be in the police's own interest to strengthen traffic policing because it would probably help them catch offenders committing other, non-motoring crimes. The link between road traffic offences and other forms of crime is clearly recognised by the joint ACPO/HO/DfT roads policing strategy.³
- **More police and better enforcement - examples of the benefits:**
 - In 2001 France had one of the worst road safety records in Europe, but following the adoption of a 'zero tolerance' policy over speeding offences and substantial investment in safety cameras and road traffic policing, deaths dropped by 43% between 2001 and 2007.⁴ One survey (2004) found that 45% of French drivers said that they had altered their driving behaviour due to 'fear of punishment' ('la peur de la sanction'), while 37% said they had done so due to 'better awareness of risk' ('la prise de conscience').⁵
 - In Victoria, Australia an *Arrive Alive!* strategy led to significant decreases in average speeds and a 16% reduction in fatalities. A lower degree of tolerance for speeding offences and an emphasis on enforcement were major tactics.⁶
 - Research for the former Scottish Office found that "consideration of the costs and benefits of complying with the law" affected how frequently motorists engaged in anti-social behaviour such as excessive speeding.⁷
 - The Government's report *New Directions in Speed Management* notes that the introduction of 30kph speed limits in Graz, Austria was met with strong public approval, yet speeds crept back to former levels when police enforcement was relaxed.⁸
 - The Transport Select Committee's 2003 report on its inquiry into traffic law and enforcement noted that "*Reductions in traffic law enforcement by the police appear to be linked to the number of road casualties*".⁹ The Committee cited a comparative study of road safety in Sweden, the UK and the Netherlands¹⁰, which found that the effectiveness of drink driving deterrents "*depend more on the level of enforcement than on the actual value of the limit*". The Committee also cited evidence (from the Government's 2003 review of its *Road Safety Strategy*¹¹) of a strong correlation between a decrease in the numbers of breath tests and an increase in casualties involving drink-driving between 1998 and 2002. The percentage of positive breath-tests rose from 13%, to 16% over the same period. Thus one of the Committee's recommendations was: "*Roads policing must be one of the strategic priorities of police work, otherwise it will not be properly valued and resourced.*" (Paragraph 22).





- **Police officer strength**

England and Wales: despite the above-mentioned evidence for their effectiveness, the number of traffic police officers in England and Wales fell by 19% between 1998/9 and 2007/8¹², even though the police force as a whole grew by 12%.¹³ The proportion of police officers primarily allocated to traffic policing therefore fell from 6.3% to 4.5% over this period:

Police officers whose main function is 'Traffic' (1998-99 to 2007-08, England & Wales)									
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
No	7,806	7,522	7,238	6,317	6,902	6,706	7,104	6,511	6,412

Source: Hansard. 21st Oct 2008, Column 286-288W

www.publications.parliament.uk/pa/cm200708/cmhansrd/cm081021/text/81021w0027.htm#0810216000040

Police officer strength, excluding secondments (1998-2007, England & Wales)										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
No.	124,756	123,841	121,956	123,476	127,267	131,426	137,105	139,491	139,631	140,032

Source: Mulchandani R.; Sigurdsson J. Police Service Strength. Home Office. 2009

<http://www.homeoffice.gov.uk/rds/pdfs09/hosb1309.pdf>

Home Office statistics for England and Wales show that the police recorded about 45% fewer 'dangerous driving' crimes in 2008/09 than they did in 2002/03:

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Dangerous Driving	7,624	7,567	6,669	5,923	5,353	4,720	4,232

Source: Home Office, Recorded Crime Statistics 2002-2009

www.homeoffice.gov.uk/rds/pdfs09/recorded-crime-2002-2009.xls

The DfT has not put the 77% reduction in the number of convictions for bad driving over the past two decades down to better driving standards. This suggests that it is more likely that an increasing number of careless driving cases are going unenforced.¹⁴

Scotland: in Scotland, the drop is not so acute. The police recorded 9% fewer dangerous and careless driving cases offences (which their figures combine) in 2002/03 than in 2008/09:

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Dangerous and Careless Driving	12,680	12,036	13,062	12,956	13,601	12,964	11,519

Source: The Scottish Government, Statistical Bulletin Crime and Justice Series: Recorded Crime in Scotland, 2008-09, Table 2. www.scotland.gov.uk/Publications/2009/09/28155153/8





working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies



3) The role of Local Authority Crime and Disorder Reduction Partnerships

CTC view

Local Authority Crime and Disorder Partnerships must identify excess speed and dangerous, careless and inconsiderate driving as key issues to be addressed in their strategies.

The 1998 *Crime and Disorder Act* set up partnerships between the police, local authorities, probation service, health authorities, the voluntary sector, and local residents and businesses. They are responsible for devising, implementing and reviewing a strategy to tackle the crime and disorder problems identified through wide consultation in their locality. It is important that they take bad driving as seriously as any other crime.

4) Police training, incident investigation and evidence

CTC view

- The police should be trained so that they understand the practical and legal issues facing cyclists and other non-motorised users
- Wherever possible, the police should respond to any reported collision involving a cyclist or pedestrian by:
 - Attending the scene, taking statements and gathering evidence from witnesses
 - Investigating incidents that result in severe injury as thoroughly as those that result in death
 - Investigating reports of seriously bad or aggressive driving even when no injury occurs and allocating sufficient resources to do so – such drivers are often involved in other criminal activity
 - Investigating and where possible charging motorists who fail to stop with 'leaving the scene of the accident'
- The police should facilitate collision and 'near miss' reporting (e.g. via online systems)

A study commissioned by CTC¹⁵ analysed a number of incidents in which cyclists were hurt. It suggested that, in a significant number of cases, the police failed to gather sufficient evidence and/or take the matter as seriously as the cyclist felt was warranted.

The quality of the evidence gathered by the police is crucial to determining whether it is possible to bring a prosecution and the chances of success. In its *Policy for prosecuting cases of bad driving*¹⁶, the CPS states: "If the case does not pass the evidential stage based on the strength of the evidence, it must not go ahead, no matter how important or serious it may be. This is because we have reached the view that the court is not likely to convict the defendant of the crime alleged on the evidence we have."

Police attendance at the scene, timely and thorough evidence gathering (e.g. witness statements, interviewing the driver as a matter of urgency etc), and proactive follow-up are therefore vital to ensure that prosecutions do not fail for lack of good evidence, as happens too often at present. This matters not only to the victim(s), but it also has repercussions for other road users and national road safety policy.



working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies

Better quality investigations will:

- Improve the prospects of successful prosecutions and fair compensation for injured parties
- Enable lessons to be learnt, thereby reducing the risk of similar incidents happening
- Provide robust data for the development of local and national road safety policy and strategies

There are therefore huge benefits in standardised, high quality collision investigation training for the police. This should include advice on the needs and problems of cyclists and other non-motorised road users.¹⁷

The police should also take and pursue reports of 'near misses' as seriously as is practicable. This helps compile information about bad drivers, whether or not they've been involved in a collision; and identify locations that would benefit from remedial attention from the local highway authority. The spread of online systems will help cyclists file reports of bad driving and become a useful tool for the police to crack-down on poor motoring (see GOOD PRACTICE below for more).

5) The Health and Safety Executive (HSE)

CTC view: The Health and Safety Executive should take a more proactive line over work-related road safety and should receive adequate funds to do so.

The DfT estimates that up to a third of all road traffic incidents involves somebody who is at work at the time, amounting to over 20 deaths and 250 serious injuries every week.¹⁸

The *Health and Safety at Work Act 1974* requires employers to ensure, so far as is reasonably practicable, the health and safety of all employees while at work. This includes when they are driving. Employers must also ensure that others are not put at risk by work-related driving activities. Managing a driving for work policy is a legal requirement.

The HSE produces advice and is empowered to enforce health and safety law as appropriate through warnings, notices and formal cautions in England and Wales. In Scotland they may prosecute (or report to the Procurator Fiscal with a view to prosecution).

The HSE has an important road safety role, so it should make it a priority, pursue it proactively and be given sufficient resources to do so. Its policies and advice to employers should make it clear that they need to consider not only the road risks faced by employees themselves, but also the dangers they may impose on other road users.

6) Traffic Commissioners

The Secretary of State for the Transport appoints seven Traffic Commissioners who between them cover England, Wales and Scotland. Their mission is "to champion safe, fair and reliable passenger and goods transport." One of their duties is to issue, suspend or revoke licences for heavy goods and public service vehicle operators. Fundamentally, the Commissioners are regulators, but they can also take action against operators and drivers and, if necessary, call a public inquiry (hearing) at which they act in a judicial capacity. The Commissioners work with Vehicle and Operator Services Agency (VOSA), to whom they delegate much of their work.

For more see: www.dft.gov.uk/pgr/roads/tpm/trafficcommissioners/



working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies



POLICY BACKGROUND

The intention to strengthen traffic policing is spelt out in the ACPO/DfT/Home Office (HO) *Roads Policing Strategy*.¹⁹ The HO refers to this in the *National Community Safety Plan 2008-11*.²⁰

The CPS produces guidance to the police on prosecuting cases of bad driving.

GOOD PRACTICE: Reporting systems

Bad driving is far more prevalent than the number of convictions would suggest; and few drivers are charged unless a victim has been killed or very seriously injured. CTC supports the work of two police forces that are actively working to identify and warn bad drivers before a tragedy happens.

Sussex Police's Operation Crackdown - www.operationcrackdown.org: this website allows people to report various incidents of anti-social driving, e.g. careless/inconsiderate driving, using a mobile phone while driving or speeding. The police respond by writing to or visiting the house of the vehicle's registered keeper, carrying out further intelligence work, issuing a warning or referring the case to the DVLA or another agency, as appropriate.

Metropolitan Police's RoadSafeLondon - <https://secure.met.police.uk/roadsafelondon>: this website has a streamlined response form that enables the public to report various types of illegal behaviour on the road, including a 'cycling near miss'. The Metropolitan Police send letters of warning to any drivers allegedly involved in a close shave with cyclist.

ADVICE TO CYCLISTS



www.stop-smidsy.org.uk

In October 2009, CTC launched Stop-SMIDSY, an on-line system for cyclists and others to report crashes and near misses to us. Not only does it take the details of the incident, it also asks for information on how the police, prosecutors and courts respond. This will be used to help us campaign for changes to the way enforcement agencies crack down on bad driving.

Thankfully, bad driving isn't an everyday experience for every cyclist, but if it happens, report it to Stop SMIDSY and make it count! www.stop-smidsy.org.uk

FURTHER READING

- *Roads Policing Strategy*. (ACPO/Home Office/DfT, 2005). www.dft.gov.uk/pgr/roadsafety/drs/roadpolicingcommitment.pdf
- *Scottish Roads Policing Framework 2009-12*. (ACPOS) www.acpos.police.uk/Documents/Policies/RP_Framework_2009-2012.pdf
- *Policy for prosecuting cases of bad driving* (CPS, 2007). www.cps.gov.uk/publications/prosecution/pbd_policy.html#_01
- *Developing the role of collision investigation*. (Simon Labbett,TRL, RoadPeace conference paper, 7/4/08). Contact RoadPeace www.roadpeace.org
- Driving at Work: Managing Work-Related Road-Safety. www.hse.gov.uk/pubns/indg382.pdf
- Parliamentary Advisory Council on Transport Safety briefings: www.pacts.org.uk/docs/pdf-bank/Briefing-Work-Related-March06.pdf; www.pacts.org.uk/docs/pdf-bank/WPSCWRRS.pdf



working for cycling

THE UK'S NATIONAL CYCLISTS' ORGANISATION

CTC Campaigns Briefing: Traffic Policing /Other Enforcement Agencies

WEBSITES

www.stop-smidsy.org.uk – CTC's online crash/near miss reporting system, plus advice
www.cyclistsdefencefund.org.uk – charity raising awareness of the law relating to cyclists
www.roadpeace.org – charity for road crash victims. Offers advice on the legal system
www.cps.gov.uk (England & Wales) / www.copfs.gov.uk (Scotland) – prosecution services
www.acpo.police.uk (England & Wales) / www.acpos.police.uk (Scotland) - Associations of Chief Police Officers
www.hse.gov.uk – Health and Safety Agency
www.drivingforbetterbusiness.com/ – explains employers' driving for work duties

FOOTNOTES AND REFERENCES

¹ Crown Prosecution Service. *The Director's Guidance on Charging*. Feb. 2007. Section 3.

www.cps.gov.uk/Publications/directors_guidance/dpp_guidance.html#_01

² *Ibid.*

³ ACPO/Home Office/DfT. *Roads Policing Strategy*. 2005. www.dft.gov.uk/pgr/roadsafety/drs/roadpolicingcommitment.pdf

"Research shows significant links between involvement in other criminal activity such as theft and burglary and the commission of motoring offences. This is reflected in police experience that active road policing contributes to wider policing, including the detection and arrest of criminal suspects." (Paragraph 12).

⁴ ETSC. *Countdown to 2010: Only two more years to act!* 2nd Road Safety PIN Report. 2008. www.etsc.eu

⁵ La Prévention Routière/Gatard. *Comportement des Français au Volant: en 5 ans, ce qui a change*. April 2004.

www.preventionroutiere.asso.fr/shared/ugo_content_imageview.aspx?cid=50914b91-3cc7-4ccd-9e0e-13ec7e82cd82&fid=fichier

⁶ Auditor General Victoria. *Making travel safer: Victoria's speed enforcement programme*. Victoria Auditor-General's Office, Melbourne, 2006. www.audit.vic.gov.au/reports_par/agp116_road_safety_report.pdf

⁷ Scottish Office. *The deterrent effect of enforcement in road safety – research findings*. Edinburgh, 1999.

www.scotland.gov.uk/Publications/1999/01/b0d42f57-77a7-4296-af24-d47af13cc953

⁸ DETR. *New directions in speed management – a review of policy* (see paragraphs 94-96). London, 2000.

www.dft.gov.uk/pgr/roadsafety/speedmanagement/newdirectioninspeedmanageme4802?page=3

⁹ Transport Select Committee. *Traffic law and its enforcement* (16th report of session 2003-04, see paragraph 30). House of Commons, 2004. www.publications.parliament.uk/pa/cm200304/cmselect/cmtran/cmtran.htm

¹⁰ Koornstra M et al. *SUNflower: A comparative study of the development of road safety in Sweden, the United Kingdom, and the Netherlands*. SWOV (see p. 52). Leidschendam, 2002. www.swov.nl/rapport/sunflower/sunflower.pdf

¹¹ Department for Transport. *Tomorrow's roads: safer for everyone: the first three year review*. London 2004.

www.dft.gov.uk/pgr/roadsafety/strategytargetperformance/tomorrowsroadssaferforeveryo4866

¹² Hansard. 21st Oct 2008, Column 286-288W.

www.publications.parliament.uk/pa/cm200708/cmhansrd/cm081021/text/81021w0027.htm#08102160000040

¹³ Mulchandani R / Sigurdsson J. *Police Service Strength*. Home Office. 2009. www.homeoffice.gov.uk/rds/pdfs09/hosb1309.pdf

¹⁴ DfT. *Road Safety Compliance Consultation*. 2008 www.dft.gov.uk/consultations/closed/compliance/roadsafetyconsultation.pdf

"[...] the number of convictions for bad driving has reduced in number by 77 per cent over the past two decades. This is mainly due to a large fall in the number of proceedings brought, although there has also been a steady fall in the rate of conviction. There is a similar pattern for written warnings, of which there were 4,500 in 2006. It seems unlikely that any improvements in driving standards over this period could account for a drop on this scale. So the level of enforcement is steadily dropping, and it seems likely that this means an increasing number of cases of careless driving are going unenforced." P68-69.

¹⁵ Spinney J. *An exploratory review of road traffic incidents involving cyclists*. 2008 (unpublished). Analysis of 53 cases showed that in all of the 16 cases where details were given, victims thought the police had failed to gather sufficient evidence.

¹⁶ CPS. Policy for prosecuting cases of bad driving. www.cps.gov.uk/publications/prosecution/pbd_policy.html

¹⁷ For more on the importance of collision investigation, developing its role and a discussion of the *Roads Death Investigation Manual 2001*, which the police follow in the event of fatalities, see: Simon Labbett's (TRL) paper to the April 2008 RoadPeace conference on Improving the response to road death and injury: *Developing the role of collision investigation*.

www.roadpeace.org/documents/Simon%20Labbett%20Developing%20the%20role%20of%20collision%20investigation2.PDF

¹⁸ DfT/HSE/Think Road Safety. *Driving at Work: Managing Work-Related Road Safety*. www.hse.gov.uk/pubns/indg382.pdf;

PACTS (Parliamentary Advisory Council for Transport Safety) also produces useful briefings: www.pacts.org.uk

¹⁹ ACPO/DfT/Home Office. *Roads Policing Policy*. www.dft.gov.uk/pgr/roadsafety/drs/roadpolicingcommitment.pdf

²⁰ Home Office. *National Community Safety Plan 2008-11*. Home Office. December 2007.

<http://police.homeoffice.gov.uk/national-policing-plan/national-community-safety-0609>