



# Understanding the legal framework

# Terminology



- Summary only/ either-way/ indictable
- Crown Court/ Magistrates' Court
- Undercharging/ downgrading
- Dangerous/ careless driving



# Dangerous vs Careless

**Careless or inconsiderate driving** - Driving that falls below what would be expected of a careful and competent driver. A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

**Dangerous driving** – Driving that falls far below what would be expected of a competent and careful driver, and it would be obvious to a careful and competent driver that driving in that way would be dangerous. ‘Dangerous’ refers to danger either of injury to any person or of serious damage to property.



# Who makes charging decisions?



- Summary only offences, e.g. careless driving and driving when disqualified
- Either way offences anticipated as a guilty plea and suitable for sentencing in the Magistrates' Court, e.g. dangerous driving
- Either way offences not anticipated as a guilty plea
- All fatal offences, i.e. causing death by driving offences
- All indictable cases

# Problems with roads policing

## Poor road crash investigations

- Failure to test driver's eye sight and mobile phone use
- Failure to check CCTV footage
- Failure to inform victims of case progress
- Failure to take statements or chase witnesses and victims for statements
- Prejudiced views of cyclists' behaviour

## Lack of adequate resources and training

- Roads police cut by 29% in ten years
- Untrained police officers doing roads police work

## Lack of victim support

- Victims' Code is inadequate
- Lack of timely and accurate information



# Problems with charging and prosecution

Definitions of careless and dangerous driving – prevents rational and consistent charging decisions

Early guilty plea scheme – leads to undercharging and downgrading

National Driver Offender Retraining Scheme – leads to reduction in charging

Traffic courts – could lead to increase in dangerous driving charged as careless driving

Direct impact on sentencing – weak charging leads to weak sentencing

Weak Victims' Code – victims can't challenge decisions



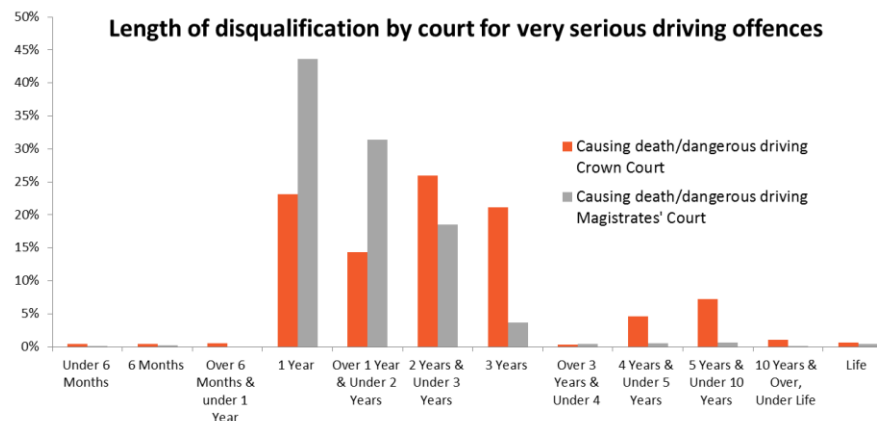
# Problems with sentencing

Sentences too dependent on consequences of driving not driving itself

Not enough emphasis on driving bans in sentencing guidelines

Not enough emphasis on re-education and testing

Limited non-custodial sentencing options



# Sentencing

Driving offence	Prison	Driving Ban	Penalty Points	Trial
Causing death by dangerous driving	14 years	Minimum 2 years Compulsory re-test	3-11	On indictment
Causing death by careless driving	5 years	Minimum 1 year Discretionary re-test	3-11	Either way
Causing serious injury by dangerous driving	5 years	Minimum 2 years Compulsory re-test	3-11	Either way
Dangerous driving	2 years	Minimum 1 year Compulsory re-test	3-11	Either way
Careless driving	£5,000	Discretionary	3-9	Summary only



# Group activity

1. Split into groups of 3-4 people
2. Read through the case studies
3. Decide which problems they demonstrate



# CTC's briefings

- Common driving offences
- Traffic law and enforcement
- Traffic police and other enforcement agencies
- Prosecutors and the courts
- The legal framework and sentencing policy

<https://www.ctc.org.uk/campaigning/views-and-briefings>





# QUESTIONS??

