

# Driving Offences

## Claire Corbett

### 1.1. Introduction:

This chapter on driving offences will largely follow the template of earlier chapters except that owing to their vast number, a limited selection only will be examined based on their high volume, seriousness and public concern. The first section will define what driving offences are, how they developed alongside the emerging car culture, and it will consider the contemporary landscape. The second section will give a general overview of patterns and trends, those most likely to engage in road traffic offending, and kinds of explanations voiced by drivers and theoretical approaches used. The next three sections will follow a similar pattern and focus on *speeding*, *bad driving* – mostly dangerous and careless offences, and *impaired driving* – mostly drink-driving but mentioning drug-driving and fatigued driving. In addition, contemporary debates and key issues concerning each will be considered, along with official responses to each offence category comprising court-based penalties and other measures.

The final section will draw the key threads and themes together, noting the danger of work-related driving. Given that up to a third of all road traffic collisions involve somebody at work at the time accounting for up to 20 fatalities and 250 serious injuries every week (DfT and HSE, 2003), the importance of reducing traffic offending is clear.

### 1.2 Definition of ‘driving offences:

Driving offence types cover a wide terrain with estimates in the thousands (e.g. Gibson, 1994). Many are subsumed in subordinate legislation of regulations and orders, but all driving offences are crimes under road traffic law that is separate from criminal law though an integral part of it. There is no absolute hard-and-fast classification and many do not sit exclusively in one category. Nevertheless, the main types follow and some individual offences to illustrate the category given.

- *Driving below the minimum standard required by law* (e.g. careless driving; causing death by dangerous driving; ‘tailgating’);
- *Driver competence and physical fitness breaches* (drink and drug offences; poor eyesight; medical conditions);
- *Driving with inadequate driver documentation or vehicle documentation*; (driving unlicensed, uninsured or whilst disqualified; having no vehicle excise licence or vehicle registration document);
- *Speed limit breaches* (failing to observe 30 mph speed limit signs);
- *Construction and use offences* (driving a vehicle with faulty brakes or tyres; using a mobile phone while driving);

- *Parking and obstruction offences* (obstructing a highway; wrongful use of a disabled person's badge;
- *Traffic signals and signs offences* (failing to observe hatched line restrictions, red lights, no right turn signs).
- *Fraudulent use of, and forged and falsified documentation* (forgery of driving licence; fraudulently accepting someone else's penalty points).

### **1.3 The historical and legislative context of driving offences**

The first major legislation on driving offences comprised the Motor Car Act 1903 that established the offence of reckless driving, the penalty of disqualification from driving, the introduction of vehicle number plates and driving licences, and that raised the speed limit to 20 mph.

Careless driving and driving a vehicle while unfit through drink or drugs joined the statute book under the Road Traffic Act 1930, which Act became the main platform on which modern road traffic law is based. It introduced the concept of mandatory insurance and also decriminalised speeding on the grounds that road congestion would reduce, driver responsibility would increase, with both leading to fewer crashes (Emsley, 1993: 25). Yet this optimism was not rewarded and speeding offences were reintroduced in 1934, along with a higher 30 mph maximum.

As car ownership became more affordable during the 20<sup>th</sup> century and vehicle numbers rose dramatically, road fatalities increased to a peak in 1966 when 7,985 died on the roads (compared with 3,172 in 2006). To counter this huge toll, the Road Safety Act 1967 introduced a raft of safety measures including the compulsory fitting of seat belts to all new cars, a 70 mph speed limit on previously unrestricted roads and drink-drive regulations and standards that remain largely unchanged today.

Under the Road Traffic Act 1991, reckless driving offences were replaced by dangerous driving offences that were based on the actual standard of driving rather than a subjective test of the driver's mental state at the time of the offence. That Act introduced a requirement for the worst convicted drivers to retake the driving test, and provisions to allow the installation of automatic camera devices for red light and speeding offences.

As interesting is how the socio-political context of driving has evolved over time. When cars first arrived their wealthy owners fell foul of the car-less, who represented the environmental lobby angry at the pollution caused. These affluent drivers were soon in conflict with the traffic police and government at their unwarranted 'criminalisation' from enforcement of the traffic laws (Emsley 1993: 374). On one occasion, police were exhorted by the Home Secretary not to treat motorists who might be 'persons of the utmost respectability of character and position' as 'possible criminals' (ibid).

Antipathy between drivers and others is a theme that has reverberated through much of last century. Little has changed since other than that car-owners are no longer a small elite group and have mushroomed into a large proportion of the adult population, and now comprise members of all social classes from the bottom to the top. With road transport and car use again at the centre of the environmental debate on congestion and pollution, with those choosing to drive the so-called 'gas guzzlers' cast as contemporary 'folk devils', the debate of a century ago has re-emerged but with differently configured parties.

Another theme that has weathered the years is the view that penalties for driving offences have been on the lenient side, and often do not reflect the seriousness of the incident nor the harm done. Early vehicle owners largely comprised the elite, including MPs and judges, who may not have rushed to over-penalise 'minor' transgressions they personally might commit. This may give a clue why the public discourse around failing to comply with traffic laws has developed in the way it has. Using the word 'accident' to construct collisions as blameless and unpredictable events that could befall anyone would have suited the interests of the first car owners and illustrates how that early discourse of driving offences as 'minor' has endured to this day. The outcomes are that the 'thrills and spills' and 'car as king of the road' images still prevail.

#### **1.4.Current context:**

The 21<sup>st</sup> century arrived with the road death toll still falling since its peak in 1966, and with the British government introducing a new road safety strategy for the ensuing ten years with casualty reduction targets that were well on the way to being met by 2007 (DfT, 2007b).

Despite several higher maxima sentences for causing death by dangerous offences, introduced in 2003, concern continued and two new offences of causing death were introduced under the Road Safety Act 2006. This long-awaited, wide-ranging and controversial Act provides for new graduated fixed penalties for speeding offences, various measures to combat unlicensed and uninsured driving and vehicle registration fraud, and several measures regarding drink-driving.

Specialist police traffic officers have been the main enforcers of these offences for much of last century, though their numbers have been in long-term decline for the latter half of it (e.g. Gaventa, 2005:11-13. To offset this drop in specialist officers and the vastly increased volume of vehicles, traffic law enforcement is becoming strongly reliant on technology. Thus automatic speed cameras and red traffic light cameras are now commonplace, and the advent of automatic number plate recognition (ANPR) cameras has enabled the enforcement of many document offences and the detection of offenders associated with particular vehicles who are wanted for serious vehicle-related and mainstream offences.

While the news media has taken much interest in the treatment of driving offenders by speed cameras - sometimes casting drivers as 'oppressed' and 'victimised', and considerable interest is shown in vehicle-related crime through television series on 'traffic cops' and 'vehicle theft', criminologists have largely kept well clear. This is interesting in view of vehicle stops being the second-most common context for any police-public contact (Allen et al, 2005: Table 2.04), and of three-quarters of the adult population in Britain holding full driving licences and being at risk of committing driving offences. Perhaps it is because driving offences use the strict liability standard rather than the 'guilty mind' associated with *mens rea* for proof, that they are not always regarded as 'real crime' in the same sense that burglary or robbery are (Corbett and Simon, 1992: 37-42) and tend to be ignored by most criminologists. Other speculation is possible (see Corbett 2008), but few would argue against driving offences being neglected by the discipline.

### **2.1 Patterns and trends of driving offences**

No perfect measure exists by which to determine the incidence of and trends in driving offences, and other than self-report studies, reliance must be placed on annually published statistics of numbers of offences dealt with by official action. Even then, such statistics are prone to the vagaries of factors that include numbers of traffic police officers, other enforcers and automatic camera devices available to detect offences, police prosecution policies and accuracy in collating data, readiness of the infrastructure to process detected offenders and the introduction of new legislation.

Given these caveats, the total number of driving offences dealt with by official *police* action has fallen gradually from a peak of 8.8 million in 1990 to a steady 5-6 million between 1999 to 2005, and is now under 5 million in 2006 (Table 2, Ministry of Justice, MoJ 2008a). The reason for this drop is largely the result of the Road Traffic Act 1991, effective from mid-1992, which specified that parking contraventions were no longer criminal offences. Thereafter, local authorities have taken over enforcement of parking, obstruction and waiting infringements. If, however, penalty charge notices issued for these offences are included in total motoring offences dealt with by *official* action – which is often how they are reported in the media - a peak was reached in 2004 of 13.5m (Table A, MoJ 2008a), as parking offences soared. Since then there has been a slight downturn in most categories of offence year on year (Table 2, MoJ 2008a.), with a few exceptions. The main one has been a 26% increase in careless driving offences between 2005-2006, resulting from a big increase in prosecuting those using a hand-held mobile phone while driving (ibid: 7).

It is important to note the second largest offence category dealt with by official police action, that of *licence, insurance and record keeping offences*, which totalled 1,016,400 in 2006. Before speed cameras started multiplying, this category remained the largest between 1951 until 2000. The number of processed offences in this category overall has fallen slightly

since 2003 in common with others mentioned above, but its incidence is likely to be much higher as it is hard to detect. To assist with this, ANPR is now being rolled out across the country in view of its high 'hit' rate from stops for document, other traffic and mainstream offences and offenders. Research studies estimate that around 1 in 20 drivers on British roads drive without insurance (Greenaway, 2004) or without an appropriate licence (Knox et al, 2003), and it is hoped that ANPR will help cut numbers involved. Document offences are important despite the low penalties typically given, as those committing them tend to engage in a cocktail of other traffic and mainstream offending - some serious (e.g. Rose, 2000), and such offenders have a higher crash risk than others (e.g. Knox et al, 2003) and may be partly responsible for the current rise in 'hit and 'run' collisions where drivers fail to stop.

So overall, despite the increasing number of licensed vehicles on British roads (now at 30 million in 2006; Table A, MoJ 2008a), motoring offences with or without parking offences are falling slightly since earlier peaks.

## **2.2 Who are the driving offenders?**

Driving offences are hardly homogenous, and a key distinction between them is whether they occur as unintended errors of omission or commission, or as deliberate violations. In the latter case, the purpose or need to be served by a particular illicit driving action may also vary. It should not be surprising therefore if different offender profiles emerge for those committing different kinds of offence.

Traffic offending, according to motoring court conviction statistics, has been and still is largely the preserve of male drivers. In 2006, male convictions considerably outstripped the female conviction rate with males responsible for 87% of the total (Table 12, MoJ 2008a). This gender imbalance well reflects that for mainstream offending where men were responsible for 75% of all court convictions in 2006 (Table 3.8, MoJ 2007). At face value, this suggests that the propensity to offend on and off the road may not be so different.

Despite the big difference in the gender ratio for convictions, women are slowly catching up. Women were responsible for 7% in 1988, 11% in 1998, 12% in 2003 and 13% motoring convictions in 2006 (Table 17, Home Office 1989, 2000, 2005; MoJ 2008). Yet this *might* be linked with their increasing representation in the fully licensed driver population rather than an increased propensity to offend, as in the same years women comprised 38%, 43%, 44% and 44% respectively of that. The opposing argument is that indeed women drivers are acting more unlawfully, and Corbett (2007) presented evidence to support that view.

Age is another important factor in traffic offending, with the bulk of evidence showing that younger men and to a lesser extent younger women tend to comply less with the motoring laws considerably than their respective older counterparts (e.g. OECD, 2006; Corbett, 2007: 5). Yet young drivers are not the sole culprits, and some other groups are at

higher risk of traffic offending. These include mid-aged women often working mothers in professional occupations who were found by Dobson et al (1999) to be at higher risk of poor driving including speeding, lapses and errors; and company car drivers (often older males) found to engage more frequently in risky behaviours like eating or drinking and using a mobile phone while driving, fatigued driving and speeding (e.g. Broughton et al, 2003).

Before the statistical sophistication we have now, it was wondered whether driving offenders were as Jekyll and Hyde characters, changing their mild manners once behind the wheel. The answer from recent research fails to confirm this, and indeed suggests there is considerable overlap between serious traffic and mainstream offending. Rose (2000) examined the criminal histories of large samples of offenders convicted for mainstream, car theft and serious traffic offences using the Home Office Offenders Index. The data showed a strong overlap between drink driving, dangerous driving, disqualified driving and mainstream offending, with for example, convicted drink-drivers twice as likely and disqualified or dangerous drivers four times as likely as the general population to have a criminal record for mainstream offending. A study by Chenery et al (1999) of keepers of cars parked illegally in disabled parking bays found that such people were more likely to have a criminal record or to be wanted for arrest than those parked in regular parking bays, emphasising a link between mainstream and traffic offending. Broughton (2006) supports this picture using a very large sample that showed drivers with a poor motoring offence record tended to commit many more non-motoring offences than those committing no motoring offences, suggesting again that there is a consistency of behaviour off and on the road. However, the same study by Broughton indicated the more non-motoring offences the fewer speeding offences were committed, providing an exception to the general rule. This could indicate that 'seasoned' mainstream offenders may find ways to avoid prosecution for speeding.

With road deaths estimated to become the world's third biggest killer overall by 2020 (Jacobs et al, 2000), a pertinent question is whether there are links between road traffic offending and crash involvement. Surprisingly, relatively little research has been conducted to explore this question, but what has been done supports a correlation (e.g. Stradling, 1997). Another study showed that drivers judged to have displayed risky behaviour immediately preceding a road crash, including actions deemed careless or dangerous, were more likely to have an extensive criminal record than accident-involved 'passive' drivers (Junger et al, 2001).

### **2.3 Explanations for driving offences:**

#### **(a) Proximal factors**

Because there is less social stigma attached to road traffic offending than mainstream offending, ordinary drivers are frequently willing to give explanations for it. Key themes to account for traffic offending generally follow; offence-specific reasons will come later.

- **Utility.** Many offences have utility for drivers and this is perhaps the broadest category applying to many offences and offenders. Popular explanations here include offending ‘when ‘in a hurry’ and ‘out of convenience or laziness’ (e.g. Corbett and Simon (1992). Marsh and Collett (1986) outlined the utility for young men of breaking traffic laws that included the opportunity to impress others - particularly the opposite sex, to express individuality, freedom, independence and defiance, and to ‘play on a level playing field’ against better-off drivers and better vehicles, e.g. by racing away from traffic signals. Utility explanations also account for documentation offences where drivers consider they are unable to afford repairs, insurance, vehicle taxation, or pay for driver training (e.g. Knox et al, 2003) but want to drive.
- **Perceived low risk of detection or crash.** The perceived likelihood of ‘getting away with it’ underpins much traffic offending and this is naturally linked with perceived and actual levels of enforcement (e.g. Corbett and Simon, 1992). Research shows that there must be some correspondence between perceived and actual risk of detection for an enforcement initiative to have effect (e.g. Shinar and McKnight, 1985).
- **Perceived lack of danger and low risk of harm.** This is one of the most common categories to emerge in driver research, and is implicitly qualified by ‘in those circumstances’, as in the expression ‘it’s safe when I do it’ (see Corbett and Simon (1992: 30-34); Corbett et al (2008 forthcoming).
- **Inadvertence / lack of intention.** This explanation is common to careless driving (e.g. Stradling, 1997) and speeding offences especially (e.g. Corbett and Simon 1999: 52-3), and distinguishes much traffic offending from mainstream offending, the latter tending to be deliberate.
- **Thrill / excitement of risky manoeuvres or behaviours.** This a long-standing theme in driver research and is commonly but not exclusively associated with younger drivers and an intrinsic pleasure in risk-taking. It may apply especially to bad driving offences.
- **Social consensus / social acceptability.** This is expressed by the view that ‘everyone does it’, and the notion of ‘safety in numbers’ (e.g. Corbett and Simon, 1992: 38), and as if legitimisation of law-breaking is to be found in social consensus. Such explanations are redolent of Sykes and Matza’s (1957) ‘techniques of neutralisation’ whereby wrongdoing or immorality is denied through such appeals to the consensus.
- **Not real crime.** This is another large category encompassing the notions that traffic rules are to be treated as guidelines (Corbett and Simon, 1992: 35-36), that driving offences are not serious and not morally wrong, and are of a different quality to mainstream offending (Corbett and Simon, 1992: 38-40).

**(b) Theoretical approaches:**

Because of limited interest in vehicle-related crime by criminologists, there has been minimal application of criminological theories to road offending, but no obvious reason most theories cannot be applied to most driving offences. A list follows of theories *actually* applied in vehicle-related crime research.

- **Deterrence theories.** The premise of such theories is that potential offenders are deterred as a function of:  
fear of the likely penalty x perceived risk of detection and prosecution.  
Factors like ‘fear of the social stigma’ and ‘moral commitment to the ‘law’ are added to various deterrence formulations, and such theories have been tested in research on driving offenders by, for example, Homel (1993).
- **Rational choice perspective.** This neo-classical perspective is based on the notion of offenders weighing up the opportunities, costs and benefits of offending and the needs served by so doing. It has been applied to vehicle theft and joyriding (e.g. Light et al 1992) and been extended to other driving offences (Corbett and Simon, 1992).
- **The general theory of crime.** Formulated by Gottfredson and Hirschi (1990), this posits that low self-control, learned through socialisation, is the main driver for crime. Impulsive actions and risky behaviours will result, and it has been applied to traffic crime by Junger et al 2001.
- **Gender-based theories.** Rooted in social, cultural and power relations, a gendered lens has been applied to view male involvement in driving offences such as joyriding (e.g. Cohen, 1955), drink-driving (Gusfield et al, 1991), speeding (Marsh and Collett, 1986) and ram-raiding (Campbell, 1993).
- **A critical perspective.** The elitism associated with the motor car’s beginnings is argued to be still largely unaffected, where the hegemony of the car can help explain the perceived minor nature of driving offences, typically low penalties and ‘accidents’ as blameless, random events (Corbett, 2003). The views of some drivers that traffic laws are guidelines only, to be negotiated by themselves (Corbett and Simon, 1992) are also indices of the car’s dominance in society.

**3.1 Speeding: Introduction:** Exceeding a posted speed limit or ‘speeding’ is the driving offence type most commonly dealt with by official action in England and Wales (see Table 2, MoJ, 2008a), among which exceeding the 30 mph limit is the most commonly actioned offence overall. ‘Racing vehicles on a public highway’ is another offence and was recently popular around the M25, and is not confined to the UK. ‘Car cruise’ events with ‘pimped up’ and other vehicles are variations of illegal road racing, and footage may be filmed and posted by offenders and spectators on popular websites. ‘Driving inappropriately fast for the



prevailing conditions but under the maximum speed limit' is popularly considered as 'speeding,' but is not prosecuted as such. Instead this may be claimed as an aggravating factor in a dangerous driving offence and is one of the contributory causal factors for the STATS 19 data routinely collected in regard to injury crashes by the government .

The word 'speeding' has become an emotive word for many drivers as those with some 'live' penalty points on their licences for speeding could be around 14%, extrapolating from a recent large representative survey (Direct Line, 2007). What irks many drivers is that speeding is not thought dangerous when they do it (see above) and many appear to suspect that the mushrooming of speed cameras to enforce speeding laws has as much if not more to do with revenue generation as with improving road safety. As more become 'criminalised' through prosecution for speeding so perhaps does the risk of alienation, which could erode what has been majority support for cameras until now (e.g. Corbett and Caramlau, 2006). At the extremes, antipathy towards cameras can lead to their vandalism by the disaffected, and the existence of lobby groups underlines the continuing opposition to speed cameras and speed limits by some.

Fortunately for drivers, excess or inappropriate speed rarely leads to negative consequences, which may help account for speeding having been considered a relatively minor offence by drivers (O'Connor and Whelan 1996). Yet viewed from the perspective of victims and bereaved relatives, excess and inappropriate speed are extremely harmful and were implicated in 32% of fatal collisions and 20% of serious injury collisions as contributory factors in Great Britain in 2006 (Table 4B, DfT 2007c). Interestingly, the potential threat from inappropriate speed is also a concern. Wood (2004: 11) showed that 43% of the population found that 'speeding traffic in their local area' was regarded as a 'fairly' or 'very big' problem, and this was the most commonly mentioned community concern about anti-social behaviour. All this suggests that speeding may be constructed as a problem of the 'other driver', which view is supported by a large survey showing 62% drivers considered speeding to be a 'serious offence' – suggesting that attitudes may be changing somewhat - yet over half admitted doing it themselves (RAC, 2007).

### **3.2 Patterns and trends.**

Two kinds of statistics are collected for speeding offences in England and Wales. The first comprises vehicle speed monitoring data gathered via automatic counters located at around 100 sites on different road types. The second kind comprises various statistics relating to the detection and onward processing of speed offences.

Vehicle speed monitoring data measure proportions of vehicles exceeding speed limits on different road types in free-flow conditions. There has been a downward trend for vehicles exceeding the 30 mph limit on built-up roads over the last decade - where most speed cameras are sited. In 1997, 70% of cars exceeded the 30 mph limit which figure fell to 49%

in 2007, suggesting that the threat of penalty points does deter. However, apart from slight falls on some road types, the proportions of cars speeding on rural single carriageway roads (9% in 1997 and 2007) and on motorways (54% in 1997 and 53% in 2007) have remained remarkably stable over this period, highlighting the challenge ahead (DTLR, 2001: Tables 4 and 8; DfT 2008: Tables 3 and 4).

Table 1 shows how speed limit offences actioned over the last decade have increased massively as cameras have multiplied. However, despite a big jump from 761,400 offences dealt with in 1996 to 2,118,800 in 2005, the tide may have turned as 2006 saw the first fall in numbers dealt with by fixed penalty or prosecution. Over the same decade, speed camera activity increased and comprised a higher proportion year on year of all detections dealt with from 34% in 1996 to 95% in 2006, while police enforcement of speed limit breaches correspondingly fell. In fact, the drop between 2005 and 2006 is largely accounted for by the police turning attention to other motoring offences, including mobile phone and careless driving offences. Police dealt with approximately 254,000 speed limit offences in 2005 but only 98,000 in 2006. It remains to be seen whether the downward trend continues.

**Table 1: Numbers of speed limit offences dealt with by official action (in thousands) and the proportions detected by speed cameras: 1996-2006**

	1996	1999	2002	2005	2006
Total dealt with by official police action	761.4	995.3	1,557.9	2,118.8	1,959.5
% detected by automatic camera	34%	49%	85%	88%	95%

From: Motoring Offences England and Wales, 1996, 1999 (Department of Transport, Local Government and the Regions - DTLR); Motoring Offences and Breath Test Statistics England and Wales, 2002 (DTLR) and 2005, 2006 (Ministry of Justice).

### 3.3. Who does it?

Few drivers deny ever speeding though some engage in it more than others. Those prosecuted at court for speeding (the worst offences) largely comprise men, but women are catching up as their share of the licensed driver population grows (Corbett, 2007). In 1988, women comprised 7%, and in 2006, 19% of all those convicted in court for speeding. Figures are not publicly available for the gender breakdown of the drivers responsible for fixed penalty notices issued for speeding, which comprise the huge bulk of actions taken. Self-report surveys are more informative, and nearly all confirm the greater male involvement in speeding (e.g. Stradling et al, 2003) and greater female compliance with speed cameras (Corbett and Caramlau, 2006).

Speeding like other risky road behaviours tends to decrease with age (e.g. Stradling et al, 2003). It is more frequently reported among those with higher mileages and company-car drivers (Broughton et al, 2003). Corbett et al's (2008) survey of drivers with different patterns of penalty points supports these findings. They showed that drivers with some points for speeding compared with those reporting none were more likely to be male, to have higher mileages, to drive for work, and to slow down just before a camera box. Finally, getting caught for speeding is no respecter of status. In Britain, royalty, current senior politicians, the most senior traffic police officer and various celebrities all have court convictions for speeding recently.

#### **3.4 Specific explanations for speeding:**

Mirroring the 'thrills and spills' image and worldwide attraction of Formula 1 racing, 'enjoyment in driving fast' is a common cross-cultural explanation given to explain speeding behaviour by drivers (e.g. SWOV, 1998: Table 5.1). 'Being in a hurry' is perhaps the most common explanation overall, (e.g. Corbett et al, forthcoming), though 'inadvertently exceeding a limit' is frequently cited (e.g. *ibid*). Risk compensation theories are enjoying renewed appeal as research shows that as technological advances have reduced external speed cues like noise and vibration and comfort levels have increased, high speeds seem slower and less dangerous to drivers than they are (Walker et al, 2006). A related hydraulic model (e.g. Wilde, 1986) says that safety features like airbags, anti-lock braking systems and side impact bars have reduced actual risk to drivers, with drivers responding by seeking out more risk by driving closer or faster.

#### **3.5 Responses to speeding:**

There are now around 6000 speed cameras in Britain, and detection normally brings a conditional offer of a £60 fixed penalty (as at 2008) together with a licence endorsement of 3 penalty points. Higher margins of exceed speed can lead to a higher fine and between 3-6 penalty points, or even discretionary disqualification of the driver's licence. Points stay on a driver's licence for four years, though they are 'live' for only three. Upon accumulation of 12 points, disqualification should normally occur under s3, Road Traffic Offenders Act 1988, though this does not always transpire (Corbett et al, forthcoming). It is becoming standard practice across police force areas to offer low level speeders a once-only option of paying to attend a short 'speed awareness' course instead of forfeiting 3 penalty points. Anecdotal and research evidence of a salutary short-term positive effect is encouraging (e.g. McKenna, 2004), though evidence is unclear for long-term speed reduction.

Under the Road Safety Act 2006, provisions were made to introduce a graduated points system dependent on the level of excess speed. This could mean that 6 points would be offered with a higher £100 fixed penalty for the worst breaches. A lower starting point of 2 penalty points for low levels of excess speed was dropped for fear of undermining the

government's message that even small breaches can kill, e.g. hitting someone at 35 mph is twice as likely to kill than at 30 mph. A second consultation was launched in 2008 with the government's response due later.

Despite the high risk of detection by speed cameras in Britain, Broughton (2008, forthcoming) found that proportionately very few drivers since 1994 were disqualified by accumulating 12 points solely for speeding in the next three years. Moreover, despite the huge 247% increase in driver licence endorsements (without disqualification) for speeding and traffic light offences between 1996 and 2006, numbers of disqualifications from 'totting up' penalty points over the same period decreased by 19% (Table 16, MoJ 2008). This suggests that drivers are behaving as if deterred by the threat of disqualification or avoiding it by alternative means. Corbett et al's (forthcoming) study found evidence to support both propositions. Disqualification was much feared by drivers with points with 19% of them owning radar detection devices of whom 79% had bought it since being caught for speeding, Twenty-two per cent said they slowed down just before camera boxes, and 8% said they would consider passing on points to others to avoid disqualification. Another survey suggested that 1.5% British motorists had swapped penalty points with others (Churchill Insurance, 2007)

However frequently true deterrence is achieved, studies show that speeds do reduce where cameras are installed and considerably fewer casualties result (e.g. Pilkington and Kinra, 2005), demonstrating the oft-disputed effectiveness of cameras.

Cameras where the average speed between two points is calculated represent a technological advance on traditional fixed site cameras. They are likely to encourage compliance (Corbett et al, forthcoming) and are being gradually rolled out. Intelligent Speed Adaptation (ISA) uses satellite technology to restrict vehicle speeds to the maximum allowed on a particular road and would eradicate speeding if used compulsorily nationwide. Interestingly, research indicates that most British drivers would welcome compulsory use by all drivers (Lai et al, 2008). Other attempts to control speed have come from unpopular road humps and various traffic calming measures, with education as a longer-term strategy. Speed awareness courses may be used for the 'worst' speeders who might benefit more than the usual 'low' speeding participants of such courses.

**3.6 Concluding comments:** Ironically, continued high global fuel prices may do more to cut speeding than many previous efforts, and incentives for commercial businesses to install ISA such as cheaper insurance and lower fuel costs could cut the speeds not only of company car drivers but also those of other drivers blocked behind. One effect of the Corporate Manslaughter and Corporate Homicide Act 2008 (CMCHA) is likely to be increased training of fleet vehicle drivers in efforts to avoid corporate liability for any gross failure in the duty of care to employees or others. Such training may also indirectly lead to lowered speeds. In the

meantime, exceeding limits remains paradoxical with drivers thinking it acceptable and not dangerous when they do it, but more serious and more anti-social when others do it.

#### **4.1 Bad driving: Dangerous and Careless offences: Introduction**

'Bad driving' is a generic term used to describe a range of actions that are generally classed as dangerous or careless driving offences when prosecuted. They are considered the most difficult to legislate for because of two main reasons. First is the difficulty of adequately distinguishing the elements of 'careless' and 'dangerous' behaviours and consequently of constructing offences appropriately and comprehensively to encompass the gamut of bad driving actions; secondly, is the huge dilemma of setting appropriate levels of sanctions where offender culpability is low as in 'careless' offences but harm is extreme, as in death.

Those who have lost loved ones have long been angered that no mention of a death is included in the charged offence of 'driving without due care and attention', and in the Magistrates' Courts where such cases are heard, no mention need be made that a person has been killed as a result of the careless action (e.g. RoadPeace, Summer 2007: 4). Moreover, usually a small fine only is awarded plus a few penalty points. To compound these issues, research has found inconsistency in charging by Crown Prosecutors (Pearce et al, 2002: 46-51).

Various recent developments have occurred to meet these concerns. Two new offences have finally been implemented in 2008 under the Road Safety Act 2006 to join the existing offences of 'causing death by dangerous driving' and 'causing death by careless driving when under the influence of drunk or drugs'.<sup>i</sup> These are 'causing death by careless or inconsiderate driving' and 'causing death by driving: unlicensed, disqualified or uninsured drivers', which are both either-way offences.

In 2007, the Crown Prosecution Service published a revised prosecution policy on bad driving designed to distinguish more precisely careless from dangerous offences. Yet concerns remained that high charging standards and likely prospects of conviction required by the CPS for a 'causing death by dangerous driving' charge would continue to mean that a careless driving charge will be the default option for the large majority of death by driving cases (RoadPeace, 2008). In 2008, the Sentencing Guidelines Council (SGC) issued new guidelines for the four death by driving offences, that the courts must follow. Key guideline recommendations were for lengthy custodial sentences of up to 7 years in fatal cases involving 'prolonged, persistent and deliberate bad driving' such as reading or composing text messages over time or 'consumption of substantial amounts of drugs or alcohol', and up to 14 years if combined with other aggravating features (SGC, 2008). While some offenders are likely to go to jail for longer, in practice it is unlikely many more will be imprisoned, and indeed, community sentences are recommended for deaths caused by the lowest levels of

culpability (ibid: 15) where short lapses of attention or momentary negligent errors of judgement result.

New criteria for assessing dangerous and careless behaviour were introduced under the Road Traffic Act 1991, when ‘dangerous’ driving offences replaced ‘reckless’ offences. Under this Act, the *subjective* element of determining the offending driver’s state of mind was replaced by a two-prong formula based on *objective* qualities of the driving. So, now the court must decide whether the behaviour in question fell *far below* (for a dangerous offence) or *below* (for a careless offence) that expected of a ‘competent and careful driver’, and then whether it would have been obvious to such a driver that the behaviour would be dangerous / careless. The problem with this ‘objective’ measure is that most drivers think their skills above average (e.g. Svenson, 1981) and most will identify with the ‘careful and competent driver’. Yet among those drafting charges and deciding verdicts will be some having no problem with exceeding speed limits or other injudicious behaviours, and who may thus be less willing to concur that a driver’s behaviour fell far below what a careful and competent driver would think appropriate. This could account for the far lower rate of dangerous driving to careless driving charges brought and the far higher acquittal rate of dangerous prosecutions (see Pearce et al, 43, 55; Corbett, 2003: chapter 7). In other words, application of the objective test almost inevitably requires subjective judgement.

Other examples of behaviour that may be charged as causing death by dangerous driving include aggressive driving, racing or competitive driving, driving at inappropriate speeds for the prevailing conditions, deliberate disregard for traffic lights and other road signs, knowingly driving a dangerously defective or overloaded vehicle, using and being avoidably distracted by a hand-held mobile phone, driving when too tired to stay awake, driving with impaired ability such as with a leg or arm in plaster or wearing high heels or impaired eyesight. Causing death by careless driving might include overtaking on the inside lane or tailgating, inadvertently failing to observe traffic lights, and short distractions such as tuning a car radio.

Together with the arrival of the CMCHA that will allow organisations to be prosecuted where a death has been caused by ‘gross negligence’, all these measures are intended to recognise the harm done to victims and the bereaved and to ensure bad driving is suitably punished. A cautious welcome has been given by campaigners to these changes, yet concern continues that bad driving offences causing serious injuries (which run to many thousands each year) remain unacknowledged without a specific offence (usually still charged as ‘dangerous’ or ‘careless’ driving), and that road crash victims receive fewer funded services than other crime victims and receive poor treatment by the criminal justice system.

## **4.2 Patterns and trends**

**Table 2: Bad driving offences dealt with by official police action: England and Wales**  
(thousands of offences)

	1981	1991	2001	2004	2004	2005	2006
Causing death or bodily harm	0.4	0.6	0.5	0.5	0.5	0.5	0.5
Dangerous driving offences	6.8	12.2	9.6	11.4	10.3	8.5	7.4
Careless driving offences	180.5	128.8	91.7	86.4	137.8	185.9	233.6

From Motoring Offences and Breath Test Statistics England and Wales, 2006. Table 2. Ministry of Justice (2007)

The vast majority of bad driving offences are discovered as a consequence of road collisions rather than proactively enforced without collision. Table 2 shows that processed offences of causing death by dangerous driving have remained depressingly stable since 1981, while those of dangerous driving have varied slightly over that period though have decreased since 2004. In marked contrast with both, careless driving offences have dipped and risen again considerably over that period. The fall in traffic police numbers since 1966 and the diversion of ‘careless’ offenders to Driver Improvement Schemes (see below) since the late 1990s in place of prosecution could explain some reduction in careless offences until 2004. The introduction of ‘driving while using a hand-held mobile phone’ as a careless driving offence in 2003 accounts for the considerable rise in that category since then. Even before mobile phone use was outlawed while driving, it is clear that careless offences were far more frequently charged than dangerous offences.

### 4.3 Who does it?

**Table 3: Gender and age profile of bad driving offenders: England and Wales**

	% Male			% Under 21		
	2000	2003	2006	2000	2003	2006
Causing death or bodily harm	95	94	93	25	24	32
Dangerous driving offences	97	95	96	34	34	33
Careless driving offences	84	85	86	16	18	18

From Motoring Offences and Breath Test Statistics England and Wales, 2006. Table 12. Ministry of Justice

As for serious mainstream offending, males and younger drivers are overrepresented among those processed for dangerous driving offences, as shown in Table 3. Again there is marked stability over time in these gender and age proportions. These official statistics are matched by self-report data that suggest men more frequently report deliberate and dangerous

behaviours (e.g. Corbett and Simon, 1999). McKenna et al (1998:11) showed that men reported more crashes on bends, while overtaking, and fewer at junctions than women, while women may experience more minor lapses of attention (such as may occur in careless offences) than men (Stradling, 1997).

#### **4.3.1 Police vehicle accidents:**

The driving public are not the only people involved in bad driving collisions. Police drivers are very occasionally convicted of dangerous or careless driving following a crash in which they were direct or indirect participants, though convictions rarely happen in this way, e.g. involving 2% police drivers in Rix et al's (1997) study. As reported by the Independent Police Complaints Commission (IPCC), fatalities arising from road traffic incidents involving police vehicles comprise the largest single group of deaths following police contact, averaging around 40 annually (IPCC, 2008). Like other fatalities and serious injuries involving the police, they must be referred to the IPCC. Research published by the IPCC into their incidence and causation patterns showed the majority of deaths were the result of police pursuits, estimated to occur in 1 – 11 out of 100 pursuits (Docking et al, 2007). Deaths resulting from emergency journeys to attend specific locations were estimated to occur once in every 100,000 such journeys.

Concerning findings were that 50% of the police drivers involved were not fully trained in pursuit, motorcycles were sometimes pursued – deemed inappropriate under ACPO guidelines, and pursuits were often conducted in inappropriate police vehicles (ibid). The majority of drivers pursued were committing serious motoring offences, such as drink-driving or driving without a valid licence or insurance, and 28% in the sample were using stolen vehicles (ibid). Much strengthening of procedures was recommended, including limiting pursuits only to those where a serious crime had been committed. Though road pursuit is held to be a vital police tactic, it surely should not be at the risk and expense of people's lives.

#### **4.4 Specific explanations:**

Minor errors of judgement and momentary lapses of attention underlie many careless driving prosecutions, reflecting lower culpability. By contrast, a factor suggesting impulsiveness, low self-control and a propensity for risk-taking was held to describe drivers judged at fault by risky actions immediately preceding a crash in Junger et al's (2001) study. Indeed, deliberate or intended behaviours underpin many dangerous driving prosecutions, reflecting higher culpability.

Although pulling out from a junction into the path of an oncoming vehicle is a familiar scenario for either careless or dangerous offences, 'looked but failed to see' is a common explanation for ensuing collisions and is a frequently-observed contributory factor (ref above for DfT). Interestingly, modern car designs favour windscreen frames that include 'A-pillars' to enhance a sleek and stylish appearance, yet these cause blind spots when pulling



out from junctions and may therefore be implicated in 'looked but failed to see' junction collisions.

#### **4.5 Responses to bad driving offences**

As of August 2008, courts are obliged to follow the guidelines laid down by the Sentencing Guidelines Council which detail starting points, sentencing ranges for offences at different levels of seriousness and aggravating and mitigating factors for bad driving offences. This means that there is no change to the statutory maximum of 14 years for 'causing death by dangerous driving' and for 'causing death by careless driving when under the influence of drunk or drugs'. The new offence of 'causing death by careless or inconsiderate driving' carries a 5 year maximum and the offence of 'causing death by driving: unlicensed, disqualified or uninsured drivers' a 2 year maximum. Community orders may be awarded for less serious offences of the latter two types.

Licence disqualification is mandatory for any dangerous conviction and careless offence causing death. An extended driving test is required on completion of a dangerous driving ban, while ordinary or extended retests are discretionary for other bad driving offences.

Pearce et al (2002) found that previously disqualified drivers with 10+ motoring convictions were more likely to re-offend on the road than drivers with fewer convictions. More concerning was the finding that the majority of those required to pass a retest did not do so within three years of being banned (ibid: 83). In view of the proportion who were convicted of driving whilst disqualified in the sample, it looks as though many dangerous drivers, especially those with the worst records, continue to drive unlicensed and unconcerned for the consequences after disqualification. Finding ways to ensure disqualified dangerous drivers either get relicensed or desist from driving thus seems imperative.

While dangerous drivers may benefit most from formal court sanctions aimed at deterrence, careless drivers may benefit most from educative penalties. With this in mind, the National Driving Improvement Scheme offered by local police forces countrywide allows attendance on a two-day training programme to those satisfying certain conditions, mainly committing offences involving minor errors of judgement or lapses of attention (but not death), in place of prosecution if drivers are willing to pay the course fee. Effectiveness of these programmes in terms of re-offending has been mixed, with Broughton et al (2005) finding no effect compared with a control group. Diversion of offenders to such courses helps account for the fall in careless driving convictions from the late 1990s before mobile phone prosecutions caused a rise from 2004.

#### **4.6: Concluding comment:**

The new offence and penalty structures implemented in 2008 for dangerous and careless offences go a considerable way towards acknowledging that culpable deaths on the road are

no less serious than other homicides, although there is still no specific offence for seriously injuring someone through bad driving. However, the SGC has finally tackled the most difficult sentencing decisions for 'low culpability - extreme harm' cases and has raised the tariff where there are aggravating features. Custodial sentences are likely to be given to slightly more drivers and these could be longer, though the maximum for killing someone while driving unlicensed or uninsured is still less than illegally possessing a firearm (2 years v 5 years).

### **5.1 Impaired driving: Introduction:**

Impaired driving occurs where the level of competence required for safe driving falls below the minimum standard, leading to traffic breaches and road crashes. As yet, not all types of driver impairment can be adequately measured and minimum standards defined. The main types causing most harm are taking alcohol and/or illicit or licit drugs before driving and driving while tired, yet many others affect most drivers at some stage or their driving careers. These include restrictions to driver mobility following illness, injury or surgery, reductions to cognitive functioning such as impaired hazard perception or information processing as a natural consequence of ageing or of health conditions like dementia or Alzheimer's, and sensory impairment through defective vision or hearing. Driving while angry, upset or stressed also raises crash risk.

The most discussed and researched form of impairment is *drink-driving*, convictions for which have reduced considerably over the last three decades along with fatalities that have fallen by two-thirds since 1979, signalling educative and enforcement successes. However, 17% road fatalities still involved a driver or rider over the legal blood alcohol limit in 2006, and young drivers are considerably over-involved. This has led to calls for a zero alcohol limit for teenagers (Department of Health, 2008), whose lack of driving experience compounds with alcohol and drugs to heighten risk. Technical difficulties may rule out this recommendation, though a zero limit applies to young and novice drivers in 14 European countries (ibid).

Certainly, Britain has been reluctant to harmonise with Europe on legal blood (and breath) alcohol limits, preferring a higher limit of 80mg alcohol in 100 ml blood rather than the 50 mg/ 100 ml limit adopted there. Research suggests that 65 lives and 230 injuries would be saved annually in Britain by moving to the lower limit (Allsopp, 2005), though the government is concerned that shifting downwards would cause more to lose their licences and livelihoods. A compromise would be a fine and penalty points for drivers caught with 50mg - 80mg alcohol in 100 ml blood for a first offence with no repeat for five years otherwise the usual disqualification would apply. A government consultation on this is set for late 2008 along with a proposal to grant random breath testing powers to police to stop drivers, which power is credited with success in many countries (Peek-Asa, 1999).

Road crash fatality statistics suggest a six-fold increase in *illegal drug driving* during the 1990s from 3% to 18% of all those injured, with cannabis most commonly detected in two-thirds (Tunbridge et al 2001). This accords with surveys that show cannabis, followed by amphetamines and cocaine are commonly taken before driving by young drivers (e.g. BRAKE, 2005). The problem is that a drug's presence does not prove impairment caused a crash, since cannabis, for example, remains in the body for over four weeks yet is inactive shortly after ingestion (Tunbridge, 2001). Indeed, taking drugs before driving becomes a criminal offence only *if* it is proved that impairment is a consequence. This has led to the ACPO calling for a simple offence of driving after taking illegal drugs without having to prove impairment (ACPO, 2007). A related problem is that roadside testing kits for drug impairment have been delayed, meaning that reliance is still placed on out-moded roadside hand-eye and motor skills coordination tests that may fail to detect impairment. Partly because of the detection and proof of impairment difficulties, less publicity has been accorded to illicit drug driving which may lead to the perception that it is not wrong to do it if feeling fit to drive - especially if taken with alcohol below the legally permitted maximum.

Driving while under the influence of medicinal or over-the-counter (OTC) drugs (*legal drug driving*) is also not an offence unless it is shown the driver is unfit to drive as a result. Estimates suggest considerably fewer road deaths on European roads would occur if those taking benzodiazepines or psychotropic drugs did not drive (e.g. de Gier, 1993). Even impairment caused by particular OTC antihistamine drugs is estimated to be greater than that caused by driving over the legal blood alcohol concentration limit in Britain (Horne and Barrett, 2004).

Drivers are not helped by occasional inconsistent labelling of medicinal drugs since it seems that information supplied on inserts giving warnings of drowsiness or other side effects are not necessarily given on the exterior packaging or vice versa, and manufacturers are not obliged to comply with the recommendations of the British National Formulary in this regard (ibid). Conversely, drivers do not always help themselves, as a quarter of a large representative sample reported rarely or never checking the side-effects of medication before driving (Privilege, 2006).

*Fatigued driving* is reckoned to account for a staggering 17% KSI road crashes, or between 3% and 30% depending on the road type (Flatley et al, 2004), yet there is no specific offence of 'tired driving'. Instead its consequences can be prosecuted under dangerous or careless driving causing death offences where its presence may be treated as an aggravating factor (SCG, 2008). Tired driving often causes fatalities because drivers do not apply brakes or take avoiding action if they have fallen asleep, though technological advances are being made to prevent this. Much currently depends on educative initiatives and encouraging better company safety policies for employees, including promoting realistic work schedules and

warning of tired driving dangers. Indeed, comparing those who drive as part of their job with those who do not, the former report ‘nodding off’ at the wheel during the previous year twice as often as the latter – 10% v 4% (Brake and Green Flag, 2008), underlining the increased risk of work-related driving. Under the CMCHA, it is strongly hoped that any such ‘deaths at work’ will fall.

As things stand, main ‘at risk’ tired driver groups comprise young people who stay awake all night feeling invulnerable (Horne, as reported in *The Times*, 2008), and sufferers of sleep apnoea who tend to be overweight lorry drivers with thick necks who cause around 100 fatalities annually (ibid.). Chronic sleep deficiency and night-time shift work are also big risk factors, prompting the questions of how much predictable impairment society should tolerate among the workers it strongly depends on, and how will courts react to any such cases brought under the CHCMA.

As most research, societal concern and media interest has centred on drink-driving, the remainder of this section will focus on this despite the parallel importance of other impaired driving offences.

## **5.2 Patterns and trends in drink-driving:**

Various measures assess the extent and trends in drink-impaired driving, but none is perfect. Probably the best objective measure is the number of casualties involved in drink-drive collisions derived from STATS19 and coroners’ data, which in Table 4 shows a steady decrease from 1980 through to 1998, with a slight rise in casualties until 2002 with a drop thereafter to 2006.

**Table 4: Estimates of all GB road accident casualties where illegal alcohol levels were found among drivers and riders, adjusted for under-reporting**

	<b>Fatal</b>	<b>Serious</b>	<b>Slight</b>	<b>Total</b>
1980	1450	7970	22420	29830
1990	760	4090	15550	20400
1998	460	2520	12610	15580
2000	530	2540	14990	18060
2002	550	2790	16760	20100
2006	540	1960	11880	14380

From: DfT (2007): Table 3a Road Casualties Great Britain 2006, Article 3: Drink and Driving Statistics.

Numbers of court convictions for alcohol/drug impairment offences are another gauge, and these show an overall 3% drop between 1996 and 2006 with the last peak in 2004 (Table 11, (MoJ, 2008b)). It is fair to say, therefore, that there has been considerable success in reducing drink-driving casualties since the 1980s, but no room for complacency as there have been rises and falls in that period in most measures used, and in 2006 there were still

14,380 casualties, of which 540 were fatal. Indeed, it looks as if something more is needed to make a substantial impact to cut drink-drug drive casualties.

### 5.3 Who does it?

**Table 5: Findings of guilt for drink or drug-driving offences by age and sex**

		1996	2001	2006	% change 1996-2006
<b>Males</b>	<b>&lt; 21</b> n =	8,924	10,234	10,173	+ 14% }
	<b>≥ 21</b> n =	79,032	66,107	71,203	- 9% } - 3%
	<b>% male</b> =	92%	90%	88%	
<b>Females</b>	<b>&lt; 21</b> n =	565	669	1,067	+ 89% }
	<b>≥ 21</b> n =	7,185	7,732	10,228	+ 42% } + 46%
	<b>% female</b> =	8%	10%	12%	
	<b>% &lt; 21</b> =	10%	13%	12%	

From: Offences Relating to Motor Vehicles England and Wales: Supplementary Tables, Table 17 (Home Office, 1998, 2002; MoJ, 2008b)

Table 5 shows that males and young people are overrepresented among those convicted of drink or drug driving. In 2006, males comprised 56% of fully-licensed drivers but 88% of those convicted, and young people comprised under 3% of the fully-licensed but 12% of those convicted. Interestingly, there has been an overall drop of 3% in numbers of men convicted for drink-drug offences over the decade to 2006, but an increase of 46% in numbers of women convicted over the same period, albeit from a low base. This prompts speculation that the ‘ladette’ culture whereby young women are said to be keen to emulate men’s lifestyles and drinking habits is having an impact (see Corbett, 2007).

### 5.4 Specific explanations:

As alluded to, cultural factors may play a role in drivers’ decisions to risk driving over the permitted blood alcohol limit. For women, the rise of ladette culture and behaviour, the popularity of flavoured ‘alcopops’ that mask the taste of alcohol, of drinking venues more welcoming of groups of women, and of 250 ml glasses of wine as the norm - one of which can lead to ‘over the limit’ driving, all raise the likelihood of illegal driving by women. For men, being seen among one’s peers as competent to drive after a few drinks may lead to some taking risks through bravado and expectation (e.g. Homel, 1993, 71-2). Indeed, feeling fit enough to drive after alcohol was the main reason for driving home among pub patrons thinking they might or would be over the legal limit in Corbett et al’s (1991) study. Coupled with drivers’ usual perceptions of being more skilful than the average (eg. Svenson, 1981), one can see how drink or drug driving occurs.

### 5.5 Responses to drink-driving:

Driving or attempting to drive whilst unfit through drink or drugs or over the prescribed alcohol limit in Britain carries a mandatory 12 month minimum period of disqualification, a

fine and/or six months' custody. As noted above, a revised penalty structure may be introduced.

To reduce the risk of re-offending, most offenders are offered the opportunity of driver retraining (paid for by the offender), satisfactory completion of which attracts up to a 25% reduction in the length of disqualification. Though the better-off might be better placed to purchase a reduced disqualification period, research by Davies et al (1999) showed that reconviction rates were cut by 50% among those taking up the offer. The worst offenders with a BAC  $\geq 250\%$  over the permitted limit or facing a second conviction within 10 or less years are usually put on the High Risk Offenders Scheme. This means they must pass a medical test to ensure they do not have a serious alcohol problem before regaining their licence at the end of the disqualification period. A technological innovation provided for under the Road Safety Act 2006 is for breath-alcohol interlock ignition devices to be fitted to the vehicles of repeat offenders, who must give an alcohol-free reading before the vehicle's ignition can be switched on. Research shows these 'alcolocks' provide a useful half-way stage for those at re-offending risk (e.g. Beirness, 2004), while meters to check alcohol level are available commercially for others concerned not to drive illegally.

#### **5.6 Concluding comment:**

At root of competence to drive issues is how fit society requires its drivers to be and how much impairment it can tolerate given varying risks of harm. In regard to physical fitness issues, weighing the wishes of individuals to remain mobile against the wishes acceptable to society to remain reasonably safe is the crunch issue, and inroads are being made to help measure and evaluate levels of risk posed by differently impaired drivers. In regard to drug driving, better means of roadside fitness tests are urgently needed to detect those risking the safety of themselves and others. With respect to drink driving, it remains to be seen whether harmonisation with Europe will occur any time soon with regard to blood alcohol concentration limits, random breath testing and relaxing the long-standing automatic ban for drink-driving convictions.

#### **6. Conclusion:**

Driving offences have long been regarded largely as minor offences that have received correspondingly lenient penalties. Yet as this chapter illustrates, official responses to the most serious offences where death results show that serious treatment and attention is at last being afforded by the courts. Big problems on the roads remain, however, with some behaviours such as distracted driving using mobile phones or satellite navigation technology, drink and drug driving, careless and dangerous driving, speeding, and driving with inadequate documentation still common and linked with serious harm and increased crash risk.

Technological advances are helping police enormously in enforcement efforts with closed circuit television (CCTV) and ANPR well evident, and many more technologies are

waiting for roll-out that should further encourage driver compliance with traffic laws and lead to improved security and safety for all road users and fewer casualties (Corbett, 2008). This surveillance technology does, however, carry dangers such as those concerning the transparency, accountability and migration of surveillance data for purposes other than for which they were collected, and adequacy of privacy safeguards against unauthorised leakages and misuse (ibid.). Such matters deserve the criminological gaze, but with several important exceptions (e.g. Wood, 2006) this topic like the bulk concerning vehicle-related and driving offences has been neglected by the discipline.

This marginalisation is surprising in view of the roads arguably being the most commonly shared public space, and as noted above, it being the space that will see road deaths becoming the world's third biggest killer by 2020, many of which will be judged unlawful. As Corbett (op.cit.) has discussed, there are many grounds to support criminology's engagement with road traffic crime, theoretical reward being one of them. For instance, 'invisible' safety crimes concerning powerful elites like motor manufacturers and corporations would repay criminological attention, as would consideration of the safety cultures of employers with motorised workforces. The British government does not yet collect dedicated statistics on work-related traffic crashes, but these are estimated as the single biggest cause of sudden death at work, and research into the role of driving offences in helping to cause them is long overdue.

#### **References:**

- ACPO (2007) 'Drug Driving'. Press Release, 30.07.07.  
[http://www.acpo.police.uk/pressrelease.asp?PR\\_GUID={8DB6B522-2CBE-4D00-83AA-173F85CB2438}](http://www.acpo.police.uk/pressrelease.asp?PR_GUID={8DB6B522-2CBE-4D00-83AA-173F85CB2438})
- Allen, J., Komy, M., Lovbakke, J. And Roy, H. (2005) *Policing And The Criminal Justice System – Public Confidence And Perceptions: Findings From The 2003/04 British Crime Survey*. Home Office Online Report 31/05.
- Allsop, R. (2005) 'How Much Is Too Much? Lowering The Drink Driving Limit'. London: PACTS.  
<http://www.pacts.org.uk/policy/briefings/allsobacpaper.pdf>
- Beirness, D. (2004) 'Alcohol Interlocks: Their Use, Effectiveness And Future'. In *Behavioural Research In Road Safety: 14<sup>th</sup> Seminar*, 73-86. London: Dft.
- BRAKE (2005) 'One In Seven Young Drivers Drive On Drugs'. Press Release, 18.08.05.
- BRAKE And Green Flag (2008) 'One In Ten At-Work Drivers Say They Fall Asleep At The Wheel'. Press Release. 04.01.08. <http://greenflag.com/news/press/asleep-at-the-wheel.html>
- Broughton, J., Baughan, C., Pearce, L., Smith, L And Buckle, G. (2003) *Work-Related Road Accidents*. TRL Report 582. Crowthorne: TRL.
- Broughton, J., Buckle, G., Buttress, S. And Pearce, L. (2005) *The Effects Of The National Driver Improvement Scheme On Re-Offending Rates*. TRL Report 649. Crowthorne: TRL.
- Broughton, J. (2006) 'The Correlation Between Motoring And Other Types Of Offence'. *Accident Analysis And Prevention*. DOI: 10.1016/J.Aap.2006.07.006.

Broughton, J. (Forthcoming). *Recent Trends For Speeding Convictions And Totting-Up Disqualifications*. Project Report PR181. Crowthorne: TRL.

Campbell, B. (1993) *Goliath: Britain's Dangerous Places*. London: Methuen.

Chenery, S., Henshaw, C. And Pease, K. (1999) *Illegal Parking In Disabled Bays: A Means Of Offender Targeting*. Briefing Note 1/99, HORS. London: Home Office.

Churchill Insurance (2007) 'Motorists Resort To Illegal Tactics To Escape Convictions'. 31.05.07. <http://www.churchill.com/pressReleases/31052007.htm>

Cohen, A. (1955) *Delinquent Boys*. New York: Free Press.

Corbett, C., Simon, F. And Hyde, G. (1991) 'Driving With Excess Alcohol: Why Some Drivers Do And Why Some Don't'. In *Behavioural Research In Road Safety: II*, pp. 108-117, (Eds.G.Grayson And J. Lester). Crowthorne: TRRL.

Corbett, C. And Simon, F. (1992a) *Unlawful Driving Behaviour: A Criminological Perspective*. Contractor Report 310. Crowthorne: TRL.

Corbett, C. And Simon, F. (1992b) 'Decisions To Break And Adhere To The Rules Of The Road Viewed From The Rational Choice Perspective'. *British Journal Of Criminology*, 32(4), pp. 537-549.

Corbett, C. And Simon, F. (1999) *The Effects Of Speed Cameras: How Drivers Respond*. Road Safety Research Report 11. London: DETR.

Corbett, C. And Caramlau, I. (2006) 'Gender Differences In Responses To Speed Cameras: Typology Findings And Implications For Road Safety'. *Criminology And Criminal Justice*, Issue 4.

Corbett, C., Delmonte, E., Quimby, A., And Grayson, G. (Forthcoming) *Does The Threat Of Disqualification Deter Drivers From Speeding?*. London: Dft.

Corbett, C. (2003) *Car Crime*. Cullompton: Willan.

Corbett, C. (2007) 'Vehicle-Related Crime And The Gender Gap'. *Psychology, Crime And Law*. 13(3), pp. 245-263.

Corbett, C. (2008) 'Techno-Surveillance Of The Roads: High Impact And Low Interest'. *Crime Prevention And Community Safety: An International Journal*. Palgrave Macmillan. 10(1) pp. 1-18.

Davies, G., Harland, G. And Broughton, J. (1999a) *Drink-Driver Rehabilitation Courses In England And Wales*. TRL Report 426. Crowthorne: TRL.

De Gier, J. (1993) *Driving Licences And Known Use Of Licit Or Illicit Drugs*. (IHP 93-39). Maastricht: University Of Limburg, Institute For Human Psychopharmacology.

Department Of Health (2008) *On The State Of Public Health: Annual Report Of The Chief Medical Officer 2007*. Chapter 3. London: DH.

Direct Line Insurance (2007) 'One Million Brits Close To Driving Ban', 29.3.07 [http://www.directline.com/about\\_us/news\\_290307.htm](http://www.directline.com/about_us/news_290307.htm)

Dobson, A., Brown, W., Ball, J., Powers, J. And Mcfadden, M. (1999). Women Drivers' Behaviour, Socio-Demographic Characteristics And Accidents. *Accident Analysis And Prevention*, 31(5), pp. 525 - 535.

Docking, M., Bucke, T., Grace, K. And Dady, H. (2007) *Police Road Traffic Incidents: A Study Of Cases Involving Serious And Fatal Injuries*. Independent Police Complaints Commission Research And Statistics Series: Paper 7. London: IPCC.



- Department For Transport (Dft)) and Health and Safety Executive (2003) *Driving At Work Managing Work-Related Road Safety*. London: HSE Books.
- Dft (2007b) *Second Review Of The Government's Road Safety Targets*. London: Dft.
- Dft (2007a) *Road Casualties Great Britain: Annual Report 2006*. London: TSO.
- Dft (2007c) *Contributory Factors Statistics 2006*  
<http://www.dft.gov.uk/172974/173025/221412/221549/227755/285672/article4contributoryfal.xls>
- Dft (2008) *Free-Flowvehicle Speed Statistics 2007*.  
<http://www.dft.gov.uk/172974/173025/221412/221546/227050/261688/vehiclespeeddata07.xls>
- Department For Transport, Local Government And The Regions (2001) *Transport Statistics Great Britain 2001*. London: HMSO.
- Dft (2008) *Road Casualties In Great Britain 2007: Estimates For Accidents Involving Illegal Alcohol Levels*. <http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/rcgb07drinkdrive>
- Emsley, C. (1993) "‘Mother, What *Did* Policemen Do When There Weren't Any Motors?" The Law, The Police And The Regulation Of Motor Traffic In England, 1900-1939'. *The Historical Journal*, 36(2), pp. 357-381.
- Flatley, D., Reyner, L. And Horne, J. (2004) *Sleep-Related Crashes On Sections Of Different Road Types 9in The UK (1995-2001)*. Road Safety Research Report No. 52. London: DfT.
- Gaventa, J. (2005) *Policing Road Risk: New Technologies, Road Traffic Enforcement And Road Safety*'. Occasional Research Report. London: PACTS.
- Gibson, B. (1994) 'Crime And The Motor Car'. Paper Presented At Conference 'Dealing With Traffic Offenders: Current Issues And Future Directions', Brunel University.
- Gottfredson, M. And Hirschi, T. (1990) *A General Theory Of Crime*. Stanford, CA.: Stanford University Press.
- Gusfield, H., Kotarba, J. And Rasmussen, P. (1981) 'Managing Competence: An Ethnographic Study Of Drinking-Driving And The Context Of Bars'. In *Social Drinking Contexts, Research Monograph 7*, (Eds. T. Harford, And L. Gaines). Washington D.C: US Govt. Printing Office.
- Greenaway, D. (2004) *Uninsured Driving In The UK*. London: Dft.
- Home Office (1989) *Offences Relating To Motor Vehicles England And Wales 1988*. London: Home Office.
- Home Office (2000) *Offences Relating To Motor Vehicles England And Wales 1998*. London: Home Office.
- Home Office (2005) *Offences Relating To Motor Vehicles England And Wales 2003*. London: Home Office.
- Homel, R. (1993) 'Drivers Who Drink And Rational Choice: Random Breath Testing And The Process Of Deterrence'. In *Routine Activity And Rational Choice. Advances In Criminological Theory, Volume 5*, (Eds. R.V. Clarke And M. Felson). New Brunswick: Transaction.
- Horne, J. And Barratt, P. (2004) *Over-The-Counter Medicines: Assessment Of Package Warnings Liable To Cause Unwanted Sleepiness*. Road Safety Report No. 28.. London: Dft.
- Jacobs, G., Aeron-Thomas, A. And Astrop, A. (2000) *Estimating Global Road Fatalities*. TRL Report 445. Crowthorne: TRL.
- Junger, M., West, R. And Timman, R. (2001) 'Crime And Risky Behavior In Traffic: An Example Of

Cross-Situational Consistency'. *Journal Of Research In Crime And Delinquency*, 38(4), pp. 439-459.

Knox, D., Turner, B. And Silcock, D. (2003) *Research Into Unlicensed Driving: Final Report*. Road Safety Research Report No. 48. London: Dft.

Lai, F., Chorlton, K. and Carsten, O. (2008) *ISA – UK: Overall Field Trial Results*. DFT: London.

Light, R., Nee, C. And Ingham, H. (1993) *Car Theft: The Offender's Perspective*. HORS 130. London: Home Office.

Marsh, P. And Collett, P. (1986) *Driving Passion: The Psychology Of The Car*. London: Cape.

Mckenna, F. (2004) 'The Thames Valley Speeding Awareness Scheme: A Comparison Of High And Low Speed Courses', pp. 170-181, In G. Grayson (Ed.) *Behavioural Research In Road Safety*, 14<sup>th</sup> Seminar. London: Dft.

McKenna, F., Waylen, A. And Burkes, M. (1998) *Male And Female Drivers: How Different Are They?* Basingstoke: AA Foundation For Road Safety Research.

Ministry Of Justice (MoJ) (2007) *Criminal Statistics 2006: England And Wales*  
<http://www.justice.gov.uk/docs/crim-stats-2006-tag.pdf>

MoJ (2008a) *Motoring Offences And Breath Test Statistics England And Wales 2006*.  
<http://www.justice.gov.uk/docs/motoring-offences-and-breath-stats-2006.pdf>

MoJ (2008b) *Offences Relating To Motor Vehicles England And Wales 2006: Supplementary Tables*.  
<http://www.justice.gov.uk/docs/offences-relating-to-motor-vehicles-2006.pdf>

O'Connell, M. And Whelan, A. (1996) 'Taking Wrongs Seriously: Public Perceptions Of Crime Seriousness'. *British Journal Of Criminology*, 36(2), pp. 299-318.

Organisation For Economic Cooperation And Development (2006) *Young Drivers: The Road Ot Safety*, Paris: OECD.

Pearce, L., Knowles, J., Davies, G. And Buttress, S. (2002) *Dangerous Driving And The Law*. Road Safety Research Report, No. 26. London: DTLR.

Peek-Asa, C. (1999) 'The Effect Of Random Alcohol Screening In Reducing Motor Vehicle Crash Injuries'. *American Journal Of Preventive Medicine*, 16(1), 57-67.

Pilkington, P. And Kinra, S. (2005) 'Effectiveness Of Speed Cameras In Preventing Road Traffic Collisions And Related Casualties: Systematic Review.' *BMJ.Com*: 330, pp. 331-334.

Privilege Insurance (2006) 'Driving Danger From Common Medicines'. Press Release, October 2006.  
[http://www.privilege.com/aboutus/driver\\_health.htm](http://www.privilege.com/aboutus/driver_health.htm)

RAC (2007) *Prescription To Fix Drug Driving?* . Press Release 10.04.06.  
[Http://Www.Racfoundation.Org/Index.Php?Option=Com\\_Content&Task=View&Id=357&Itemid=35](Http://Www.Racfoundation.Org/Index.Php?Option=Com_Content&Task=View&Id=357&Itemid=35)

Rix, B., Walker, D. And Brown, R. (1997) *A Study Of Deaths And Serious Injuries Resulting From Police Vehicle Accidents*. PRG, Ad Hoc Paper AH312. London: Home Office.

Roadpeace (2007) 'Prosecuting Bad Driving'. Issue 27, *Safety First*. London: Roadpeace.

Roadpeace (2008) 'Campaign For Justice: Criminal Prosecution'. *Roadpeace Newsletter* 25. London: Roadpeace.

Rose, G. (2000) *The Criminal Histories Of Serious Traffic Offenders*. HORS 206. London: Home Office.

Sentencing Guidelines Council (2008) *Causing Death By Dangerous Driving: Definitive Guideline*.

Shinar, D. And McKnight, A. (1985) 'The Effects Of Enforcement And Public Information On Speed

Compliance'. In *Human Behaviour And Traffic Safety*, (Eds. L. Evans And R. Schwing). New York: Plenum Press.

Stradling, S. (1997) 'Violators As 'Crash Magnets''. In *Behavioural Research In Road Safety: VII*, 4-9, (Ed. G. Grayson). Crowthorne: TRL.

Stradling, S., Campbell, M., Allan, I., Gorell, R., Hill, J., Winter, M., TRL Ltd., Hope, S. And NFO System Three Social Research (2003). *The Speeding Driver: Who, How And Why?* Scottish Executive Social Research. Edinburgh: TSO.

Sykes, G. And Matza, D. (1957) 'Techniques Of Neutralisation: A Theory Of Delinquency'. *American Sociological Review*, 22.12.57: pp. 664-70.

Svenson, O. (1981 'Are We All Less Risky And More Skilful Than Our Fellow Drivers?' *Acta Psychologica*, 47, pp. 143-148.

SWOV (1998) *SARTRE 2: The Attitude And Behaviour Of European Car Drivers To Road Safety. Part I*. Leidschendam: SWOV.

*The Times* (2008) 'Highlighting The Danger Of Driving When You Are Tired'. 14.02.2008, Dawe, T.

Tunbridge, R. (2001) 'The Influence Of Cannabis On Driving'. In G. Grayson (Ed.) *Behavioural Research In Road Safety: X*, 215-229, (Ed. G. Grayson). London: DETR.

Tunbridge, R., Keigan, M. And James, F. (2001) *The Incidence Of Drugs And Alcohol In Road Accident Fatalities*. TRL Report 495. Crowthorne: TRL.

Walker G., Stanton, N. and Young, M (2006). 'The Ironies of Vehicle Feedback in Car Design', *Ergonomics*, 49(2), 161-179.

Wilde, G. (1986) 'Beyond The Concept Of Risk Homeostasis: Suggestions For Research And Application Towards The Prevention Of Accidents And Lifestyle-Related Disease'. *Accident Analysis And Prevention*, 18(5), pp. 377-401.

Wood, D. M. (2004) *Perceptions And Experience Of Antisocial Behaviour: Findings From The 2003/2004 British Crime Survey*. Home Office Online Report 49/04. London: Home Office.

Wood, D.M. (Ed.) (2006) A Report On The Surveillance Society. For The Information Commissioner By The Surveillance Studies Network .

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/practical\\_application/surveillance\\_society\\_full\\_report\\_2006.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/surveillance_society_full_report_2006.pdf)

### **Key Sources:**

Parliamentary Advisory Council for Transport Safety <http://www.pacts.org.uk/>

Department for Transport (Policy, Guidance and Research) <http://www.dft.gov.uk/pgr/>

Corbett, C. (2003) *Car Crime*. Cullompton: Willan.

---

<sup>i</sup> Murder, manslaughter and aggravated vehicle taking where death results may also be charged for road deaths.