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Behind the Headlines: Sentencing after fatal crashes

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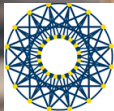


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Prof Sally Kyd



Roads Policing Academic Network

- Legal Academic (Criminal Law & Justice), University of Leicester
- Became interested in vehicular homicide after studying murder/manslaughter cases
- PhD on prosecutions for fatal RTCs (2004; follow-up 2013 post-Road Safety Act 2006)
- More recent research on enforcement of careless/dangerous driving/mobile phone use and proactive policing based on uninsured vehicles
- Non-traffic crime research e.g. evaluation of sentencing guidelines for sexual offences and robbery for the MoJ
- Contributor to Blackstone's Criminal Practice Part C (Road Traffic Offences); Crim LR case comments
- Member of Roads Policing Academic Network (RPAN)

Background and Methodology

- Recent increases in the maximum penalties for causing death by driving offences have potentially raised expectations amongst the public regarding the sentence likely to be passed following a driver being held responsible for a RTC. This research sought to shed light on the range of sentences passed in such cases, and how sentencing guidelines are being applied.
- Media reports relating to 207 causing death by driving convictions from late 2023 to early 2025 were collated. Data regarding the factual circumstances of the fatal RTC and of the court case, along with the sentence, were analysed.
- Limitations: research is limited to material published in the media and reliant on what was captured by journalists.

Offences

- Causing death by dangerous driving (CDDD), s.1 Road Traffic Act 1988. Offence first created in 1956 with a maximum sentence of 5yrs. Increase to 10 yrs in 1993, to 14yrs in 2003 and then to life in 2022 (effective 2023)
- Causing death by careless driving whilst under the influence of drink/drugs (CDCDUI), s.3A RTA 1988. First created in 1991. Follows same sentencing max as CDDD.
- Causing death by careless driving (CDCD), s.2B RTA 1988, created in 2006 with max sentence of 5yrs. Triable either way (can be tried at the magistrates' court)
- Causing death by driving whilst disqualified, s.3ZC, max 10 yrs (1 case. No cases where s.3ZB was the lead offence).



Sentencing Guidelines

- New guidelines came into effect on 1 July 2023
- Follow the same structure as all other sentencing guidelines:
- Harm + culpability determines the starting point
- Sentencer then moves up or down within the range having regard to aggravating and mitigating factors
- Discount given to those who plead guilty.

Step 2 – Starting point and category range

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

An adjustment from the starting point, upwards or downwards, may be necessary to reflect particular features of culpability (for example, the presence of multiple factors within one category, the presence of factors from more than one category (where not already taken into account at step 1), or where a case falls close to a borderline between categories).

The starting points and category ranges below relate to a single offence resulting in a single death. Where more than one death is caused and they are charged in separate counts, or where another offence or offences arising out of the same incident or facts is charged, concurrent sentences reflecting the overall criminality will be appropriate.

Where more than one death is caused but they are all charged in a single count, it will be appropriate to make an upwards adjustment from the starting point within the relevant category range before consideration of other aggravating features and mitigation. The court may conclude that it would be contrary to the interests of justice for the final sentence to be limited to the offence range for a single offence. See the Totality guideline and step six of this guideline.

Culpability		
A	B	C
Starting point 12 years' custody	Starting point 6 years' custody	Starting point 3 years' custody
Category range 8 – 18 years' custody	Category range 4 – 9 years' custody	Category range 2 – 5 years' custody



Report

- Full report structure:
 - Background
 - Methodology
 - Findings
 - Quantitative data
 - Qualitative data
 - Cases by sentence length; high/low culpability; pleas
 - Aggravating and mitigating factors (VRUs; young drivers; multiple contributions)
 - Additional issues (lifetime bans; mobile phone use)
 - Delays



Quantitative findings

- Of the 207 defendants: 199 (95.7%) were convicted in the Crown Court
- 79% pleaded guilty to the offence charged
- 9 'plea bargains'
- 28 defendants pleading not guilty
- Nearly 1/4 of those guilty of CDDD and CDCDUI had previous convictions
- Drugs or alcohol were a factor in more than 1/3 of CDDD cases (as well as all CDCDUI cases)
- Excess speed was a factor in: 65% of CDDD cases; 44% CDCDUI of cases; 26% of CDCD cases.

Sentences for CDDD

Official data

Sentence length	2018	2019	2020	2021	2022	2023	2024
12 months			2				
Over 12 months and up to and including 18 months	3	4	5	1	5	1	
Over 18 months and up to and including 2 years	7	5	4	4	3	3	3
Over 2 years and up to and including 3 years	20	23	32	21	21	21	7
Over 3 years and up to 4 years	15	16	15	12	11	9	14
4 years	12	8	11	9	5	5	5
Over 4 years and up to and including 5 years	21	22	17	21	19	19	16
Over 5 years and up to and including 6 years	20	20	23	26	21	22	18
Over 6 years and up to and including 7 years	17	14	9	16	13	15	13
Over 7 years and up to and including 8 years	18	20	10	10	14	20	30
Over 8 years and up to and including 9 years	7	10	9	7	15	15	23
Over 9 years and up to and including 10 years	3	5	1	4	3	18	27
Over 10 years and up to and including 15 years	4	16		3	4	30	32
Over 15 years and less than life							7
Grand Total	147	163	138	134	134	178	195

Project data

Sentence length	Frequency	Percent
Over 18 months up to/including 2 years	2	1.7
Over 2 years up to/including 3 years	5	4.3
Over 3 years up to 4 years	6	5.1
4 years	6	5.1
Over 4 years up to/including 5 years	9	7.7
Over 5 years and up to/including 6 years	11	9.4
Over 6 years and up to/including 7 years	8	6.8
Over 7 years and up to/including 8 years	19	16.2
Over 8 years and up to/including 9 years	10	8.5
Over 9 years and up to/including 10 years	9	7.7
Over 10 years and up to/including 15 years	21	17.9
Over 15 years and less than life	7	6.0
Total custodial sentences	111	94.9
Suspended sentence imposed	4	3.4
Total	117	100.0

1
1
4
8
2
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10
10
11
16
14
18
52
9

Life 4

Qualitative findings

- 8 cases where sentence for CDDD was higher than the previous maximum (i.e. more than 14 years). Summaries of these cases are provided. Highest sentence was 19 years.
- 4 cases of CDDD resulted in suspended sentence. $\frac{3}{4}$ of these were women.
- 7 cases of ‘plea bargain’ (CDDD charged; plea to CDCD accepted). These may be examples of overcharging in the first instance, given that 6 resulted in a suspended sentence. Further 2 cases where plea to CDCDUI accepted on CDDD charge.
- 2 cases where jury trial for CDDD resulted in conviction for CDCD. Both involved death of pedestrians and excessive speed.
- 7 cases of CDCD sentenced at the magistrates’ court, including one which appears to depart from the Sentencing Guidelines in that no suspended sentence/community order is mentioned.



Aggravating and mitigating factors

Aggravating factors

- Vulnerable road users. Report summarises 12 cases of pedestrians (sentenced to range of 18mths susp. up to 13 yrs)
- Cases involving cyclists and motorcyclists often involve the 'looked but did not see' phenomenon and sentenced on the basis of momentary inattention.

Mitigating factors

- Youth is a mitigating factor in relation to all criminal offences. Young drivers were sentenced for the full range of culpability. Summary given of 16 cases where D was a teenager. Highlights the risky behaviour of some young drivers and the need to take action to prevent more deaths.
- Contribution of others to fatal RTC (including V)



Disqualification

- Confusion over length of driving ban due to complexity of rules.
- Only 1 case resulted in lifetime ban.
- Other cases in which there was evidence, from previous convictions, *indicating that the offender would be a danger to the public indefinitely if allowed to drive.*
- RoadPeace and others have called for lifetime ban for CDDD.
Conditions for such a ban should be debated.

A faint background image of a pair of scales of justice, symbolizing law and justice.

Email your MP today!

Ask your MP to back the Sentencing Bill amendment introducing a lifetime driving ban for death by dangerous driving before 20 October.

Delays

Why do some cases take so long to reach conviction and sentence?

		CDCD	CDCDUI	CDDD	Total
Time from Collision to sentencing categorised	Up to 6 months	1	1	21	23
	6 months+ to 1 year	9	0	8	17
	1 year+ to 18 months	18	5	27	50
	18 months+ to 2 years	13	7	20	40
	2 years+ to 3 years	17	11	30	58
	3 years+ to 4 years	7	1	6	14
	More than 5 years	0	0	2	2
Total		65	25	114	204

- Shortage of appropriately qualified Forensic Collision Investigators/SCIU officers
- Issue identified by the APPG on Miscarriages of Justice's Westminster Commission on Forensic Science Report, 2025
- Evidenced by high profile cases such as the deaths of Nuria Sajjad and Selena Lau, and that of Harry Dunn
- Issue is not the availability of places on courses (see quote in report), but on police resourcing and the way in which the role of forensic collision investigators is undervalued.
- Additionally, some recommendations of the Leveson Review are relevant here.

Recommendations

1. Offences of careless and dangerous driving should be redefined
 2. CDCD should only be tried in the Crown Court in order to mark the seriousness of the offence and to enable it to come under the Unduly Lenient Sentence Scheme
 3. Implement stronger licensing requirements to support young drivers
 4. Judges should make greater use of lifetime bans
 5. Judges should be required to express disqualification from driving as a length of time upon release from prison
 6. Magistrates should be empowered to impose post-charge bail conditions to prevent the suspect from driving whilst awaiting trial
 7. The investigation of road death should be given equal weight as the investigation of any other unlawful death
 8. The mobile phone offence should be amended to ensure that the police can take action against drivers who touch their phone whilst driving, even if it is in a cradle.
- Police should ensure SCIUs are appropriately resourced
 - Career path of FCIs should incentivise experts to become qualified and receive appropriate remuneration