Prosecutions for Death by Driving

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Causing death by driving offences: can they help achieve compliance?

- England now has 4 causing death by driving offences.
- Focus of paper is on causing death by careless driving (CDCD)
- ACPO’s concept of “habitual” compliance based on developing social norms.
Responding to mistakes and errors on the roads: a dichotomous approach

- The Government’s Strategic Framework for Road Safety suggests targeting enforcement at serious offending, whilst using remedial measures for those who make mistakes.

- This correlates with the distinction psychologists make between Errors and Violations.

- However, where death is caused, prosecution for the triable either way offence of causing death by careless driving, with a 5 year maximum sentence, ensues.
Causing death by careless driving defined

- s.2B RTA 1988 Causing death by careless, or inconsiderate, driving
  A person who causes the death of another person by driving a mechanically propelled vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.

- s.3ZA(2) RTA 1988: A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.
CPS guidance on the meaning of “careless”

- overtaking on the inside;
- driving inappropriately close to another vehicle;
- inadvertently driving through a red light;
- emerging from a side road into the path of another vehicle;
- tuning a car radio;
- using a hand-held mobile phone or other hand-held electronic equipment where the driver was avoidably distracted by that use;
- selecting and lighting a cigarette or similar where the driver was avoidably distracted by that use.
Prosecutions for CDCD 08/10 – 03/12

• 248 offences reported in (mostly local) newspapers

• 32 jury acquittals; 7 judge directed acquittals; 16 charge bargains (CDDDD → CDCD); 9 CDDDD acquittals (CDCD is lesser included offence); 6 cases withdrawn/discontinued.

• 18 cases tried in the mags’ court (2 of these then committed for sentence).

• Involvement of vulnerable road users: 36 cyclists, 53 motorcyclists and 69 pedestrians.
The least serious group of offences relates to those cases where the level of culpability is low – for example in a case involving an offender who misjudges the speed of another vehicle, or turns without seeing an oncoming vehicle because of restricted visibility. Other cases will fall into the intermediate level.

<table>
<thead>
<tr>
<th>Nature of offence</th>
<th>Starting Point</th>
<th>Sentencing range</th>
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<tbody>
<tr>
<td>Careless or inconsiderate driving falling not far short of dangerous driving</td>
<td>15 months custody</td>
<td>36 weeks–3 years custody</td>
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<tr>
<td>Other cases of careless or inconsiderate driving</td>
<td>36 weeks custody</td>
<td>Community order (HIGH)–2 years</td>
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<tr>
<td>Careless or inconsiderate driving arising from momentary inattention with no</td>
<td>Community order (MEDIUM)</td>
<td>Community order (LOW)–Community order (HIGH)</td>
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Sentences for CDCD 08/10 – 03/12

- Evidence that judges find such cases extremely difficult.
- “No sentence could redress the loss”
- “She is deeply remorseful and this is not a case where there is the kind of misconduct that can be deterred by the passing of a custodial sentence” (Judge William Wood QC in R v Stocker).
- Most lenient sentence = 3yr conditional discharge.
- Most severe sentence = 4 ½ years’ prison.
Conclusion: The role of the media