

# **A Critical Review of the Legal Penalties for Drivers Who Kill Cyclists or Pedestrians**

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## **Abstract**

This thesis critically reviews the regulation of motor vehicles in Britain, and in particular the prosecution of drivers who kill cyclists and pedestrians. The development of road traffic regulation is discussed with particular emphasis on the social and legal processes at work behind the evolution of the law, and anomalies in the current laws are highlighted. The differential rights and responsibilities of drivers and vulnerable road users are considered within a conceptual framework which uses class- and power-based synthesis to explain demographic trends in car use and road casualties. A critical analysis of a set of court transcripts and newspaper reports involving road accidents then aims to discover whether those drivers who are convicted of killing vulnerable road users are less harshly punished than other criminals who cause death without intent. The thesis concludes by discovering that drivers are less harshly punished, and that this is due to a bias in the criminal justice system because of a lack of representation of vulnerable road users amongst judiciary, policy makers and legal officials. Unequal class and power relations allow the interests of drivers to be over-represented whilst the rights of pedestrians and cyclists are eroded.

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## List of abbreviations

<b><i>BAILII</i></b>	British and Irish Legal Information Institute
<b><i>CDA</i></b>	Critical Discourse Analysis (see chapter 4)
<b><i>CDDD</i></b>	The criminal offence of “Causing Death by Dangerous Driving”
<b><i>CDCD</i></b>	The criminal offence of “Causing Death by Careless Driving”
<b><i>CPS</i></b>	Crown Prosecution Service
<b><i>CTC</i></b>	The Cycle Touring Club, Britain's largest cycling advocacy and support group
<b><i>DD</i></b>	The criminal offence of “Dangerous Driving”
<b><i>'Drivers'</i></b>	In the context of this paper, 'driver' is used to mean all those in control of a motorised road vehicle, and thus includes motorcyclists, truck and bus drivers, tractor drivers and so on as well as car drivers.
<b><i>HMCS</i></b>	Her Majesty's Courts Service
<b><i>RTA</i></b>	Road Traffic Accident
<b><i>VRU</i></b>	Vulnerable Road Users: pedestrians, cyclists, children playing, horse riders, and most other roadspace occupants who are not using a motorised vehicle. Vulnerable Road Users in the context of this paper specifically exclude motorcyclists who are grouped with 'drivers' because of the motorised nature of their mode of transport.

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# 1

## **A Critical Review of the Legal Penalties for Drivers Who Kill Cyclists or Pedestrians**

### **Introduction**

The background to this research is the allegation made by the Cycle Touring Club that there is an “all-too-familiar pattern where a cyclist is killed yet the driver escapes with a small fine and a driving ban for ‘careless’ driving due to serious anomalies in the legal framework” (CTC 'Newsnet', 27<sup>th</sup> October 2006). The research undertaken will try to establish whether this allegation is founded.

It is widely assumed that some level of danger is inherent in the use of motor vehicles, but precisely quantifying the scale of harms caused is difficult. It is also assumed that most people nowadays are drivers, but it is less easy to establish which demographic groups are not drivers and why. Finally, it is unclear what social and legal mechanisms allow the perpetuation of this situation. What types of ideologies, power relations, and class struggles lie behind the development of the present motoring laws in Britain?

### ***Research Question***

Are those drivers who are convicted of killing vulnerable road users less harshly punished than other criminals who cause death without intent?

- What type and magnitude of danger does the private car pose to the vulnerable road user?
- What differences exist between legal penalties for drivers who kill without intent, and other criminals who kill without intent?
- How are road accidents presented in court, and how are differential identities constructed for cyclists and for drivers?
- What might this reveal about the broader ideologies and power relations at work behind the regulation of Britain's roads?

## **Outline of research**

Chapter 2 takes the form of a literature review and will establish the basis for this research, outline the current legal position, and briefly analyse several commentaries on the current laws. How has road traffic law evolved over time? What is the present legal situation? What problems remain unresolved in law?

Chapter 3 will propose a number of theories about the development of the laws which govern our transport system. Largely class-based, these theories look for trends in demographic data in an attempt to discover some of the social and political mechanisms at work.

The empirical research undertaken during this study, primarily a critical analysis of a set of court transcripts and newspaper reports relating to the death of VRUs, will be documented in chapters 4 and 5. These use a Critical Discourse Analysis to explore not only the texts themselves but also the ideologies and processes of power behind their construction.

# 2

## Road Traffic Law: a Critical Review

*“A driver has been fined just £800 for ‘careless driving’, following the death of a cyclist. The case follows an all-too-familiar pattern, where a cyclist is killed yet the driver escapes with a small fine and a driving ban for ‘careless’ driving due to serious anomalies in the legal framework of ‘bad driving’ offences.”*

*(CTC 'Newsnet', 27<sup>th</sup> October 2006)*

### Introduction

This chapter looks at the evolution of road traffic laws and the various acts of parliament which have come to govern vehicle use in the UK. Of particular interest are the societal and political forces which led to the development of road traffic regulations, separate from other civil and criminal laws, and the legal implications of these developments.

The second portion of this chapter addresses the grey areas of the law and the inconsistencies, anomalies, and paradoxes in the current legislation. It also identifies gaps in the existing academic literature where further research is required if the law is to be strengthened.

### The development of motor vehicle regulation

With the exponential growth in popularity of the automobile over the past century, juries have become unwilling to convict drivers of manslaughter (Hall Williams 1963: 430), perhaps because when considering the plight of the defendant, an ever larger number of fellow drivers on the jury felt *'there, but for the grace of God, go I'* (Cunningham 2001: 681; Spencer 1988: 710). The Road Traffic Act 1956 first introduced the offence of causing death by dangerous driving (CDDD) (Hall Williams 1963: 430) in order to offer juries an alternative charge to manslaughter. Indeed, “since 1956 there has been a sharp fall in the number of manslaughter cases” (Hall Williams 1963: 432)

because drivers were being charged with CDDD instead. Subsequent Acts added various lesser offences relating to 'careless' or 'inconsiderate' driving. The short term aim may have been to increase conviction rates, but the long term effect has been the opposite: with each legal amendment the penalties for convicted drivers have lessened, and the likelihood of drivers being found guilty has decreased (Wells 1984: 99).

The Criminal Justice Act 1967 introduced the offence of driving with excess alcohol, a development which was significant for two reasons. Firstly, it is sufficient on its own to warrant legal penalties, whether or not the excess alcohol leads to dangerous driving. Secondly, this is an objectively provable offence rather than a subjective judgement: any driver whose blood contains more alcohol than the prescribed limit is driving illegally, regardless of their standard of driving. The same model has been used in legislation regarding mobile phones: using a phone at the wheel now carries a £60 fine and 3 penalty points (BBC News, 26 Feb 2007), irrespective of whether control of the vehicle was impaired at the time.

The Road Traffic Act 1988, amended in 1991, saw significant changes in the way bad driving is prosecuted, and remains the backbone of motoring law today. It replaced the offence of reckless driving with dangerous driving (DD), the aim being to create a less vague and more objective test (Criminal Law Review 1989: 241). To this end, the two elements required for a DD conviction are:

- a) "a standard of driving which falls far below that expected of a competent and careful driver"
- b) "... carry a potential or actual danger of physical injury or serious damage to property"

(Criminal Law Review 1989: 241)

"Substantial deviation" from the standard of driving expected of a competent and careful driver must be proved (Criminal Law Review 1989: 242). And whereas the charge of reckless driving implied an element of *mens rea* or foresight, as of 1988 "there is no suggestion, implicit or otherwise... that dangerous driving requires any intentional act of bad driving" (Cunningham 2002: 948). So a charge of CDDD is *not* equivalent to murder; it is more akin to involuntary manslaughter.

This new test for DD is supposed by the Crown Prosecution Service (CPS) to be an objective one (CPS 1996: para 1.1). But in proving DD "a problem inevitably arises from what is meant by a 'competent and careful' driver. In practice the competent and careful driver will be those twelve drivers sitting on the jury." (Cunningham 2001: 680). Clearly, and unlike the drink-drive or mobile phone offences discussed above, the test for DD is not truly objective.

## Road Safety Act 2006

There is some evidence of a decreased tolerance of bad driving. The current ten-year government strategy includes an overall target of a 40% reduction in those killed and seriously injured on the roads, or a 50% reduction in children, by 2010 (Black 2006: 20). “The Director of Public Prosecutions... wants a comprehensive review of prosecution policy because... killer drivers often escape with a fine” (The Times, 3<sup>rd</sup> July 2006: 11). A senior Judge recently criticized the “woefully inadequate” driving sentences available to him (The Times, 24<sup>th</sup> October 2006: 15).

The Road Safety Act 2006 was designed to address these concerns. An offence of causing death by careless driving (CDCD), rejected as unnecessary in 1988 (Criminal Law Review 1988: 482), was now introduced along with another new offence of causing death while driving unlicensed, disqualified or uninsured. Both carry lower sentences than the maximum 10 years of the old CDDD charge, whose upper limit has now been increased to 14 years. It remains to be seen whether the new offences will boost the number of convictions as intended, or whether – as with previous legislation (Wells 1984: 99) – they will simply lead to lesser sentences for offenders who would have been convicted in any case.

## Unresolved legal dilemmas

One of the most problematic areas in motoring law is the distinction between cases involving a death, and cases where equally bad driving narrowly misses causing a death (Criminal Law Review 1988: 482; Firth 2006: 1876). Should the former be more severely punished? The CTC campaigns for drivers to be punished for *bad driving*, whatever the consequences, because they believe what is important is to stamp out bad driving rather than to punish those motorists who happen to cause a death (CTC, 8<sup>th</sup> November 2006). Furthermore, judges may be unwilling to impose long sentences for CDDD because they recognise that for every driver found guilty there are many more who escape punishment, even though their driving was equally bad: referring to a case in which a driver was sentenced to five years, Roger Geffen of the CTC said:

“Although... reasonable within current... guidelines, it is still only a fraction of the maximum sentence available – and the reason isn’t too hard to spot. If the driver had done exactly the same thing but by chance... [the cyclist] had ‘merely’ been maimed rather than killed, then the maximum sentence... would have been just 2 years. So it is hardly surprising that judges never seem to go anywhere near the maximum of 14 years [for CDDD]”

(CTC, 30<sup>th</sup> January 2007).

Another concern is that charges are often commuted to lesser offences. The very existence of separate motoring laws can deter jurors from convicting drivers of the correct crime: “when a death

is treated as murder by the police and results in a conviction for CDDD, the offence has missed one level in the notional hierarchy of offences” (Cunningham 2001: 685). In other words, a criminal who should be labelled a murderer is called a dangerous driver simply because they used a car rather than a gun or a knife. This segregation of drivers and 'real' criminals (Lacey *et al* 2003: 637) is “a view shared by... traffic police... and magistrates” (Cunningham 2005: 836). Motoring convictions “are not categorised as homicides... This separation both contributes to, and reflects, the way these offences are perceived.” (Lacey *et al* 2003: 642).

A third contentious but under-addressed area is whether a driver should be responsible for the presence of his car if it causes an accident, regardless of whether an act of dangerous driving is committed. At present the law covers cases of “driving when very drunk, driving when very tired, and driving dangerously unroadworthy vehicles when drunk or sober, tired or fresh.” (Spencer 1988: 710). But what of a 'genuine accident' involving a roadworthy vehicle driven by a sober driver? Is this simply an unfortunate fact of modern life for which no one is to blame? Or is the driver responsible for the very presence of his car? Currently legislation shies away from addressing this question.

A vacuum can also be identified in the legal literature regarding cases where a minor or unproven driving error causes a death. Existing legal research (Cunningham 2001; Spencer 1985) investigates the most serious motoring offences, but not the 'honest mistakes' which kill a VRU. “Arguably, it is the mundane cases, the typical lapses in concentration, which are most useful in answering questions as to the operation of the law” (Cunningham 2002: 946). Much could be learnt much from studying these types of cases, particularly where they involve a VRU – indeed, discussions in the legal journals always deal with overall road deaths: little legal research has been done in specific relation to VRUs.

Finally, almost all the literature deals with very specific VRU safety issues – the use of cycle helmets, the provision of pavements, or behavioural patterns at junctions – but not with VRU safety overall. Meanwhile the legal literature addresses the criminalisation (or otherwise) of drivers but not the victimhood of VRUs. Comparatively little research analyses the causes of accidents in broad social terms, and almost none addresses the differential identities, the legal responsibilities, and the basic rights of drivers and VRUs.

## **Conclusions**

A suspicion exists amongst cycling advocacy groups that drivers who kill VRUs are not prosecuted or punished as severely as they should be. This accusation forms the basis of the research.

It has been seen that the introduction of specific motoring offences, distinct from existing laws, has led to the segregation of drivers and 'real' criminals, and can lead to the commutation of serious charges to lesser ones.

It has also been seen that there are gaps in the law, and in legal commentaries and critiques, which allow this situation to persist. Little consideration is given to the question of responsibility for the dangers inherent in driving. The related issue of prosecuting drivers for minor offences is a complex one. And the question of whether drivers who kill should be penalised more severely than drivers who narrowly avoid killing is also unresolved. These questions of responsibility, carelessness, and indifference are issues the next chapter will address in greater depth.

# 3

## Driving: a Right or a Responsibility?

*“A national cycling organisation called for an overhaul of the law... after a motorist who killed four riders in Britain’s most serious cycling tragedy was fined £180... [and] has not even lost his licence.”*

*(The Times, 4<sup>th</sup> August 2006)*

### Introduction

The previous chapter outlined the emergence of motoring laws and analysed the present legal situation for drivers and VRUs. This chapter looks at the broader debates surrounding the presence of motor vehicles, not in legal terms, but by viewing the arguments in a more conceptual light. What are the societal consequences of the prevalence of cars? What differential responsibilities do drivers and VRUs have? Who benefits and who is disadvantaged?

### Drivers and VRUs: a demographic breakdown

Motorists may be tempted to advance the following argument:

*“Most people in Britain are drivers. Non-drivers may be a unfortunate group, but they are only a small minority and their interests should not prevent drivers from enjoying the right of way on the highway as well as in most streets and cities.”*

Drivers will be surprised to learn that, of Great Britain's 59m population, only 33m are licensed drivers (Table 2.3 in DfT 2005b: 11). And when all these who do not drive despite holding a licence – those who are now too elderly, or cannot afford a car, or choose not to drive – are subtracted, it becomes clear that less than half of Britain's population are current drivers. A parallel can be drawn with feminism: the driver's argument is logically only as valid as this one:

*“Most people in Britain are male. Non-males may be a unfortunate group, but they are only a small minority and their interests should not prevent males from enjoying the dominance of politics as well as most workplaces and public fora.”*

There is a common misconception that almost everyone in Britain is a driver; once this myth is dispelled the advocacy of non-drivers' rights and interests becomes a good deal less controversial.

Looking at the numbers of licensed drivers in more detail a sex inequality becomes obvious: whilst more than 80% of men hold a licence, less than 65% of women do (Table 2.3 in DfT 2005b: 11). There is also an age differential: 84% of all adults aged between 40 and 49 hold a licence, but only 32% of those aged 17-20 and 51% of those aged 70 and over do (Table 2.3 in DfT 2005b: 11).

A correlation also exists between income and car ownership: over 50% of households in the highest income quintile own two or more cars (Chart 5.2 in DfT 2005b: 35), but 53% in the lowest quintile do not have access to a car (Table 5.4(a) in DfT 2005b: 35). In other words, half of Britain's poorest families cannot afford a car, whilst the richest fifth may have two or three cars each.

Now it must be asked who is most likely to be killed as a VRU. Approximately four times as many child pedestrians are killed or seriously injured than child car passengers in the UK (Table 1d in DfT 2005a: 8), evidence that those who benefit from the use of cars do not suffer the consequences. Almost half of all adult pedestrians killed in the UK between 1994 and 2004 were over 60 years of age (Table 1j, *ibid*): again, those who are least likely to be drivers are most likely to be killed. A Lothian case study in 2001 found that “children from the most socially excluded areas... were as much as 6 times more likely to be injured in a road traffic accident than those from the most affluent areas” (White & Raeside 2001: 3): once again the poor are most disadvantaged.

The poor, the young, the elderly, and women are subject to a double disadvantage. As those most likely to be VRUs, not only do they benefit least from the presence of cars, but they also pay a disproportionately high price in injuries and deaths.

## **The construction of harm**

Health and Safety regulations would not permit thousands of one-tonne steel and glass machines with exposed moving parts to repeatedly pass feet or inches away from unprotected workers on the shop floor at well over 10m/s (HSE 1998, Sect.11). Yet this is the situation in our towns and cities today. Why are drivers allowed to impose this danger on pedestrians without more strict prosecution of liability?

Jeffrey Reiman theorises that it is in the interests of those with power and wealth that the poor remain powerless (Reiman 1979). This is not a conspiracy theory (Reiman 1984: 5); it is simply a theory that the criminal justice system has evolved in a manner which disproportionately benefits the rich and powerful, whilst the poor are unable to resist this evolution – “those who suffer most... are not in a position to change criminal justice policy” (Reiman 1984: 115). The claim is that the criminal justice system is not effective in regulating sources of harm such as the car, but is very effective in keeping the poor poor and the rich rich.

As well as benefiting more affluent and powerful members of society, Reiman claims that our preoccupation with 'law and order' and criminalisation sends out an ideological message that criminals are the 'problem', whilst ignoring other preventable sources of danger such as industrial and corporate deaths (Reiman 1984: 34). Steven Box demonstrates that for every conventional homicide there are 7 preventable workplace deaths after adjusting the figures to account for the size of population at risk (Box 1983: 26). Could it be that cars are societally ignored as a source of preventable deaths in the same way?

## **Indifference and responsibility**

Having seen who benefits and who is disadvantaged by the use of the motor vehicle and developed one theory about the reasons for this situation, some of the mechanisms by which this *status quo* is allowed to survive will now be analysed.

### ***Indifference as carelessness: “I didn't see the cyclist”***

The claim will be made that murder and manslaughter are more immoral than a death on the roads because the latter is unintended rather than deliberate. The murderer intends to kill her victim; the careless driver often does not even know his victim. But Reiman (1979: 60-61) and then Box (1983: 21) argue that the latter could be considered the greater of the two wrongs.

A murderer shows a disdain for her victim, displaying the ultimate contempt for his life, but by definition this disdain is directed specifically towards the victim and tells us nothing of the murderer's attitude towards society. And many homicides are committed 'in the heat of the moment' rather than as a premeditated or calculated act. The negligent or reckless driver, on the other hand, has no specific victim in mind: he is indifferent as to the consequences and could kill anybody, be they young, old, friend or stranger. Driving is not a violent act committed in a moment of passion; driving is a calculated and deliberate choice of which the risks and potential consequences are well known. The careless driver therefore displays “a disdain for humanity in general” (Box 1983: 21).

Whilst concluding that drivers are worse than murderers would be too radical, it is important to realise that a lack of intent should not necessarily make the crime any less serious.

### ***Whose responsibility is the car?***

Drivers have necessarily consented, albeit tacitly, to the risks inherent in driving. Cyclists and pedestrians need give no such consent regarding motor vehicles: a cyclist might legitimately want to use the public highway, yet might not accept the dangers caused by the presence of cars. The situation is analogous to passive smoking. From July 2007 smoking becomes illegal in almost all indoor public places in the UK: it has been accepted that smokers have no right to impose discomfort and danger on third parties. Logically exactly the same argument could be used about driving. At present non-drivers are faced with a dismal choice: they must either never leave their homes, or they must run the risk of getting killed by someone else's car.

It may be conceptually helpful to split the problem of responsibility in two. Of course there are specific acts of dangerous driving, but there also seems to be an unavoidable 'background' level of danger associated with motor vehicles caused by 'genuine accidents' rather than recklessness. Predictable numbers of road deaths occur every year in Britain, and although each of these in isolation constitutes a preventable death, in aggregate they are utterly unavoidable whilst car use continues. No driver can convincingly claim to be entirely unaware of these dangers; so in choosing to continue to drive, no matter how safely, the private motorist therefore displays at least some degree of implicit indifference as to the consequences.

## **The construction of victimhood**

Many injured pedestrians may accept road accidents without considering the reasons for the *presence of the car* rather than just the *cause of the collision*. If the driver was not drunk or speeding, the family of a dead cyclist may view it as a tragic accident, without considering how different the outcome might have been if the driver too had chosen to use a bicycle.

Comparisons with rape may be drawn. Box contrasts rape with theft: whilst the burden of proof in most robbery cases falls on the accused, in accusations of rape the burden of proof falls on the victim (Box 1983: 125). This allegation, and another that it is difficult for women to bring rape cases to court, is corroborated in the feminist literature (Braithwaite & Daly 1995: 204). In the same manner, many road deaths do not result in prosecution, let alone conviction: the burden of proof seems to rest squarely on the shoulders of the VRU and not the driver.

A second similarity between rapes and road deaths is victim culpability. This has been the case historically for rape (Stanko 2002: 22-23), and evidence remains of a contemporary “climate of victim culpability” (Stanko 2002: 108) in parts of both media and judiciary. Some men will characterise a woman who wore revealing clothing as “*deserving what she got*” (Braithwaite & Daly 1995: 203); similarly VRUs are often held partially responsible for accidents: “*she was wearing dark clothes, I didn't see her*”. It is as though driving were a human right, to be practised at any cost, no matter what the consequences for VRUs. In comparison, few would argue that sex is an absolute male right, to be obtained by any means, no matter what the consequences for women.

## Conclusions

### *Drivers are causally responsible for the consequences of their actions...*

The first half of this chapter demonstrated who wins and who loses out on Britain's roads, and put forward a class- and power-based theory as to why this situation may be ignored or tolerated by those who are in a position to intervene.

The second line of argument was that drivers are causally responsible for the consequences of their actions. Leaving aside questions of morality, the logic behind this claim is simple cause and effect. It is the car that kills the VRU and not the other way around. It is the driver who chooses to use the car, and is therefore causally responsible for the presence of the danger. It is drivers who benefit from driving, but all too often it is VRUs who get killed. No matter whether through dangerous driving or simply in a 'genuine accident', this represents a direct transfer of harm from one party onto the other, without consent or compensation.

### *... So why are drivers not legally liable?*

What legal mechanisms allow this paradox – the causal responsibility for harm on the one hand, and yet the inaction towards it on the other – to exist? The next two chapters will gather empirical evidence in an attempt to begin to answer this question.

# 4

## Research Design

### Introduction

The theoretical existence of a bias in favour of drivers has been outlined. The broad purpose of the next two chapters is to discover: whether empirical evidence of such a bias exists, the scale of the harms caused to VRUs, and whether the legal mechanisms at work confirm or contradict the power and class theories outlined in chapter 3.

### Background

Chapter 2 started with an accusation made by the Cycle Touring Club (CTC) of a bias in favour of the lenient sentencing of drivers; a suggestion that drivers who narrowly miss killing a VRU routinely 'get away with it'; and a criticism of motoring law as inadequately protecting VRUs. The remainder of this research therefore attempted to establish whether these accusations are founded, and if so, why. Legal literature was favoured over, for example, psychological analyses or medical research because a legal slant on the problem provides the best route into its central themes of responsibility, power struggles, and differential identities.

If the CTC's accusations were unfounded, little theoretical or empirical evidence could have been discovered. But it became obvious when researching chapters 2 and 3 that a great deal of evidence was forthcoming, despite the lack of previous research has been done. By the end of the literature review, the identification of gaps in the current understanding of the situation, and the worry that these might allow the continued existence of grey areas on the law, directly led to the formation of the research questions (see chapter 1).

## **Research design**

Because of the multifarious nature of the problem – i.e. the statement of whether there is a significant problem, and an analysis of the background mechanisms at work – neither quantitative nor qualitative methods offered a complete solution. Much could be learnt about patterns and trends in the past sentencing of offenders by using a quantitative approach, but this shed little light on the reasons behind such historical trends; a qualitative methodology, on the other hand, would not provide any real idea of the scale of the whole but allowed the observation of social and political processes at work in specific cases.

A multi-method research design was therefore employed to capture both quantitative and qualitative aspects. A brief numerical analysis of national statistics established the scale of the harms caused to VRUs; quantitative descriptive statistics enabled the observation of trends and patterns in a set of specific cases; and a qualitative analysis of some of the social and legal discourses surrounding the problem added depth and colour to the picture.

The use of multiple approaches also permitted “methodological triangulation” (Denzin 1978: 301): each of the methods employed either corroborated or cast doubt upon the findings of the other, giving us greater confidence in the end results (Hammersley 1998: 89). Given that the methods employed were fundamentally different – qualitative versus quantitative, numerical versus descriptive – what Denzin calls “between-method triangulation” (1978: 302) was employed: the doubling-up not only of data or experimentation, but methodology.

## **Data sources and collection**

National statistics for RTA casualties in the UK are published by the Department for Transport, and are categorised by both severity (injury, serious injury, death) and victim type (pedestrian, cyclist, motorcyclist, driver). National statistics for the sentencing of all drivers convicted of motoring offences are also readily available. Here were two sources of data ideal for a national analysis of the scale of harms caused by cars.

However, national statistics covering the sentencing of drivers who kill or injure specifically VRUs (as opposed to all victim types) do not exist, and there was no practical way of linking national RTA statistics to individual court cases and sentences. An attempt was made to compile a dataset from the records of several magistrates courts instead, but the required level of detail was not forthcoming. Individual transcripts of specific court cases are available, but there was no way of searching through a magistrates court's records to find specifically those cases which involve a VRU, and neither HMCS nor the CPS gather this type information nationally.

However, newspapers routinely report serious RTAs in their local area and the advent of online databases of national newspaper stories has allowed for the easy searching of all major UK newspapers for stories. The British and Irish Legal Information Institute (BAILII), an independent UK-based charity, also maintains a searchable database of court transcripts. Here were two suitable data sources from which to compile a set of RTA cases.

## **Descriptive statistics**

The two sets of cases were divided equally between an RTA group whose convictions are for driving offences which resulted in VRU casualties, and a control group in which the cases involve a third party casualty, for example through negligence in the workplace.

### ***Newspaper reports***

Cases were selected by performing a full-text search of national newspapers using the LexisNexis service ([www.lexis-nexis.com/xchange-international/](http://www.lexis-nexis.com/xchange-international/)) with the keywords 'cyclist AND sentence' or 'pedestrian AND sentence' for the RTA group, and 'manslaughter AND sentence' or 'negligence AND sentence' for the control group. The search results were sorted in reverse date order and the first 55 to 60 suitable cases selected from each group, spanning the years 2006 to 1997. The cases were then reviewed and some were dropped in order to obtain an equal number of deaths and serious injuries in each group. The final dataset comprised 50 RTA cases and 50 directly comparable non-RTA cases.

### ***Court transcripts***

These cases include possibly the most legally difficult and serious examples of driving offences in Britain, being drawn from transcripts of England and Wales Appeal Court (Criminal Division) cases between 1996 and 2006. The aim was again to compare the sentencing of RTA and non-RTA offenders, but in this set many of the cases also have aggravating features such as theft, driving whilst disqualified, affray, and arson. The sample was selected by performing a full-text search of transcripts on the BAILII website ([www.bailii.org](http://www.bailii.org)). The final set consists of 35 cases in each group.

See appendix 1 for the selection criteria used in both datasets.

## ***Coding and analysis***

The numerical data recorded were the length of detention sentence (in years) and the fine imposed (in GBP). Suspended jail sentences were recorded as 0 years. The data were compiled into four tables (appendices 4 to 7) using the OpenOffice Calc spreadsheet package, which was also used to draw the charts and calculate basic statistical outputs.

## **Critical Discourse Analysis**

The second stage of research was a Critical Discourse Analysis (CDA) identifying the processes and ideologies at work in the law. The work of Norman Fairclough was useful in this context. His CDA methodology (Fairclough 1995) represents an attempt to move beyond simple descriptive analyses of text, and places the analysis in a broader social context, advocating a “discourse analysis” of the whole instead of a two-dimensional document analysis. This enables the consideration of the processes which led to the production and formation of the text as well as the wording itself, highlighting such factors as the subjectivity and possible bias of the author, the events which led to the production of the text, and the implicit assumptions contained therein.

<b><i>Ideational Meaning</i></b>	“The representation and signification of the world and experience”
<b><i>Interpersonal Meaning</i></b>	“The constitution (establishment, reproduction, negotiation) of identities of participants and relationships”
<b><i>Textual Meaning</i></b>	“The distribution of given versus new and foreground versus backgrounded information”

*Table 1: The three-dimensional framework of CDA*

(Fairclough 1995: 133)

The significance of Fairclough's framework is its encompassing of not only the *textual analysis* – the first dimension – but also the analysis of *discourse practice* and *social practice* (Fairclough 1995: 3). Thus the sociological and the political as well as the purely linguistic are taken into account: “relations of power and domination” (Fairclough 1995: 133) come into focus in a manner which interlocks perfectly with the class- and power-based syntheses of Reiman and Box (see ch3).

Fairclough identifies numerous linguistic tools which reveal the nature of not only the ideational content but also the discursal and societal processes behind a text. The use of various grammatical tricks to imply or even misleadingly construct certain relationships between actors or actions are examples: the pronoun 'we' may be used to convey a sense of unity and shared opinion, even to “portray... a bureaucracy as a warm community” (Fairclough 1995: 126) where no such consensus or community exists. An opposite grammatical trick might also be used in exactly the same way to

distance an actor from an action instead, for example by suggesting too weak a relational value or causal effect between decision and outcome. These are examples of the *interpersonal meanings* which, although not contained in the ideational content of the text, become obvious using CDA.

Metaphors are another grammatical tool, but are used to different effect (Fairclough 1993: 77), to either downplay or emphasise a particular aspect of discourse: the labelling of anti-narcotics measures as “a war on drugs” (Fairclough 1993: 109) serves to exaggerate and emotify the subject. Relatedly, *hyponymy* (the use of a specific word where a more generic one should have been used), and *autonymy* (the use of a word whose meaning is incompatible with the context in which it is used) are also powerful devices used to convey certain meanings or hide others. *Rewording* is also used to alter the meaning of a subject or action, for example the labelling of “terrorists” as “freedom fighters” or vice-versa (Fairclough 1993: 77). And semantic *ambivalence* (where a word may be taken to have a combination of two or more meanings (Fairclough 1995: 113)) can serve to load a subject with more meaning than it deserves, or to deliberately mean one thing to one audience whilst implying something else to another reader or “consumer” (Fairclough 1993: 71) of the text.

### ***Discoursal Themes***

Theories regarding possible reasons for the present shape of the motoring laws (ch3) were tested using the linguistic and discoursal methodologies of Fairclough by categorising them according to several overarching themes:

- The construction of victim and the offender identities:
  - The 'law and order' debate about “real criminals” (Lacey *et al* 2003: 637): is there a bias against 'real' criminals, or towards 'mere' motoring offenders?
  - Victim liability: are victims held partly responsible? Do empirical examples exist of the theoretical parallels drawn with rape? On whose side does the burden of proof fall?
  - Class: what evidence is there of the deliberate portrayal of drivers or victims as being members of specific classes, backgrounds, and social groups? Does this tie in with the power- and wealth-based theories of Box and Reiman (see chapter 3)?
  
- Presentation of the incident:
  - Are cases portrayed as *incidents* or *accidents*; foreseeable, unavoidable, or deliberate?
  - Indifference: is *carelessness* as opposed to *intent* a mitigating or an exacerbating factor?

- Responsibility: is there any evidence of drivers being held responsible for the presence of their car, in addition to being held responsible for the occurrence of the collision?
- Implicit assumptions made by lawyers, magistrates or judges:
  - Danger and harm: is there proper recognition of the level of harms caused to VRUs?
  - Grounded in the theories outlined in chapter 3, are the following assumptions made?
    - Almost everyone is a driver.
    - Some accidents are unavoidable 'genuine mistakes'.
    - Driving is a *prima facie* right.

## Conclusions

As has been seen, the CTC poses several questions about the plight of cyclists on Britain's roads and the regulation and control of car use, and at present the legal literature and road safety research does not adequately answer them. This situation led to the formation of the research questions at the heart of this thesis, which may be paraphrased as: how are drivers who kill or seriously injure VRUs punished; and what social and legal ideologies influence this punishment?

A multi-methods approach was used to answer these questions, involving both numerical and textual analysis. A number of different court cases involving the deaths of VRUs on the public highway were drawn from two sources and analysed alongside directly comparable cases involving non-road deaths such as workplace fatalities. Descriptive statistics quantitatively identified patterns and trends in the data, whilst a Critical Discourse Analysis (CDA) qualitatively analysed the ideological processes and mechanisms at work in court and in a wider social context. Ongoing “between-method triangulation” (Denzin 1978: 302) was used to marry the results of both methods together and to provide a greater confidence in their validity. The broad themes under analysis were: the differential construction of victim and offender identities; the portrayal and presentation of the incident in each case; and the identification of any unfounded assumptions or prejudices in the arguments used by lawyers, magistrates and judges.

# 5

## Results and Discussion

### Introduction

A brief review of national accident statistics will validate some of the theories put forward in chapter 3 and discover the scale of the problem. Two sets of accident cases will then be analysed both numerically to observe any patterns and trends, and qualitatively to gain an insight into the underlying themes: the differential construction of victim and offender identities; the presentation of the collision in each case; and the implicit assumptions made by lawyers, magistrates and judges. The cases will henceforward be referenced as follows:

RTA-N-x	Road Traffic Accident	Newspaper reports
Non-N-x	Non-RTA (manslaughter etc.)	
RTA-C-x	Road Traffic Accident	Appeal court
Non-C-x	Non-RTA (manslaughter etc.)	

*See Appendices 4 to 7 for a full list and brief synopsis of all cases.*

### National statistics

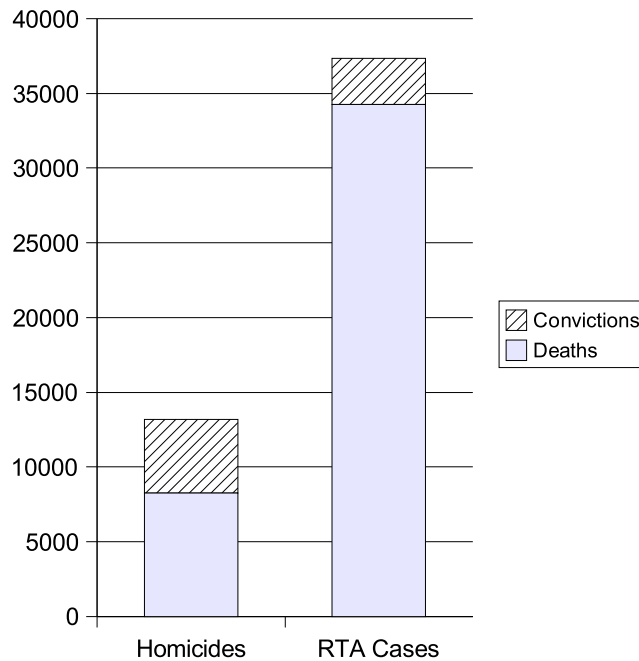
Stephen Box calculated that there were 7 preventable workplace deaths for every homicide in Britain (see ch3), and thus concluded that workplace deaths were the greater source of harm. By redrawing Box's *Table 1* (1983: 28) and inserting road traffic accident data, an annual death toll of VRUs which is twice the number of adjusted workplace deaths, and is at least as high as the total number of homicides in Great Britain (see Table 1) is evident. And if the figures for all road traffic deaths rather than VRUs alone are used, workplace deaths and homicides pale almost to insignificance in comparison (see Appendix 2). In aggregate terms, as a source of preventable deaths, motor vehicles are therefore of far greater concern than either homicides or workplace deaths.

<i>Year</i>	<i>Fatal injuries to workers <sup>a</sup></i>	<i>Homicides recorded by the police <sup>b &amp; c</sup></i>	<i>Vulnerable road user fatalities <sup>d</sup></i>	<i>All other road traffic accident fatalities <sup>d</sup></i>
1996	258	813	1,200	2,398
1997	287	846	1,156	2,443
1998	274	846	1,064	2,357
1999	253	859	1,042	2,381
2000	220	972	984	2,425
2001	292	996	964	2,486
2002	251	1,159	905	2,526
2003	227	1,027	888	2,620
2004	236	976	805	2,416
2005	223	899	819	2,382
<b>Totals</b>	<b>2,521</b>	<b>9,393</b>	<b>9,827</b>	<b>24,434</b>
<b>Adjusted for population at risk (approx)</b>	<b>5,042</b>	<b>9,393</b>	<b>9,827</b>	<b>24,434</b>
<b>Ratio (approx)</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>5</b>

*Table 1: A comparison of fatal injuries to workers, homicides, deaths of vulnerable road users, and all other road traffic accident deaths in Great Britain, 1996-2005*

**Sources:**

- a) Table 1 in HSC 2006: 12.
- b) Table 2.04 in Walker *et al* 2006: 26
- c) Table 1 in Scottish Executive 2005: 14.
- d) Table 8.1 in DfT 2006: 138.



*Illustration 1: Comparison of the total recorded instances and convictions of homicides and RTA deaths in England and Wales, 1995-2004*

**Notes:**

See appendix 3 for the table from which this chart is derived.

**Sources:**

- Table 2.04 in Walker *et al* 2006: 26.
- Table 8.1 in DfT 2006: 138.
- Table 2.02 in Coleman *et al* 2005: 55.
- Table 7 in Home Office various years (1995-2004).

The possibility that the burden of proof might rest with the victim rather than the driver was also discussed in chapter 3. A simple comparison of RTA and homicide convictions confirms that the majority of road casualties do not lead to prosecution or conviction: Illustration 1 shows that although the total number of RTA deaths is 4 times greater than the total number of homicides in Britain, the number of RTA convictions is smaller than the number of homicide convictions. Road deaths are regarded as being less serious, less blameworthy, or less easily prosecuted than homicides.

## RTA cases

The sample size was not large enough, nor time and resources sufficient, to permit any statistically significant inferences to be drawn from these data. The aim instead was (a) to organise cases for the following qualitative analysis, and (b) to outline some quantitative answers to the following questions. What types of punishment were handed down to offenders? What differences exist between the detention sentences and fines imposed on each group? What is the range of punishments within each group, and is it possible to predict 'typical' or 'likely' sentences?

		<i>RTA</i>	<i>Non-RTA</i>
<b>Sentence (years)</b>	<i>Min</i>	0	0
	<i>Max</i>	8	12
	<i>Mode</i>	0	0
	<i>Median</i>	0	1
	<i>Mean</i>	1.8	2.45
<b>Fine (£)</b>	<i>Min</i>	£0	£0
	<i>Max</i>	£2,000	£15,000
	<i>Mode</i>	£0	£7,500
	<i>Median</i>	£235	£7,500
	<i>Mean</i>	£373	£7,875

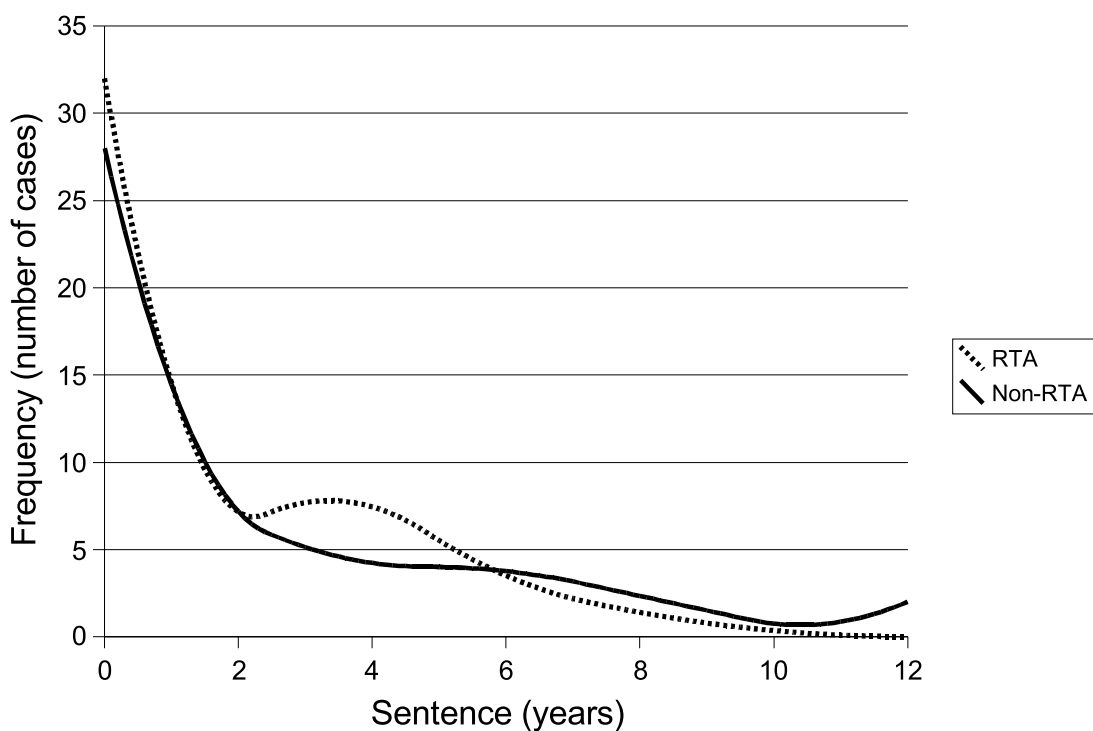
Table 2: Detention sentences and fines from the newspaper report cases

		<i>RTA</i>	<i>Non-RTA</i>
<b>Sentence (years)</b>	<i>Min</i>	0	0
	<i>Max</i>	7	14
	<i>Mode</i>	0	3
	<i>Median</i>	3	3.25
	<i>Mean</i>	2.8	4.1

Table 3: Detention sentences from the appeal court cases (almost no fines were mentioned in the appeal court transcripts)

There is a clear discrepancy between the two groups, and this discrepancy is repeated across both datasets. The newspaper reports reveal a trend of lower detention sentences and lower fines for RTA offenders, and the appeal court cases demonstrate even more clearly a higher maximum detention sentence for non-RTA cases.

The sex discrepancy in the data is even starker. Of the 50 newspaper RTA offenders, only four were female and one was transsexual; in the appeal court, only 1 offender in the set of 35 was a woman. By far the largest single category in both datasets were men aged 25 and under.

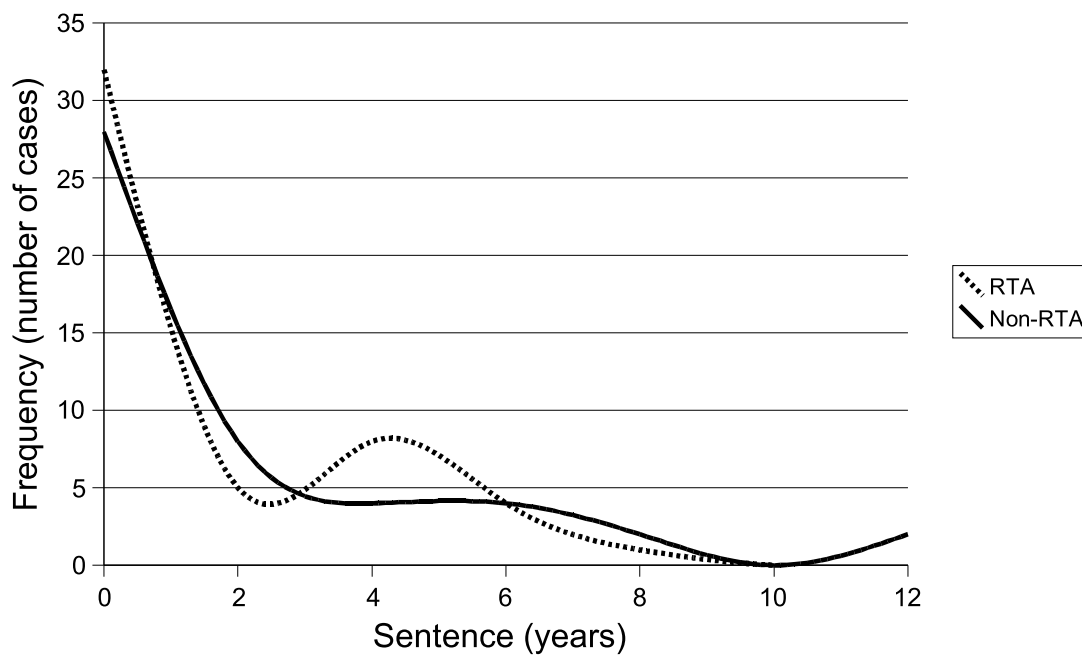


*Illustration 2: A comparison of the distribution curves for the length of sentences received by RTA and non-RTA offenders in the newspaper report set*

**Notes**

*The data were interpolated and the curve smoothed using a B-spline algorithm. See appendix 8 for the table from which this chart was drawn and a non-smoothed version.*

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*Illustration 3: A comparison of the distribution curves for the length of sentences received by RTA and non-RTA offenders in the appeal court set*

**Notes**

*The data were interpolated and the curve smoothed using a B-spline algorithm. See appendix 9 for the table from which this chart was drawn and a non-smoothed version.*

The difference between RTA and non-RTA sentences in the newspaper reports appears less pronounced in the chart than in the preceding table of figures. Although the number of non-RTA offenders who receive sentences of 8 years or more is higher than the number of RTA offenders, the differences between the two groups is less clear lower down the sentencing scale.

A greater difference is evident in the appeal court chart. The most 'likely' or 'typical' sentence for an RTA offender here is between 0 and 2 years, with a high probability of receiving no sentence at all. The detention sentence for a non-RTA offender is more likely to be 1-3 years, and has a good chance of being much higher for serious offences: the longest non-RTA sentence was exactly double the longest RTA sentence. At the other end of the scale, although there is a small chance of non-RTA offenders getting no detention sentence at all, this probability is higher for an RTA offender: only two non-RTA offenders were freed, compared to six RTA offenders. More non-RTA offenders received a sentence of 2 years than no sentence, whereas the opposite is true for RTA cases, where more offenders received no sentence at all than any other punishment. All of these factors point towards RTA offenders receiving lesser sentences than their non-RTA counterparts.

In a surprising admission, the Lord Chief Justice said:

“[The figures for CDDD] seem to us to show that the offence is regarded by the Courts as less serious than in fact it is: less serious than Parliament intended it to be and less serious than the public in general regard it... The motor car is a potentially lethal instrument. Any driver who fails to realise that what he is doing at the wheel is creating a risk... or, even worse, sees the risk and nevertheless takes a chance on avoiding disaster and so kills, is *prima facie* deserving of severe punishment.”

(RTA-C-10).

Here is a recognition that cars are lethal, and that drivers must assume liability. Yet there is also an acknowledgement that the courts do not take the matter seriously enough. This is precisely the paradox discovered in chapter 3: the recognition of liability on one hand, yet the unwillingness to take positive action on the other. What mechanisms in court allow the perpetuation of this situation?

### ***Construction of Victim and Offender Identities***

In both the newspaper reports and the court cases, more RTA offenders received a sentence of approximately 4 years than of approximately 2 years, creating a spike in the otherwise smooth curve. Looking at a list of all case synopses sorted by sentence, an explanation comes to light. Cases in which offenders receive a sentence of less than 2 years are almost entirely those cases involving a 'genuine accident': a lapse in concentration, an inexperienced young driver, a minor speeding offence (see RTA-C-12; RTA-C-14; RTA-C-15; RTA-N-29; RTA-N-31). However, cases in which offenders receive a sentence of 3 years or over tend to be those cases which also involve a 'real crime' to use the language of Lacey *et al* (2003: 637). These involve drink or drug abuse, drivers banned multiple times, or the theft of a vehicle (see RTA-C-19; RTA-C-22; RTA-C-25 to RTA-C-29; RTA-N-38 to RTA-N-43). Any separate sentence passed for these additional crimes was not recorded in the data, so this finding is doubly surprising: it appears to show that judges and magistrates pass longer *driving* sentences on 'real' criminals *in addition* to separate sentences for theft or violence.

This could be evidence of the driving offence not being considered very serious, only in combination with a 'real' crime does it become worthy of a lengthy sentence. Worse, it could also be evidence that careless drivers are regarded as being innocent at some level – a manifestation of the “*there, but for the grace of God go I*” argument discussed in chapter 2 – whereas thieves or drug users are regarded as being thugs and trouble-makers deserving of a lengthy prison sentence, even though their actual standard of driving at the time of the incident may have been no lower.

Chapter 3 identified the possibility that VRUs might be held partly responsible for the danger posed to them by motor vehicles in the same way that some rape victims are unfairly blamed for sexual

assaults. There is some evidence to the contrary: judges have described victims as “wearing a bright yellow coat riding his cycle in exactly the right part of the road.” (RTA-N-16), as having “been visible to the driver for about a third of a mile...” (RTA-N-15). In another case “crash investigators concluded there was no reasonable excuse for the accused's failure to see the presence of [the cyclist]” (RTA-N-19). Thus sometimes victim culpability is not assumed nor is a negligent identity constructed for the victim.

However, in other cases the opposite is true. Defence council in one case claimed contributory negligence, saying the victim walked out into the road when it was not safe to do so (RTA-N-17). On the face of it this sounds like a fair argument, but it begs the wider question: if the vehicle speed is too high or the visibility insufficient to allow safe judgement, should cars be travelling at speed in an urban environment? And in this particular case the car had been speeding 10mph above the limit and tailgating another vehicle, so blaming the 78 year old victim who was catching a bus seems doubly unfair.

The defence barrister in another case claimed "It's unfortunate the cyclist wasn't wearing a helmet as what otherwise might have been a minor accident became a fatal accident." (RTA-N-4). In a similar vein, “following his successful appeal against a four-month jail sentence, [a motorist] has issued an appeal to pedestrians and cyclists never go out at night without reflective clothing” (Wellington Weekly News, 31<sup>st</sup> October 2002). There is nothing inherently dangerous about dark clothing; it is only through the additional presence of a car that it becomes problematic. Why should cyclists be blamed for unsafe behaviour when, as has been stated, it is the presence of the *car* that causes the danger to the cyclist? Here, then, is direct evidence to back up chapter 3's theory of not only harm but also blame being transferred from driver to VRU.

The construction of driver identities in court is also important. A judge summed up one case as follows: “You drove in such a way that [the cyclist] had no chance. Your speed was just too high.” (RTA-N-34). In another the judge said “The accident involved an extremely high level of culpability... speeding... alcohol and aggressive driving.” (RTA-N-49). But in other cases where a 'real crime' is not evident, judges are less willing to criticise: of an incident involving a “a young and inexperienced driver”, the judge said “whether he was driving too fast or whether he simply could not control the car is perhaps neither here nor there.” (RTA-C-1). This is an example of Fairclough's weak relational value tool: despite the death of a pedestrian as a direct result of this driver's actions, the judge is distancing the cause from the effect, saying in effect that it is irrelevant.

A similar bias in relation to 'real crimes' can be inferred from the passing of an 18-month sentence “for attempting to pervert the course of justice. For the driving offence there was no sentence” (RTA-C-2). Thus perverting the course of justice (a 'real crime') is considered more serious than taking the life of an innocent third party (because this was a 'mere' driving offence).

Covering the case of a teenage male driver who had killed a child cyclist, one newspaper reported that “according to experts had he been within the 40mph speed limit he would have been able to stop without hitting her”, but magistrates said it had only been a "momentary lapse" (RTA-N-8). Surely speeding is not a momentary lapse in the same way that a split-second loss of concentration is? Yet this driver received a fine of only £500 and no detention sentence at all.

### ***Presentation of the Incident***

The fact that all collisions are labelled 'Road Traffic Accidents' in the official statistics and in the law, even after negligence or intent are proved, highlights the widespread assumption that all collisions are accidental. This could be seen as *hyponymy* in that the word 'accident' describes a specific type of incident and would normally only be used where the outcome was unforeseen and unintended, but in the context of RTAs is used even after negligence or recklessness are proved. In other instances the word 'accident' is an example of Fairclough's *rewording* (1993: 77).

Police initially claimed that “Britain's most serious cycling tragedy” (The Times, 4th August 2006) was simply a “tragic accident” and that no one was to blame. Under public pressure they subsequently decided to prosecute the driver, but only for having bald tyres and not for the collision itself (RTA-N-24). Here is further evidence of the assumption that almost all collisions are accidental until proven otherwise – and that the burden of proof rests with the VRU.

Judges have said “cars are lethal weapons if not driven properly” (RTA-N-49), and “It was only a matter of time before you caused a serious accident” (RTA-N-36). So there is a recognition that *specific* accidents were inevitable, but there is no acknowledgement that further accidents *in general* are unavoidable as long as driving continues. Indeed, much of the discourse reads as if there are just a few problem drivers, and once they are dealt with accidents will be a thing of the past (RTA-C-17; RTA-C-21; RTA-C-22; RTA-C-28; RTA-C-34). In another case it was said that “investigators were unable to establish the cause, ruling out speeding or a mechanical defect” (RTA-N-7), thus the driver received only a £200 fine and no detention sentence. Here is a perfect example of the unfair transfer of harm from one party onto another: a VRU was killed, and despite it having been the driver who created the danger, in the absence of any absolute proof of dangerous driving, he escaped punishment. In another case, a driver failed to stop at a pedestrian crossing and killed a pedestrian who was halfway across, yet the incident was deemed by the judge to be “on the cusp” between dangerous and careless driving (RTA-C-7). This again appears to indicate the difficulty in securing a conviction for dangerous driving, and shows that drivers are sometimes not held responsible for the presence of the car, only for its misuse when this is sufficiently flagrant.

As was discussed in chapter 3, both Reiman (1979: 60-61) and Box (1983: 21) see carelessness as a poor excuse, and claim that indifference towards harm can be worse than intent. In a court transcript, a witness statement claiming that the driver commented “Oh my God, I didn't see them”

(RTA-N-23) after a collision with two cyclists was presented as a mitigating factor in an attempt to prove no *mens rea* or prior intent: this was portrayed as an 'honest accident'. But in light of Reiman and Box's arguments does this make any sense? Can motorists convincingly claim firstly to be safe drivers posing little threat to VRUs, but then attempt to escape responsibility by saying “Oh my God, I didn't see them. It was an honest mistake” when a collision does occur?

### ***Implicit Assumptions***

As one judge observed, the “...accident happened because the appellant was driving rather too fast, as young men will...” (RTA-C-9). Here is the undisguised recognition that the problem exists, but also an implicit assumption that this is somehow unavoidable. The use of the word “will” is crucial: the judge in question did not say “as some young men do” or “as young men ought not to”, he said “as young men *will*” as though this were a universal and accepted fact of nature. In another case (RTA-N-2) a different judge made a more normative statement – “there are far too many young men driving too fast” – a but again the assumption regarding young men and speed is presented as if a universal fact rather than an entirely artificially constructed state of affairs.

Lord Moson said in a House of Lords debate “who has not from time to time found that their normal driving standards have lapsed for one reason or another” (Lords Hansard, 22 Nov 2005: Column 1550). Here is an example of an interpersonal assumption (Fairclough 1995: 126): Lord Moson is (a) assuming that everyone is a driver, which as chapter 3 illustrated is untrue, (b) constructing a sentence in such a way that there appears to be a broad consensus in its favour – the shared opinion trick identified by Fairclough, see chapter 4 – and (c) implying that careless lapses are somehow tolerable, even when they prove fatal.

The courts repeatedly make plain that they cannot take into account the fate of the victim: it is the standard of driving alone which may influence sentencing. A spokesperson for the CPS said “we have to look at the standard of driving, not at the consequences of the accident.” (RTA-N-3). The sheriff in one case said the punishment could reflect only the degree of carelessness and not its consequences (RTA-N-7), and elsewhere this sentiment was more strongly expressed: “[the sheriff's] hands were tied by law and he was forced to ignore [the victim's] death” (RTA-N-13). But, as is pointed out by the Judge in third case, “the legislature is perhaps illogical in this matter, in that if one commits the offence of dangerous driving one penalty is possible; if one causes death by dangerous driving – a matter which is often one of chance – then the penalty is substantially greater” (RTA-C-1). This directly corroborates the CTC's allegation (chapter 2) that judges are unwilling to pass maximum sentences on CDDD offenders because of the high element of chance in being charged with this offence instead of careless driving.

## Conclusions

National statistics for VRU fatalities reveal a source of harm which is at least as problematic as all combined homicides in Britain, yet statistics for convictions demonstrate that in aggregate road deaths are not prosecuted nearly as rigorously as homicides.

Headline figures show a clear discrepancy between RTA and non-RTA cases, with RTA offenders on average receiving lesser sentences. There is a confounding tendency to pass sentences of approximately 4 years in preference to sentences of approximately 2 years for RTA offenders; this is seen as being evidence of a qualitative divide between 'mere' motoring offenders (who are likely to receive less than 2 years) and 'real' criminals (who are likely to receive 4 years or more).

There is some qualitative evidence of a “climate of victim culpability” (Stanko 2002: 108) and an assumption that VRUs should adopt some responsibility for the danger caused by vehicles, but there is equal evidence of judges and magistrates holding drivers culpable. At best the law is ambiguous on the question of whether drivers are responsible for the dangers inherent in vehicle use, and unclear as to whether VRUs share this responsibility.

There are several statements made by judges and the Lord Chief Justice which recognise the scale of the harms caused, the potential danger posed by cars, and the culpability of motorists. However, there is plentiful evidence which reveals the legal difficulty in implementing the law in such a way that it will reflect these admissions. The difficulties in objectively proving a motoring offence, prosecuting an offender with the correct charge for the crime, and securing a conviction, are evident time and again.

# 6

## Conclusions

### Discussion

This research started by asking whether those drivers who are convicted of killing vulnerable road users are less harshly punished than other criminals who cause death without intent. It is now clear that this is indeed the case. Nationally four times as many RTA fatalities occur as homicides in Britain, yet there are less convictions for lethal motoring offences than homicide offences. Convicted drivers typically receive a lesser sentences than other comparable criminals, and often receive a monetary fine with no detention sentence at all.

A question regarding the construction of differential identities for drivers and cyclists was also posed. What has come to light may be summarised as follows. Drivers who kill 'merely' through carelessness are regarded by the judiciary as unlucky but often blameless: an implicit empathy – *“There, but for the Grace of God, go I”* – is evident. However, driving offenders who are also implicated in vehicle theft or drink and drug abuse are likely to be condemned by judges and magistrates as 'real' criminals, even if their standard of driving was no lower. Meanwhile VRUs may be held unfairly responsible for their fate: cyclists have been blamed for wearing dark clothing or no helmet despite it being the car and not the cycle which creates the danger, just as rape victims are blamed for wearing revealing clothing despite it being the attacker and not the victim who commits the assault.

The final research question regarded the ideologies and power relations behind the regulation of Britain's roads. Is it simply a coincidence that the vast majority of police officers, magistrates, judges and lawyers are drivers? And that those most likely to be killed by drivers, and least likely to be drivers themselves – the very young, the elderly, the poor – are also least likely to be policy makers and legal officials? And (perhaps running alongside or perhaps cutting across these themes) is there not a link between the fact that almost all drivers who are convicted of killing are male<sup>1</sup>, and that almost three quarters of all magistrates and judges are men<sup>2</sup>? The evidence indicates that this is no coincidence. Those policy makers and legal officials who are in a position to change

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1 “Males comprise 94% of those found guilty of causing death by dangerous driving” (Lacey et al 1993: 638).

2 Women make up only 26% of the judiciary (DCA 2006, 7), failing to meet even the government's own targets for diversity of senior civil servants (CPS 2005, 5).

matters are mostly drivers and have a vested interest in maintaining the *status quo*. Those young, elderly, poor and female demographic groups who are disproportionately likely to be killed as VRUs, and disproportionately likely *not* to have access to a car, are relatively powerless and cannot change the *status quo*. This is not a deliberate conspiracy; indeed it is perhaps not even a widely appreciated phenomenon. It is simply the way in which the legal system has evolved over the past century.

## Conclusions

Ultimately any conclusions will depend on the starting point. If the correct philosophical baseline is that driving is a right to be enjoyed freely by anyone with a licence, and that a certain number of road casualties are a small price to pay for living in the modern world, a price to be paid by society as a whole, then it seems unfair to punish drivers whose minor errors result in the death of a VRU.

But in logical terms this philosophical stance is difficult to defend for several reasons. Firstly, in reality driving is not a right freely enjoyed by everyone: as has been shown, at least half the British population are not drivers. Whether unable to afford a car, too elderly, too young, or prevented by other circumstances, there are a great many people who do not enjoy this privilege. Secondly, the total price of road casualties is not small: how can 9 lives and 95 serious injuries *per day* be a price worth paying? Thirdly, it is logically incoherent to claim that road casualties are a cost which should be borne by society as a whole. In a liberal, individualistic, risk society, one individual is not normally legally allowed to impose the costs and consequences of their decisions on another individual. Yet this is precisely the logic upon which the motorist's argument relies: drivers pass a disproportionately high portion of risk onto the VRU, without consent or compensation.

Therefore, it must be admitted that driving is not an absolute human right, but is a privilege enjoyed only by some. In choosing to drive – despite being aware of the potential consequences – a driver has entered into a form of contract where they are be responsible for the consequences of their actions. In this light it is only fair that, whether through recklessness or simply a moment of carelessness, if the consequences of driving are death then the driver is penalised accordingly. Currently this is not the case: an £800 fine for taking an innocent life seems a ludicrously low price to pay.

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# Appendix 1

## *Data Collection Criteria*

A number of criteria were used for selecting the cases in each group to further ensure direct comparability.

- Accidental death or injury to a third party were the primary type of cases searched for. In the RTA group an example might be the death of an innocent pedestrian; in the control group it might be the death of an employee at the hands of a negligent employer.
- A (possibly violent) act, but one which was not intended to cause death was also admissible. In the RTA group this could be the death of a cyclist due to the dangerous driving of a motorist in which the car might have been used to scare but not deliberately to kill. In the control group this could be a death as the result of a fight in which death was not intended.
- Cases involving intent were *not* included in the sample. To this end, convictions for murder and manslaughter on the grounds of diminished responsibility are excluded, but manslaughter by way of gross negligence or neglect are of course included.
- The offender had in each case to be a person: corporate manslaughter cases are not included in the sample (a corporation cannot drive a vehicle, and it would have been unfair to include corporate negligence cases in the control group but not in the RTA group).
- Cases in which drivers kill or injure other drivers or passengers are deliberately excluded from this sample. This distinction makes the study of the fate of VRUs uniquely comparable to other cases of death or serious injury to a third party. The reason for distinction is that people who travel in a motor vehicle tacitly consent to the dangers involved, whereas VRUs give no such consent; see chapter 3 for a more in-depth discussion.

The design of the court transcript dataset is identical to the previous newspaper search with the addition of the following points:

- In cases where multiple crimes were committed, only the relevant portion of the sentence was recorded: for an offender sentenced to 2 years for theft and 6 years for driving offences, only the 6 year sentence was used.
- Most cases involve a death, but a small number involve only injury; in the interests of making a fair comparison the number of these cases of injury in each group is equal.
- Being an appeal court, many of the sentences were under reconsideration and some were altered. In each case the new verdict was the one used in the analysis.

## Appendix 2

### *Fatal injuries to workers, Homicides, and Deaths of vulnerable road users in Great Britain, 1996-2005*

Year	Fatal injuries to workers (a)	Homicides recorded by the police			Vulnerable road user deaths (d)			All other RTA deaths (d)	Serious injuries to all road users (d)
		England & Wales (b)	Scotland (c)	Total	Pedestrians	Cyclists	Total		
1995/96 or 1996	258	679	134	813	997	203	1,200	2,398	44,000
1996/97 or 1997	287	739	107	846	973	183	1,156	2,443	43,000
1997/98 or 1998	274	750	96	846	906	158	1,064	2,357	41,000
1998/99 or 1999	253	766	93	859	870	172	1,042	2,381	39,000
1999/00 or 2000	220	850	122	972	857	127	984	2,425	38,000
2000/01 or 2001	292	891	105	996	826	138	964	2,486	37,000
2001/02 or 2002	251	1,047	112	1,159	775	130	905	2,526	36,000
2002/03 or 2003	227	904	123	1,027	774	114	888	2,620	34,000
2003/04 or 2004	236	869	107	976	671	134	805	2,416	31,000
2004/05 or 2005	223	765	134	899	671	148	819	2,382	29,000
		<b>8,260</b>	<b>1,133</b>		<b>8,320</b>	<b>1,507</b>			
<b>Total</b>	<b>2,521</b>			<b>9,393</b>			<b>9,827</b>	<b>24,434</b>	<b>372,000</b>
<b>Adjusted for population at risk (approx)</b>	<b>5,042</b>			<b>9,393</b>			<b>9,827</b>	<b>24,434</b>	<b>558,000</b>
<b>Ratio (approx)</b>	<b>1</b>			<b>2</b>			<b>2</b>	<b>5</b>	<b>111</b>

#### Notes:

1. Years are recorded as calendar years in some sources and financial years in other sources, hence the duplicate labels in the table above.

#### Sources:

a) Table 1 in HSC 2006: 12.

b) Table 2.04 in Walker et al 2006: 26.

c) Table 1 in Scottish Executive 2005: 14.

d) Table 8.1 in DfT 2006: 138.

## Appendix 3

### *Total recorded instances and convictions of homicides and RTA deaths in England and Wales, 1995-2004*

Year	Homicides recorded by the police (a)	All RTA deaths (b)	All homicide convictions (c)	RTA death convictions (d)			
				A	B	C	Total
1995/96 or 1995	679	3,598	507	247	52	21	320
1996/97 or 1996	739	3,599	454	245	66	18	329
1997/98 or 1997	750	3,421	451	236	67	16	319
1998/99 or 1998	766	3,423	451	235	71	12	318
1999/00 or 1999	850	3,409	489	190	49	3	242
2000/01 or 2000	891	3,450	458	210	57	16	283
2001/02 or 2001	1,047	3,431	561	161	32	7	200
2002/03 or 2002	904	3,508	549	265	73	16	354
2003/04 or 2003	869	3,221	528	272	66	11	349
2004/05 or 2004	765	3,201	480	278	73	16	367
<b>Totals</b>	<b>8,260</b>	<b>34,261</b>	<b>4,928</b>				<b>3,081</b>

#### Notes:

A: Causing death by dangerous driving

B: Causing death by careless driving when under the influence of drink or drugs

C: Causing death by aggravated vehicle taking

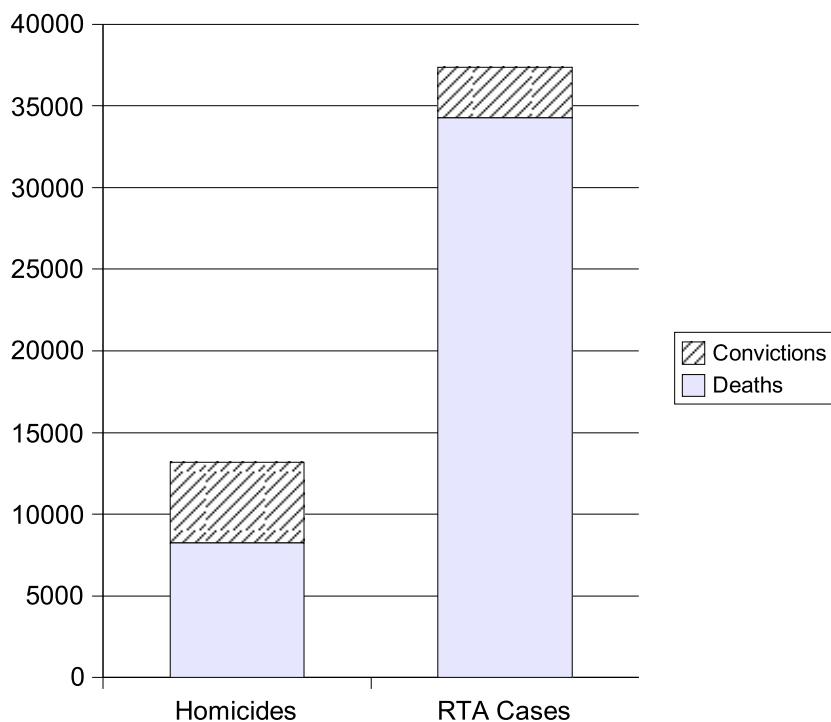
#### Sources:

a) Table 2.04 in Walker et al 2006: 26

b) Table 8.1 in DfT 2006: 138.

c) Table 2.02 in Coleman *et al* 2005: 55.

d) Table 7 in Home Office various years (1995-2004)



Appendix 4

RTA-N Dataset: Road Traffic Accident cases from national newspaper reports, sorted in descending order of detention sentence

Ref	Type	Casualties Key below	Charge Key below	Alcohol Yes/No	Already disqualified Yes/No	Disqualifi- cation Years	Sentence Years	Fine £	Community Service Hours	Newspaper Report Title	Source
RTA-N-1	Pedestrian	2	4			0	0	£500		Careless driver put back on the road	Worthing Herald
RTA-N-2	Cyclist	1	4			2	0	£500		Death crash driver walks free from court	Stamford Mercury
RTA-N-3	Cyclist	1	4			1	0	£500		Ban for motorist who killed cyclist	EVENING CHRONICLE (Newcastle, UK)
RTA-N-4	Cyclist	1	4			0	0	£200		Driver fined after fatal collision	Gloucestershire Echo
RTA-N-5	Cyclist	1	3			1.5	0	£500		Death smash driver's ruin	UK Newsquest Regional Press - This is York
RTA-N-6	Cyclist	1	3			1	0	£1,000		Fast truck death fury	Daily Star
RTA-N-7	Cyclist	1	3			0	0	£200		Bereaved family hit out at driver's £200 fine	Aberdeen Press and Journal
RTA-N-8	Cyclist	1	2				0	£500		The week that shamed justice	UK Newsquest Regional Press - This is The NorthEast
RTA-N-9	Cyclist	1	1			n/a	0	n/a		Father tells of death crash trial trauma	Rye and Battle Observer
RTA-N-10	Cyclist	1	2			2	0	£300		Transsexual truck driver killed cyclist; anger as she dodges jail	Daily Record
RTA-N-11	Cyclist	1			Y	2	0	£200		How Dare He Smirk When He Is A Killer?	Western Daily Press
RTA-N-12	Pedestrian	1	3,7			2	0	£1,350		Is this justice?	Ashfield Today
RTA-N-13	Cyclist	1	2			0	0	£300		Death crash anger; bike boy mum's plea	Daily Record
RTA-N-14	Cyclist	1	?			0.5	0	£220		£ 200 Fury at price of hit-run victim's life	Yorkshire Evening Post
RTA-N-15	Cyclist	1	4			1.5	0	£0		Widow's anger at sentence	UK Newsquest Regional Press - This is Local London
RTA-N-16	Cyclist	1	1			n/a	0	£0		Blind driver spared jail	UK Newsquest Regional Press - This is Cheshire
RTA-N-17	Pedestrian	1	2			n/a	0	£250		Law must end this disgrace	The Mirror
RTA-N-18	Pedestrian	1	n/a			n/a	0	£750		£750. . . the value of tragic Amber	Daily Star
RTA-N-19	Cyclist	1	3			1	0	£500		£500 fine for careless driver who ploughed into policeman	Daily Mail (London)
RTA-N-20	Cyclist	1	4			1	0	£500		£500 fine for driver in death crash	The Times (London)
RTA-N-21	Cyclist	2	2	Y		1.5	0	£0		Driver spared jail for hit-run accident	The Northern Echo

Date	Synopsis	Notes
January 17, 2007	A teenage male driver knocked down an elderly pedestrian dragged him along the road underneath his car and then reversed over the body before driving off. The pensioner, who was left in a coma and suffered multiple serious injuries, was kept in hospital for 12 weeks.	
February 10, 2005	A young male driver, accused of driving at up to 99mph in a sports car, killed a cyclist. The jury took 5 hours to acquit him of CDDD, instead returning a verdict of driving without due care and attention.	The Judge said: "There are far too many young men driving too fast. You knew that road. What you did fell below the standard expected."
March 2, 2005	The male driver of a sports car who knocked a cyclist 45 metres along the road and killed him, was found not guilty of causing death by dangerous driving, but was convicted of driving without due care and attention by a majority verdict.	CPS: "The law says we have to look at the standard of driving, not at the consequences of the accident. "That's what we're obliged to do. There's no leeway on that."
November 12, 2004	A young male driver stopped at a junction but then proceeded, colliding with a cyclist who died in hospital. The driver admitted driving without due care and attention. Magistrates heard the case was "at the bottom end of the scale with regards to negligence" and fined him £200.	Defence barrister said: "He simply didn't see the cyclist... It's unfortunate the cyclist wasn't wearing a helmet as what otherwise might have been a minor accident became a fatal accident."
November 23, 2004	A young male driver who killed an elderly cyclist claimed his own life is ruined and blamed the accident on bad roads. The driver, who has a previous speeding conviction from 2003, said that changes were needed in the cul-de-sac to improve safety for manoeuvring vehicles.	
September 16, 2005	A middle aged male truck driver who knocked down and killed a cyclist "escaped with a year's ban and a fine of £1,000" after admitting to careless driving. He was travelling at 20mph above the speed limit at the time of the collision and was distracted by a mobile phone.	
December 8, 2005	A young male driver fatally injured a cyclist when his car skidded out of control on a country road in an incident whose cause has left "left accident investigators baffled". "It appears to have been a momentary misjudgement or lack of observation that caused him to lose control."	Investigators were unable to establish the cause, ruling out speeding or a mechanical defect. Sheriff said sentence could reflect only the degree of carelessness and not its consequences.
April 22, 2005	Teenage male driver (the son of a hospital consultant) knocked down and killed a 10 year old cyclist. He had been travelling at least 15mph over the speed limit.	According to experts had he been within the 40mph speed limit he would have been able to stop without hitting her, yet magistrates said it had been a "momentary lapse".
October 6, 2005	A female driver escaped a jail sentence after admitting that she had driven 500 yards at 45mph despite being completely blinded by sunlight before hitting and killing a cyclist.	Victim's father said: "How can you drive blind for nearly 30 seconds until you kill someone? If she could not see why on earth didn't she stop? She is not a safe person to be on the road."
August 24, 2002	A lorry driver who admitted speeding killed a cyclist who was "wearing a high-visibility vest and had lights and reflectors on his bicycle".	Investigating officer claimed [the driver] should have been more careful. He said: "The cyclist was clearly visible and there were no obstructions between [the] lorry and the cyclist."
August 8, 2003	A male driver who already had a "string of motoring offences" instantly killed a cyclist when he hit him whilst driving at 60mph through a village. Three days he was caught driving again by police.	
November 8, 2006	Teenage male driver who has previous convictions for speeding killed a pedestrian and pleaded guilty to careless driving.	
October 8, 2004	60 year old female driver collided with a teenage cyclist on an A-road, throwing him 30 feet into the air. He died 35 minutes later from chest injuries.	Sheriff's "hands were tied by law and he was forced to ignore [the victim's] death".
November 5, 2004	A male taxi driver who hit and killed an elderly man at a pedestrian crossing did not stop after the incident. The driver was reported to have walked grinning from court. He was not banned from driving, but has been disqualified for 6 months because of previous convictions for speeding.	
September 20, 2003	A 61 year old male nurse was hit by a van whilst cycling home from work. The driver failed to stop at the scene of the incident. The cyclist was still alive when another motorist passed and called the emergency services, but died in hospital 20 days later.	"It was found the cyclist would have been visible to the driver for about a third of a mile... Police later found the van which had burst a tyre as a result of the collision."
November 26, 2003	A middle aged male coach driver who was virtually blind killed a cyclist, and admitted causing death by dangerous driving. The driver "was registered partially sighted in May 2002" but "he did not inform the DVLA or his employers about his eye problems."	Judge described the victim as "A conscientious cyclist. He was wearing a bright yellow coat riding his cycle in exactly the right part of the road."
May 30, 2006	Male driver was tailgating another car before overtaking at 50mph in a 40mph zone, killing a 78 year old grandmother. The retired cleaner, who had been crossing her road to catch a bus, was hit so hard that her leg was torn off and was found in a nearby garden.	Defence council claimed contributory negligence, saying that the victim walked out into the road when it was not safe for her to do so.
April 27, 2006	Male driver was exceeding the speed limit when he hit and killed a thirteen year old girl who was crossing the road to use a phone box. The judge said the maximum sentence he could impose for this offence was a fine.	
March 10, 2006	Male teacher killed a policeman cyclist on dual carriageway. He was apparently aware of the cyclist but was "momentarily distracted" by another vehicle behind him. The victim was an experienced cyclist and died from head injuries "despite" having been wearing a helmet.	"The crash investigation team concluded there was no reasonable excuse for the accused's failure to see the presence of [the cyclist] or his failure to react his presence."
August 1, 2000	A male lorry driver who killed a cyclist whilst being distracted by the ringing of his mobile phone is found guilty of driving without due care and attention. Only three days previously the same driver was issued a fixed penalty notice for using his mobile phone whilst at the wheel.	
November 17, 2006	Teenage male driver admitted failing to stop after an accident, dangerous driving and driving with excess alcohol after crashing into a cyclist and causing several injuries. Defence council said the driver "panicked" after the accident.	

#### Key to Casualties

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

#### Key to Charges

1: Causing death by dangerous driving, 2: Dangerous driving, 3: Careless driving, 4: Driving without due care and attention, 5: Causing death by driving without due care and attention, 6: Causing death by careless driving, 7: Driving with bald tyres, 8: Causing death whilst driving under the influence of drink or drugs

Appendix 4

RTA-N Dataset: Road Traffic Accident cases from national newspaper reports, sorted in descending order of detention sentence

Ref	Type	Casualties Key below	Charge Key below	Alcohol Yes/No	Already disqualified Yes/No	Disqualifi- cation Years	Sentence Years	Fine £	Community Service Hours	Newspaper Report Title	Source
RTA-N-22	Cyclist	1	3			1	0	£800		Tractor driver cleared over death	Western Morning News (Plymouth)
RTA-N-23	Cyclist	1,4	4			0.5	0	£2,000		£2,000: is that all her life is worth	Gloucestershire Echo
RTA-N-24	Cyclist	1,1,1,1,3	7			0	0	£180		Fatal journey; The story of a cycling tragedy	The Independent (London)
RTA-N-25	Cyclist	1	3			0	0	£200		Family's plea	Evening Gazette
RTA-N-26	Cyclist	1	3			0	0	£500		£500 fine for cyclist death	Hull Daily Mail
RTA-N-27	Cyclist	1	2			0	3/7			Driver is jailed for bus death	Birmingham Evening Mail
RTA-N-28	Cyclist	1	1		Y		1/2			A Waste Of Life	Hull Daily Mail
RTA-N-29	Cyclist	1	1			3	5/6	£0		Newly-wed is jailed after killing cyclist	Birmingham Post
RTA-N-30	Cyclist	1,4	1		Y	5	1			Boy killed by an illegal driver	Lancashire Evening Post
RTA-N-31	Cyclist	1	1			2	1			Bus driver jailed	UK Newsquest Regional Press - This is Local London
RTA-N-32	Cyclist	1	n/a			4	1 1/2	£0		18 months for hit-and-run killer	The Times (London)
RTA-N-33	Cyclist	1	1			4	2			Driver in death crash is jailed	Leicester Mercury
RTA-N-34	Cyclist	1	1			6	2 1/2			"Killer should not have been jailed"	Bristol Evening Post
RTA-N-35	Pedestrian	1	3			5	3 1/6			Driver who killed, jailed for 38 months	Kent and Sussex Courier
RTA-N-36	Cyclist	1	1			10	3 1/2			Driver with blurred vision killed cyclist	Daily Post (Liverpool)
RTA-N-37	Pedestrian	1	1			n/a	3 1/2			Driver jailed after schoolboy hit-and-run	UK Newsquest Regional Press - This is Local London
RTA-N-38	Cyclist	1	1		Y		4			"Who doesn't?"	The Mirror
RTA-N-39	Cyclist	1	1			n/a	4	£0		Scumbag II. another road killer ...	The Sun
RTA-N-40	Cyclist	1	1	Y		5	4	£0		Driver jailed for four years for killing cyclist	Yorkshire Evening Post
RTA-N-41	Cyclist	1	1		Y	n/a	4			Teenager killed by boy of 16 driving a £10 car	DAILY MAIL (London)
RTA-N-42	Cyclist	1	1		Y	n/a	4 1/2			Killer driver jailed for four and a half years	Irish News

Date	Synopsis	Notes
October 11, 2006	Tractor driven by 21 year old male overtook experienced cyclist leaving her only 50cm of room. She wobbled and was struck by the tractor's trailer, falling into the road. The jury convicted the driver of careless driving by a majority verdict.	Judge requested a change in the law when he learnt that a special licence is not required for a 21 year old to drive even a very large tractor.
July 13, 2006	Middle aged cycling couple were hit by a car driven by a 67-year old professional male "cutting the corner" at a T-junction. Police report stated that the driver had 9 seconds in which to take evasive action, and the cyclists were wearing bright clothing in daylight conditions.	The driver was observed to have commented "Oh my God, I didn't see them".
August 21, 2006	4 cyclists were killed and 8 others hit when an oncoming car skidded on ice when travelling a little over 50mph. The 47-year old male driver had three defective tyres but police claimed these did not contribute to the accident.	Police initially claimed the event was simply a "tragic accident" and that no one was to blame, but subsequently decided to prosecute.
January 11, 2006	Cyclist was knocked from his bike by a Transit van and two other vehicles drove over the body before it was recovered. The middle aged male van driver pleaded not guilty of CDDD and claimed he had been dazzled by the low sun. Charges were not pressed against the other two motorists.	
January 18, 2006	Newly-qualified young male lorry driver was fined £500 for a crash that killed a cyclist. He was overtaking on the inside lane in an attempt to "queue-jump" at the time of the collision.	
October 30, 2003	Middle aged male minibus driver "cut into the nearside lane" and killed a cyclist, then ignored pleas from his passengers to stop. He was found guilty of careless driving, failing to stop after an accident and failing to report it.	
September 9, 2003	An unlicensed young male driver doing 70mph in a 30mph zone in a borrowed BMW whilst racing another sports car killed a cyclist before crashing through a wall and into a bungalow. The driver already had a criminal record for driving without a licence or insurance.	
May 19, 2006	Female driver killed male cyclist whilst checking her rear-view mirror on fast A-road. Lapse in concentration was "brief but not momentary" and she made no attempt to brake according to the judge. Clear conditions and cyclist was wearing "multi coloured clothing".	
March 11, 2005	A 12-year-old cyclist died when he was flung over 70ft after colliding with a delivery van driven by a man who was not licensed to drive that vehicle.	At the time of the accident it was dusk, but the bicycle did not have lights although it was fitted with reflectors
February 18, 2005	A recently qualified bus driver killed a cyclist on a cycle lane "sandwiched between the bus lane and the main traffic". The driver had told his employers that he was not confident driving that route and asked to be transferred, a request which was ignored.	
April 4, 2006	Middle aged male driver killed female medical student on pelican crossing before speeding off and attempting to dump car. He had previously been banned for drink-driving. Pleaded guilty to dangerous driving, failing to stop after an accident, and driving without insurance.	
August 20, 2005	A young male driver who overtook another vehicle and "sped through an amber traffic light" killed a young woman cyclist. Passengers in the same car gave evidence that the cyclist was clearly visible.	
April 1, 2005	The family of a man killed by a teenage male driver say they would have liked to see the youngster spared jail. The car was travelling at 65mph - twice the speed limit - when it collided with the cyclist on a pelican crossing.	The Judge said "You drove in such a way that [the cyclist] had no chance. Your speed was just too high." Cyclist wearing a visible tabard and the front light of his bike remained lit after the impact.
December 22, 2006	A young male driver who had drunk more than five pints of lager killed a pensioner who was walking by the road.	Previous convictions for drink driving
March 19, 2005	A visually-impaired motorist knocked down and killed a cyclist. Despite having been warned by his optician not to drive he had continued to do so for the last 10 years.	Also appears in Court of Appeal dataset? Judge John Rogers, QC, said 'It was only a matter of time before you caused a serious accident.'
December 18, 2003	Male driver who drove on the wrong side of the road to avoid a traffic jam and hit a young pedestrian then panicked and reversed over the body before driving off. The boy died a week later in hospital. He denied causing death by dangerous driving but was convicted by the jury.	
August 3, 2005	A young male car driver was racing another motorist at up to 80mph in rush-hour traffic when the other car killed a cyclist.	
October 29, 2005	A 17 year old "boy racer" killed a cyclist whilst "joy riding" in a "banger bought for £10".	
September 19, 2006	36 year old woman stormed out of pub after a row and "ploughed into" cyclist whilst drink-driving. Cyclist was wearing a helmet but suffered "massive skull fracture". Cyclist thrown from bonnet of the car when driver did not stop following the initial impact.	Defence lawyer commented that the driver's younger brother had been killed in a road traffic accident some years previously, and that the defendant had "always lived with" this fact.
October 27, 2004	An underage and unlicensed male driver killed a teenage cyclist whilst driving a £10 car "riddled with defects". The driver had been doing 60mph in a 40mph zone and did not stop after the incident. No fault was found with the cyclist or his £1,500 'professional' bike.	
December 11, 2004	A male driver who had never sat nor passed the driving test, and had been convicted of 56 previous motoring convictions including a serious accident in 1995, killed a schoolgirl riding her bike. He was travelling over 70mph in clear conditions when the event took place.	In defence the driver's lawyer claimed that the driver had an IQ level which put him in the bottom 4% of the population and that he had difficulty in learning from previous experiences.

#### Key to Casualties

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

#### Key to Charges

1: Causing death by dangerous driving, 2: Dangerous driving, 3: Careless driving, 4: Driving without due care and attention, 5: Causing death by driving without due care and attention, 6: Causing death by careless driving, 7: Driving with bald tyres, 8: Causing death whilst driving under the influence of drink or drugs

**Appendix 4**

*RTA-N Dataset: Road Traffic Accident cases from national newspaper reports, sorted in descending order of detention sentence*

Ref	Type	Casualties Key below	Charge Key below	Alcohol Yes/No	Already disqualified Yes/No	Disqualifi- cation Years	Sentence Years	Fine £	Community Service Hours	Newspaper Report Title	Source
RTA-N-43	Cyclist	1	1		Y	n/a	4 1/2			Driver's Six-Year Jail Term Reduced	Hull Daily Mail
RTA-N-44	Pedestrian	1	n/a				5	£0		Driver who killed man while text messaging jailed for five years	The Independent (London)
RTA-N-45	Pedestrian	1,3,3,3	1	Y		10	5			The killer driver with a killer driver as a father	Daily Mail (London)
RTA-N-46	Cyclist	2	1		Y	4	6	£0		Custody for motorist who left man in road	Bristol Evening Post
RTA-N-47	Pedestrian	1,2	8		Y	n/a	6			Killer hit-run drink driver gets six years	Liverpool Daily Echo
RTA-N-48	Cyclist	1	1		Y		6 1/2			Death crash driver gets shorter sentence	UK Newsquest Regional Press - This is Cheshire
RTA-N-49	Cyclist	1	1	Y		10	7	£0		Seven years jail for 'maniac' death driver	Liverpool Daily Echo
RTA-N-50	Cyclist	1	1		Y	n/a	8	£0		Car killer banned 11 times	The Mirror

Date	Synopsis	Notes
December 1, 2003	An unlicensed young male driver who killed a cyclist whilst speeding had a previous conviction for failing to stop at the scene of an accident.	
February 15, 2001	A lorry driver who killed a pedestrian in a lay-by because of distracting himself by composing text messages whilst at the wheel was jailed for 5 years.	
January 26, 2007	A teenage male driver who had been drinking "continuously" ignored a red light and reached speeds of up to 80mph in a 30mph zone before "ploughing into" a group of pedestrians, killing 1 and injuring 3. Passengers and witnesses had warned him to slow down and improve his driving.	
July 24, 2006	Two drivers racing each other on the public highway struck a cyclist causing severe injury, and drove off without stopping. The driver of one, a teenage male with special needs, pleaded guilty; the other was not traced.	
December 22, 2006	A middle aged man who had been driving for 20 years despite never having passed the test killed a pedestrian whilst driving after drinking. He drove away from the scene of the incident without stopping.	
May 11, 2005	A male driver killed a young father after knocking him off his cycle six weeks after being banned for drink driving.	Also appears in Court of Appeal dataset
February 15, 2006	Male driver killed 15 year old cyclist whilst racing another vehicle. The defendant admitted being over the drink drive limit. The driver of the other car was never traced.	Judge Roberts said: "cars are lethal weapons if not driven properly. The accident involved an extremely high level of culpability... speeding... alcohol and aggressive driving."
November 24, 2006	A male driver who had been disqualified 11 times knocked down and killed a schoolboy hours after smoking heroin. He was doing almost twice the speed limit in a stolen car when he hit the 13-year-old cyclist.	

**Key to Casualties**

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Key to Charges**

1: Causing death by dangerous driving, 2: Dangerous driving, 3: Careless driving, 4: Driving without due care and attention, 5: Causing death by driving without due care and attention, 6: Causing death by careless driving, 7: Driving with bald tyres, 8: Causing death whilst driving under the influence of drink or drugs

## Appendix 5

*Non-N Dataset: Non-RTA cases from national newspaper reports, sorted in descending order of detention sentence*

Ref	Casualties <i>Key below</i>	Charge	Sentence <i>Years</i>	Fine <i>£</i>	Newspaper Report Title
Non-N-1	1	Manslaughter by way of gross negligence	0	£15,000	Suspended Sentence For Manager Of Holiday Park
Non-N-2	1	Manslaughter by way of gross negligence	0	£12,000	Suspended Sentence For Manager Of Holiday Park
Non-N-3	1	corporate manslaughter	0		Suspended jail term for timber boss over death of worker
Non-N-4	1,1	Breach of health and safety regs	0	£7,500	Three fined after steeplejacks' deaths
Non-N-5	1,1	Breach of health and safety regs	0	£7,500	Three fined after steeplejacks' deaths
Non-N-6	1,1	Breach of health and safety regs	0	£2,000	Three fined after steeplejacks' deaths
Non-N-7	1	Manslaughter by way of gross negligence	0		Holiday reps guilty of causing death of girl, 11, on sailing trip
Non-N-8	1	Manslaughter by way of gross negligence	0	£1,500	Sergeant 'scapegoat' for death
Non-N-9	2	Failing to ensure health and safety	0	£7,500	Explosion wrecked my life ... my dream is over
Non-N-10	1,1	Manslaughter by way of gross negligence	0		Fury as killer bosses go free; their driver is jailed over death crash
Non-N-11	1,1	Manslaughter by way of gross negligence	0		Fury as killer bosses go free; their driver is jailed over death crash
Non-N-12	1	Manslaughter by way of gross negligence	0		Doctor who killed patient on operating table escapes jail
Non-N-13	1,1	Manslaughter by way of gross negligence	0		Couple spared jail over rail deaths
Non-N-14	1	Failing to ensure health and safety	0	£10,000	Pair convicted over mechanic's death
Non-N-15	1	child cruelty by gross negligence	0		Baby fed raw vegan diet died from malnutrition
Non-N-16	1	Manslaughter by way of gross negligence	0		Toddler lorry death dad spared jail
Non-N-17	1	Manslaughter by way of gross negligence	0		Lid fears after Sadie's death
Non-N-18	1	Manslaughter by way of gross negligence	0		No jail for hunter who shot stepson
Non-N-19	1	Manslaughter by way of gross negligence	1/2		Doctor who killed boy with gas in dentist's chair is jailed
Non-N-20	2	Manslaughter by way of gross negligence	2/3		Jail for worker who shot colleague in the eye

Source	Date	Synopsis
The West Briton	August 7, 2003	Death of boy who fell into cesspit on campsite
The West Briton	August 7, 2003	Death of boy who fell into cesspit on campsite
The Guardian (London)	March 1, 2003	Employee killed by collapsing wood pile
Western Mail	June 18, 2004	Death of two steeplejacks at work
Western Mail	June 18, 2004	Death of two steeplejacks at work
Western Mail	June 18, 2004	Death of two steeplejacks at work
The Times (London)	March 22, 2006	Holiday company employees found guilty of gross negligence when a girl drowned
Birmingham Post	July 13, 2002	Sergeant found guilty of manslaughter of footballer who drowned on army endurance run
Evening Gazette	November 29, 2006	Teenager was badly burnt after an explosion at work
The Mirror	December 11, 1999	Bosses of a haulage firm whose driver worked illegally long hours and caused a fatal accident
The Mirror	December 11, 1999	Bosses of a haulage firm whose driver worked illegally long hours and caused a fatal accident
The Independent (London)	June 24, 2004	Doctor allowed patient to bleed to death in the operating theatre
The Times (London)	October 19, 2001	Death of children on railway line
This is Brighton and Hove	March 12, 2005	Death of trainee garage mechanic in petrol 'fireball'
The Guardian (London)	September 15, 2001	Death of child by malnutrition
This is Local London	November 25, 2006	"Recklessness" of father who let 12 year old son drive truck which killed toddler
This is York	September 3, 2005	Death of toddler who drank Mum's methadone
Birmingham Post	September 3, 2005	Shot stepson because he mistook him for a fox
Birmingham Post	July 30, 1999	Death of patient killed by negligent anaesthetist
The Sentinel (Stoke)	November 18, 2006	Shot in the eye with an industrial compressor

**Key to Casualties**

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

## Appendix 5

*Non-N Dataset: Non-RTA cases from national newspaper reports, sorted in descending order of detention sentence*

Ref	Casualties <i>Key below</i>	Charge	Sentence <i>Years</i>	Fine <i>£</i>	Newspaper Report Title
Non-N-21	1	Manslaughter by way of gross negligence	2/3		Doctor who killed teenager freed
Non-N-22	1,1	Two charges under the H&S act	3/4		Factory boss jailed over poison deaths
Non-N-23	1	Manslaughter by way of gross negligence	3/4		Pair convicted over mechanic's death
Non-N-24	1	Manslaughter by way of gross negligence	1		Jailed boss loses appeal
Non-N-25	1	Manslaughter by way of gross negligence	1		Home boss jailed for manslaughter
Non-N-26	1	Manslaughter by way of gross negligence	1		"Foolhardy" teacher jailed after pupil drowns on trip
Non-N-27	1	Manslaughter by way of gross negligence	1 1/4		90-hour week of the locum who killed a patient
Non-N-28	1,2	Manslaughter by way of gross negligence	1 1/2		"Lethal and dangerous" death fall builder jail term upheld
Non-N-29	1	Manslaughter by way of gross negligence	2		Tragic baby's mother given probation
Non-N-30	1	Wilful Neglect	2		Mum is jailed
Non-N-31	1	Manslaughter by way of gross negligence	2		Death probe call as squaddie is jailed
Non-N-32	1	Manslaughter by way of gross negligence	2 1/2		Home boss jailed for manslaughter
Non-N-33	1	Manslaughter by way of gross negligence	2 1/2		The Family: Not Surprised
Non-N-34	1	Manslaughter by way of gross negligence	2 1/2		Drunken dad jailed over drowned baby
Non-N-35	1	Manslaughter by way of gross negligence	3		Jailed for killing pal
Non-N-36	1	Manslaughter by way of gross negligence	3		Never again ...in the name of our little Joshua
Non-N-37	1	Manslaughter by way of gross negligence	4		Convicted killer's sentence reduced
Non-N-38	1	Manslaughter by way of gross negligence	4		Jailed for gross neglect of wife
Non-N-39	1	Manslaughter by way of gross negligence	5		Man gets five years for manslaughter of friend
Non-N-40	1,1	Manslaughter	5		Carer guilty of killing baby girl

Source	Date	Synopsis
The Times (London)	September 24, 2003	Lethal injection for teenage patient
Birmingham Post	August 1, 2003	Two employees died after inhaling toxic fumes
This is Brighton and Hove	March 12, 2005	Death of trainee garage mechanic in petrol 'fireball'
Evening Herald (Plymouth)	October 6, 2004	Death of employee in workplace fire
This is Lancashire	December 2, 2003	Care home manager and worker are found guilty for the death of an elderly patient
Birmingham Post	September 24, 2003	Child dies on school outing
DAILY MAIL (London)	April 6, 2004	Death of patient with accidental morphine overdose
This is The Black Country	May 20, 2006	Boss failed to safely maintain tele-porter crane from which two employees fell to their death
Birmingham Post	March 10, 2001	Mother convicted of manslaughter for failing to prevent boyfriend from murdering her baby
Liverpool Daily Echo	June 30, 2004	Mother suffocated baby while she slept after smoking heroin and cocaine
Daily Record	January 11, 2003	Soldier's gun went off and killed colleague
This is Lancashire	December 2, 2003	Care home manager and worker are found guilty for the death of an elderly patient
The Sentinel (Stoke)	July 9, 2003	Baby falls out of drug addict mother's bed and is trapped against radiator
Manchester Evening News	December 14, 2000	Baby drowns in bath whilst being cared for by drunken father
Daily Post (Liverpool)	March 24, 2005	Man killed by friend who did not realise his gun was loaded
Lancashire Evening Post	December 12, 2005	Drowning of toddler whilst in care of childminder
Express and Echo (Exeter)	February 28, 2006	Heroin addict failed to call for help when his teenage nephew overdosed on heroin
The Northern Echo	April 5, 2003	Man neglected his wheelchair-bound wife causing her death
Bristol Evening Post	March 9, 2004	Accidental shooting with revolver which "fired as he fumbled with it in his home"
The Herald (Glasgow)	July 24, 1997	Child minder found guilty of dropping a baby in her care

**Key to Casualties**

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

## Appendix 5

*Non-N Dataset: Non-RTA cases from national newspaper reports, sorted in descending order of detention sentence*

Ref	Casualties <i>Key below</i>	Charge	Sentence <i>Years</i>	Fine <i>£</i>	Newspaper Report Title
Non-N-41	1	Manslaughter by way of gross negligence	5		Uncle is jailed for fatal neglect
Non-N-42	1	Manslaughter by way of gross negligence	5		A young robber was killed with a crossbow bolt as he "taxed" a drug dealer
Non-N-43	1	Manslaughter by way of gross negligence	6		Addict jailed over son's fatal overdose
Non-N-44	1	Manslaughter by way of gross negligence	6		Teen left pal to burn in bed
Non-N-45	1	Manslaughter on the basis of gross negligence	6		A good man
Non-N-46	1	Manslaughter by way of gross negligence	7		"Send me an ambulance... I've been shot"
Non-N-47	1	Manslaughter by way of gross negligence	8		Eight-year sentence for drunken killing
Non-N-48	1,1,1,1	Manslaughter by way of gross negligence	9		"Cowboy" rail boss is sent to prison for nine years over deaths of four workers
Non-N-49	1	"Endangering his ship" (Merchant Shipping Acts)	12		Watchkeeping officer jailed over fatal Channel collision
Non-N-50	1x21	Manslaughter by way of gross negligence	12		Gangmaster jailed for manslaughter

Source	Date	Synopsis
Western Morning News (Plymouth)	October 4, 2005	Failing to intervene to save the life of a teenager who took heroin
Manchester Evening News	December 4, 2003	Man killed by crossbow; assailant claimed he thought the safety catch was on
Yorkshire Post	October 25, 2002	Child dies after drinking mother's methodone
Nottingham Evening Post	September 18, 2004	Leaving his friend to burn to death
Western Daily Press	July 15, 2006	Deliberately driving into a pub landlord who was breaking up a fight
South Wales Echo	June 3, 2003	Accidentally shot with a replica gun
Irish News	July 01, 2003	Father stabbed his son whilst drunk
Lancashire Evening Post	March 18, 2006	Railway boss convicted of manslaughter after runaway wagon kills four workmen
Lloyd's List	March 7, 2003	Collision at sea following lookout's failure to spot smaller ship
Birmingham Post	March 29, 2006	Drowning of Chinese cockle pickers in Morecambe Bay

**Key to Casualties**

1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Appendix 6**

*RTA-C Dataset: Road Traffic Accident cases from appeal court transcripts, sorted in descending order of final detention sentence*

Ref	Type	Casualties	Charge	Alcohol	Final disqual- ification	Initial disqual- ification	Final sentence	Initial sentence	BAILII Reference
		Key below	Key below	Mg	Years	Years	Years	Years	
RTA-C-1	Pedestrian	1	4	N	1/2	2 1/2	0	0	1998/1904
RTA-C-2	Pedestrian	1,2	4	N	3	3	0	0	1999/1945
RTA-C-3	Cyclist	1	4	N	1/2	1	0	0	1997/1365
RTA-C-4	Pedestrian	1	4	N	1	2	0	0	1999/152
RTA-C-5	Pedestrian	1	2	N	1/2	1	0	0	1997/1265
RTA-C-6	Pedestrian	2	2	N	12	0	0	0	1997/876
RTA-C-7	Pedestrian	1	4	N	1	1	1/4	1	1998/1720
RTA-C-8	Pedestrian	2,2,3	2	N	2	2	1/2	3/4	1999/943
RTA-C-9	Pedestrian	1	1	N	3	3	2/3	1 1/2	1996/1033
RTA-C-10	Pedestrian	1,1	2	85	3	3	1 1/2	1 1/2	1997/2544
RTA-C-11	Pedestrian	1	1	N	3	3	1 1/2	3	1997/470
RTA-C-12	Pedestrian	1	1	N	3	3	1 1/2	2 1/2	1997/3078
RTA-C-13	Pedestrian	1	1	N	2 1/2	2 1/2	1 3/4	2 1/2	1998/82
RTA-C-14	Pedestrian	1	1	N	4	4	1 3/4	3/4	1996/317
RTA-C-15	Pedestrian	1,4	1	52	5	5	2	3	1999/1289
RTA-C-16	Pedestrian	1	1	N	4	4	2	1 1/2	2004/1530
RTA-C-17	Cyclist	1	1	N	5	5	2 1/2	3 1/2	1998/2213

Summary	Notes
A "young and inexperienced" teenage male driver lost control of his car on a bend and collided with a pedestrian who subsequently died.	It is quite plain that this Court has to disregard the effects of that accident; in particular, the fact that somebody died as a result of bad driving is irrelevant.
A young male, driving his father's car, collided with two pedestrians whilst travelling on the wrong side of the road.	A sentence of 3 years was replaced at appeal with a sentence of 18 months, but these were both for attempting to pervert the course of justice. For the driving offence there was no sentence.
A male driver collided with a cyclist in the early hours of the morning, killing him instantly. The cyclist had been drinking. The driver variously claimed that the cyclist had swerved out into the road and that he had not seen the cyclist at all.	
Male driver who was exceeding the 30mph speed limit by 12mph collided with and killed a pedestrian who was crossing the road. The accused was also caught speeding again in a separate incident some 10 days later.	
A male driver, borrowing his wife's car without her permission, lost control on a corner and collided with an elderly male pedestrian, killing him.	"The fatal consequences were wholly irrelevant. It was the degree of culpability of the carelessness which required consideration and no more."
Young male driver was driving at excessive speed when he hit and seriously injured a pedestrian. He did not stop at the scene and did not report the incident.	
Male driver failed to stop at a pedestrian crossing, hitting and killing a woman who was halfway across.	"On the cusp" between dangerous and careless driving
Young male driver hit a family of three who were crossing the road. The weather was very bad and the car's speed was judged to have been excessive for the conditions. There was also a suggestion he had tried to beat the lights instead of slowing down.	
A young male sports car driver accelerated towards traffic lights, overtaking another car at 48mph in a 30mph zone before colliding with an elderly female pedestrian. She died in hospital 9 days later.	To put it in a word, this accident happened because the appellant was driving rather too fast, as young men will, and some older ones too.
A female driver who had drunk 4 pints before driving at between 52 mph and 63 mph in a 30mph zone lost control and mounted a pavement, colliding with and very seriously injuring two teenage female pedestrians.	"Any driver who fails to realise that what he is doing at the wheel is creating a risk ... or... takes a chance on avoiding disaster and so kills, is prima facie deserving of severe punishment."
Male driver who was late for work overtook a line of cars at 60mph in a 30mph zone, travelling on the wrong side of a pedestrian island in the road. He collided with a pedestrian who later died from his injuries.	
Young male taxi driver, having already been warned two hours previously by police to keep his speed down, was travelling at 54mph in a 30mph zone when he collided with and killed a pedestrian.	
Teenage male driver overtook another car and accelerated up to 60mph in a 30mph speed limit, failed to see a pedestrian and collided with him causing his death.	
Young male driver who was speeding at somewhere between 45mph and 70mph in a 30mph zone struck and killed a pedestrian and failed to stop at the scene of the incident.	
Male driver whose alcohol blood content was "significantly but not grossly" over the drink-drive limit hit two pedestrians, slightly injuring one and killing the other.	Some blame attributed to the pedestrians.
An unlicensed and uninsured male driver, who was a diabetic and suffering from hypoglycaemia at the time of the incident as well as having taken opiates that morning, lost control of his new vehicle, mounted the pavement and killed a male pedestrian.	
Two young male drivers were racing through a built up area, ignoring traffic signals and narrowly avoiding other cars, when one of them struck and killed a male cyclist.	

**Key to Casualties:** 1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Key to Charges:** 1: Causing death by dangerous driving, 2: Dangerous driving, 3: Careless driving, 4: Driving without due care and attention, 5: Causing death by driving without due care and attention, 6: Causing death by careless driving, 7: Driving with bald tyres, 8: Causing death whilst driving under the influence of drink or drugs

**Key to BAILII References:** to find these cases online, prepend <http://www.bailii.org/ew/cases/EWCA/Crim/> and append .html to the reference above, e.g. 1998/1904 becomes <http://www.bailii.org/ew/cases/EWCA/Crim/1998/1904.html>

**Appendix 6**

*RTA-C Dataset: Road Traffic Accident cases from appeal court transcripts, sorted in descending order of final detention sentence*

Ref	Type	Casualties	Charge	Alcohol	Final disqual- ification	Initial disqual- ification	Final sentence	Initial sentence	BAILII Reference
		Key below	Key below	Mg	Years	Years	Years	Years	Key below
RTA-C-18	Cyclist	1	6	84	5	7	3	3	1996/102
RTA-C-19	Pedestrian	1	1	N	6	6	3	4 1/2	1998/305
RTA-C-20	Cyclist	1	1	N	3	3	3	3	1996/422
RTA-C-21	Cyclist	1	1	N	5	5	3 1/2	4 1/2	1997/513
RTA-C-22	Cyclist	1	1	90	4	8	3 1/2	5	1997/35
RTA-C-23	Cyclist	1	5	Y	10	10	4	6	1996/1086
RTA-C-24	Cyclist	1	5	66	7	7	4	4	1999/706
RTA-C-25	Cyclist	1	6	Y	6	6	4	4	2003/996
RTA-C-26	Cyclist	1	1	N	n/a	n/a	4	4	1998/2213
RTA-C-27	Pedestrian	1,4	5	64	5	5	4	5	1998/532
RTA-C-28	Pedestrian	1,2,3	1	N	7	7	4 1/2	3 1/2	2004/3285
RTA-C-29	Pedestrian	1	1	N	1	5	5	5	1999/490
RTA-C-30	Pedestrian	1,1,1,1,1,2x?	1,1,1,1,1	N	7	7	5	5	2006/1969
RTA-C-31	Pedestrian	1	1	N	8	10	5 1/2	7	1997/1580
RTA-C-32	Pedestrian	1	1	142	10	10	6	6	1997/2499
RTA-C-33	Pedestrian	1,3,3	5	Y	10	10	6	6	1996/94
RTA-C-34	Cyclist	1	1	Y	7	10	6 1/2	8	2005/1217
RTA-C-35	Pedestrian	1,2	1	99	8	8	7	7	1998/2974

Summary	Notes
Male driver collided with a cyclist on a country lane after drinking 4 glasses of wine. The cyclist died instantly and the driver did not stop.	
A male driver, driving a stolen car at excessive speed, swerved across the road and collided with an elderly female pedestrian causing her immediate death.	
A young male driver who was speeding, "thrusting aggressively through traffic" and overtaking on the inside lane failed to see a cyclist and collided with him.	
A male taxi driver, who had been involved in an argument with a male cyclist, deliberately swerved towards the cyclist to scare him. The cyclist lost control and fell onto the kerb, hitting his head and died in hospital four days later.	
Underage male teen driver who had been drinking lost control of his uninsured and untaxed car whilst speeding and collided with a middle aged male cyclist.	
A male driver who had been drinking collided with a cyclist travelling in the same direction as him on an A-road, killing the cyclist.	Cyclist wearing dark clothing and only a dim front light
Young male driver overtook a taxi at speed before colliding with a cyclist causing his death. It was dark and the cyclist was displaying no lights, but the taxi had observed him.	
Middle aged male driver with several previous motoring convictions, drunk at least 9 pints before colliding with a cyclist killing him.	
Two young male drivers were racing through a built up area, ignoring traffic signals and narrowly avoiding other cars, when one of them struck and killed a male cyclist.	
A young male driver, having drunk 4 pints, lost control in snowy conditions whilst travelling at 45mph when most other traffic was travelling at 15mph due to the poor weather. He collided with a group of 4 middle aged pedestrians.	
Young male driver, having driven away from a petrol station without paying, sped through a red light and collided with a group of pedestrians at a pedestrian crossing.	
Teenage male driver was speeding in a stolen car and probably racing another car driven by a friend when he lost control, mounted the pavement and collided with a pedestrian who died.	
Male bus driver pressed the accelerator pedal believing it to be the brake, ploughing into a crowd of people and at least one car, killing five and injuring many more.	
Young male driver lost control of his car due to entering a bend in the road at excessive speed, probably aggravated by the car having defective brakes. He collided with a 77-year old pedestrian causing "horrific injuries" and eventual death in hospital.	
Young male driver who had been drinking collided with a pedestrian whilst driving on the wrong side of the road.	
A male driver, "very drunk", collided with three pedestrians on a country lane on his way home from the pub, despite being told by friends not to drive and being asked by his passengers to slow down.	
A young male driver, drink-driving and speeding in a 30mph zone, failed to negotiate a bend and collided with a male cyclist, killing him instantly.	
Following a drunken row with his girlfriend, a male driver sped off in his car, bumping into or narrowly missing several others before colliding with two pedestrians. The driver was found to have been 3 times over the drink-drive limit.	

**Key to Casualties:** 1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Key to Charges:** 1: Causing death by dangerous driving, 2: Dangerous driving, 3: Careless driving, 4: Driving without due care and attention, 5: Causing death by driving without due care and attention, 6: Causing death by careless driving, 7: Driving with bald tyres, 8: Causing death whilst driving under the influence of drink or drugs

**Key to BAILII References:** to find these cases online, prepend <http://www.bailii.org/ew/cases/EWCA/Crim/> and append .html to the reference above, e.g. 1998/1904 becomes <http://www.bailii.org/ew/cases/EWCA/Crim/1998/1904.html>

## Appendix 7

*Non-C Dataset: Non-RTA cases from appeal court transcripts, sorted in descending order of final detention sentence*

<b>Ref</b>	<b>Casualties Key below</b>	<b>Charge</b>	<b>Final sen- tence Years</b>	<b>Initial sentence Years</b>	<b>BAILII Ref- erence Key below</b>
Non-C-1	1	1	0	0	2004/2375
Non-C-2	1	1	0	0	2004/2375
Non-C-3	1	1	0.75	0.75	1999/460
Non-C-4	1	1	0.75	0.75	1999/460
Non-C-5	1	1	1	1	1999/460
Non-C-6	1,2,2	1	1.5	4	2005/2169
Non-C-7	1,1	1	1.5	1.5	1997/3290
Non-C-8	1	2	2	3	1998/2909
Non-C-9	1	2	2	3	1998/2909
Non-C-10	1	3	2.25	3.5	1999/747
Non-C-11	1	3	2.5	3 1/3	1996/1793
Non-C-12	1,4	3	3	3	2004/3049
Non-C-13	1	3	3	4	1999/944
Non-C-14	1	3	3	3	1998/2455
Non-C-15	1	3	3	3	1998/2455
Non-C-16	1	3	3	3	2003/945
Non-C-17	1	3	3	3	1998/2455
Non-C-18	1	3	3.25	3.25	1998/2590
Non-C-19	1	4	3.5	6	1996/170

### *Summary*

Patient became infected with blood poisoning after knee surgery, two male doctors were found guilty of gross negligence

Patient became infected with blood poisoning after knee surgery, two male doctors were found guilty of gross negligence

Male landlord, male gas fitter and male property agent are found guilty of tenant's death by carbon monoxide poisoning from a faulty gas heater

Male landlord, male gas fitter and male property agent are found guilty of tenant's death by carbon monoxide poisoning from a faulty gas heater

Male landlord, male gas fitter and male property agent are found guilty of tenant's death by carbon monoxide poisoning from a faulty gas heater

Male minicab company owner is found guilty of the death of a passenger who died in an accident resulting from the bursting of a tyre

Male ship's owner and master is found guilty of the deaths of his employees at sea

Parents charged with the manslaughter of their child through neglect and possibly abuse

Parents charged with the manslaughter of their child through neglect and possibly abuse

A drunken man who stepped into the path of a motorcycle was convicted of the manslaughter of its rider who swerved, skidded and was involved in a fatal collision

One man who was assaulting another when he fell into the road and was struck by a car is charged with his manslaughter

Male employer is found guilty of manslaughter through allowing an employee to work illegally long hours at the wheel

A man was attacked and subsequently died from his injuries following several fights or assaults

Three men who broke into a woman's flat with the expressed intent of assaulting her are convicted of her manslaughter when she fell from a window

Three men who broke into a woman's flat with the expressed intent of assaulting her are convicted of her manslaughter when she fell from a window

One male friend is found guilty of causing the death of his friend by supplying heroin to him

Three men who broke into a woman's flat with the expressed intent of assaulting her are convicted of her manslaughter when she fell from a window

Three men are charged with manslaughter for the involvement in the supply of methadone to a man who died, or for his neglect through failing to call for medical assistance

A man is convicted of manslaughter after supplying drugs to a friend which later proved fatal

**Key to Casualties:** 1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Key to Charges:** 1: Manslaughter by reason of gross negligence, 2: Manslaughter by reason of gross neglect, 3: Manslaughter (unspecified type), 4: Supplying controlled class A drugs, 5: Manslaughter on grounds of provocation, 6: Arson

**Key to BAILII References:** to find these cases online, prepend <http://www.bailii.org/ew/cases/EWCA/Crim/> and append .html to the reference above, e.g. 1998/1904 becomes <http://www.bailii.org/ew/cases/EWCA/Crim/1998/1904.html>

## Appendix 7

*Non-C Dataset: Non-RTA cases from appeal court transcripts, sorted in descending order of final detention sentence*

Non-C-20	1	3	3.5	3.5	1998/2590
Non-C-21	1	3	4	6	1999/190
Non-C-22	1	3	4	5	1998/2590
Non-C-23	1,1	3	4	4	1998/1608
Non-C-24	1	3	4.5	4.5	1998/2091
Non-C-25	1	3	5	5	1998/1413
Non-C-26	1	3	5	5	2005/685
Non-C-27	1	5	5	8	1999/809
Non-C-28	1,1	6	5	5	1998/3267
Non-C-29	1	2	6	8	1998/3235
Non-C-30	1	1	6	6	1996/888
Non-C-31	1	3	8	8	1999/1544
Non-C-32	1	3	8	8	1999/1544
Non-C-33	1	3	10	10	1997/2021
Non-C-34	1	3	12	12	2004/3365
Non-C-35	1x58	3	14	6	2002/1944

Three men are charged with manslaughter for the involvement in the supply of methadone to a man who died, or for his neglect through failing to call for medical assistance

A drunken fight between two separate groups of party-goers led to the death of one man

Three men are charged with manslaughter for the involvement in the supply of methadone to a man who died, or for his neglect through failing to call for medical assistance

The owner of a stolen motorcycle is charged with manslaughter for causing the death of the thieves. He threatened the thieves with a baseball bat whilst they were riding the motorcycle, which subsequently skidded out of control.

A middle aged man was assaulted by three youths and died of his injuries before medical help arrived on the scene

One male friend is found guilty of causing the death of his friend by supplying heroin to him

One male friend who supplied heroin to another who injected himself and subsequently died was found guilty of manslaughter

Knife stabbing without intent

A woman who set fire to her own flat following a drunken argument with her boyfriend is charged with the manslaughter of two other residents of the building who were unable to escape

Following a drunken fight, one man was left in the road by another where he was subsequently run over by a passing car

A man is convicted of manslaughter after locking his partner in a room as part of a religious ritual. She died of malnutrition and neglect.

Two male burglars who caused an injury to their victim from which she later died are charged with manslaughter

Two male burglars who caused an injury to their victim from which she later died are charged with manslaughter

A woman who arranged for an ex-lover to be "punished" was charged with the manslaughter of a police officer who was killed when he attended the scene of the attack

Male arsonist charged with manslaughter of his accomplice who died in the fire

The male driver of a truck which was discovered by Customs and Excise officials to contain the dead bodies of 58 illegal immigrants was found guilty of their manslaughter

**Key to Casualties:** 1: Death, 2: Serious injury, 3: Injury, 4: Minor injury

**Key to Charges:** 1: Manslaughter by reason of gross negligence, 2: Manslaughter by reason of gross neglect, 3: Manslaughter (unspecified type), 4: Supplying controlled class A drugs, 5: Manslaughter on grounds of provocation, 6: Arson

**Key to BAILII References:** to find these cases online, prepend <http://www.bailii.org/ew/cases/EWCA/Crim/> and append .html to the reference above, e.g. 1998/1904 becomes <http://www.bailii.org/ew/cases/EWCA/Crim/1998/1904.html>

## Appendix 8

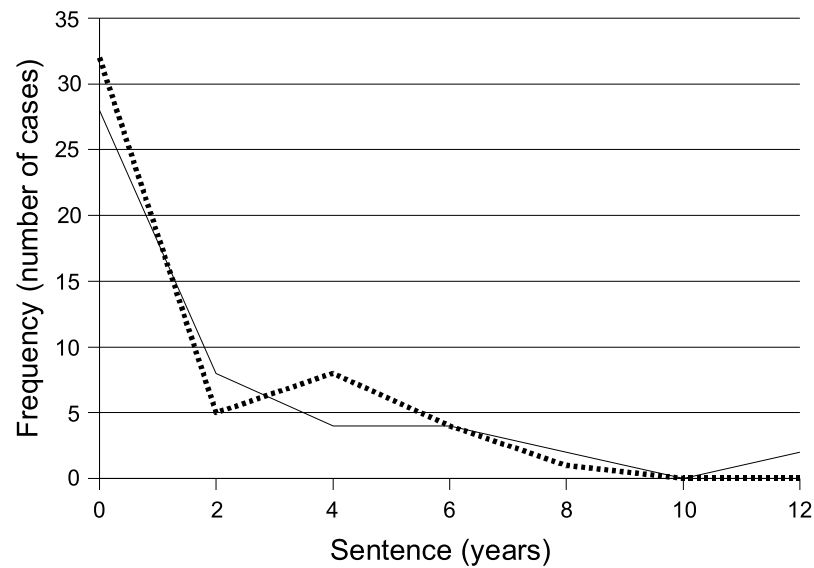
*A comparison of the distribution curves for the length of sentences received by RTA and non-RTA offenders in the newspaper report set*

Sentence (years)	Frequency (no. of cases)	
	RTA	Non-RTA
0	32	28
2	5	8
4	8	4
6	4	4
8	1	2
10	0	0
12	0	2

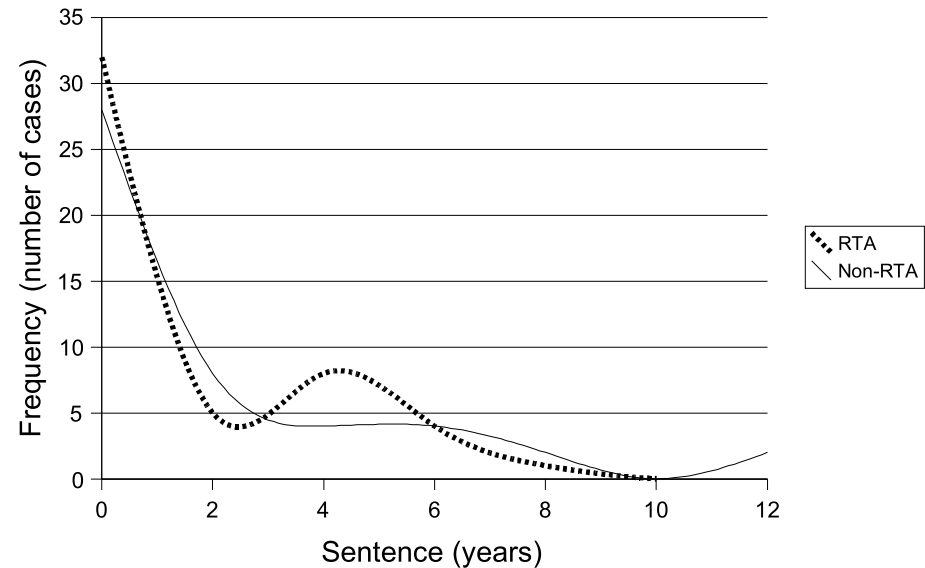
### Notes

2-year intervals are used, so the interval labelled as 0 represents a sentence of 0 to 1.999 years, the interval labelled as 2 represents a sentence of 2 to 3.999 years etc.

Unsmoothed (normal)



Interpolated B-spline



## Appendix 9

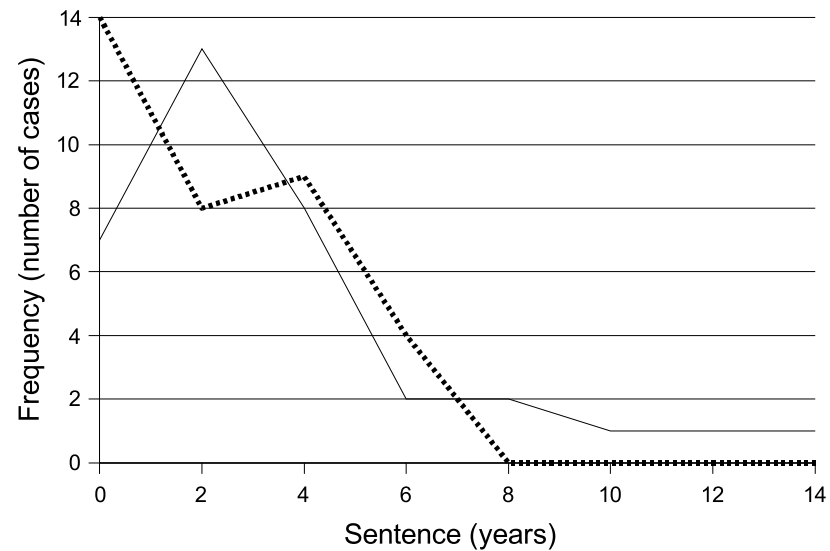
*A comparison of the distribution curves for the length of sentences received by RTA and non-RTA offenders in the appeal court set*

Sentence (years)	Frequency (no. of cases)	
	RTA	Non-RTA
0	14	7
2	8	13
4	9	8
6	4	2
8	0	2
10	0	1
12	0	1
14	0	1

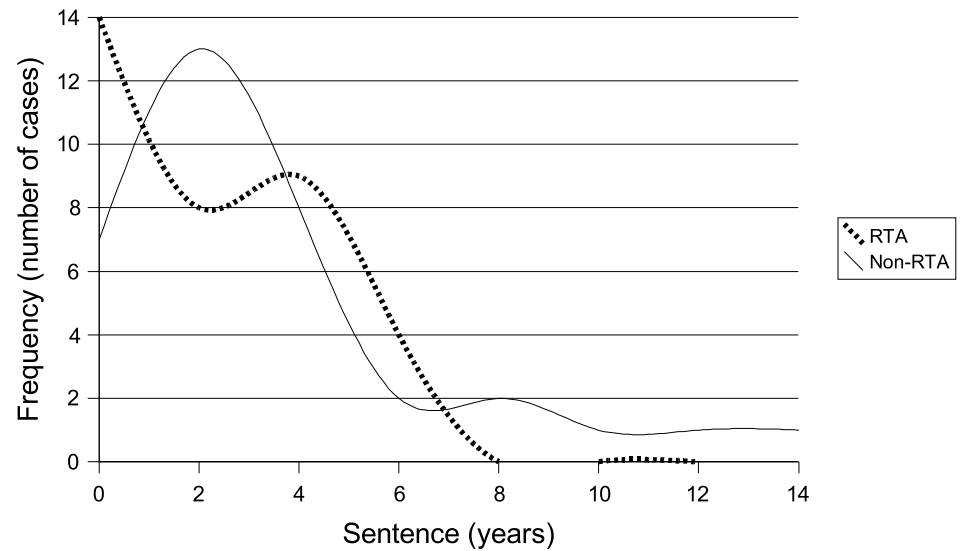
### Notes

2-year intervals are used, so the interval labelled as 0 represents a sentence of 0 to 1.999 years, the interval labelled as 2 represents a sentence of 2 to 3.999 years etc.

Unsmoothed (normal)



Interpolated B-spline



## Appendix 10

### *Personal statement*

As a keen cyclist, for both leisure and utility purposes, my subjective position and potential bias in this research are undeniable. I will not even attempt to hide this possibility. However, I am also an ex-student of vehicle design, the holder of a driving licence, a former Land Rover owner and enthusiast, and during previous employment in a car workshop I enjoyed the opportunity to drive all manner of vehicles. In these ways I believe I have seen both sides of the coin, and I am not as biased or ill-informed as someone who had never driven a motor vehicle might be assumed to be.

The research has taken on its present form and was conducted at this juncture because I needed to write a thesis as part of my studies in Social Policy at the University of Bristol. The research topic, however, is one which has been at the back of my mind for some time. During recent years I have become increasingly perplexed about the rationale (if one exists at all) behind Britain's transport systems, and in particular the prevalence of private cars. Moving back to live in a city has only served to magnify this conundrum. I do not understand how the ownership of private vehicles remains so popular when vastly superior transport solutions exist (Richards 2001), nor how the use of a motor vehicle is so comparatively lightly regulated when other sources of danger to third parties as diverse as passive smoking, the possession of firearms, the use of hazardous chemicals, and certain workplace dangers are so heavily regulated or are banned altogether. This thesis can be seen as both an exploration of and a justification for my position on these issues.