

The Legal Penalties for Drivers who Kill Cyclists or Pedestrians



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Introduction

"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, 4th August 2006)

A real phenomenon, or merely a few atypical cases?

Legal Review

Juries have become unwilling to convict drivers of manslaughter:

'There, but for the grace of God, go I'

Introduction of specific motoring offences, distinct from existing offences, in an attempt to resolve this.

Legal Review

Road Safety Act 2006. Some evidence of decreased tolerance of bad driving.

But "with each legal amendment the penalties for convicted drivers have lessened, and the likelihood of drivers being found guilty has decreased" (Wells 1984: 99).

Legal Review

Unresolved legal dilemmas

- Should drivers who kill be penalised more severely than drivers who narrowly avoid killing?
- Unresolved question of responsibility for the dangers inherent in driving.

Driving: a Right or a Responsibility?

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.

Driving: a Right or a Responsibility?

Demographic Trends:

- A disproportionately large number of pedestrian casualties are young or elderly, and female
- People from disadvantaged backgrounds are also at higher risk of being killed as a VRU
- A disproportionately large number of drivers are middle aged, professional, and male
- Only half the UK population are current drivers

Driving: a Right or a Responsibility?

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.

Driving: A Right or a Responsibility?

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

- Drivers have necessarily consented, albeit tacitly, to the risks inherent in driving. Cyclists and pedestrians need give no such consent regarding motor vehicles
- Analogous to passive smoking

... so why are drivers not legally liable?

Class and Social Power

The work of Jeffrey Reiman and Steven Box: corporate crime, workplace deaths.

- For every conventional homicide there are 7 preventable workplace deaths
- But it is not in the interests of those in power to reform the criminal justice system
- Not a conspiracy theory; it is simply the way in which the law has evolved over the past half century or more

Class and Social Power

Are cars societally ignored as a source of preventable deaths in the same manner?

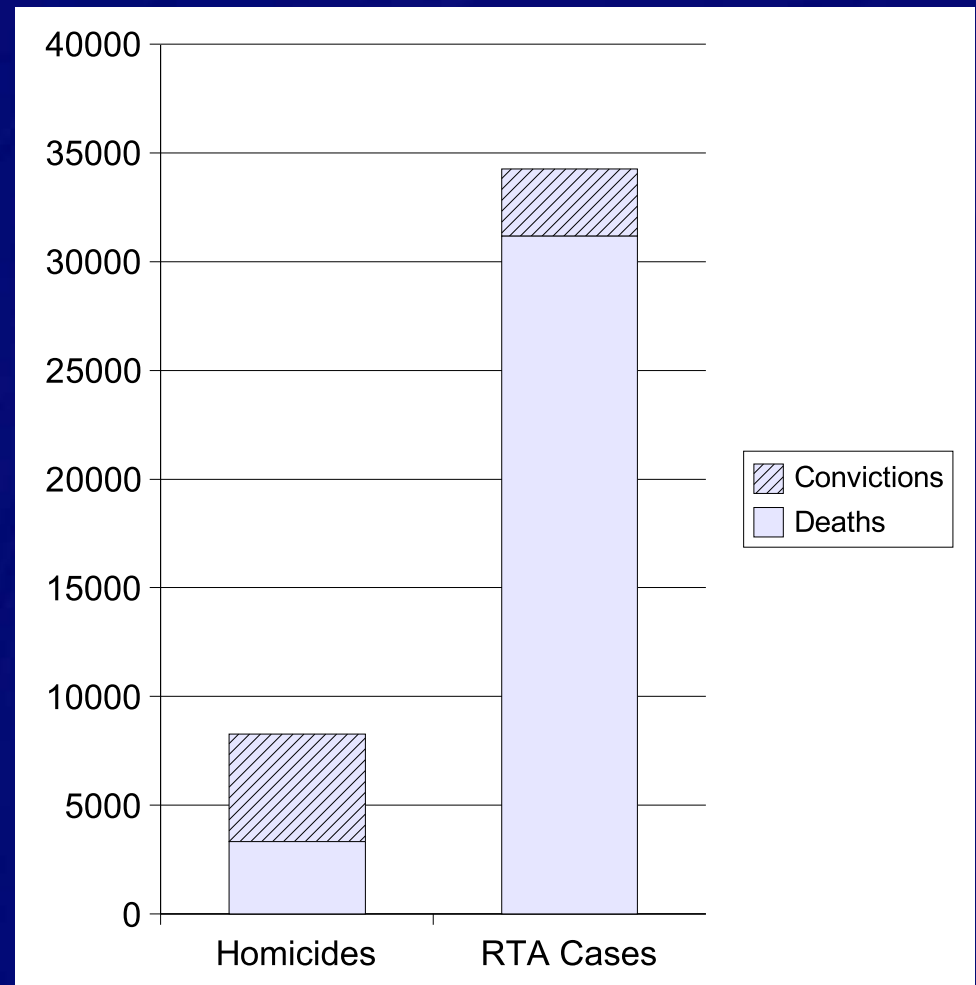
- Every year as many pedestrian and cyclist fatalities occur on Britain's roads as all combined homicides

	<i>Homicides recorded by the police</i>	<i>Vulnerable road user fatalities</i>	<i>All road user fatalities</i>
Total, 1996-2005	9,393	9,827	34,461

Class and Social Power

Comparison of conviction rates: RTA deaths and homicides

- Over half of all homicides result in a conviction
- Less than a tenth of RTA cases do



Court Case Analyses

Set of court cases involving the death of VRUs.
Comparison with a set of non-motoring cases involving the death of a third party:

- Age and sex discrepancy: Of the 85 RTA offenders, only five were female. By far the largest single category were men under 25.
- Newspaper report dataset reveals lower detention sentences and lower fines for RTA offenders

Court Case Analyses

<i>Detention Sentence</i>	<i>Dangerous Drivers</i>	<i>Other Offenders</i>
Maximum	7	14
Typical (mode)	0	3
Average (mean)	2.8	4.1

- The appeal court cases demonstrate even more clearly a higher maximum detention sentence for non-RTA cases

Court Case Analyses

Qualitative analysis

- An assumption that VRUs should adopt some responsibility for the danger caused by the presence of vehicles
- Several statements made by judges recognise the scale of the harms caused and the culpability of motorists. But plentiful evidence of the legal difficulty in implementing the law to reflect these admissions

Court Case Analyses

Implicit assumptions:

Lord Moson: *“who has not from time to time found that their normal driving standards have lapsed for one reason or another?”*

- Non-drivers (50% UK population) have not
- This is the type of ill-founded assumption on which certain portions of road traffic law seem to be based

Conclusions

Ultimately, conclusions will depend starting point

- If driving is a right to be enjoyed freely by anyone, and 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

Conclusions

But this stance is difficult to defend:

- In reality driving is *not* a right freely enjoyed by everyone: at least half the population are not drivers, and there is demographic bias in drivers versus non-drivers
- The price of road casualties is *not* small: 9 lives and 95 serious injuries per day in the UK
- logically incoherent that road casualties are a cost to be borne by society as a whole. Drivers pass a disproportionately high portion of risk onto the VRU, without consent or compensation

www.jake-v.co.uk/cycling

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. Yet this is the situation in our towns and cities today.

Non-drivers are faced with a dismal choice: either never leave the house, or run the risk of getting killed by someone else's car