



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

This study reviews the regulation of motor vehicles in Britain, and in particular the prosecution of drivers who kill cyclists and pedestrians. There follows a brief summary of its main findings; see www.jake-v.co.uk/cycling for the full research.

Key Findings

Only half the UK population are regular drivers

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

A disproportionately large number of pedestrian casualties are children, pensioners, and people from economically disadvantaged backgrounds

A disproportionately large number of drivers are middle aged, professional, and male

Those drivers who are convicted of killing vulnerable road users are routinely less harshly punished than other criminals who cause comparable deaths without intent

Dangerous and careless drivers are not regarded by the judiciary to be 'real' criminals

With the exponential growth in popularity of the automobile over the past century, juries have become unwilling to convict drivers of manslaughter, 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'*. The introduction of specific motoring offences in the 1950's and 60's such as Causing Death by Dangerous Driving offered juries an alternative charge to manslaughter. But with each new road traffic law the penalties for convicted drivers have lessened, and the likelihood of drivers being found guilty has decreased.

Class and Social Power

There is a common misconception that almost everyone in Britain is a motorist; in fact less than half of the UK population are drivers. Furthermore, the demographic breakdown of drivers and non-drivers is an unbalanced one. A clear correlation exists between income and car ownership: half of Britain's poorest families cannot afford a car, whilst the richest fifth may have two or three cars each. There is also a sex inequality: a fifth less women

than men are licensed drivers. And there is an age differential: less than a third of 17-20 year olds are drivers, and only half of those aged 70 and over hold a licence. Conversely, these are precisely the social groups who are disproportionately more likely to be killed as pedestrians or cyclists, and are least likely to be policy makers or legal officials in a position to challenge the status quo or change the law: most politicians, senior police officers, and judges are affluent middle-aged male drivers.

Responsibility for Harm

Drivers have consented, albeit tacitly, to the risks inherent in driving. It is the driver who chooses to use the car, and is therefore causally responsible for

Non-drivers face a dismal choice: either never leave the house, or risk getting killed by someone else's car

the presence of the danger. 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: the danger posed by cars to vulnerable road users represents a direct transfer of harm from one party onto the other, without consent or compensation.

Road Casualties

Every year as many pedestrian and cyclist fatalities occur on Britain's roads as all combined homicides. If the figures for all road traffic deaths rather than vulnerable road users alone are used, both workplace deaths and homicides pale almost to insignificance in comparison. In aggregate terms, as a source of preventable deaths, motor vehicles are therefore of far greater concern than either homicides or industrial deaths.

Fatal Injuries to Workers	2,521
Homicides	9,393
Vulnerable Road User Deaths	9,827
All Road Traffic Fatalities	34,261

A comparison of the number of fatalities of various types in Great Britain, 1996-2005

Court Transcript Analysis

A set of court cases involving the death of vulnerable road users was analysed alongside a directly comparable set of non-motoring cases involving the death of a third party, such as deaths in the workplace.

Detention Sentence	Dangerous Drivers	Other Criminals
Maximum	7	14
Typical	0	3
Average	2.8	4.1

A comparison of the detention sentences (in years) received by drivers and non-drivers from a sample of appeal court cases between 1996 and 2006

A clear discrepancy is visible between the two types of cases, with drivers on average receiving lesser sentences and smaller fines.

There is also evidence in court of an ideological bias towards leniency for motorists. Despite a recognition among policy makers and the judiciary of the scale of harm caused by cars, it was found that drivers are not perceived to be 'real' criminals; that all road collisions are portrayed in court as 'accidents' even when negligence or intent is proved; and that there is some

evidence of pedestrian and cyclist victims being held responsible for dangers of which cars are the source.

Conclusions

As a source of preventable deaths to third parties, cars are at least as problematic as all combined homicides. However, drivers who kill pedestrians or cyclists are routinely less harshly punished than other comparable criminals who kill without intent. How can 9 lives and 95 serious injuries *per day* be considered a price worth paying? This is evidence of a bias in the criminal

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 exactly the situation in our towns and cities today.

justice system, a situation which persists 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.

For references, data sources, and methodology see www.jake-v.co.uk/cycling