



Understanding the legal framework

Terminology



- Summary only/ either-way/ indictable
- Crown Court/ Magistrates' Court
- Undercharging/ downgrading
- Dangerous/ careless driving



Dangerous vs Careless

Careless or inconsiderate driving - Driving that falls below what would be expected of a careful and competent driver. A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

Dangerous driving – Driving that falls far below what would be expected of a competent and careful driver, and it would be obvious to a careful and competent driver that driving in that way would be dangerous. ‘Dangerous’ refers to danger either of injury to any person or of serious damage to property.



Who makes charging decisions?



- Summary only offences, e.g. careless driving and driving when disqualified
- Either way offences anticipated as a guilty plea and suitable for sentencing in the Magistrates' Court, e.g. dangerous driving
- Either way offences not anticipated as a guilty plea
- All fatal offences, i.e. causing death by driving offences
- All indictable cases

Problems with roads policing

Poor road crash investigations

- Failure to test driver's eye sight and mobile phone use
- Failure to check CCTV footage
- Failure to inform victims of case progress
- Failure to take statements or chase witnesses and victims for statements
- Prejudiced views of cyclists' behaviour

Lack of adequate resources and training

- Roads police cut by 29% in ten years
- Untrained police officers doing roads police work

Lack of victim support

- Victims' Code is inadequate
- Lack of timely and accurate information



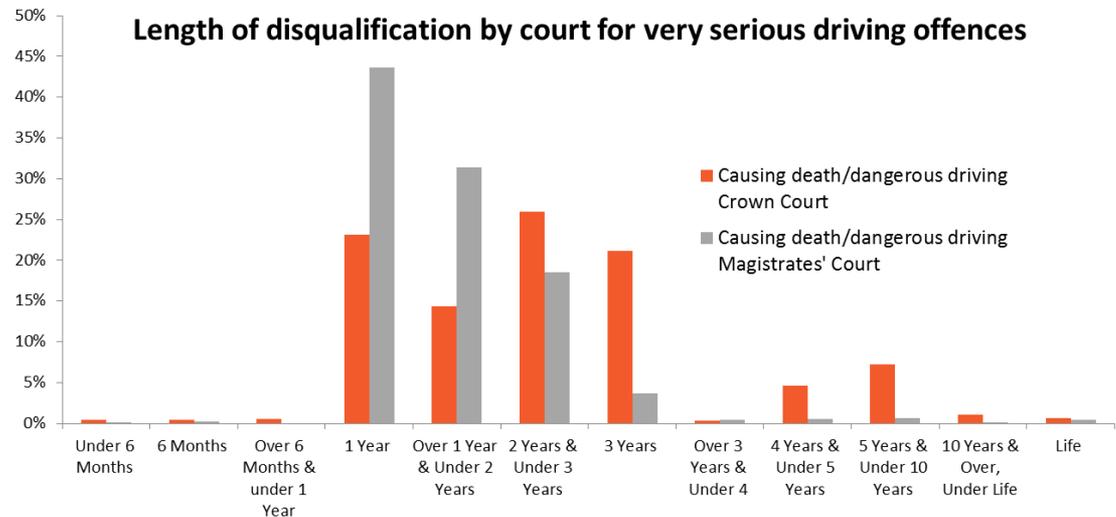
Problems with charging and prosecution

- Definitions of careless and dangerous driving are confusing, which prevents rational and consistent charging decisions
- The early guilty plea scheme leads to undercharging and downgrading
- The National Driver Offender Retraining Scheme leads to reduction in charging
- The introduction of traffic courts could lead to an increase in dangerous driving being charged as careless driving
- Weak charging impacts directly on sentencing
- Gaps in the law mean inappropriate charges are applied (e.g. dooring offences)
- An inadequate Victims' Code means victims can't challenge prosecution decisions



Problems with sentencing

- Sentences are too dependent on consequences of driving not driving itself
- There is not enough emphasis on driving bans in sentencing guidelines
- There is not enough emphasis on re-education and testing in sentencing guidelines
- There is a limited use of non-custodial sentencing options such as vehicle confiscation



Sentencing

Driving offence	Prison	Driving Ban	Penalty Points	Trial
Causing death by dangerous driving	14 years	Minimum 2 years Compulsory re-test	3-11	On indictment
Causing death by careless driving	5 years	Minimum 1 year Discretionary re-test	3-11	Either way
Causing serious injury by dangerous driving	5 years	Minimum 2 years Compulsory re-test	3-11	Either way
Dangerous driving	2 years	Minimum 1 year Compulsory re-test	3-11	Either way
Careless driving	£5,000	Discretionary	3-9	Summary only

Group activity

1. Split into groups of 3-4 people
2. Read through the case studies
3. Decide which problems they demonstrate and suggest ways to resolve these problems



CTC's briefings

- Common driving offences
- Traffic law and enforcement
- Traffic police and other enforcement agencies
- Prosecutors and the courts
- The legal framework and sentencing policy

<https://www.ctc.org.uk/campaigning/views-and-briefings>





QUESTIONS??

