

FEATURE  
*Justice for  
cyclists*



This is the bike belonging to Sarah-Charlotte Peace (page 50), at the scene of the accident

# JUSTICE FOR CYCLISTS

Bad driving wrecks cyclists' lives, often with impunity. CTC Road Safety Campaigner **Rhia Weston** outlines CTC's Road Justice campaign

One of the recommendations of the All Party Parliamentary Cycling Group (APPCG) in the recent 'Get Britain Cycling' report (p12) was to 'strengthen the enforcement of road traffic law, including speed limits, and ensure that driving offences – especially those resulting in death or injury – are treated sufficiently seriously by police, prosecutors and judges'.

The leniency towards bad driving pervades all levels of the justice system: inadequate police investigations of road collisions; weak charging and prosecution decisions; lenient sentencing; even the law itself, by obfuscating the definitions of 'careless' and 'dangerous' driving, is failing to protect cyclists. CTC launched the Road Justice campaign in May to highlight the failures of the justice system and to ensure the APPCG's advice is put into practice.

Several case studies have been collected





## “THE DEFINITIONS OF ‘CARELESS’ AND ‘DANGEROUS’ DRIVING IN THE CPS CHARGING AND PROSECUTION GUIDELINES ARE UNCLEAR”

road casualties per roads police officer has remained at 40 per year. However, some police officers are dealing with far greater numbers of cases than others. In Nottinghamshire, for example, the average number of casualties per officer per year is nearly three times the national average. The map overleaf shows the average number of cases per officer for each UK police force.

As in any line of work, when an individual has a heavy workload the quality of their work will likely deteriorate. Roads policing is no exception. A police officer who must attend or investigate a large number of road collisions will not be able to do so with the same diligence as if they had fewer cases to handle. This leads to a drop in the quality of collision investigations, as less time can be spent collecting evidence and communicating with victims. In many cases, police officers have gone on holiday or sick leave in the middle of an investigation without notifying the family or allocating another officer to cover the case.

### EVIDENCE NOT SOUGHT

Submitting a charge to the prosecution service for review without sufficient evidence for a conviction is deemed a waste of public funds, as the case will likely be thrown out for lack of evidence. So when there are no independent witnesses to a crash and there is no other evidence to support either party's claims, the police will not pursue a charge. The Road Justice campaign has recorded several cases where cyclists have received horrific injuries from a crash but the lack of witnesses has meant that no one has been prosecuted.

It has emerged from these case studies that because the police lack the time, staff or finances to search for non-witness-based evidence (such as CCTV and helmet camera footage, forensic investigation of vehicle markings, and investigation of factors such as the speed a vehicle was travelling at), they have become over-reliant on witness statements as evidence. Until the police have the necessary resources to investigate road collisions thoroughly, and the skill to apply those resources appropriately, there will be no way of proving culpability when there are no witnesses to a collision between a cyclist and a motorist; thus, more cases of bad driving will be treated with impunity.

Frequently, victims face a protracted recovery from their physical and psychological injuries as well as a long process of obtaining evidence to prove the driver's culpability, whilst simultaneously battling with parsimonious insurers for compensation. In a short film made for the Road Justice campaign, Cait, who was

for the campaign from cyclists who have been hit by a motor vehicle and then suffered the double injustice of not being treated appropriately by the judicial system afterwards. These stories illustrate how the failure of the system to take bad driving seriously disproportionately impacts vulnerable road users (VRUs) such as cyclists and pedestrians.

The first set of booklets containing these stories was launched in May. They provide accounts of police investigations of road collisions, and will be disseminated among representatives of the judicial system.

### ROADS POLICING SLASHED

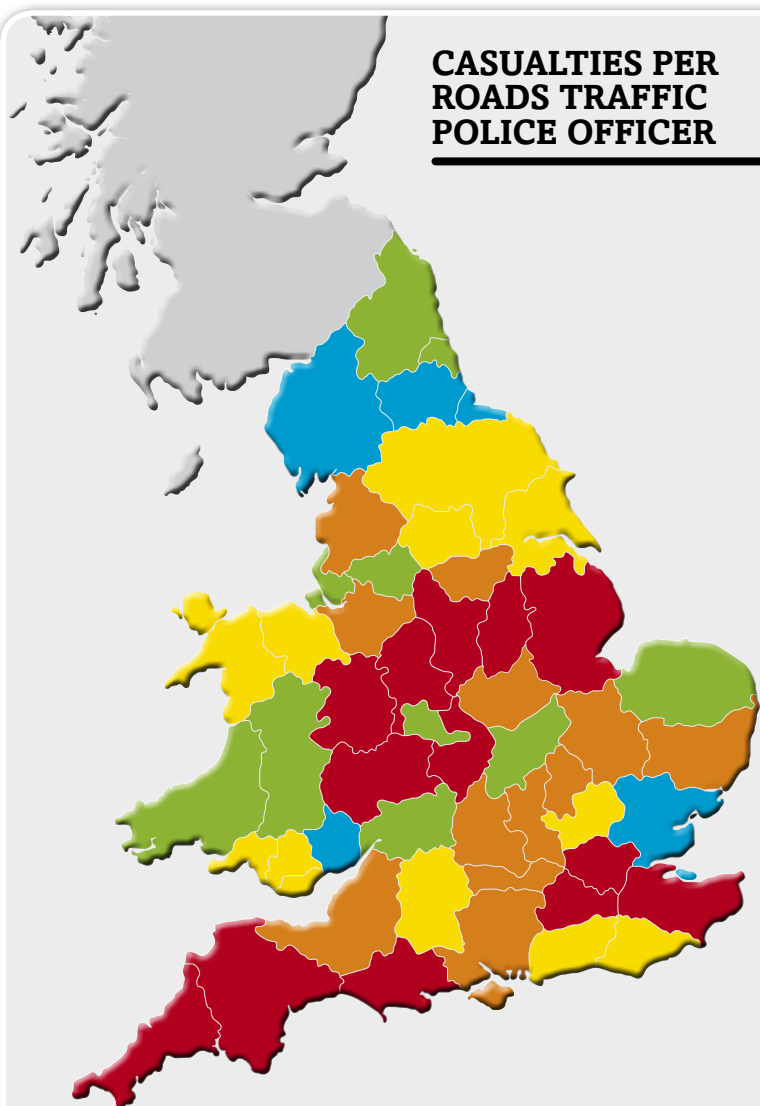
Too many police investigations of road crashes where cyclists are injured are sub-standard. In many cases, witness details are not collected, detailed statements are not taken, CCTV footage is not looked at, victims are not notified of court dates or informed of case progress, and telephone calls to the

police are not returned. These errors impact the quality of an investigation and the prospect of a prosecution, which means that bad drivers are at less risk of being punished for their behaviour, or of being urged to modify their driving.

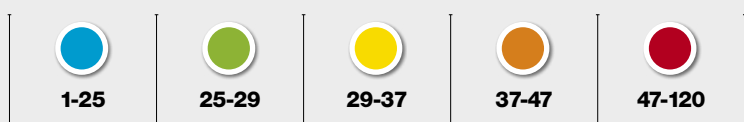
Roads traffic police numbers have dropped by 29% across the UK in the last 10 years, whilst general police numbers have remained stable. Some police forces have had bigger cuts than others: West Mercia and Warwickshire, for example, both experienced reductions of more than 70%, and in Devon and Cornwall roads policing was slashed to zero. Accompanying these reductions has been a significant drop in convictions for motoring offences. There has also been a 71% reduction in the number of people caught driving while disqualified.

On a positive note, casualty rates for all road user types dropped by 33% across England and Wales over the last 10 years, meaning that the average number of

### CASUALTIES PER ROADS TRAFFIC POLICE OFFICER



CASUALTIES PER ROAD TRAFFIC POLICE OFFICER



left with a severe leg injury after a collision with an HGV, describes her frustration at being told there were no witnesses to the crash, even though it occurred on a busy London road at rush hour. She had to search for witnesses herself. Others interviewed for the campaign described their anger at the expectation that they, the victim, should collect witness details at the scene, their own injuries notwithstanding.

The attitude of some police officers towards cyclists and cycling can also hamper investigations, with cyclists being seen as risk takers and law breakers – for example, ‘always running red lights’. This perception of cyclists can lead to victim-blaming before the facts of the case are properly examined.

#### CARELESS: THE NEW DANGEROUS

Weak charging and prosecution decisions, in particular the downgrading of dangerous driving to careless driving, are indicative of the police and prosecution service’s lenient approach to bad driving. The number of convictions for ‘causing death by dangerous driving’ has dropped dramatically since the offence of ‘causing death by careless driving’ was introduced in 2008, whilst convictions for ‘causing death by careless driving’ have risen sharply (see graph, left).

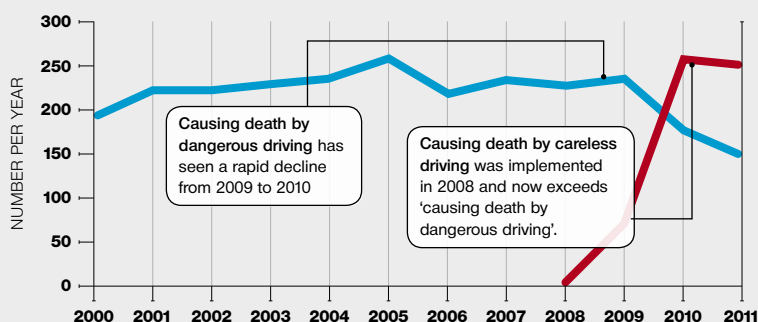
Since 2001, the number of drivers being prosecuted for dangerous and careless driving offences has plummeted by 48% and 44% respectively. Although there has been a decline in casualty rates, the drop in prosecutions is greater. It is unlikely that these figures reflect improved driver behaviour but rather the tendency of the police and prosecution service to charge for careless driving – which makes getting a conviction easier, faster and cheaper.

On some occasions, the police charge a driver with dangerous driving only for the charge to be downgraded to careless driving by the prosecution service. It is also common for a defendant charged with dangerous driving to plead guilty to the lesser offence of careless driving. In most cases, the courts accept this.

The definitions of ‘careless’ and ‘dangerous’ driving in the CPS charging and prosecution guidelines are unclear: careless driving is described as ‘driving that falls below the minimum acceptable standard expected of a competent and careful driver’, whereas dangerous driving is driving that falls ‘far below the minimum acceptable standard’. This terminology is ambiguous and leaves too much room for subjectivity. What’s more, what constitutes ‘a careful and competent driver’ is not clear and is also open to the subjective interpretation of the judiciary. Moreover, many of the examples of careless and dangerous driving given in the CPS charging standards are so similar that prosecutors have a hard time deciding which charge is appropriate (see >

### CONVICTIONS FOR DRIVING OFFENCES THAT INVOLVE DEATH

Ministry of Justice, Convictions Statistics 2011







## CYCLING VICTIMS

### Paul Leitch, Edinburgh

PAUL WAS KNOCKED off his bike by a car driver turning right at a junction when it was Paul's right of way. His hip joint was fractured and it required significant pinning. The police accused Paul of causing the collision by hitting the front of the car with the side of his bike. Without taking Paul's statement, the police decided not to prosecute the driver. Paul was told that if he wanted the investigation to be re-opened he could be charged with careless cycling. He pursued a complaint about why no statement was taken from him and was duly charged with careless cycling.

### Cait Hurley, London

CAIT WAS HIT by a lorry driver who attempted to overtake six cyclists on a blue Barclays Cycle Superhighway on a winding road. Cait's leg was grazed so badly that she needed a skin graft. She now has major scarring on both legs and walks with a limp, and the aid of a walking stick. She no longer cycles. The police did not look at CCTV footage of the incident and did not issue witness calls. The driver was not charged because there was not enough evidence.

### Sarah-Charlotte Peace, Shropshire

QUALIFIED YOGA INSTRUCTOR and keen cyclist Sarah-Charlotte was hit by a car driver when cycling on a roundabout. She had emergency surgery on her ankle and spent two weeks in hospital. Seven months on, she still walks with crutches and has to do physiotherapy six times a week. The driver was charged with careless driving and was fined £110 and received nine penalty points. Sarah-Charlotte does not know if she will ever be able to teach yoga again.

## DANGEROUS DRIVING

- Disregard of traffic lights and other road signs, which, in an objective analysis, would appear to be deliberate.
- Driving too close to the vehicle in front.
- Overtaking which could not have been carried out safely.

## CARELESS DRIVING

- Inadvertently driving through a red light.
- Driving inappropriately close to another vehicle.
- Overtaking on the inside.

above). As part of the Road Justice campaign, CTC is seeking a review of the CPS charging and prosecution guidelines to remove the confusion about when bad driving is careless and when it is dangerous, so that charges are issued that correctly reflect the severity of an offence.

CTC is a member of the Justice Review working group, alongside RoadPeace, Living Streets, British Cycling, the CPS, the Ministry of Justice, the Department for Transport, the Home Office and the Association of Chief Police Officers (ACPO), which meets on a regular basis to discuss a review of the justice system. Following the latest meeting of the group, the CPS published their revised charging and prosecution guidelines.

As examples of dangerous driving, CTC welcomes the additions of 'failing to have a proper and safe regard for vulnerable road users' and 'a brief but obvious danger arising from a seriously dangerous manoeuvre, covering situations where a driver has made a mistake or an error of judgement that was so substantial that it caused the driving to be dangerous even for only a short time'. However, CTC is concerned that 'pulling out of a side road into the path of another vehicle' is still considered to be merely 'careless'.

If prosecutors correctly apply these guidelines, all cases involving VRUs should be

classified as dangerous and claims of 'momentary inattention' should be countered. CTC will continue to campaign for clearer explanations of 'dangerous' and 'careless' driving and will work with the CPS to ensure that individual prosecutors have the necessary training to bring dangerous prosecutions more often.

## DERISORY SENTENCES

When dangerous drivers get off with careless driving, sentences are inevitably more lenient. The average fine for careless driving in 2011 was just £138, whereas for dangerous driving it was £782 in the Crown Courts and £518 in the Magistrates'. The average length of a driving ban in 2011 for careless driving was just seven months, while for dangerous driving it was two years. The courts have the power to ban drivers for much longer periods, even for life, but they seldom do so.

Rather than longer custodial sentences, CTC would like to see the courts impose longer driving bans – sometimes permanent – and compulsory extended re-tests. Recently, it came to light that the driver who killed CTC member Audrey Fyfe in August 2011 (see p8) had been convicted of 'causing death by reckless driving' in 1986. Clearly, the one-year prison sentence he received for the first offence did not improve his driving; a life ban would have been more appropriate and would have saved Audrey's life.

The Road Justice campaign aims: to encourage the police to conduct better quality road crash investigations and to improve communication with victims; to guarantee that the prosecution service (the CPS in England and Wales, the Procurator Fiscal in Scotland, and the Public Prosecution Service in Northern Ireland) brings prosecutions appropriate to the seriousness of the offence; and to ensure the courts treat bad driving with the importance it merits by issuing sentences that adequately reflect the seriousness of the offence committed.

Go to [roadjustice.org.uk](http://roadjustice.org.uk) to watch cyclists tell their stories and to find out how you can take part in the campaign. 🗣️

## Protecting and serving cyclists

### > CTC'S ACCIDENT LINE

CTC'S ACCIDENT LINE (0844 736 8452) is operated by Slater and Gordon Lawyers. They will deal with:

- Personal injury claims for members and non-members.
- Incidents caused by road traffic accidents and poor road conditions.
- Injuries from incidents whilst commuting, off-road cycling, or even on holiday overseas.

### > YOUR £10 MILLION

#### THIRD-PARTY INSURANCE

CTC MEMBERS also have third-party insurance, which covers against damage or injury you may cause whilst riding your bike.

### > CYCLISTS' DEFENCE FUND (CDF)

THE CDF was set up by CTC in 2001 to fight legal cases involving cycling and cyclists. See

### cyclistsdefencefund.org.uk

### > ROADPEACE

RoadPeace provides support to road crash victims and their families. [roadpeace.org](http://roadpeace.org)

### > PRAISE A POLICE OFFICER

NOT EVERY police investigation is of poor quality. The Road Justice campaign isn't just about highlighting the failures

of the justice system but also about recognising best practice. If you or someone you know has been in a cycling incident and the police responded exceptionally well, you can tell CTC about this using the 'Praise a police officer' tool on the Road Justice website ([roadjustice.org.uk](http://roadjustice.org.uk)). The most outstanding officer will be formally recognised by the Road Justice campaign team.