



FEATURE  
Road rage  
response

WORDS MARTIN PORTER

# BIKE, CAMERA, INACTION!

When a driver cut him up and threatened to kill him, cycling barrister **Martin Porter** had video evidence. He still needed persistence to secure a prosecution...

**C**ycling to work on the A315 on a grey November morning, my path crossed with that of Scott Lomas, a young man in a hurry in a borrowed Volkswagen car. There was a traffic island in the road so I had 'taken the lane' – the primary position – to prevent dangerous overtaking.

My action incensed Lomas, who in his own words was doing 'a touch over 30' and wished to 'cruise past'. When I had cleared the traffic island, he was right behind me sounding his horn. Once the road widened enough for him to pass, I took up a 'secondary' position to let him by. He drove alongside, winding down his window to swear.

Ten minutes later – since I'd passed him in the meantime – he came past me again. Driving far too close to me and matching my speed, he said that if he saw me do anything like that again he would kill me. At the next traffic lights, with further abuse, he confirmed twice that he had indeed

threatened to kill me.

For the rest of my journey, I contemplated what I should do. Should this man be permitted to drive around with his views about cyclists unchallenged? Should I get embroiled in the hassle of bringing his actions to the attention of the police?

## CAUGHT ON CAMERA

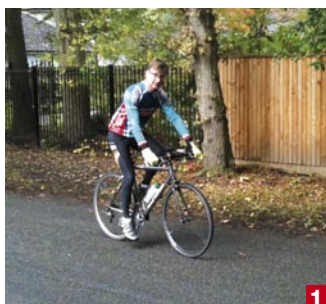
I cycle with a cheap video camera on my helmet or handlebar. Sitting at my desk later that morning, I was pleasantly surprised by the quality of the footage. Some cursing and swearing, though not the threat to kill, could be made out above the wind and engine noises. The conversation whilst stationary at the traffic lights was picked up crystal clear, word for word, including Lomas's double admission that he had indeed just threatened to kill me. Any competent lawyer would know that here was compelling evidence of a Public Order Act offence.

I therefore Googled the telephone number

of Hounslow police station and lifted the telephone. No, I could not report this matter over the telephone; I would have to attend any Metropolitan police station and fill in a road traffic form. No, this form could not be sent out to me and no, it could not be downloaded and sent in. No, there was nobody to whom I could send a copy of this video footage. If I wanted any action taken, I would have to attend a police station in person with a copy of the video.

I spent my lunch hour, as requested, walking down to Charing Cross police station clutching a CD-ROM containing a copy of my film. I waited 20 minutes in a queue of individuals reporting the theft of their mobile phones. On one wall was a list of telephone hotlines, for victims of a range of offences to communicate swiftly with the Metropolitan Police Force...

Eventually, my turn came to appear before a uniformed Station Reception Officer at the desk. The SRO told me first that I could



**In the photos**  
**1** Martin records his commute with a head- or handlebar-mounted camera  
**2** With this kind of driver, don't get mad, get even  
**3** It can be a long journey to this point



Photos: Martin Porter and iStockphoto.com

not have a form as there had not been a collision. I told him I was there at the request of somebody else in the Metropolitan Police and had compelling evidence of a crime in the form of a video.

'Are you a licensed to take copies of videos?' he asked. 'No, well then I am afraid we cannot use that video. If we were to use that in Court, it would be thrown out'.

I persevered and he went away to consult a sergeant. Twenty minutes later he came back, saying he would record the details as a public order offence. He took my details and recorded my answers in his computer. The questions included, bizarrely, whether I was wearing lycra, and whether I was riding along the yellow line at the extreme edge of the road. (When I said no and explained why, his reluctance to accept my crime report appeared to go up a notch further.)

Before I left the police station, I again offered my CD. No, he would not accept that and no, it could not be passed on to Hounslow who were to investigate. If they

took it any further, they would require my camera for about three weeks.

I was given a reference number and told that if I had any further queries I was to revisit a police station with this nine-digit number. No, I could not telephone or email.

### 'INSUFFICIENT EVIDENCE'

Four days later, I was contacted by a police constable at Chiswick Police Station. I attempted to email him my video without success and so sent him the CD-ROM that I had previously taken to Charing Cross. The constable asked if I would be happy for him to deal with this by issuing a fixed-penalty notice. I agreed, if the driver were repentant and had not done something similar previously. We swapped email addresses and, to give credit where it is due, the constable had at least provided me with a convenient means of communication.

The communications I received from the constable, however, were not promising. It had been decided that there was 'insufficient

evidence' for a prosecution. When I queried this bizarre dismissal of my compelling evidence, I was told by the constable that it was not a police decision but that of the CPS.

A story then appeared in the local and national press of my lambasting of the CPS, whilst I got on with writing a letter of complaint to the Crown Prosecutor at Hounslow. I received no response to this but the police later told me that a Crown Prosecutor had reviewed the file and again decided there was 'insufficient evidence'.

My next letter was to the Director of Public Prosecutions, which resulted in the Crown Prosecutor looking at it again and asking the constable to investigate and report back. At long last, the constable took a statement from me (which included my information that I had retained the original film footage); he identified the driver as Scott Lomas; and he interviewed him. Lomas told a pack of lies, including an assertion that I had used abusive language towards him which I had edited out of the film. >



After interviewing Lomas, the constable declared yet again that there was insufficient evidence. This was agreed with an Evidential Review Officer (ERO), although the constable failed to tell the ERO that he had been undertaking further investigatory work at the behest of the CPS. Instead of reporting back to the CPS, or contacting me for original video evidence, the constable informed Lomas in writing that no further action would be taken.

The Constable emailed a warning to me that Lomas was willing to pursue allegations against me 'if necessary'. Again I complained, this time to the Constable's superiors, and the case was referred back to the CPS who, just within the six-month time limit, issued a summons against Lomas for using threatening and abusive words and behaviour contrary to the Public Order Act.

### PRESSING FOR A PROSECUTION

Lomas sought legal advice and the next eight months were taken up with his plea that it was an abuse of process to prosecute him because the Constable had assured him in writing that no further action would be taken. As he put it on one website, he had been 'proved innocent by the police'.

There was to be a hearing in Feltham Magistrates Court, but this was adjourned the day before at Lomas's request and transferred to the Magistrates' Court that overlooks Hammersmith flyover. When I got to the Court to give my evidence, I met the Constable who asked me (at the request of the prosecutor) if I would please retract my evidence so that we could all go home. I would not and the case was adjourned for the prosecution to deal properly with Lomas's claim of abuse of process.

So I re-attended a couple of months later. This time the prosecuting counsel was well prepared and more than able to deal with Lomas's abuse of process argument. Lomas was acting for himself but must have received legal advice to the effect that his position was hopeless if the abuse of process argument failed. He changed his plea to guilty.

## DEALING WITH DRIVERS

How best to respond to road rage and bad driving.

- **Keep calm** Never respond with threatening language, as you may escalate the situation. Additionally, the police may regard you as being at least as bad as your antagonist.
- **Do not place yourself in a vulnerable position** If the vehicle is moving forward, try to remain behind it. Many people advise against entering any kind of conversation but if, like me, you sometimes feel it necessary to speak to the driver, catch up to him when stationary (preferably in a queue of vehicles) then stop to

the offside of, and alongside, the vehicle, leaving sufficient room so that if the car door opens you can cycle off. Be alert to the possibility of, and the need to avoid, violence.

- **Get the number plate** Memorise the number plate. If you have a camera, shout out the registration plate, in case your video did not capture it.
- **Witnesses?** If you have no camera but do have a witness, or if you have the time to stop, write down the registration and driver description together with the name and address of

any witness willing to assist.

- **Go to the police** Do not rely on an internet report (e.g. the Metropolitan Police's Roadsafe site). Make a report in person at a police station. Explain that you would like there to be a prosecution and that you're willing to give evidence.
- **Go online to stop-smidsy.org.uk** Report your story and help make our roads safer. Your experiences of bad driving and the subsequent response of the legal system (or lack of it) is evidence for CTC's campaigners.



**In the photos**  
**4** Lomas drives alongside, issuing threats to kill  
**5** He drives off, after overtaking too close  
**6** Stuck at the lights, Lomas confirms twice that he had threatened to kill

It transpires that Lomas was in breach of a suspended prison sentence imposed by the Crown Court in April 2010, following his conviction of a crime of violence: malicious wounding. He was not referred back to the Crown Court for consideration of whether to activate that sentence. For the offence involving me, he was fined £250, a victim surcharge of £15 and prosecution costs of £300 (total £565).

### WHAT NEXT?

Was it all worthwhile? Not on any objective cost-benefit analysis of my own position and the time taken. I came under attack on many internet sites. This was more than counterbalanced by the support I got from Roadpeace, CTC, the Road Danger Reduction Forum, and the vast majority of my fellow cyclists.

I did receive an apology from the Metropolitan Police. Furthermore, the investigation that led to the apology was thorough, leaving me with every confidence that their attitude to similar complaints in the future will be more positive.

Nevertheless, it should be easier to report bad driving that endangers or threatens vulnerable road users, and I believe it should be given a level of priority already accorded to other 'hate crimes'.

*CTC members can pursue civil claims for damages against drivers through the CTC Accident Line, tel: 0844 736 8452.*

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