

### Causing death by driving, England and Wales (2015)<sup>1</sup>

#### Key statistics

	Proceedings	Convictions	Imprisoned	Average custodial sentence (Months)	Driving Bans 10 years and over
Causing Death by Dangerous Driving	188	122	114 (93%)	57.1	3
Causing Death by Careless Driving when under the influence of Drink or Drugs	23	21	20 (95%)	53.5	0
Causing Death by Careless Driving	201	176	46 (27%)	14.4	3
Causing Death by Driving: Unlicensed, Disqualified or Uninsured Drivers	2	2	1 (50%)	14.0	0
<b>Total<sup>2</sup></b>	<b>414</b>	<b>321</b>	<b>181 (56%)</b>	<b>45.6</b>	<b>6 (2%)</b>

<sup>2</sup> Indicates weighted average for custodial sentences

Note: "Total" for average custodial sentence is the weighted average.

#### Key points

- Of the 414 drivers prosecuted in 2015 for causing a death in England and Wales, 321 were convicted (78%), and 93 acquitted. Compared to 2014, 12 more drivers were prosecuted and 8 more convicted.
- *Causing death by careless driving* continues to be the most common charge used, and accounts for 55% of all causing death by driving convictions. This charge can be tried in the Magistrates Court and the prosecution has no right to appeal an unduly lenient sentence.
- *Causing death by dangerous driving* and *Causing death by careless driving when under the influence of drink/drugs* almost always result in a prison sentence, compared to 27% of *Causing death by careless driving* convictions. But the average custodial sentence for *Causing death by careless driving* increased by 4 months last year, whilst that for *Causing death by dangerous driving* decreased.
- Driving bans are short, and not always even being given, with
  - ▶ One in five drivers convicted of *Causing death by careless driving* not banned.
  - ▶ Only 19 drivers convicted of causing a death banned for five years or more
  - ▶ No driver banned for life after being convicted of causing a death.
- Compared to 2010, prosecutions for causing death by driving have decreased by 23%, compared to a 5% decrease in fatal collisions.

#### RoadPeace calls

- Road crime should be treated as crime with all culpable road deaths prosecuted as manslaughter, with longer custodial sentences and lifetime driving bans for the worst offenders.
- At a minimum, all causing death by driving cases should only be heard in the Crown Court, with prosecution having the right to appeal unduly lenient sentences.
- Driving bans should always be given, and for longer periods, with judges trained on their importance.
- Lessons should be learned from acquittals and fed back into CPS and police training.

<sup>1</sup> All data from MoJ (2016a), except ban data MoJ (2016b).

## 1 Introduction

This briefing summarises the changes in the prosecutions for causing death offences since 2010 and the prosecution, conviction rate and sentences given for drivers causing a death in 2015.

Drivers responsible for causing a fatal crash can be charged with a range of offences, including murder in extreme cases. Approximately 8-10 times a year, a driver will be convicted of manslaughter. This briefing covers the key causing death by driving charges<sup>2</sup>:

- ▶ Causing death by dangerous driving
- ▶ Causing death by careless driving under influence of drink or drugs
- ▶ Causing death by careless driving
- ▶ Causing death by driving unlicensed, disqualified or uninsured drivers<sup>3</sup>

The breakdown of prosecutions since 2010 shows a fluctuation the distribution of cases between the two main offences – *Causing death by dangerous driving* and *Causing death by careless driving*, and a sustained decline in the numbers of the other two offences.

## 2 Prosecutions and convictions of causing death by driving, 2015

In 2015, 414 drivers were prosecuted for causing a death in England and Wales, up 3% with 12 more prosecutions than the previous year. As seen in Table 1, two charges dominate: *Causing death by dangerous driving* and *Causing death by careless driving*.

With 321 convictions, almost four of every five drivers prosecuted were found guilty (78%). It is not possible to tell how many drivers started off being prosecuted for *Causing death by dangerous driving* but ended up convicted of *Causing death by careless driving*. It is government policy to promote early guilty pleas as this avoids the cost of trials. This is believed to encourage guilty plea offers to lesser sentences.

Table 1 Court prosecutions and convictions

Offences	Proceeded against	Found Guilty	Conviction Ratio
<b>Indictable only offences</b>			
Causing Death by Dangerous Driving	188	122	65%
Causing Death by Careless Driving when under the influence of Drink or Drugs	23	21	91%
<b>Triable either way offences</b>			
Causing Death by Careless Driving	201	176	88%
Causing Death by Driving: Unlicensed, Disqualified or Uninsured Drivers	2	2	100%
<b>Total</b>	<b>414</b>	<b>321</b>	<b>78%</b>

The indictable only offences can only be tried at the Crown Court and the prosecution has the right to appeal an unduly lenient sentence. With triable either way offences, cases can be heard in the Magistrates Court. In 2015, 27% of all Causing Death by Careless Driving cases were tried in the Magistrates Court. And the prosecution does not have the right to appeal an unduly lenient sentence with a Triable either way offence, even when it has been heard in the Crown Court.

<sup>2</sup> It does not cover Causing Death by Aggravated Vehicle Taking

<sup>3</sup> During 2015, a new charge of Causing Death by Driving Disqualified, with a maximum custodial sentence of 10 years, was introduced but was not reported/used in 2015 (it only applies to deaths caused after its introduction).

### 3 Trends in prosecutions

**Table 2 Prosecutions of Causing death by driving offences, 2010-15**

Proceeded against	2010	2011	2012	2013	2014	2015
Causing Death by Dangerous Driving	196	177	163	144	176	188
Causing Death by Careless or Inconsiderate Driving	285	254	261	234	205	201
Causing Death by Careless Driving when Under the Influence of Drink or Drugs	34	37	19	26	17	23
Causing Death by Driving Unlicensed, Disqualified or Uninsured drivers	22	20	16	10	4	2
<b>Total</b>	<b>537</b>	<b>488</b>	<b>459</b>	<b>414</b>	<b>402</b>	<b>414</b>
<b>Cumulative % change since 2010</b>	<b>0%</b>	<b>9%</b>	<b>15%</b>	<b>23%</b>	<b>25%</b>	<b>23%</b>
Fatal collisions in England & Wales <sup>1</sup>	1,542	1,622	1,473	1,449	1,480	1,466
<b>Proceedings as a % of fatal collisions in same year</b>	<b>35%</b>	<b>30%</b>	<b>31%</b>	<b>29%</b>	<b>27%</b>	<b>28%</b>

<sup>1</sup>Total for GB less that of Scotland

By 2012, *Causing death by careless driving* was being prosecuted much more often than more serious charge of *Causing death by dangerous driving*. This was far more than had been anticipated when *Causing death by careless driving* was introduced in 2008 and raised fears of undercharging. The rebalancing of these offences started in 2014 and the continuation of this in 2015 is welcome.

Less welcome is the decline in the number of prosecutions. This must be assessed in relation to the change in the number of fatal collisions in the same period. Prosecutions are down 23%, fatal collisions are down by just 5%. Unless it can be shown that there has been a widespread decline in the proportion of road deaths for which drivers are criminally culpable, this raises questions about both the standards and resourcing of collision investigation and the way that charging decisions are being made.

### 4 Sentencing for causing death by driving

Almost all of drivers convicted of the indictable offences (*Causing death by dangerous driving* and *Causing death by careless driving under the influence*) were sent to prison. With *Causing death by careless driving*, 27% were sent to prison, with community service the most common sentence given.

**Table 3 Sentencing outcomes, 2015**

Offences	Sentenced	Immediate Custody	Suspended Sentence	Community Sentence	Fine
<b>Indictable only offences</b>					
Causing Death by Dangerous Driving	122	114	7	0	0
Causing Death by Careless Driving when under the influence of Drink or Drugs	21	20	1	0	0
<b>Triable either way offences</b>					
Causing Death by Careless or Inconsiderate Driving	173	46	55	66	4
Causing Death by Driving: Unlicensed, Disqualified or Uninsured Drivers	2	1	1	0	0
<b>Total</b>	<b>318</b>	<b>181</b>	<b>64</b>	<b>66</b>	<b>4</b>

**Table 4 Length of custodial sentences, 2015**

Offences	12 months and under	12+ to 18 months	18+ to 24 months	2+ to 3 years	3+ to 5 years	5+ to 7 years	7+ to 10 years	10+ years
<b>Indictable only offences</b>								
Causing Death by Dangerous Driving	3	1	8	19	42	24	15	2
Causing Death by Careless Driving when under the influence of Drink or Drugs	0	0	2	6	5	6	1	0
<b>Triable either way offences</b>								
Causing Death by Careless or Inconsiderate Driving	25	13	4	3	1	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>
Causing Death by Driving: Unlicensed, Disqualified or Uninsured Drivers	0	1	0	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>	N/A <sup>1</sup>
<b>Total</b>	28	15	14	28	48	30	16	2

<sup>1</sup> Sentence length limited by statute

The custodial sentences shown in Table 4 refer to those given after any guilty plea reduction. It is not possible to know how many of these sentences have been reduced by an early guilty plea, or the extent of the discount, which can be up to 33% if the defendant pleads guilty at the start of the court hearings.

**Table 5 Average custodial sentences, 2010-15**

	2010	2011	2012	2013	2014	2015
<b>Indictable only offences</b>						
Causing Death by Dangerous Driving	49.1	48.7	49.5	52.4	61.5	57.1
Causing Death by Careless Driving when under the influence of Drink or Drugs	45.5	52.3	52.1	61.3	54.3	53.3
<b>Triable either way offences</b>						
Causing Death by Careless or Inconsiderate Driving	15.4	15.3	13.7	13.5	10.4	14.4
Causing Death by Driving Unlicensed, Disqualified or Uninsured Drivers	N/A	8.4	N/A	N/A	N/A	N/A
<b>Average custodial sentence</b>	41.0	40.5	38.1	41.5	47.2	45.6

*Note: MoJ does not report average custodial sentences when numbers are too small to give meaningful average*

### Driving bans

According to the Sentencing Council Guidelines, driving bans are mandatory for all causing death by driving offences. This ranges from one year for the triable either way offences to two years for the indictable only offences.

**Table 6 Driving license sanctions, 2015**

Offences	No endorsement, No ban	Endorsement, No ban	Total Bans	Driving test requirement
<b>Indictable only offences</b>				
Causing Death by Dangerous Driving	0	1	121	119
Causing Death by Careless Driving when under the influence of Drink or Drugs	0	0	21	20
<b>Triable either way offences</b>				
Causing Death by Careless or Inconsiderate Driving	19	17	137	53
Causing Death by Driving Unlicensed, Disqualified or Uninsured Drivers	0	1	1	1
<b>Total</b>	19	19	280	193

Almost all drivers convicted of *Causing death by dangerous driving* or *Causing death by careless driving under the influence of drink or drugs* were banned and required to take an extended driving test required before they could get their license back. But almost two thirds of drivers convicted of *Causing death by careless driving* were allowed to return to driving without having to take an extended test.

Over half of driving bans had their duration reported as unknown. This is presumed to be related to the extended driving test requirement. Of those known, driving bans were short, with 71% less than three years. Driving bans are to increase in the future, at least for those sentenced to prison. For offences occurring after 13 April 2015, courts are required to extend the disqualification period by one-half of the custodial sentence imposed.

Drivers can appeal to get their driving license back early. Unlike with custodial sentence appeals, bereaved families do not have to be informed of any appeal for early return of driving license.

**Table 7 Driving ban duration, 2015**

Offences	Period Unknown	Under 1 year	1 to under 2 years	2 to under 5 years	5 to under 10 years	10 years & over under life	Life
<b>Indictable only offences</b>							
Causing Death by Dangerous Driving	97	0	1	10	10	3	0
Causing Death by Careless Driving when under the influence of Drink or Drugs	14	0	1	4	2	0	0
<b>Triable either way offences</b>							
Causing Death by Careless or Inconsiderate Driving	41	1	49	42	1	3	0
Causing Death by Driving: Unlicensed, Disqualified or Uninsured Drivers	1	0	0	0	0	0	0
<b>Total</b>	<b>153</b>	<b>1</b>	<b>51</b>	<b>56</b>	<b>13</b>	<b>6</b>	<b>0</b>

## 5 RoadPeace conclusions

The annual statistics published by the Ministry of Justice (MoJ) report the number of drivers prosecuted and convicted of causing death by driving. But much remains unknown, including the number of people killed by law breaking drivers as these statistics refer to the offenders, not the victims.

Causing Death by Careless Driving remains the most common charge laid after a fatal crash. This is not surprising given the overlap in the:

- ▶ charging standards for Dangerous Driving and Careless Driving. See [RoadPeace's briefing](#) highlighting this problem.
- ▶ sentencing for Causing Death by Dangerous Driving and Causing Death by Careless Driving (only 20% of those convicted of Causing Death by Dangerous Driving are given custodial sentences of over 5 years)

And the government's encouragement of guilty pleas is believed to lead to more *Causing death by careless driving* prosecutions than *Causing death by dangerous driving*.

RoadPeace believes all death related cases should be heard at the Crown Court, with the CPS having the right to an appeal an unduly lenient sentences (this is not currently possible with the either way offences—even when the case is sentenced at the Crown Court).

A full review of driving offences (including sentencing) was announced in May 2014 but has yet to occur. The driving offence review is needed even more now with the recent addition of Causing Death by Disqualified Driving which adds to the complexity and inconsistency in our criminal charges.

### References:

MoJ (2016a) Criminal justice system statistics quarterly: December 2015, **CJS outcomes by offence.csv**,

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/524360/csvs-behind-interactive-data-tools.zip](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524360/csvs-behind-interactive-data-tools.zip).

MoJ (2016b) Criminal justice system statistics quarterly: December 2015, **overview-tables.xls**

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