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## The Equity Gap

### How road crash victims are discriminated against by the justice sector

Five years ago, the government pledged to put victims at the heart of the justice system. Yet to date, road crash victims have not been granted the same rights or services as other victims of crime. To mark RoadPeace's 15 years of campaigning for crash victims, key examples of discrimination against road crash victims by the justice sector are summarised here.

Examples of injustice are classified into the three main areas of

- Practical and emotional support
- Counting and costing
- Representation and consultation

## **Practical and emotional support**

A key priority for RoadPeace has been in ensuring those newly bereaved or injured in crashes receive

- practical information on the post crash legal procedures;
- opportunities to speak with other victims who have survived this tragedy; and
- proper acknowledgement of their suffering.

### **1. Exclusion of crash victims from Victim Support's mandate**

Despite over four times as many people being killed in crashes than by homicide, road crash victims are not included under Victim Support's mandate. This has not changed since RoadPeace approached Victim Support in 1993 and proposed working together so that crash victims were included. In the past ten years, government funding for Victim Support has doubled to over £30 million.

At their AGM in 2001, Victim Support did approve a motion to support those bereaved in crashes (injured was not discussed), but its mandate has not been extended. Local Victim Support offices can choose to help crash victims but they are not obliged to do so.

### **2. No funding for crash victim helpline**

Although the government funds other specialist helplines (Missing Persons helpline received £600k funding and only 1% of missing persons are crime related), it does not fund any helpline for crash victims. Callers to Victim Support are often referred to RoadPeace's helpline.

RoadPeace's application for helpline funding was supported in principle in 2004 by then Home Office Minister Charles Clark, but it never received formal Home Office approval.

### **3. Lack of funding for Remembrance**

The government has supported and even organised memorial services and memorials for victims of terrorism and genocide, but not for those who die on the road.

RoadPeace introduced a Day of Remembrance for Road Traffic Victims in 1993, which was formally adopted by the UN in

2005. It is commemorated on the third Sunday in November, the week after Remembrance Sunday. RoadPeace chose this day to highlight how victims of crashes and war tend to be males in the prime of life.

Our application for funding to promote the Day of Remembrance was rejected by the Department for Transport (DfT) and our request for official recognition of this day by the current government has also been refused.

### **4. Victims' Code's exclusion of injured**

In April 2006, the Home Office introduced the Code for Victims but once again, government policy discriminated against crash victims. The draft Code excluded all crash victims, except for those where the crash was intended (which is virtually never). After much campaigning by RoadPeace members, the Code was amended to include those bereaved in crashes where the driver was to be charged with either an indictable offence or careless driving.

But all those injured in collisions are excluded from the Code. No matter how extreme the law breaking was or how serious the injury was, they are not included under the Code for Victims. RoadPeace is calling for police forces to extend the code voluntarily to those seriously injured in crashes.

### **5. Victim's Surcharge**

In April 2007, a £15 victim surcharge was introduced on offenders fined at court (thus it excludes fixed penalties notices, including safety camera offences). The government estimated that motoring fines would provide 70% of the £16 million expected to be collected each year.

In the first year, only £1.5 million (1/10 that expected) was collected and no money was invested in support services for crash victims. All was invested in support for victims of sexual and domestic violence. The Ministry of Justice has also stated this will not change during 2008/09.

## Counting and costing

The saying 'What gets counted counts' is often used to describe the lack of resources allocated to traffic law enforcement. As shown below, the counting and costing methods of the justice system regularly underestimate or obfuscate the extent of road traffic crashes and motoring offences.

### 6. Under-reporting of road casualties

The problem of under-reporting has been well documented. Over 10 years ago, a study reported in the Road Accidents Great Britain 1996 estimated the number of those seriously injured in crashes was over twice that reported.

*....readers should note that, while very few, if any, fatal accidents do not become known to the police, there is evidence that an appreciable proportion of non-fatal injury accidents are not reported to the police and therefore are not included in this publication. In addition, research has shown that up to a fifth of casualties reported to the police are not included in the statistical return. Moreover, studies also show that the police tend to underestimate the severity of injury because of the difficulty in distinguishing severity at the scene of the accident.*

*RCGB 2006 (2007)*

Although the Road Casualties Great Britain includes a note on under-reporting each year as shown above, police statistics are still used to measure the number of casualties.

The annual British Crime Survey (BCS) surveys over 40,000 members of the public. It is used to offer a more realistic estimate of the level of crime than the official statistics of crimes reported to and by the police.

While it has included questions about domestic fire in the past (very few are crime related), it has never asked respondents about either their involvement in collisions or intimidation by driving behaviour of others. RoadPeace has repeatedly called for the BCS to include road crash experience.

### 7. Violent crime definitions

The most common and most deadly motoring offences are not classified as notifiable crime and are thus not monitored in recorded crime statistics. Speeding, careless driving, and

drink driving are not included in these key crime indicators.

The definition of violent crime includes threatening behaviour that does not involve physical injury. Only 2% of victims of violent crime are hospitalised and less than half report any injury at all. On this basis, there would be millions of victims of speeding offences, especially in urban areas.

### 8. Anti social behaviour exclusion

While speeding is not classified as violent or notifiable, it is also no longer included as anti-social behaviour. It had been the leading cause of anti-social behaviour reported in the BCS anti social behaviour survey of 2002-03 and 2003-04.

### 9. Transparency in conviction rates.

The problem of low and inconsistent conviction rates with rape is well publicised and monitored. This transparency does not exist with causing death or injury by driving.

On average, about 250 drivers are prosecuted for Causing Death by Dangerous Driving and another 60 for Causing Death by Careless Driving while Under the Influence each year. The number of drivers prosecuted for Careless Driving after a fatal crash has not previously been monitored. The CPS recently conducted a 10 month survey (July 2006-April 2007) and reported only 66 fatal crashes where a driver was likely to be prosecuted for Careless Driving. This would imply that less than 100 drivers are prosecuted each year for Careless Driving after a fatal crash.

### 10. Cost of road crashes and casualties

The DfT currently estimates the cost of road crashes at over £18 billion. This does not include any adjustment for unreported crashes. This is not the case with other types of crime. For instance, the total cost of crime to the country is estimated at over £60 billion. But this is much more than just the reported crime. For instance, for every shop theft reported, an adjustment factor of 100 is used. We believe there should be consistency with how crime and crashes are costed.

## Representation and consultation

### 11. Victim Advisory Panel exclusion

Established in 2003 with a very ambitious aim, the Victim Advisory Panel was intended to ensure victims had a say in key reforms of the Criminal Justice System. There were reserved places for representatives from homicide victim charities but not for road crash victim charities, despite their accounting for four times as many deaths.

RoadPeace was not allowed a place on the VAP but the then Chair was selected as a lay member. Her request to be extended for a second term of three years was denied. Road crash victims are not represented on the VAP.

### 12. Lack of representation on other Government bodies

The 11 member Sentencing Guidelines Council includes four non-judiciary members, one of whom is to be experienced with the needs of victims. This position is currently held by a former Victim Support senior officer who was head of Policy in recent years, during the time when the Victims' Code was being drafted to exclude all road crash victims.

Road crash victims are also not represented on the government's Road Safety Advisory Panel nor the government funded Motorists' Forum, despite motor vehicle occupants accounting for the majority of all road crash victims.

### 13. Lack of inclusion in WAVES

The Witness and Victim Experience Survey (WAVES) was launched at the end of 2004 to research the level of satisfaction with those who came into contact with the criminal justice sector.

WAVE surveys are conducted with over 33,000 victims and witnesses each year. However the surveys are only with victims of violence, robbery, burglary, theft and criminal damage, but not road crashes. Once again private property is given more priority than personal injury, including when it involves criminal acts.

## Warning!

It is not just the Ministry of Justice which discriminates against road crash victims. Those dedicated to campaigning for human rights have often ignored, if not contributed, to the discrimination of crash victims.

RoadPeace belongs to several human rights organisations and criminal justice not profit organisations. Despite the right to life being the most basic human right and a right denied to over 800 people each year by speeding drivers, **Liberty** defended two motorists claiming the right to silence in a speed camera related case in the European Court of Human rights. The campaign group **Justice** argued against the Causing Death by Careless Driving Charge on the grounds that it was unfair to drivers and **Harm and Society** routinely ignores motoring offences, despite their being one of the greatest causes of harm to society.

*My 17 year old son was killed one year ago in a collision...After Tristan died, I saw the roads of Britain swimming in blood. They will stay like that because until it happens to you, you are happy to be part of the conspiracy of silence. And after it has, you are one of the quietly suffering who don't have enough strength left to try to change the world.*

Susanne MacGregor, letter to The Guardian, Manchester 4 January 1988, and reprinted in Autogeddon by Heathcote Williams' Autogeddon (1991).

Nor is it just the Justice Sector which discriminates against crash victims. The UK Department of Health does not have one full time staff member dedicated to road traffic injury prevention, despite it being a leading cause of death and disability to those under the age of 35.

Note: This briefing sheet was produced to mark the 15th anniversary of RoadPeace's public launch as the national charity for road crash victims. These examples of injustice demonstrate the ongoing discrimination faced by road crash victims and the need for RoadPeace. References are available upon request. (April 2008).