



Causing death by driving (2011)

Summary

In 2011, 505 drivers were convicted of causing a death. RoadPeace has previously voiced concern about how the new Causing Death by Careless or inconsiderate Driving (CDCD) was being used, as charging for CDCD had increased, apparently at the expense of Causing Death by Dangerous Driving (CDDD).

It is not known how many of the CDCD cases started off with an initial charge of CDDD; but introducing CDCD is believed to have led to a reduction in the probability that those driving dangerously should be charged as such. Statistics from 2011 indicate that we still have cause for concern.

This briefing includes a summary of the convictions and conviction rate first and then the sentences incurred by those convicted of the four main causing death by driving charges:

- Causing Death by Dangerous Driving (126 convictions)
- Causing Death by Careless Driving Whilst Under the Influence (37 convictions)
- Causing Death by Careless Driving (265 convictions)
- Causing Death by Driving Whilst Unlicensed, Disqualified or Uninsured (65 convictions)

In addition to these four charges, another 12 drivers were convicted of the charge Causing Death by Aggravated Vehicle Taking. These cases refer to when a fatality occurs after a motor vehicle has been taken without permission. Around 10-15 drivers will also have been convicted of manslaughter.

Convictions

Causing Death by Dangerous Driving

Whilst 126 drivers were convicted of Causing Death by Dangerous Driving in 2011, another 7 had their prosecutions dropped whilst a further 70 were acquitted of the charge. The conviction rate was 64% with two drivers pleading guilty. The number of drivers convicted of this charge decreased by 30% compared to the previous year with 179 convictions in 2010.

Causing Death by Careless Driving Whilst Under the Influence

Some 37 drivers were convicted of causing a death by careless driving whilst impaired, with another 10 found not guilty. The conviction rate was 79%. The number of drivers convicted fell by 12% compared to 2010 when 42 drivers were found guilty of this charge.

Causing Death by Careless or Inconsiderate Driving

With 265 convictions in 2011, this is the most common causing death by driving charge laid, although the CPS expected it to be used less than 100 times a year.

It is an either way charge and can be heard in either the Magistrates Court or the Crown Court, if the driver chooses to be tried by a jury or the Magistrates believe it should be decided by the higher court. Over three-quarters are tried in the Crown Court,

At the Magistrates Court, 79 drivers were tried with 74 found guilty (94% conviction rate). Of the 287 cases at the Crown Court, seven were dropped, 89 were acquitted, 174 were found guilty and 17 pleaded guilty, for a conviction rate of 75%.

Compared to the 253 convictions in 2010, convictions were down 6%.

Causing Death by Driving Whilst Unlicensed, Disqualified or Uninsured

This is another either way charge, and as with the Causing Death by Careless Driving charge, the majority is heard in the Crown Court. Of the 11 cases started at the Magistrates Court, three were dropped before trial and 8 were found guilty (100% conviction rate). The majority (58) were committed to trial in the Crown Court.

At the Crown Court, 10 cases were dropped, another 9 had the charge withdrawn or dismissed, and 55 were found guilty, whilst another two pleaded guilty, for a conviction rate of 86%.

Sentences

Causing Death by Dangerous Driving

Of the 124 drivers convicted for this charge, 117 received a custodial sentence (95%). Of these, 25 were sent to a Young Offenders Institution. Another 5 received a suspended sentence.

Of the 92 adults sentenced to imprisonment, nearly all (99%) received sentences of more than a year, 58% received sentences of more than three years and 30% were sentenced to over 5 years.

Causing Death by Careless Driving Whilst Under the Influence

All 37 drivers convicted of this offence received custodial sentences; and sentences tended to be long. Of the 30 adult drivers, over 80% were sentenced to over three years, while none were given sentences of less than 12 months .

Causing Death by Careless Driving

The most common sentence for this charge remains a community order with 104 drivers so punished, 46% of total. Another 56 drivers were given suspended sentences and a total of 44 received a custodial sentence (20%). This is an increase on the number imprisoned for this charge in 2010.

Amongst those drivers convicted in the Magistrates Court, only one was given a custodial sentence directly, with most of the others getting a community order (36) or were sent to the Crown Court for sentencing. The Crown Court also gave more community orders (40%) than any other form of sentence, suspended sentences accounted for a further 28% of cases. Custodial sentences accounted for only 24% of those convicted. And these sentences were short, with only 12 (6% of convictions) exceeding 18 months.

Causing Death by Driving Whilst Unlicensed, Disqualified or Uninsured

Of the 65 drivers convicted, 38 received custodial sentences and a further seven were given a suspended sentence. Six drivers received a community order.

Most drivers imprisoned for this charge were given prison sentences of under one year (73%).

Driving bans

The MOJ provides data on driving bans for causing death or bodily harm convictions in aggregate, not by individual charge. Driving bans are supposed to be mandatory after a causing death by driving conviction, according to the Sentencing Council Guidelines. At the Magistrates Courts in 2011, 53 drivers were banned after causing a death or bodily harm, mostly for a year. Only two drivers were banned for more than five years, after causing a death.

At the Crown Court, 346 drivers were banned, including 37 with bans of five years or longer. Three drivers were given lifetime bans. But the vast majority of driving bans imposed at the Crown Court after a conviction for causing death/bodily harm by driving were less than five years with the most common ban being for only one year (52). Four drivers received bans of less than 12 months.

By comparison, first time drink drivers receive a minimum one year driving ban but DfT surveys show that 75% of the public support a five year driving ban for them.

It is also worth noting that another 65 drivers were just given penalty points but not disqualified from driving. Clarification is being sought from the MOJ on how it was possible that endorsements were used, rather than bans.

RoadPeace does not support a minimum custodial sentence for a causing death by driving conviction but we do believe that driving bans should be imposed on every driver who has killed and for much longer times, with those convicted of Causing Death by Dangerous Driving or Careless Driving Whilst Under the Influence never allowed to drive again.

Source: Ministry of Justice (2012)