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Criminal convictions and pedestrian and cyclist deaths in London July 2013

1 Introduction

The lack of linkage between collision records and criminal convictions is a well known problem and hinders transparency as well as the understanding of how often and who is being held criminally responsible for causing a collision.

Since its start, RoadPeace has called for the legal outcome of collision investigation to be monitored. And TfL has responded. The legal outcome of fatal collisions involving pedestrians and cyclists in London was reviewed in two research studies commissioned by TfL. For the pedestrian deaths study, TRL reviewed 197 fatal collision files from the total of 446 pedestrian fatal collisions that occurred in London between 2006-2010 (TRL, 2012). For cyclist deaths, TfL conducted a review of 40 cyclist deaths and 194 life changing injuries to cyclists from 2007-2010 (TfL, 2012).

The findings are summarised below.

2 Pedestrian deaths and criminal convictions

Of the 197 drivers involved, 68 were convicted of a driving offence as a result of the collision (35%). The most common charge was reported to be Careless Driving (40). The report did not differentiate between Careless Driving and Causing Death by Careless Driving. The new Causing Death by Careless Driving charge came into force during the middle of the study period but it is still possible to charge a driver with Careless Driving after a fatal crash and not hold them responsible for causing the death.

Table 1: Criminal convictions following a pedestrian death, London (2007-2010)

Fatal crashes involving...	Pedestrian deaths	Driver convictions	Conviction rate	Careless driving	Dangerous driving	Speeding	Other motoring
Motorcyclists	14	6	43%	2	2	2	1
Bus/coach	33	6	18%	5	1		
Speeding vehicles	31	26	84%	10	14	5	8
Alcohol impaired pedestrians	46	9	20%	5		5	
Pedestrians at crossings	49	20	41%	11	8	2	8
Pedestrians near crossings	37	8	22%	3	1	2	3
Pedestrians on the pavement	12	8	67%	5	4		1

Note: some drivers were convicted of more than one offence

As seen in Table 1, not all crashes involving speeding vehicles or even pedestrians being hit and killed on the pavement or on a crossing resulted in a conviction. No information was provided on why there was no conviction. The report also noted that vehicle speed was known in 122 of the 197 cases. It also reported that whilst most drivers were convicted of one offence (52), there were 11 drivers convicted of two offences and five drivers convicted of three or more offences.

Conviction rates varied by vehicle type. Almost half of all car and motorcycle driver/riders were convicted (43%), compared to under a fifth of HGV drivers and bus/coach drivers (18%).

Whilst the report did not provide conviction data for all pedestrian deaths, it did state that

- For the 27 pedestrian fatal crashes involving HGVs, three drivers were distracted but all were compliant with the law except for one who was speeding (pg 56).
- Amongst the 18 child pedestrian deaths, two of the vehicles failed to stop at the scene and two were travelling over the speed limit (pg. 63).
- With the 41 elderly pedestrian deaths, two drivers were speeding and two cars and two HGVs failed to stop (pg 69).

This suggests that convictions are very rare following a pedestrian death involving a child (10%), elderly person (5%) or HGV (3%). There was no discussion in the report on the implications of the lack of prosecution in cases involving law breaking or the very vulnerable (young and old pedestrians).

3 Cyclist deaths and serious injuries and criminal convictions

TfL undertook a study into the *“Killed and Seriously Injured” (KSI) pedal cycle collisions and the London criminal justice system*.

Table 2: London cyclist fatal collisions (2007-2009)

	fatal crashes	prosecutions	convictions	prosecution rate	conviction rate
2007	14	3	3	21%	67%
2008	13	8	2	62%	25%
2009	13	8	1	62%	13%

Source: TfL, 2012

This research provided information on prosecutions as well as convictions. For the sample of life changing cycle injury collisions, the prosecution rate was reported to have increased from 53% in 2007 to 78% in 2009 (TfL, 2012).

More information on charges and sentencings are provided in Appendix A for both the fatal and life changing injury collisions.

There was wide fluctuation in the prosecution and conviction rate of fatal collisions but this was influenced by the small numbers involved. Nor is it possible to draw any conclusions from the larger life changing injury sample as they were not a representative sample.

4 Summary

The legal outcome of fatal collisions involving pedestrians and cyclists in London was recently reviewed. This information is not regularly monitored and has been a key call for RoadPeace. In response to TfL's review of cyclist killed and seriously injured and the criminal justice system review, RoadPeace, LCC and CtC called for an annual review of the legal outcome be published. This recommendation was accepted by TfL and the Cycle Risk Working Group in spring 2012 but as of July 2013, no further data on the legal outcome of even fatal cycle collision investigations had been released.

This will not be the last time prosecution and conviction data is studied in London. TfL has proposed to conduct a review of pedestrians killed and seriously injured experience in the criminal justice system, similar to the previous cyclist study.

It is important that lessons are learned as data on the legal outcome has not been provided consistently. In the pedestrian fatal research:

- conviction data was not provided for all deaths
- no prosecution data was provided.
- criminal charges not specified correctly

Despite these data weaknesses, enough information was given to cause concern, especially for the lack of criminal prosecution following a child or elderly pedestrian death or that involving an HGV, as well as those deaths involving speeding or a pedestrian on the pavement or a crossing. Reasons for No Further Action decisions by the police should be a priority for future research studies.

References

TfL (2012), "Killed and Seriously Injured" (KSI) pedal cycle collisions and the London criminal justice system 2007-2009
TRL (2012), Pedestrian fatalities in London (2006-2010)

Appendix A: TFL *Killed and Seriously Injured* (KSI) pedal cycle collisions and the London criminal justice system, 2012.

Offences charged and outcomes of fatal pedal cycle collisions taken to court, 2007 - 2010		
Year	Offence Type	Outcome
2007	S1 - Death by Dangerous Driving	£2,500 fine, 5 year disqualification
	S1 - Death by Dangerous Driving Without Due Care / Fail to Stop	30 months imprisonment, 6 month disqualification, extended re-test 18 weeks imprisonment (suspended 2 years), disqualification 12 months, 200 hours CSO
	Manslaughter & Death by Dangerous Driving	Guilty
2008	S2B - Death by Careless Driving	150 hours CSO, 12 months disqualification, extended re-test
	S2B - Death by Careless Driving / Fail to Stop	6 months imprisonment (suspended 2 years), disqualification 10 years
	S2B - Death by Careless Driving	Not guilty x 2
	Without Due Care	Guilty
	Without Due Care	Not guilty
2009	Without Due Care, Excess Speed, Fail to Comply Sign	Not guilty
	Defective Eyesight	£200 fine, £150 costs, £15 victim surcharge, 3 penalty points
	S1 - Death by Dangerous Driving / Fail to Report	Death by Dangerous Driving Dismissd, Fail to Report Discontinued
	S2B - Death by Careless Driving	7 years Imprisonment, disqualified for life
	S2B - Death by Careless Driving	Case discharged
	S2B - Death by Careless Driving	Not guilty x 3
2010	S2B - Death by Careless Driving	Dismissed
	Open car door to danger	£300 Fine, £1137 costs, £15 Victim charge
	S1 - Death by Dangerous Driving	31 months imprisonment, 3 year disqualification, extended re-test
	S1 - Death by Dangerous Driving	Not guilty
	S2B - Death by Careless Driving	16 weeks imprisonment (suspended 24 months), 120 hours unpaid work, 12 months disqualification, extended re-test
	S2B - Death by Careless Driving	Case discharged x 2

Source: Traffic Serious Casework Unit, Met Police

Offences charged and outcomes of non-fatal pedal cases investigated by TSCU, 2007 - 2010			
Year	Offence Type	Count	Outcome
2007	WDC	11	5 x range of fines & PPT; 3 x unknown; Record only; Not guilty, Not proved
	DOA	2	£100 fine & 3 PPT; £200 fine & 4 PPT
	Open Door to Danger	2	£500 fine; unknown
	WDC & Fail to Comply ATSI	1	On unscheduled list - summons not served
	WDC & FTS	1	Borough dealt with - unknown
	WDC & No Insurance	1	Unknown
	WDC, No Insurance, DOA	1	Unknown
	Unknown offence	2	Discontinued; Disqualified 6 months, £60 fine & £300 costs
2008	WDC	21	14 x range of fines / PPT / disqualification; 2 x not guilty; 5 x unknown
	Open Door to Danger	2	£50 fine; unknown
	Careless Cycling	2	£65 fine; £50 fine
	DOA & No Insurance	1	Unknown
	DOA & WDC	1	DOA withdrawn as Slovakian driving license, WDC - £300 fine & 4 PPT
	FTS, FTR, No Insurance	1	£420 fine & 7 PPT
	FTS & No Insurance	1	Unknown
	No Insurance & Open Door to Danger	1	Proved in Absence - warrant issued & no result
2009	WDC	12	8 x range of fines / PPT / disqualification / costs; 1 x dismissed; 3 x awaiting court result
	DOA	2	£110 fine & 3 PPT; £610 fine & 8 PPT
	Open Door to Danger	2	£160 fine; £250 fine
	Careless Cycling	1	£380 compensation
	Defective Tyres	1	£250 fine & 3 PPT
	DOA & No Insurance	1	£100 fine & 6 PPT
	No Insurance	1	£220 fine & 6 PPT
	WDC & No Insurance	1	£75 fine, £115 costs & 4 PPT
	WDC, DOA & No Insurance	1	£450 fine & disqualification 2 years
WDC & Careless Cycling	1	Discontinued	
2010	WDC	14	14 x range of fines / PPT / victim support / costs; 1 x National Driver Awareness Course; 1 x dismissed; 1 not guilty; 1 x awaiting court result
	Dangerous driving	1	No result at present (trial late 2011)
	Riding on footway	1	£80 fine, £40 costs, £15 victim support
	WDC & Exceed speed	1	£310 fine, £85 costs, £15 victim support, 6 PPTS
	WDC & No Insurance	1	Discontinued

Source: Traffic Serious Casework Unit, Met Police