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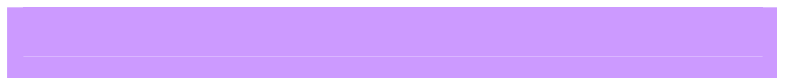
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RESEARCH REPORT - 5

Attitudes to the sentencing of offences involving death by driving

by ICPR and GfK NOP



The Sentencing Advisory Panel is an independent advisory and consultative body which provides fully researched, objective advice to the Sentencing Guidelines Council, to assist the Council when it frames or revises sentencing guidelines. This research report is published by the Sentencing Advisory Panel.

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Sentencing Advisory Panel

Research Report - 5

Attitudes to the sentencing of offences involving death by driving

BY

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*The views expressed in this report are those of the authors,
not necessarily those of the Sentencing Advisory Panel*

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FOREWORD

This is the fifth research report published by the Sentencing Advisory Panel. It contains findings from research which aimed to investigate the attitudes of the general public, including some relatives of victims, to sentencing for offences involving death by driving.

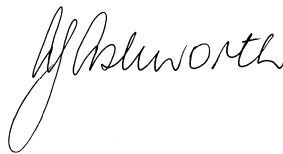
The Panel was asked by the Sentencing Guidelines Council to produce advice on sentencing for the two existing offences of 'causing death by dangerous driving' and 'causing death by careless driving while under the influence of drink or drugs' and also for the two new offences (not yet in force) of 'causing death by careless or inconsiderate driving' and 'causing death by driving: unlicensed, disqualified or uninsured drivers'.

Offences of causing death by driving are a matter of some public concern and are among the most difficult cases for courts to sentence. When producing advice, the Panel normally consults a wide range of organisations and interested groups or individuals. Traditionally, however, the response from members of the public is low. The Panel decided, on this occasion, to commission some further independent research into public attitudes to sentencing for these offences, to run alongside its usual consultation process. The key message from the research, supporting other independent research findings also, is that the public underestimates the sentences that are currently imposed by the courts. When asked to consider their own preferred sentence for a specific case, many individuals suggested sentences that are similar to, or more lenient than the Panel's proposals.

However, the research also clearly shows that the public thinks the maximum sentence of two years imprisonment for the new offence of causing death by driving while unlicensed, disqualified or uninsured is too low. Interestingly, for many, this offence is perceived as being more serious than the new offence of causing death by careless driving which has a maximum sentence of five years.

The Panel was also keen to hear the views of relatives of victims. Although only a small number of interviews were conducted, the findings indicate general dissatisfaction with the criminal justice process; the findings specifically point to a need to explain the sentence properly to the bereaved.

We consider the research findings to be very informative and an extremely valuable enhancement of our normal consultation process. We are immensely grateful to all those who gave up their time to participate in the research. The Panel will publish its advice to the Sentencing Guidelines Council simultaneously with this report and it can be found at: www.sentencing-guidelines.gov.uk.



Professor Andrew Ashworth
Chairman of the Sentencing Advisory Panel

Acknowledgements

This research was commissioned by the Sentencing Advisory Panel and was conducted jointly by the Institute for Criminal Policy Research, King's College London, and GfK NOP. Particular thanks are due to the Sentencing Advisory Panel Steering Group who oversaw the project, and to members of the Panel secretariat. Special thanks are due to Nita Bhupal for her tireless and efficient support.

We would like to thank Colleen Norton and the staff at Plus Four for assembling the focus groups, and the focus group participants themselves for taking part. We are also very grateful to the Bedford Road Victims Trust, Victim Support Wandsworth, Warwickshire, Herefordshire & Worcestershire and to the Road Policing Unit of Warwickshire Police, all of whom helped us locate people who had lost relatives as a result of driving offences. Finally, we would particularly like to thank these people for agreeing to be interviewed about their experiences.

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Contents

| | |
|--|-----------|
| SUMMARY | vi |
| 1 INTRODUCTION | 1 |
| The offences | |
| Objectives of the research | |
| Findings from earlier research | |
| Methods | |
| Structure of the report | |
| | |
| PART 1 – THE VIEWS OF THE PUBLIC | |
| | |
| 2 PERCEPTIONS OF SERIOUSNESS | 11 |
| Seriousness ratings | |
| Estimates of the likelihood of re-offending | |
| Seriousness and culpability: views from the focus groups | |
| | |
| 3 ANTICIPATED AND PREFERRED SENTENCES | 19 |
| Concern about sentencing patterns | |
| Anticipated sentences – survey findings | |
| Preferred sentences – survey findings | |
| Tolerance of Panel sentencing proposals – survey findings | |
| Anticipated and preferred sentences – focus group findings | |
| Anticipated and preferred sentences – overview | |
| | |
| 4 AGGRAVATION AND MITIGATION | 35 |
| Aggravation and mitigation: conjoint findings | |
| General views on mitigation | |
| Aggravation: key issues from the focus groups | |
| Mitigation: key issues from the focus groups | |
| Aggravation and mitigation: summary | |
| | |
| 5 CONCLUSIONS | 46 |
| Sentencing the four offences | |
| Greater responsiveness to public opinion? | |
| Aggravation and mitigation | |
| Focus groups vs sample surveys | |

PART II THE VIEWS OF RELATIVES OF VICTIMS

| | | |
|----------|--|-----------|
| 6 | VIEWS OF RELATIVES OF VICTIMS ON SENTENCING | 50 |
| | The cases | |
| | General views of sentences passed | |
| | Disqualification periods | |
| | Mitigation | |
| | Desired sentences | |
| | Explanation of sentence | |
| 7 | VIEWS OF VICTIMS ON WIDER ISSUES | 60 |
| | Experiences of court | |
| | Views of the offender | |
| | Support for victims | |
| | REFERENCES | 67 |
| | APPENDIX A SURVEY CHARACTERISTICS | 69 |
| | APPENDIX B SURVEY INSTRUMENT | 70 |

Summary

This study was commissioned by the Sentencing Advisory Panel (SAP) as part of the process of consultation relating to its advice on the sentencing of two existing offences of causing death by driving, and two new offences created by the Road Safety Act 2006. The offences were:

- Causing death by careless or inconsiderate driving (hereafter 'Careless')
- Causing death by careless driving when under the influence of drink (hereafter 'Careless-Drunk')
- Causing death by dangerous driving (hereafter 'Dangerous')
- Causing death by driving: unlicensed, disqualified or uninsured driver (hereafter 'Illegal').

Background

The Sentencing Advisory Panel has recently issued draft guidance on the four offences involving death, and is consulting widely on its proposals. It decided to include in the consultation process some research to assess public opinion on the subject, and thus commissioned the present study. Driving offences resulting in death constitute one of the most serious categories of offending from the perspective of public opinion. They necessarily involve high levels of harm, whilst involving levels of culpability that do not usually have such catastrophic consequences.

The main aims of the study were to assess public perceptions of seriousness of the four offences, to examine sentencing preference and to explore views on mitigating and aggravating factors. The study involved a survey of a representative sample of 1,031 adults in England and Wales, twelve focus groups of the general public and 11 in-depth interviews with people who had lost close relatives as a result of the driving offences under scrutiny.

Seriousness

In both the survey and the focus groups people regarded the 'careless' offence as the least serious of the four. They viewed the 'illegal' offence as more serious – broadly on a par with 'dangerous' and 'careless-drunk'. The 'illegal' offence actually has the lowest maximum penalty – two years imprisonment, compared with five years for 'careless'. Within 'illegal', causing death driving whilst disqualified was seen as especially serious. The two year maximum sentence was generally seen as far too low.

Expected and preferred sentences

Both in the survey and the focus groups, people generally thought that the sentencing of these offences was too lenient, and more lenient than for other types of crime. They were asked about the sentences that would likely be imposed in six vignettes. For the 'dangerous' and 'careless-drunk' offences, they very substantially underestimated the risks of getting a prison sentence.

As for their own preferences, 71% and 76% of survey respondents favoured imprisonment for 'careless-drunk' and 'dangerous' respectively and 38% for 'careless'. The Panel's suggested sentence for the three vignettes respectively were two years, five years and a community penalty. Three of the vignettes related to different variants of the 'illegal' offence. 56% favoured imprisonment for causing death when driving whilst disqualified. The Panel's proposed sentence for this vignette was six months. Fifty percent and 41% of the sample, respectively, favoured prison for causing death whilst driving unlicensed and whilst driving uninsured. The proposed sentences for these two vignettes were community penalties. Whilst survey respondents' preference for custody was not hugely out of line with the Panel's own sentencing proposals, the *length* of custodial sentence, where custody was chosen, was often longer.

The survey included measures of 'tolerance' for each of the six vignettes. For the 'dangerous', 'careless', 'uninsured' and 'unlicensed' vignettes, the majority of respondents found the Panel's suggested sentence 'definitely acceptable' – or had themselves selected this sentence or a more lenient one. The proposed sentence for

'disqualified' was acceptable to only half the sample, and that for 'careless-drunk' acceptable to just under half.

In focus group discussions, there was a general tendency to select preferred sentences that were tougher than those selected by survey respondents. This may be because discussion highlighted the harm caused by the offences, and downplayed the fact that the consequences of the offence were disproportionate to the offenders' culpability – in the sense that similar behaviour rarely results in such tragic outcomes.

Aggravation and mitigation

The role of previous convictions as an aggravator was very striking. The presence of previous convictions had a highly significant influence on sentence severity in the conjoint analysis, and also greatly influenced reactions of participants in the focus group sessions. The existence of previous good character – an offender with no previous misconduct – also exercised an important mitigating influence.

Respondents to the survey and focus group participants clearly recognized the importance of the offender's attitudes towards the offence. Thus failure to express appropriate remorse or failure to provide assistance to victims at the scene were both regarded as significant aggravating factors. It was noticeable that the positive expression of remorse carried less weight, as this was regarded as normal behaviour for which less credit was due. The importance of mitigation – or at least its absence – is broadly consistent with previous research on public opinion; the limited weight attached to declarations of remorse in this study may reflect respondents' scepticism about the sincerity of these.

The views of relatives of victims

The findings from the 11 in-depth interviews with relatives of victims of ten offences must be regarded – given the numbers and sampling methods – as exploratory. The sentencing preferences expressed by these victims are clearly much tougher than those that the survey respondents expressed, and very much more severe than the

Sentencing Advisory Panel's draft guidance. It is important to note that the interviewees expressed concern about far more than simply the sentence imposed on the offender in their case. The relatives of victims expressed strong criticisms of the court process in general. They found the experience impersonal and felt that the court personnel treated the case as a relatively 'routine' proceeding to be resolved as expeditiously as possible.

Without exception the interviewees all expressed deep unhappiness with what they perceived to be the leniency of the sentence imposed. The victims often expressed the view that the offenders' lives would not be greatly affected by the crime; once a relatively short period of custody had been served, their lives would resume as before. In contrast, the victims' lives were irrevocably changed.

With respect to specific elements of the sentencing process, most victims were very unhappy with the length of the driving ban that had been imposed on the offender. There also appeared to be considerable opposition to the mitigation accorded offenders who had expressed remorse. None of the interviewees believed that the offender had been genuine in his expression of remorse. There was also agreement about the need for courts to give a clearer explanation of the sentence when it was imposed in open court. Finally, the issue of taking into account time served in custody had also caused considerable distress to the interviewees.

Chapter 1 Introduction

This study was commissioned by the Sentencing Advisory Panel (SAP) as part of the process of consultation relating to its advice on the sentencing of two existing offences of causing death by driving, and two new offences created by the Road Safety Act 2006. The Panel consults widely when drawing up guidance, but decided to include in the consultation process some research to assess public opinion on the subject. Driving offences resulting in death constitute one of the most serious categories of offending from the perspective of public opinion. As a result of the loss of life and the often dramatic circumstances giving rise to the crime, these offences attract intense media coverage. Media stories -- particularly in the tabloid press -- tend to focus exclusively on the harm inflicted and often include reference to the offender's previous misconduct. This may involve previous driving offences or other convictions.

Public stereotypes abound in the field of criminal justice. Research has demonstrated that when the public are asked to describe the typical offender, the offender in most peoples' minds has a more serious profile than the typical offender appearing for sentencing.¹ If members of the public were asked about the typical offender convicted of a driving offence resulting in death, it is likely that they would describe a young male driver who had been drinking, driving recklessly and who had a history of similar offences. The loss of life resulting from these offences is likely to eclipse, in the public mind, consideration of the offender's level of culpability. The public appear to endorse a model of case seriousness in which the harm assumes primordial importance. For all these reasons, it is not surprising that the spontaneous reaction of members of the public to sentencing offenders of these crimes is often quite punitive.² The challenge for researchers is to move beyond this level to explore the true nature of public opinion.

¹ For example, Doob and Roberts (1983) asked respondents to describe the offender they had in mind when thinking about sentencing and most people were thinking of recidivists convicted of serious crimes of violence. For a review of related research, see Roberts and Hough (2005a).

² Spontaneous comments from the focus groups also revealed that many people consider an offence involving death to constitute murder, and favour imposition of a sentence commensurate with murder.

The offences

The four offences examined in this research were:

Causing death by careless driving or inconsiderate driving (hereafter 'careless')

Causing death by careless driving when under the influence of drink or drugs³
(hereafter 'Careless-Drunk')

Causing death by dangerous driving (hereafter 'dangerous')

Causing death by driving: unlicensed, disqualified or uninsured driver (hereafter
'Illegal')

The 'dangerous' and 'careless-drunk' offences have been on the statute book for some time. The maximum penalty for both these offences was increased from 10 to 14 years' imprisonment under the Criminal Justice Act 2003. The 'careless' and 'illegal' offences were enacted by the Road Safety Act 2006 but at the time of the research the powers to charge offenders under these offences had not been activated. The maximum penalty is five years' imprisonment for the 'careless' offence, and two years' for the 'illegal'.

As described in lay terms to respondents in the survey and focus groups, the central elements of each offence are as follows:

³ In the interests of clarity and simplicity the research treated this offence as if it related solely to alcohol, reflecting the fact that the vast majority of cases brought to court involve alcohol.

A. Causing death by careless driving (Maximum penalty: 5 years)

- Where a person causes the death of someone as a result of driving without due care and attention.
- Where a person drives *below* the standard expected of a competent and careful driver.
- Typically involves a momentary error of judgment, e.g. driver has not noticed a hazard in the road.

B. Causing death by careless driving when under the influence of drink (Maximum penalty: 14 years)

- Same as for A – death by careless driving, but the driver is over the alcohol limit.

C. Causing death by dangerous driving (Maximum penalty: 14 years)

- Where a driver causes the death of someone as a result of driving that falls *far below* the standard expected of a competent and careful driver.
- It may be *deliberately* dangerous – e.g. racing or tail-gating at speed.
- It may also be *unintended*, but involves a serious mistake or negligence, e.g. driving a lot over the speed limit or dozing off at the wheel.

D. Causing death by driving whilst unlicensed, disqualified or uninsured (Maximum penalty: 2 years)

- An accident resulting in death – e.g. a child running into the road without warning.
- The person's standard of driving is **NOT** to blame.
- But the person shouldn't have been driving because he/she:
Did not have a licence or was uninsured or was disqualified.

Objectives of the Research

This study had six main objectives, as set out below:

1. To determine public perceptions of the relative seriousness of four offences of causing death by driving – by establishing the hierarchy of seriousness ascribed by respondents;
2. To determine the circumstances in which custodial or non-custodial sentences may be appropriate;
3. To evaluate the importance of mitigating and aggravating factors common to all offences;
4. To see whether and to what extent the public are sensitive to the issue of culpability or whether they focus exclusively on harm;
5. To determine public sentencing preferences with respect to the four offences and to compare these preferences to:
 - (a) expectations of sentencing outcomes
 - (b) sentencing proposals made by the Sentencing Advisory Panel;

Findings from earlier research

Despite the importance of driving offences resulting in death, little research has been conducted upon public attitudes to sentencing. The few studies that have explored the issue come from other jurisdictions. However, the comparability of the offences and the cross-cultural consistency of public reaction to sentencing issues mean that the previous research has implications for the present research.

The earliest empirical study examining public opinion and driving offences resulting in death was carried out in Canada in 1982 (Doob and Roberts, 1983). Two important

lessons emerge from that research. Members of the public were asked to evaluate the sentence imposed for a driving offence akin to those included in the current study (causing death through criminal negligence in the operation of a motor vehicle). Respondents were given an actual case which was the result of a Crown appeal.⁴ Members of the public were asked to read either a brief summary of the case including the sentence, or a longer version which contained more information. Subjects in the research were randomly assigned to experimental condition. The authors were testing the hypothesis that “top of the head” public reaction to a serious offence would be punitive, but that given the opportunity to learn more about the case responses would be different. In the event, results confirmed the hypothesis. People were significantly more likely to rate the sentence as being lenient if they read the brief, “newspaper length” account, than if they read a more comprehensive version of the case.

The second pertinent finding derives from another experiment in the same research programme. Participants in this study were asked to sentence an offender who had been convicted of driving with a blood alcohol level in excess of the legal limit. The offender had come into contact with the police either through a random stop, or as a result of having been implicated in accident in which another individual had died. It was made clear to participants that no charges had arisen as a result of the accident; the individual had simply been charged with impaired driving. This experimental design permits a test of the sentencing model underlying public judgments. When asked to sentence the offender, subjects who had read about the offender being involved in a fatal accident were significantly more punitive in their sentence recommendations – despite having been made aware that the individual bore no responsibility for the accident. This finding demonstrates the public’s focus on consequences rather than culpability (Doob and Roberts, 1983).⁵

Shortly after this study was published, researchers in the U.S. conducted a small scale experimental study in which subjects were asked to rate the seriousness of a driving crime as well as the offender’s degree of culpability (Dejoy and Klippel, 1984). Scenarios

⁴ The trial court judge had imposed a non-custodial sentence of two years probation and 120 hours of community service.

⁵ The finding is all the more compelling since in this case it was clear that there was no culpability involved for the accident.

were employed in which the level of unsafe behaviour and the severity of the ensuing accident were manipulated. Results confirmed the hypothesis tested by Doob and Roberts: ratings of the seriousness of the offence were significantly affected by the severity of consequences. Drinking and driving was only perceived to be serious to the extent that it resulted in actual harm.

The most recent and systematic exploration of public attitudes to drink driving offences was reported by Applegate, Cullen, Link, Richards and Lanza-Kaduce (1996). These researchers used a methodology comparable to the conjoint analysis that we used (see below).⁶ Subjects were asked to assign punishment in response to a specific scenario. The researchers manipulated a number of characteristics⁷ of the crime including the level of harm, intoxication, vehicle speed, criminal history of the offender, as well as the gender and age of both victim and offender. Harm and culpability were the main variables of interest. The results demonstrated that only two variables were related to the subjects' level of punitiveness: the level of harm, and the extent of the offender's criminal record. Other variables such as the speed of the offender's vehicle had no significant impact on public sentencing preferences.

The limited previous research on this issue demonstrates that members of the public see driving offences resulting in death as very serious crimes, and that they generally subscribe to a harm-based model rather than one which considers the culpability of the offender. It is important to note, however, that a number of issues remain unexplored, including the critical question of which specific sentencing factors aggravate or mitigate, and to what degree. In addition, these studies generally used small or unrepresentative samples of the public.

⁶ Applegate et al. use the term more familiar in North America: factorial survey design. It was pioneered by Peter Rossi (see Rossi and Nock, 1982).

⁷ The conjoint model employed by Applegate et al., (1996) used fewer variables than the design used in the current research for the Panel.

Methods

Attaining the objectives identified here requires more than a single methodology.

Accordingly, we used a mix of quantitative and qualitative approaches:

- Focus groups
- A survey of a representative sample of adults in England and Wales
- A small number of in-depth interviews with people who had lost close relatives through these offences.

Focus Groups

The focus groups were designed to explore public reactions to the offences in depth, and to feed into the design of the survey questionnaire. Twelve focus groups were conducted in London, South-East England, the Midlands and South Wales, involving a total of 101 participants. The groups were assembled by a specialist company, Plus Four. They were structured by age: that is, there were four 'young' (18 to 29 years), four 'middle-aged' (30 to 54 years) and four 'older' (55 years and over) groups. Eight of the groups were single-sex and the others mixed: in total 50 males and 51 females participated. The participants were socially diverse – ranging in terms of their occupations from professional/managerial to semi-skilled and unskilled manual. Six participants were Asian, six black, four described themselves as mixed race/ethnicity, and all others were white.

At the outset of each session, participants were asked to complete a short written questionnaire. This included outlines of four 'vignettes' (one example of each of the main offences under study), in relation to which participants were asked to select the sentences they thought *should* and probably *would* be imposed. The discussion then opened with the facilitator outlining the four 'death by driving' offences and asking for views on their relative seriousness. This was followed by discussion of the concept of culpability, or blameworthiness. Next, participants were again introduced to the four 'vignettes' and asked to pass sentence on each. Finally, a range of potential aggravating and mitigating factors were discussed. In total, each session lasted around 90 minutes.

Quantitative Survey, including Conjoint Analysis

For the quantitative stage of the research, face-to-face in home interviewing was conducted amongst a representative quota sample of 1,031 adults aged 18+ in England and Wales. A 35-minute questionnaire was administered via CAPI (Computer Aided Personal Interviewing), and enabled benchmarking of the attitudes of focus group participants (as expressed in the questionnaire) against a nationally representative sample. (For further information see Appendix A).

The questionnaire was developed by GfK NOP in close collaboration with ICPR and the Sentencing Advisory Panel. The first part of the questionnaire examined the severity of the offences in question, in terms of appropriate punishments and views on the adequacy of current sentencing practice. The middle part of the questionnaire focused on six sentencing 'vignettes' - one for each of the 'careless', 'careless-drunk' and 'dangerous' offences, and for each variant of the 'illegal' offence - and explored appropriate sentencing for each.⁸ The final part covered the conjoint methodology, which is discussed in more detail below. A copy of the complete questionnaire can be found in Appendix B of this report.

The *Allocation-Based-Conjoint* method was used to assess the relative weight that the public assign to various mitigating and aggravating factors. Allocation Based Conjoint (ABC) analysis has been firmly established in the Healthcare industry for many years. It was considered that an ABC methodology would be well suited for this research, as we wanted to ascertain the quantum difference that different factors had on sentence preferences, and not just whether a factor is mitigating or aggravating. Through showing respondents 10 scenarios, each with a different set of aggravating and mitigating factors, we can ascertain the length of sentence imposed in response to a number of aggravating and mitigating circumstances. The analysis permits the researcher to manipulate a number of factors and establish the "weight" of each factor independent of the influence of other factors (for further information see Appendix A).

⁸ The vignettes were the same as those used in the focus groups, except that in the groups a single vignette (for the 'unlicensed' variant) was used with respect to the 'illegal' offence.

Interviews with relatives of victims

The Sentencing Advisory Panel considered that this study should incorporate the views of individuals whose lives have been most directly affected by death by driving offences. To this end, we conducted a small number of interviews with people who had lost close family members in road accidents in relation to which a driver had been prosecuted. These respondents were contacted via Victim Support, the Bedfordshire Road Victims Trust and a police force. In total, eleven interviews were conducted – mostly in the respondents' homes. In these interviews, the respondents' views were sought on the adequacy (or otherwise) of the sentence received by the offender, and on the experience of attending the sentencing hearing, if they had done so.

Although we had originally anticipated asking this group a set of questions on sentencing paralleling those in the focus groups and surveys, in practice this was possible in only one case. Because of the sensitivity of the issues under discussion, the interviewer allowed the discussions to be guided by the respondents, and did not impose a pre-determined structure. Most of the interviews lasted for between one and two hours.

Structure of the report

Following this introduction, the report is divided into two parts. Part 1 presents the findings of the focus group and survey research on attitudes among the general public. We then move in Part 2 to the findings from the interviews with victims' relatives.

Part 1 is organized thematically. In Chapter 2, we report on views of offence seriousness; Chapter 3 looks at what sentences are anticipated and preferred for the cases appearing in the sentencing 'vignettes'. Chapter 4 considers views on potential aggravating and mitigating factors. Chapter Five then concludes this section by highlighting the key issues to have emerged from the research.

Part 2 presents the findings of the interviews with victims' relatives. Chapter 6 covers views specifically on sentencing issues, and Chapter 7 discusses their wider experience of the criminal process following the death of their relative.

PART 1

THE GENERAL PUBLIC

Chapter 2 Perceptions of seriousness

This chapter explores public perceptions of the relative seriousness of the four offences. As will be seen, respondents in both the focus groups and the survey clearly distinguished among the offences in terms of their relative seriousness, and these trends will have consequences for subsequent findings from the survey.

Seriousness ratings

Previous research conducted in many jurisdictions has demonstrated that the public assign a high level of importance to proportional sentencing⁹ (e.g., Darley, Carlsmith and Latane, 2000; Roberts and Hough, 2005a). In light of the strong public support for proportionality in sentencing, it is important to understand public perceptions of the relative seriousness of the four offences. Participants were provided with a show-card describing the four crimes and were asked to assign a score using a 20 point scale of crime seriousness. Figure 2.1 shows that ‘careless-drunk’ was seen as the most serious offence, attracting an average seriousness score of 18.2.¹⁰ In all likelihood, two elements of the offence explain this high rating¹¹: first, the crime involves the death of another person and consistent with the harm principle this circumstance will inflate seriousness scores. Striking support for this conclusion comes from the fact that just under half the sample (48%)¹² assigned this offence a score of 20 – the same score as that applicable

⁹ The first question on the survey concerned the purpose of sentencing these offences. Section 143(1) of the Criminal Justice Act 2003 placed the objectives of sentencing on a statutory footing in England and Wales. The objectives found in the Act were presented to respondents who were then asked which purpose should be the “court’s main objective for sentencing people who have committed an offence causing death by driving”. Respondents were equally divided between “protecting the public” (58%) and “punishing offenders” (57%). Reducing crime was cited by 23% of the sample, reforming and rehabilitating offenders by 28%, and making reparation by 34%.

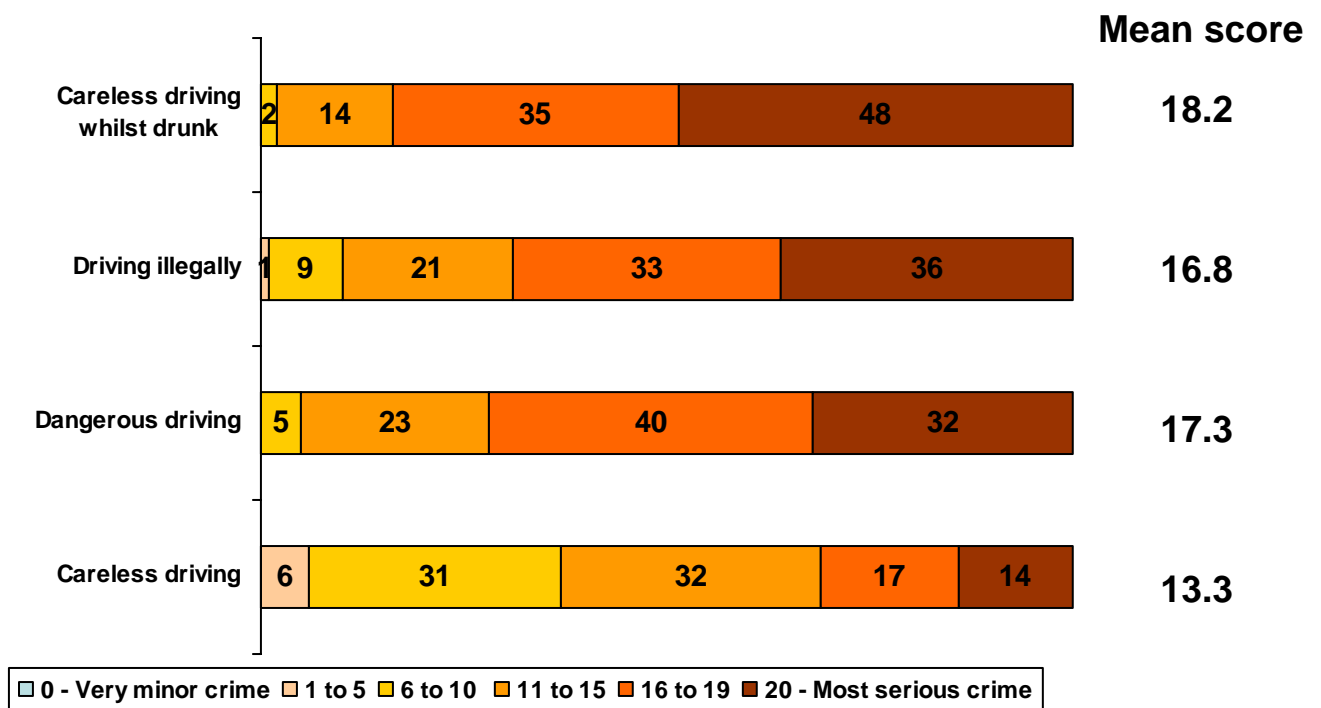
¹⁰ It is also significant that the degree of variability in seriousness ratings – a measure of the social consensus regarding the issue – was much lower for this offence (standard deviation of 2.61) compared to an average of 3.79 for the other three offences. Respondents were more likely to agree on the rating for this offence than any of the others.

¹¹ We consider it to be high in light of its proximity to the maximum scale score of 20, which was associated with murder. This finding is further evidence of the primordial importance for the public of the consequences of the crime.

¹² In computing percentages in this and all subsequent tables, “don’t know” responses have been omitted unless they account for more than 4% of all responses.

to murder. The high seriousness rating may also reflect the fact that the offender was impaired – a circumstance which is viewed by members of the public as an important aggravating factor. Causing death by dangerous driving attracted a seriousness score of 17.3, and a smaller percentage (36%) assigned the maximum seriousness score for this offence.

Figure 2.1 Perceived Seriousness of the four offences, percentages of respondents choosing ranges of seriousness



Notes: Question – “On this card is a scale to show the seriousness of different crimes, with the scale going from 0 for a very minor crime like theft of milk bottles from a doorstep to 20 for the most serious crime, murder. How would you rate each of the death by driving offences, using the scale from 0 to 20?”

Base: all respondents (1,031)

The ‘illegal’ offence -- which carries the lowest maximum penalty of the four, at two years – attracted an average rating almost as high as ‘careless-drunk’ and ‘dangerous’. Almost one-third (32%) of the sample assigned the maximum score of 20 on the scale. Thus

there is a significant discrepancy exists between public perceptions and the legislature about the relative seriousness of this offence.

Why do the public see this offence as being almost as serious as the two that currently carry a 14-year maximum sentence? As will be further discussed below, the focus groups provide an answer: participants in all sessions reacted strongly to the fact that the offender had decided to drive knowing that he was not licensed to do so or was uninsured. The average rating for the 'careless' offence was much lower (13.3), reflecting, presumably, awareness on the part of the respondents of the unintentional nature of a momentary error of judgment which defines this offence. However, even for this the least serious offence from the perspective of the public over one-fifth of the sample (23%) assigned a high seriousness score of 18, 19 or 20.

Estimates of the likelihood of re-offending

Members of the public are clearly concerned about preventing re-offending. We were interested to find out whether respondents would associate different re-offending rates with one of these offences. Accordingly they were asked how likely they thought the offender described in their scenario would be to 'commit the same offence again in the future?'. Table 2.1 shows that respondents attributed the highest risk of re-offending to offenders convicted of causing death while disqualified and the lowest risk to offenders convicted of the 'careless' offence. These trends should be seen in conjunction with the seriousness rating data as there is a clear correlation between the two. In all likelihood, members of the public are assuming that the more serious offences are likely to be committed by individuals with a more criminal disposition, and who are accordingly more likely to re-offend. In addition, the accidental element of simple careless driving means that this offence is more likely to be committed by a wider range of individuals, not just those who might be inclined to antisocial conduct. Since the characteristics of the offender and the victim were held constant across the three scenarios, the only variable that could influence the respondents was the seriousness of the offences.

Table 2.1 Likelihood of re-offending¹³

| | Dis-qualified (n=335) | Careless-Drunk (n=316) | Un-insured (n=349) | Un-licensed (n=347) | Dang-erous (n=357) | Careless (n=358) |
|--------------------------------------|--------------------------|---------------------------|-----------------------|------------------------|-----------------------|---------------------|
| Very or fairly likely to re-offend | 52% | 40% | 40% | 37% | 27% | 14% |
| Very or fairly unlikely to re-offend | 48% | 60% | 60% | 63% | 73% | 86% |
| Total | 100% | 100% | 100% | 100% | 100% | 100% |

Question: 'How likely do you think this offender would be to commit the same offence again the future?'. ('Don't knows' excluded)

Seriousness and culpability: views from the focus groups

In the focus groups as in the survey, participants were asked to rate the seriousness of the four offence types – although on a 10-point rather than 20-point scale. The results were very similar to the survey results. In all 12 focus groups, the 'careless' offence received the lowest seriousness ratings, with a large majority of participants scoring it between 4 and 7 on the 10-point scale. The other three offences received broadly similar ratings – with the large majority give them scores between 8 and 10.¹⁴ As noted above, it is the presumed 'accidental' nature of the 'careless' offence that accounts for its generally low seriousness rating compared to the other three offence types. While all four offences are matched in terms of the *harm* caused, the *culpability* of the offender is assumed to be much higher with respect to the 'careless-drunk', 'dangerous' and 'illegal' offences compared to the 'careless'.

¹³ The question asks whether the offender would commit this specific and very serious offence again. If we had asked whether the offender would be re-convicted of any crime, much higher percentages of respondents might have predicted re-offending. Although re-offending statistics are not available for these offences, it seems clear that, as elsewhere (e.g., Redondo, Luque and Funes, 1996), the public over-estimates the likelihood of recidivism.

¹⁴ There was a small degree of dissension from the general view that the 'careless-drunk', 'dangerous' and 'illegal' offences were of a roughly equivalent seriousness. Four or five participants rated the 'illegal' offence as lower than all the others, or as equivalent to the 'careless' offence.

Focus group participants' emphasis on culpability in assigning seriousness scores to the four offences is manifest in their frequent use of terms like 'deliberate', 'knowing', 'choice', and even 'pre-meditated' in discussing the seriousness of all the offences other than 'careless'. For example, whereas the 'careless' offence was described as something that 'could happen to anyone ... You're not meaning to do it', typical comments made about the 'dangerous' offence included:

He's deliberately putting himself in a position where he could kill someone ... Absolutely deliberately setting himself out of control of the vehicle.

You know you could end up killing someone You're making an active choice

He's wilfully gambled with someone else's life.

When asked what they understood by the term 'serious', when applied to death by driving offences, focus group participants replied:

You know the actions that you're taking ... you know, if you get into your car and you've had a drink, you know what you're doing ... or you're disqualified ... Knowing what your actions are.

Whether it's premeditated: like with drinking, you know you're doing it.

Frequently, a comparison was made between irresponsible or reckless driving and the possession of a gun or knife:

If you give someone a gun and they shoot someone, it's murder – if you get in a car, it's a lethal weapon – and if you've been drinking, you're not in control of that lethal weapon

You've committed a deliberate act by being drunk [when driving] ... You've loaded a gun.

Culpability and the 'illegal' offence

It is notable that a great many respondents spoke of the 'illegal' offence involving a *deliberate* action just as much as the 'dangerous' and 'careless-drunk' offences,

because the unlicensed or disqualified (and possibly uninsured¹⁵) driver has knowingly driven a car when he should not have done so:

I think it's definitely pre-meditated: you know exactly what you're doing before you get in [the car].

It isn't an accident because they've personally got into the car, turned the key and driven.

It's the same choice [to drive]. It all comes down to choice, really.

On this basis, they reasoned that although the unlicensed or disqualified driver had not *caused* the accident through driving badly, he nevertheless had created the opportunity for the accident to occur:

He shouldn't have been in the car in the first place. Had he not got in the car it wouldn't have happened.

I class this the same as drink driving ... If he doesn't have a licence, he shouldn't be driving. So he is the cause of the accident, because if he wasn't driving there wouldn't be an accident'.

The disqualified driver was often deemed to be more culpable than the unlicensed, possibly because respondents assumed that the disqualification was for serious driving offences, and hence the offence involving the death was regarded the latest incident as part of a pattern of misconduct:

He's going to do it again and again and again, isn't he?

One aspect of the focus group participants' emphasis on culpability was that they tended to distinguish between the *kind of people* who committed the 'careless' offence and those committed the other offences. The 'careless' offence could be committed by someone decent, like 'one of us', who had made a mistake with the most terrible of consequences:

Every one of us in this room has probably done something very similar to this [made a misjudgment when overtaking].

¹⁵ Many participants drew a distinction between drivers who are uninsured as the result of an oversight and those who are deliberately uninsured.

[With respect to the offender in the 'careless' vignette:] *He's obviously a decent enough person, and he's suffering enough.*

None of us could say we couldn't cause something like that ... We can all make mistakes ... None of us are perfect.

In contrast, the 'careless-drunk', 'dangerous' and 'illegal' offences, it was assumed, were likely to be committed by real offenders – people who are not like 'us':

*I've driven for 5 years now, and I know sometimes you might switch off for a second. Even the best driver in the world can have a crash ... But if you drive like an idiot ... there's absolutely no excuse for it, because you **choose** to put the pedal to the floor.*

I think the people who drive like this ... wouldn't worry at all about losing their licence. They'd get into the car the next day.

There does seem to be a certain kind of people – it doesn't matter what they do to them, how many times they ban them ... give them community service .. they couldn't care less.

Moreover, 'they' make fools of 'us':

[Unlicensed driving] *just makes a mockery of those that are legally on the road.*

Why should half the country be law-abiding, and half the country just couldn't care?

[Short sentences for the 'illegal' offence] *are the sort of sentence that makes people go out and do it again, because they're laughing up their sleeve at people like us who pay our taxes.*

Views on maximum sentences

The focus group participants were told of the maximum penalties for each of the four death by driving offences, prior to being asked how they would sentence the four vignettes. Little or no criticism was made of the 5-year maximum for the 'careless' offence and the 14-year maximum for 'careless-drunk' and 'dangerous'. However, as most of the participants viewed the 'illegal' offence as roughly equivalent, in terms of seriousness, to the 'careless-drunk' and 'dangerous' offences, they were highly surprised to learn of the two-year maximum for the former:

Says it all, doesn't it. Two years!

I think that's a joke. An absolute joke.

Shocking ... 2 years for that – he'll be out in 12 months.

I actually can't believe that – that's ridiculous.

Chapter 3 Anticipated and preferred sentences

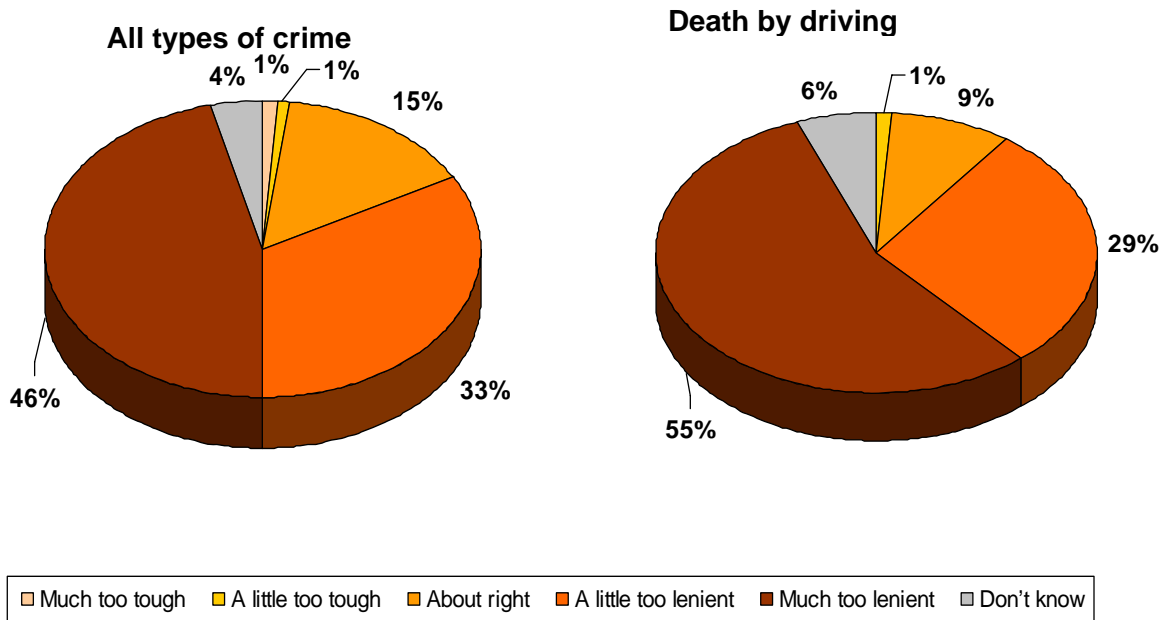
This chapter describes respondents' *expectations* of sentences imposed by courts for the four offences, as exemplified by the sentencing 'vignettes' presented in the survey and focus groups. Respondents' sentencing *preferences* with respect to the four offences are also discussed here.

Concern about sentencing patterns

The first two substantive questions on the survey were designed to see whether the typical public perception of judicial leniency was appreciably different if people are asked specifically about sentencing offenders convicted of a driving offence resulting in death. First, respondents were asked a general question '*Would you say that sentences handed down by the courts are too tough, about right or too lenient?*'. This question was then repeated but with respect to 'drivers who have committed an offence by causing death on the road'. As can be seen in Figure 3.1, almost half the sample (48%) held the view that sentencing in general is too lenient. The percentage of respondents expressing this opinion rises to 59% when driving offences resulting in death are specified. This suggests a high level of public concern about sentencing patterns for this category of offending.

These trends must be qualified, however. First, respondents had yet to be given a description of a specific offence or provided with a scenario describing an actual case. As noted, previous research has demonstrated that when no detail is provided people tend to think of the most serious offences committed by offenders with the worst records. Public responses to sentencing questions tend to reflect this mental image. Second, people are also likely to draw upon their limited knowledge of sentencing decisions in this area, and these are likely to be cases reported in the media, often for their apparent leniency. Finally, when asked a general question about the severity of sentencing trends most people respond punitively, expressing the view that sentences are too lenient. However, when given more information about the case, public views become far less punitive. This phenomenon has emerged repeatedly in the literature (see Roberts and Hough, 2005a, for a review).

Figure 3.1 Severity of sentences passed down by the courts for...



Base - all respondents (1,031)
 Question: Would you say that the sentences handed down by the courts are too tough, about right or too lenient?

Anticipated Sentences – survey findings

The widespread perception of lenient sentencing described above is linked to significant *under-estimation* of the severity of current sentencing practices. The survey included two groups of three specific case scenarios or ‘vignettes’; respondents were randomly assigned to see one of each group. The first group of scenarios included examples of ‘careless’, ‘careless-drunk’ and ‘dangerous’ offences (provided on showcards). The second group of scenarios included typical examples of the three variants of the ‘illegal’ offence: namely causing death by driving while unlicensed, disqualified and uninsured. Thus each of the six vignettes was seen by one-third of the respondents. The six showcards (shown to the respondents) are reproduced below.

Previous research (e.g., Hough and Roberts, 1999; 2005b) has demonstrated that many members of the public underestimate the severity of judicial practice. This has been demonstrated by asking people to estimate the average sentence imposed or the custodial rate for specific offences. Most members of the public underestimate both

statistics and this helps to explain the widespread perception of judicial leniency at sentencing. In order to explore this issue in the context of the current offences, respondents were asked first to select the sentence that they thought an offender *would get* for the vignettes shown to them. Before giving their response, participants were given some information about sentencing options available to the courts. More specifically they were informed of the three principal sanctions that can be imposed (fine; community order¹⁶; prison term). As well, they were informed of the mandatory disqualification periods associated with the specific offence that they were being asked to consider.

CASE A1: CAUSING DEATH BY CARELESS DRIVING

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | On his way to visit a friend, the offender was driving within the speed limit along a quiet country road in daylight. Visibility was good. On approaching a slow-moving truck on a straight stretch of the road, he pulled out to overtake it. He misjudged the time he had for this manoeuvre and collided with an oncoming car; the driver of the other car was killed. The offender was breathalysed; the test result was negative. |
| Plea: | Not guilty |

CASE A2: CAUSING DEATH BY CARELESS DRIVING WHILST UNDER THE INFLUENCE OF DRINK

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | On the way home from a pub lunch, the offender was driving within the speed limit along a quiet country road in daylight. Visibility was good. On approaching a slow-moving truck on a straight stretch of the road, he pulled out to overtake it. He misjudged the time he had for this manoeuvre and collided with an oncoming car; the driver of the other car was killed. The offender was breathalysed, and was found to be 1.5 times over the drink driving limit. |
| Plea: | Not guilty |

¹⁶ Since members of the public have little knowledge of community penalties and in order to make the generic order more meaningful it was described as ‘A community order under the supervision of the Probation Service, which might include up to 300 hours unpaid work and/or a curfew of up to 10-12 hours a day for up to 4-6 months.’

CASE A3: CAUSING DEATH BY DANGEROUS DRIVING

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | The offender, on his way to visit a friend, was driving at about 80 mph (20 mph over the speed limit) along a quiet country road in daylight. Visibility was good. He tried to overtake a truck on a blind bend, and collided with an oncoming car. The driver of the other car was killed. The offender was breathalysed; the test result was negative. |
| Plea: | Not guilty |

CASE B1: CAUSING DEATH WHILST DRIVING UNLICENSED

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | The offender, who had learnt to drive but never taken his driving test, was lent a car by a friend, to move some furniture. While driving along a residential street within the speed limit, he knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. |
| Plea: | Not guilty |

CASE B2: CAUSING DEATH WHILST DRIVING DISQUALIFIED

| | |
|----------------|---|
| Offender: | 28-year-old male; part-time student and shop-worker. |
| Victim: | 35-year-old female. |
| Circumstances: | While driving his car along a residential street within the speed limit, the offender knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. The offender was driving having previously been disqualified from driving because he had 12 points on his licence. |
| Plea: | Not guilty |

CASE B3: CAUSING DEATH WHILST DRIVING UNINSURED

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | While driving his car along a residential street within the speed limit, the offender knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. The offender was driving with no insurance. |
| Plea: | Not guilty |

The results are presented in Table 3.1 from which it can be seen that the expected sentence reflects perceptions of the relative seriousness of the offences. Respondents anticipated the lowest custodial rate (17%) for the ‘careless’ offence – the one they regarded as being the least serious. The highest expected custody rate (41%) was associated with the offence which was, from the perspective of the public, the most serious (‘careless-drunk’).

How do these public estimates compare to current sentencing practices? Sentencing statistics from 2005 show a 94% and 95% incarceration rate respectively, for ‘careless-drunk’ and ‘dangerous’ offences. Thus there is a very wide gulf between public beliefs and actual practice. These trends confirm earlier survey findings with other offences: people under-estimate the custody rate, assuming that the courts are more lenient than is in fact the case – at least with respect to the proportion of offenders committed to custody.

Of course there is no current practice for the two new offences against which to benchmark public expectations. However, the Sentencing Advisory Panel’s draft guidance indicates that the ‘careless’ offence outlined in the vignette should attract a medium level community penalty, as should the ‘unlicensed’ and ‘uninsured’ offences. A six-month prison sentence is suggested as the starting point for a ‘disqualified’ offence with the characteristics shown in the vignette.

Taking the Panel’s guidance as a benchmark, the likely sentencing practice for the ‘disqualified’ offence is tougher than most people expect. Respondents, on balance,

actually expected a somewhat more severe sentencing outcome for this offence than for 'dangerous', but even so, only a third expect a custodial sentence for the disqualified driver. This finding probably reflects their image of a driver disqualified for serious driving infractions, and possibly awareness on the part of the respondents that a driver may lack insurance as a result of having forgotten to renew at the appropriate time. The latter circumstance would make it a less serious offence in the eyes of the public.

Table 3.1 Public sentencing expectations

| | Fine | Community order | Custody | Total |
|-------------------------|------|-----------------|---------|-------|
| Careless-Drunk (n= 316) | 18% | 42% | 41% | 100% |
| Disqualified (n = 335) | 25% | 41% | 34% | 100% |
| Dangerous (n = 357) | 21% | 48% | 31% | 100% |
| Unlicensed (n = 347) | 26% | 46% | 28% | 100% |
| Uninsured (n = 349) | 37% | 41% | 22% | 100% |
| Careless (n = 358) | 34% | 49% | 17% | 100% |

Notes: Question: 'Thinking about the specific case I have read to you, in addition to being disqualified and possibly having to re-take his test, which one of these sentences do you think an offender would get for this case of...'.
 .

As for the 'careless', 'uninsured' and 'unlicensed' cases, small minorities expected prison sentences, the majority correctly anticipating non-custodial options.

Preferred sentences – survey findings

Having been asked to predict the sentence that would be imposed by the courts respondents were next asked to state the sentence that in their view *should* be imposed for the specific case described in the scenario that they had just read.¹⁷ Once again they were given a show-card with the three sentences described. Prior to giving their

¹⁷ If any of the respondents who chose to impose a term of custody asked for clarification regarding the meaning of a term of custody, the following information was provided: "Custodial sentences are served partly in prison and partly on licence in the community. Offenders will be released from prison at the halfway point and spend the second half of the sentence in the community subject to licence requirements. During the licence period offenders may be recalled to prison if they commit a further offence or do not comply with the licence requirements."

response, however, they were also informed of the maximum penalty¹⁸ for the specific offence they were considering.¹⁹ They were also reminded that the offender would automatically be disqualified from driving. Respondents' sentencing preferences for the six offences are summarized in Tables 3.2 and 3.4.

Table 3.2 Sentencing Preferences: 'Careless', 'Dangerous' and 'Careless-Drunk'

| | Careless (n = 358) | Dangerous (n = 357) | Careless- Drunk (n = 316) |
|-------------------------------------|-----------------------|------------------------|------------------------------|
| Fine | 14% | 3% | 4% |
| Community order | 48% | 26% | 20% |
| Prison sentence | 38% | 71% | 76% |
| <i>Total</i> | <i>100%</i> | <i>100%</i> | <i>100%</i> |
| Sentencing Advisory Panel proposals | Community Order | 60 months custody | 24 months custody |
| Median preferred prison sentence | 36 months | 60 months | 60 months |

Notes: Median expected sentence length derived from respondents who favoured a term of custody; Question: 'What sentence do you personally think the offender should get for this case of...'

¹⁸ The maximum penalties are: causing death while uninsured, without a licence or while disqualified – two years imprisonment; causing death by careless driving – 5 years imprisonment; causing death by careless driving while impaired – 14 years imprisonment; causing death by dangerous driving – 14 years imprisonment.

¹⁹ It was considered important to provide this information without which people would be sentencing in a frameless context. It is possible that if respondents had been asked to sentence without knowing the statutory maximum, their recommended custodial sentences would have been higher. This latter arrangement is clearly more reflective of everyday life, where members of the public routinely make judgments about the appropriateness of sentences knowingly little or nothing about either the statutory sentencing limits, the general practice of the courts or the specific sentencing options available to a court at sentencing.

Table 3.3 Sentencing Preferences: ‘Illegal’ Offences

| | Unlicensed (n=347) | Disqualified (n=335) | Uninsured (n=349) |
|------------------------------------|------------------------------|-------------------------|------------------------------|
| Fine | 10% | 13% | 15% |
| Community order | 41% | 31% | 44% |
| Custodial | 50% | 56% | 41% |
| <i>Total</i> | <i>100%</i> | <i>100%</i> | <i>100%</i> |
| Sentencing Advisory Panel proposal | Medium Level Community order | 6 months custody | Medium Level Community Order |
| Median preferred prison sentence | 28 months | 36 months | 36 months |

Notes: Median preferred sentence lengths derived from respondents who favoured the imposition of a term of custody; Question: ‘What sentence do you personally think the offender should get for this case of...’.

Preferences for sentences above the statutory maximum

Before making comparisons between the expected and preferred sentences we should note that despite having been told the maximum sentence possible, small percentages of the samples imposed a sentence above this limit. For the careless driving group fully 21% of those choosing custody favoured imposition of a sentence above five years, including two respondents who chose life imprisonment. The percentages of ‘unlawful’ sentences were lower for the other two groups due to the fact that the statutory maximum is much higher (14 years imprisonment). However, even with this higher limit, 9% of the ‘careless-drunk’ condition and 11% of the ‘dangerous’ group selected sentences in excess of 14 years.²⁰

This tendency was more pronounced with respect to the ‘illegal’ offence. Despite having been told of the 2-year maximum sentence, large minorities of respondents sentenced in excess of the statutory limit. Thus 61% of those choosing prison in the ‘disqualified’ group – or a third of all those sentencing this case – favoured a sentence above the statutory limits (see Table 3.4). These trends may be taken as evidence of the strength

²⁰ No instruction was given not to exceed the maximum sentence; presumably these respondents believed that they should not be constrained by the existing legal limit and that they had been provided with the maximum possible sentence simply for their information.

of feeling aroused by these offences, and once again returns us to the seriousness rating data. These offences are not perceived by members of the public as warranting a maximum sentence so much lower than the other driving offences resulting in death.

Table 3.4 Preferred Sentence Length: Unlicensed, Disqualified and Uninsured

| | Unlicensed (n = 170) | Disqualified (n = 185) | Uninsured (n = 139) |
|----------------|---------------------------------|-----------------------------------|--------------------------------|
| Up to 2 years | 48% | 39% | 43% |
| > 2 to 3 years | 13% | 17% | 13% |
| >3 to 5 years | 22% | 22% | 24% |
| > 5 years | 17% | 22% | 20% |
| <i>Total</i> | <i>100%</i> | <i>100%</i> | <i>100%</i> |

Question: 'What length of prison sentence do you think the offender should get for this case of...'

A clear gap exists between public expectations of and preferences for sentencing practices. The conclusion is quite clear: a significant discrepancy exists between expectations and preferences regarding the punishment of the two more serious offences. An estimate of the gap can be made by subtracting the expected from the preferred custody rate. The discrepancy between the two is 40 percentage points for the 'dangerous' offence and 35 percentage points for 'careless-drunk'. The gap between the anticipated and the preferred custody rate is far more modest for the 'careless' offence (21%).

Tolerance of Panel sentencing proposals – survey findings

An important finding from previous research into public attitudes to sentencing concerns the acceptability of sentences that do not immediately occur to respondents. When asked to sentence an offender, the 'top of the head' response of many people involves custody. In a number of studies researchers have asked respondents who have expressed support for incarceration whether they would find a community based alternative to be acceptable. The lesson of this research is that when people are asked to consider a specific sentence, they often react in a different way. Exploring the acceptability of alternative sentences permits an exploration of the 'limits of tolerance'.

By this term we refer to the frontier between sentences that are clearly unacceptable to the public and those that the public condone if they do not necessarily support (see discussion in Walker and Hough, 1988). Respondents in our survey were asked to consider the Sentencing Advisory Panel's sentencing proposals for each vignette, as follows: 'Supposing the judge was considering...[Panel sentence – see Box 3.1]... Would you find this sentence acceptable for this case?' The possible responses were: definitely yes; possibly yes; no – not under any circumstances.

Box 3.1 Sentences proposed by the Sentencing Advisory Panel

Careless driving:

Suppose the judge was considering a community order, meaning that the offender would have to perform up to 300 hours unpaid work and/or a curfew of up to 10-12 hours a day over four to six months. He would also be disqualified from driving for a minimum of 12 months and may have to re-take his driving test.

Careless Driving while Impaired:

Suppose the judge was considering a two-year prison sentence. The offender would also be disqualified from driving for a minimum of two years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

Dangerous Driving:

Suppose the judge was considering a five-year prison sentence. The offender would also be disqualified from driving for a minimum of two years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

Unlicensed:

Suppose the judge was considering a medium level community order, meaning the offender would have to do between 80 to 150 hours of unpaid work and be placed on a curfew for 2-3 months, having to stay indoors for up to 12 hours a day. He would also be disqualified from driving for a minimum of 1 year.

Disqualified:

Suppose the judge was considering a 6-month prison sentence. Would you find this acceptable?

Uninsured:

Suppose the judge was considering for a medium level community order, meaning the offender would have to do between 80 to 150 hours of unpaid work and be placed on a curfew for 2-3 months, having to stay indoors for up to 12 hours a day. He would also be disqualified from driving for a minimum period of 1 year.

This set of questions was posed only to respondents who had initially sentenced outside the recommended range – i.e., those who sentenced above or below the Panel proposal. Thus where the Panel proposed a community penalty, any prison sentence was regarded as outside the range; where the Panel proposed a prison sentence, preferences outside the range were taken as a community penalty, or a shorter or longer prison sentence.²¹

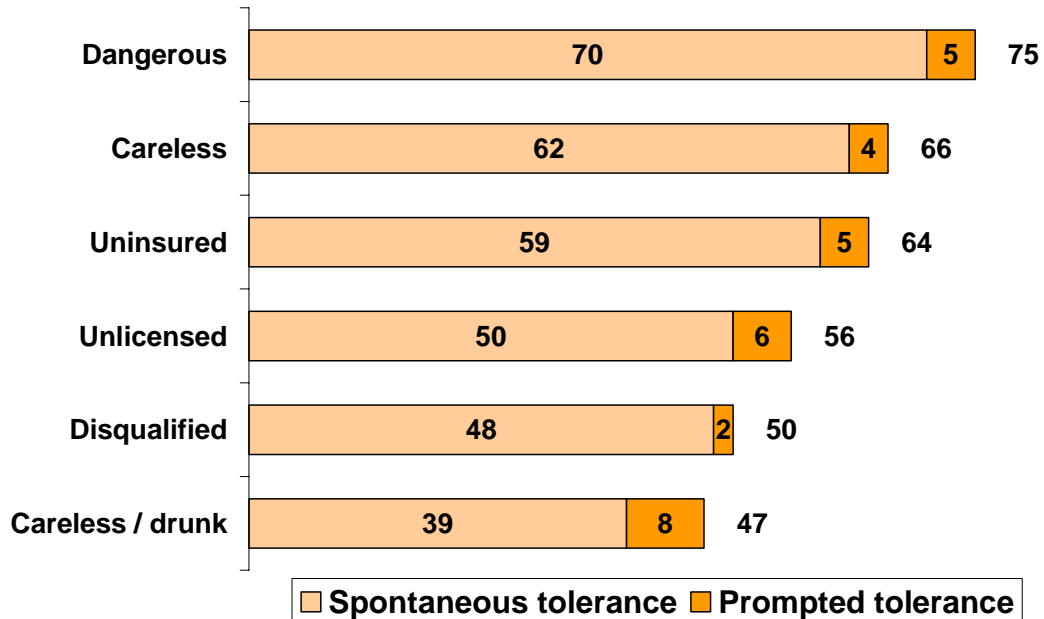
Defining the Limits of Tolerance

We define a respondent as ‘spontaneously tolerant’ of the Panel sentence proposal if they initially chose a sentence which was no more severe than the panel proposal. To this proportion of respondents we add those who we define as ‘prompted tolerant’ – people who when specifically asked about the proposal stated that they would ‘definitely’ find it acceptable. This is a conservative definition of tolerance with respect to the prompted group since, as it will be recalled, respondents were permitted to state they would ‘possibly’ find the alternate sentence acceptable. Figure 3.2 shows the proportions of respondents who may be defined as tolerant of the Panel proposals for the offences. As can be seen, the proportion of respondents who could be classified as tolerant ranges from 75% for ‘dangerous’ down to 47% for causing death by ‘careless-drunk’.

We should stress that this measure defines as tolerant all those who selected a sentence that was more lenient than the one derived from the SAP proposals. Most of these lenient respondents found the SAP sentences ‘definitely acceptable’ or ‘possibly acceptable’, but some said that these were acceptable under no circumstances – presumably finding them too tough. In total 15% of respondents found the SAP sentence unacceptably tough for ‘dangerous’, and 12% for ‘disqualified’. Equivalent figures for the other offences were all in single figures: ‘careless/drunk’ – 7%; ‘uninsured’ – 6%; ‘careless’ – 4%; and ‘unlicensed’ – 3%. This pattern of findings suggests that for at least the ‘dangerous’ and ‘disqualified’ offences, tougher sentences might win the approval of some of the population but lose the support of others.

²¹ For example, since the Panel proposal in the ‘dangerous’ vignette is five years imprisonment, all respondents choosing a non-custodial sentence or custodial sentence other than five years were asked this follow-up question.

Figure 3.2 Percentage finding SAP guidance definitely tough enough

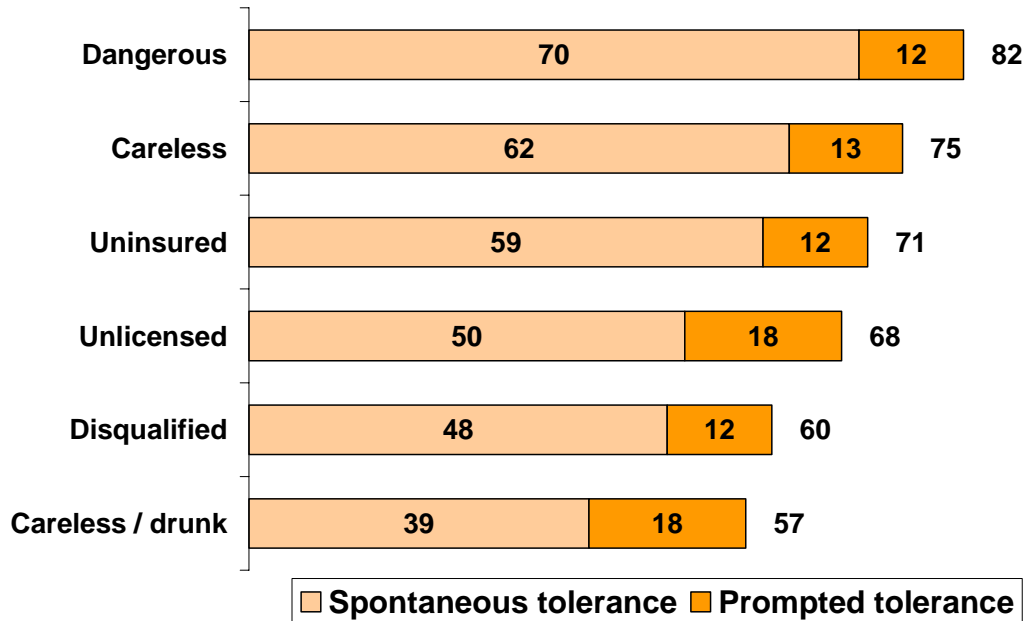


Notes

1. See Box 3.1 for likely sentences for the five offences, based on SAP draft guidance.
2. Spontaneous tolerance: respondent selects SAP proposed sentence or more lenient option.
3. Prompted tolerance: respondent did not select SAP proposal but finds it 'definitely acceptable'.
4. Base: Careless-drunk - 316; Disqualified - 335; Unlicensed - 347; Uninsured - 349; Careless - 358; Dangerous - 357.

If we adopt a more liberal definition of tolerance and include respondents who stated that they would *possibly* find the sentence acceptable, the proportion of respondents defined as tolerant of the Panel proposed sentence rises slightly (see Figure 3.3). In our view, however, the data derived from the more conservative definition of tolerance presented in Figure 3.2 are more appropriate guides to public acceptance. These important statistics suggest that the limits of public tolerance for sentencing in these cases are broader than might have been imagined on the basis of responses to a simplistic poll question.

Figure 3.3 Percentage finding SAP proposal definitely or possibly tough enough



Notes

1. See Box 3.1 for likely sentences for the five offences, based on SAP draft guidance.
2. Spontaneous tolerance: respondent selects SAP proposed sentence or more lenient option.
3. Prompted tolerance: respondent did not select SAP proposed sentence but finds it 'definitely acceptable' or 'possibly acceptable'.
4. Base: Careless-drunk - 316; Disqualified - 335; Unlicensed - 347; Uninsured - 349; Careless - 358; Dangerous - 357.

Anticipated and preferred sentences – focus group findings

In the short survey completed by focus group participants prior to the discussion, participants were presented with four sentencing vignettes: that is, the same 'careless', 'careless-drunk' and 'dangerous' vignettes as were used in the survey, plus the unlicensed variant of the 'illegal' vignette. Participants were asked how each of the cases *would* and *should* be sentenced. As in the survey, although to a lesser extent, answers to the 'would' questions showed an under-estimation of practice: for example, 35% thought the 'careless-drunk' offender would get a community order or fine, and the same percentage thought the 'dangerous' offender would get a non-custodial sentence.

In response to the ‘should’ questions – and again roughly approximating to the wider survey results – significant numbers of participants selected sentences that matched or were more lenient than the Panel sentence proposals. However, it is interesting to note that in 11 of the 12 focus groups, participants were much *more* punitive when they were presented with the same vignettes in the course of the focus group discussions. Again, they were asked how each of the cases ‘should’ be sentenced (having first been informed of the statutory maxima), but this time only small minorities selected sentences that matched or were more lenient than the Panel proposals. This ‘toughening’ of participant responses is demonstrated in Table 3.5.

Table 3.5: Focus group participants’ preferred sentences for sentencing vignettes

| % of all participants selecting sentence that matches or is lower than Panel proposal | | |
|--|--|-------------------------------|
| | Response in pre-discussion survey | Response in discussion |
| Careless | 70% | 30% |
| Careless-drunk | 31% | 4% |
| Dangerous | 70% | 18% |
| Unlicensed | 44% | 11% |

Base: 98 pre-discussion questionnaires; 101 focus group participants.

We are not able to offer a definitive explanation for why this toughening of responses occurred over the course of the focus group discussions. We believe there are three likely causes, all of which may have played a part to differing degrees:

First, there may have been an element of social pressure, in the sense that those who were inclined towards more liberal responses felt uncomfortable about airing their views in the company of individuals who stridently expressed more punitive opinions. However, it should be noted that the only very explicit example of a participant changing the views of others occurred in the opposite direction. In this case, discussion of the ‘careless’ vignette initially gave rise to a majority of 7:1 participants favouring a custodial sentence. The lone participant in favour of a community penalty then talked all seven others round

to her view by pointing out that the offence was essentially an accident that resulted from a relatively minor misjudgement on the part of the driver.

A second possible explanation for the toughening of participants' responses is that the emergence of the emphasis on culpability tended to heighten the punitive atmosphere of the discussions. In other words, the more that people thought and spoke about what they saw as the 'deliberate' aspect of the 'careless-drunk', 'dangerous' and 'illegal' offences in particular, the more they were inclined to punish these offenders harshly. It should be noted that the increase in sentencing severity was less sharp for the 'careless' offence – which was widely associated with misfortune rather than deliberate action on the part of the offender - than for the other offences.

Thirdly, it is likely that the highly emotive power of the subject under discussion contributed to the toughening of responses. Many respondents referred to how they would feel 'if it was my son' or 'my wife' who was killed on the road; and everyone was aware that there is no immunity from such tragic events. One participant explicitly said that he had responded more punitively in the discussion than in the survey because he had not been prompted to think deeply about the issues when he saw the vignettes in writing, but when he heard people talk about them he thought: 'Yes, it's a death - could have been my wife.' Another participant commented that he found it difficult to answer questions about the vignettes because the victim in each was a 35-year-old woman, and he had a 30-year-old daughter:

I just keep seeing her, and thinking how I would feel – despite all the reasons and excuses, it still comes back to the fact she's dead.

Anticipated and preferred sentences – overview

In drawing the quantitative and qualitative findings together, it is worth noting points of similarity and points of difference. Perhaps the clearest finding of all to run through both the survey and the focus groups is that people systematically underestimate the severity of sentencing for 'dangerous' and 'careless-drunk'. There was also clear consistency in wanting sentences for the three offences involving illegal driving that were broadly as tough as those for 'dangerous' and 'careless-drunk'.

Perhaps the clearest difference between the survey and the focus groups lies in tolerance for current sentencing practice (or in the case of the new offences, suggested practice). Both the survey and the results of the questionnaire carried out prior to the group discussions show a broad tolerance for what is proposed. According to our most inclusive definition of the concept, the majority of people could tolerate current or recommended practice for all the offences under consideration. At the same time, there is a significant minority calling for very long sentences indeed. This seam of opinion emerged more clearly in the focus groups, where there was a distinctly less tolerant set of responses (albeit with important exceptions). Which represents the more valid set of measures? This is an issue to which we shall return in Chapter 5.

Chapter 4 Aggravation and mitigation

This chapter looks at the extent to which members of the public feel certain aggravating and mitigating factors should affect sentences passed for death by driving offences.

Aggravation and mitigation: conjoint findings

There are two ways of determining the nature and relative importance of sentencing factors for members of the public. One method involves asking respondents directly whether specific factors should mitigate or aggravate the severity of the sentence imposed. The proportion of respondents choosing a particular factor is then taken as an estimate of the importance of the factor to the population. This approach has been used in a number of previous explorations of public opinion and sentencing factors (e.g., Roberts (1988); Home Office, (2001); Russell and Morgan, (2001)).

A more sophisticated approach involves providing respondents with a series of scenarios, and manipulating the presence or absence of various factors. Respondents are asked to sentence the offender and the degree to which the severity of sentence changes as the factors are introduced provides a measure of the power of the factor to mitigate or aggravate sentence. This method of gauging public reaction to sentencing factors can provide a direct measure of the importance of the factors and does not rely on respondents' self-reports. This approach was made possible by the Conjoint Analysis. Using the Conjoint Analysis we were able to examine the independent influence of 16 mitigating or aggravating factors. (For further information about conjoint analysis see Appendix A).

Respondents were asked to consider the following offence description of a 'careless' offence in which the offender was a 28-year-old male and the victim a 35 year-old female:

The offender was driving along a quiet road in daylight. Another car pulled out from a side road, well in front of the offender. The offender failed to notice this other car, crashed into it and killed the other driver.

There were two versions of this scenario: one group was told that the offender had no previous convictions while for the other group the offender 'had previous convictions for different driving offences'.

The base descriptions were then changed as potentially mitigating and aggravating factors were introduced on the screen for the respondent to consider. The base sentence for the case involving a first offender was 21 months, significantly lower than the sentence for the recidivist (34 months). This difference speaks to the power of previous convictions to aggravate perceptions of the seriousness of the case, and hence the severity of sentence imposed.²²

For the purposes of this analysis, we have combined results from the two samples of respondents, those that considered a first offender and those that considered an offence committed by a recidivist.²³ Table 4.1 provides a hierarchy of the sentencing factors. The number of months changed in the sentence may be taken as an index of the relative importance of the factors. The statistics in this table should be considered in light of the fact that the presence of previous convictions had the impact of aggravating the sentence by 13 months.

²² A recent review of public opinion research has demonstrated that the presence of previous convictions has repeatedly been shown to result in much harsher public sentencing decisions. This finding emerges from surveys conducted in many jurisdictions (see Roberts, 2007).

²³ The hierarchies of importance emerging from the two samples were generally very comparable. The difference is simply that when a factor increases assigned sentence length by, say 8 months, this is a proportionally higher premium for the first offender group since the base sentence was significantly lower (21 months compared to 34 months).

Table 4.1 Impact of aggravating and mitigating factors on sentence length

| Sentencing Factor | Change in number of months imposed |
|---|------------------------------------|
| Second person killed in other car | +11 months |
| Offender clearly expresses no remorse | +8 months |
| Offender using a mobile phone at time of accident | +7 months |
| Offender fled the scene | +7 months |
| Parents of victim said to be devastated and ask court to impose severe penalty | +7 months |
| Offender was driving 20 mph over speed limit | +4 months |
| Offender was on medication which he knew would impair his driving ability | +5 months |
| Victim was a close friend of the offender (and a passenger in the offender's car) ²⁴ | +3 months |
| Offender had only recently learned to drive | -2 months |
| Offender helped the victim and called emergency services | -4 months |
| Offender clearly expressed remorse for the crime | -3 months |
| Offender was driving 10 mph over speed limit | +1 month |
| Offender had been driving for several hours and was feeling very tired | +1 month |
| Offender was an experienced driver | -1 month |
| Offender was himself badly injured | -1 month |
| Parents of the deceased forgive the offender and ask the court to be lenient | No change |

²⁴ It was not anticipated that the victim being a close friend of the offender would appear as an aggravating rather than mitigating factor in these results. This apparently anomalous result may be explained by the fact that the offender's culpability is thought to be enhanced by the fact that he put a passenger in his car at risk. Another explanation is that the subjects may have misinterpreted the circumstance to mean the offender had killed a close friend as *well* as another individual. As will be discussed below, some but not all focus group participants felt that killing a *family member* should be treated as mitigation, and in response to the general survey question about mitigation, 24% of respondents selected this as a factor which should mitigate.

The aggravating factors exercised more influence than the mitigating factors over the severity of assigned sentences. This result is consistent with previous research into public reactions to mitigating and aggravating factors (e.g., Russell and Morgan, 2001). The importance of harm also emerges from the list; when two victims were killed the severity of sentence rose very significantly. Finally, the expression of remorse had a relatively mild mitigating effect (reducing the average sentence length by 3 months) but when the offender expressed no remorse this had a much stronger aggravating influence, increasing sentence length by eight months.

General views on mitigation

In addition to the conjoint analysis, respondents were asked to identify the factors which in their view 'should reduce a sentence'. This question was asked in order to see whether this alternate methodology would yield very different results. Table 4.2 summarises responses to this question from which it may be seen that the most powerful mitigating factor was the existence of an important circumstance which could justify the offence although not to the point of exculpation. Once again the offender's past was influential: the absence of prior driving offences was the second most frequently cited factor. This latter finding is consistent with one of the principal findings and themes of the present research: members of the public are highly sensitive to information relating to the offender's history. Information which demonstrates good character is an important source of mitigation. At the same time, evidence of previous convictions is a very powerful source of aggravation at sentencing.

Table 4.2 Public Support for Mitigating Factors:

| Factor | % Selecting Factor |
|--|---------------------------|
| Offender was driving in an emergency situation at the time | 51% |
| Offender has no previous driving offences | 37% |
| Offender is of previous good character | 35% |
| Offender has sole caring responsibilities for others, e.g., children | 31% |
| Offender killed a member of his own family | 24% |
| Offender was suffering from depression at the time of the incident | 16% |
| Offender is now suffering from post traumatic stress disorder | 12% |
| Offender was seriously injured in the accident | 11% |
| Offender is very old | 8% |
| Offender is very young | 4% |
| All of these factors | 2% |
| None of these factors | 16% |

Question: In cases of causing death by careless driving, some people believe that some factors may result in an offender being given a less severe sentence than normal. Please tell me which of the following, if any, do you think should reduce a sentence?

Base: 1,031

Aggravation: key issues from the focus groups

Focus group participants were asked about the relevance of various aggravating and mitigating factors which broadly reflected those included in the conjoint analysis. As will be demonstrated below, there were some parallels with the survey results, and some points at which the focus group and survey responses diverged.

Previous convictions

Consistent with the results in the conjoint analysis, an offender's criminal history was a highly aggravating factor for the large majority of focus group participants. This was linked to the participants' emphasis on culpability: the repeat offender was seen to be

more culpable than others because he had manifestly failed to learn from the mistakes he had made in the past and whatever sentences he had received:

Because he's done it before and not learnt from it

He has blatant disregard for the law.

Correct me if I'm wrong, but the reason why re-offenders get a longer sentence is because the first sentence obviously wasn't long enough to learn from their mistakes, so you add a bit more to this one.

The emphasis on previous convictions brings us back to the 'them and us' distinction made by many respondents (discussed in Chapter Two, above). Whereas the first-time offender could basically be a decent person who had made one – albeit extremely serious – mistake, the repeat offender was by definition a different sort of person altogether:

At the end of the day, the bloke's a wrong' un.

It goes without saying, don't it: that he's consistently gonna re-offend.

He's a road menace.

In one focus group, however, two participants strongly argued the opposing viewpoint. They commented that the repeat offender has already been punished for his previous offences, and that 'you can't make up for' the failure of the previous sentences by punishing him more for the current offence.

Fleeing the scene

Again as in the conjoint analysis, focus group participants saw it as a highly aggravating factor if the offender had fled the scene of the accident. Although a minority of participants argued that the offender might have fled in a state of utter shock and panic, rather than for the express purpose of avoiding arrest, most were convinced that this made him far more culpable and therefore deserving of greater punishment. Some pointed out that in fleeing the scene, the offender might have lost the opportunity to save the victim's life.

While running away was viewed as aggravating, the opposite – helping at the scene – was generally viewed as a neutral rather than a mitigating factor because:

That's just being human.

That's what you would expect of any human being.

Morally he should be doing that anyway

Two deaths

While two deaths rather than one had a marked aggravating effect in the conjoint analysis, there was ambivalence about this factor among the focus group respondents. In most of the groups, some respondents said that a second death should lead to *some* increase in sentence severity; but at least as many argued that the sentence should remain the same regardless of the number of deaths; and others said that they simply did not know.

For most of those who argued against treating the second death as aggravating, the key issue was that the number of deaths was a function of fortune or misfortune rather than the offender's level of culpability:

[A second death] doesn't make [the offence] more serious; it makes it more tragic.

That could be down to luck ... he's still done the same offence

If he's done the same act, and he hits a queue of people at a bus stop, or he hits one person – it's still the same act.

A variation on this viewpoint was that the harm associated with a single death was so great that additional deaths could not add to it:

One [death] is the same as a dozen, to me

Killing is killing isn't it, whether it's one or one thousand.

It doesn't matter how many people you kill .. One life is just as precious as three or four.

Parents' influence on sentence

In contrast to the survey respondents, most of the focus group participants did not see a role for bereaved relatives in sentencing decisions. Many commented that parents who

had lost a son or daughter 'could never be rational', and could only be expected to call for the toughest possible sentence:

I'd want him hung or shot.

Nothing could be enough.

For this very reason, it was argued, it was up to the judge rather than the parents to determine the sentence. A minority disagreed – insisting, for example, that 'the courts *should* bloody listen' [to the parents].

When asked about the opposite scenario – that is, where bereaved parents state that they forgive the offender and ask for a lighter rather than a more severe sentence – most participants maintained the view that the sentencing decision should be made by the judge alone:

Even if the family doesn't want it: if he's done wrong, he has to take his punishment

They're not the judge – that's what you have judges for.

They can forgive him – but he's punished by the state.

I'd have to say [to the parents]: good on you; I'm glad you've got that; I hope it helps you in your grief. But it is my job and the offence has not been altered – I just hope it has lessened your load.

Mitigation: key issues from the focus groups

Most of the focus group participants accorded little significance to the potentially mitigating factors that were under discussion.

Death of a close relative

A great deal of uncertainty was generated by the question of whether an offender who causes the death of a close relative, such as his brother, should be treated more leniently than the offender who causes the death of a stranger. One participant commented that this was a 'horrible question'. A minority were of the view that the death of a close relative might mitigate because 'You'd suffer so much more ... You'd live with

that for the rest of your life.’ But the majority, while recognizing that this was a difficult issue, argued that the offence was of the same seriousness whether a family member or stranger was killed, and should therefore receive the same penalty:

A life is a life.

[The sentence] should be exactly the same – he’s taken a life.

It’s still a life .. [though] it’s worse for his conscience.

[The sentence should be the same] - just his internal punishment would be worse, wouldn’t it.

It’s exactly the same crime.

It’s very sad – but you can’t differentiate.

Youth and inexperience

The focus group participants were asked whether a young and inexperienced driver should receive a lighter penalty than an older, experienced driver. In the conjoint analysis, lack of driving experience was seen to have a small mitigating effect. Most of the focus group participants, likewise, gave little weight to youth and inexperience:

If you’ve got your licence, that qualifies you to be as good as anyone else – so why should you be treated differently?

He’s still killed someone.

Shouldn’t make any difference at all. He’s shown the confidence to pass his test – he’s just as good as the 28-year-old driver

You’re classed as an adult when you’re 18.

Occasional dissent from this view was voiced, such as by the participant who argued:

It’s the start of his adult life – it could ruin his adult life ... for a mistake.

Remorse

Focus group participants also had, for the most part, little sympathy for the intensely remorseful offender. Some appeared to view the presence of remorse (like helping at the scene of the accident) as effectively a neutral factor, because it was ‘expected’ – which

helps to explain why *lack of remorse* was a highly significant aggravator in the conjoint analysis, while *remorse* was a relatively minor mitigator.

Most people would feel remorse, wouldn't they? Killing another person!

I would have thought that's the way he ought to behave.

Should take it for granted.

Moreover, many participants were sceptical about whether any remorse expressed in a courtroom is likely to be genuine:

Huh! It's too late.

It's easy enough to lie, innit – just to get away with the sentence.

It should be based on the evidence, because you're only going by what your solicitor says to get you off the lightest.

You could carry a little card around in your pocket – saying, if I've done anything wrong I'm very sorry!

There was some marked variation in views on remorse. A small number of participants stated that remorse *did* have a part to play:

Shows you're willing to take responsibility.

...while others remained entirely unmoved:

Writing to the victim is probably the worst thing anyone could be allowed to do ... If someone wrote to me after going round a blind bend and killing one of my relations, saying I'm awfully sorry – I'll say, pop round to see me; I've got a knife at my house.

Injury to the offender

Serious injury suffered by the offender was a potential mitigating factor viewed with disdain by the large majority of focus group participants. This matches the conjoint analysis finding that injury to the offender had only a very minor mitigating effect. For the most part, the focus group participants viewed offender injury – which was frequently described as 'self-inflicted' - as entirely irrelevant to the seriousness of the offence, and thus irrelevant to sentence:

He had part of his sentence in a comfortable hospital.

Well, he deserved it – he did it.

Is that a fair trade? Losing a leg for someone's life?

He's still doing the same thing, isn't he?

Aggravation and mitigation: summary

In their research upon community views of sentencing factors Russell and Morgan (2001) describe a relatively rich environment of mitigation and aggravation with respect to the offence of burglary. Results from the present inquiry suggest a more restricted scope for sentencing factors, particularly mitigating factors. This can be attributed to the far more serious nature of the offences. Indeed, mitigating and aggravating factors will always play a more muted role in offences resulting in death. This is true for courts as well as public opinion. For example, one of, if not the most important mitigating factors – an absence of previous convictions – carries little weight in the event that the offence is very serious (see Ashworth, 2005). A number of conclusions may be drawn with respect to public reactions to sentencing factors. First, the presence of previous convictions had a highly significant influence on sentence severity in the conjoint analysis, and also greatly influenced participants in the focus group sessions. The existence of previous good character – an offender with no previous misconduct – also exercised an important mitigating influence. Second, survey and focus group participants clearly recognized the importance of the offender's attitudes towards the offence. Thus *failure* to express remorse or to provide assistance to victims at the scene were regarded as significant aggravating factors. It was noticeable that the positive expression of remorse carried less weight, as this was regarded as normal behaviour for which less credit was due. The importance of mitigation – or at least its absence – is broadly consistent with previous research on public opinion; the limited weight attached to declarations of remorse in this study may reflect respondents' scepticism about the sincerity of these.²⁵

²⁵ A number of experimental studies conducted in different jurisdictions have demonstrated that offenders who express remorse receive shorter prison sentences from public respondents. This has been demonstrated with scenarios involving vehicular homicide cases comparable to the offences examined in this report (see Robinson, Smith-Lovin and Tsoudis, 1994, and discussion in Roberts and Hough, 2005a).

Chapter 5 Conclusions

We start this chapter by setting out the conclusions that we draw from this study that bear most directly on the narrow task of producing advice on the four offences. We then move to consider some of those findings where responsiveness to public opinion would entail legislative change. Then we consider mitigating and aggravating factors.

Sentencing the four offences

Our survey suggests that there is quite a high level of tolerance for current practice – or, in the case of the new offences, for the SAP draft guidance. For ‘dangerous’, ‘careless’, ‘uninsured’ and ‘unlicensed’, 75%, 66%, 64% and 56% respectively would find what is proposed in the guidance acceptable. It is obviously a matter of judgement to decide how much of a gap between opinion and practice is acceptable. Nevertheless, having over half the public on your side is a comfortable starting point. This raises the question whether sentencing for these offences is at a point where getting tougher is a ‘zero sum game’; it seems possible that imposing tougher sentences on the ‘dangerous’ and ‘careless’ offences might win the support of the tough-minded – but lose that of more liberally minded people.

In relation to ‘careless-drunk’, both the survey respondents and the focus group participants rated the severity of this offence in broadly the same way as the ‘dangerous’ offence. Their sentences in the ‘careless-drunk’ vignette were also similar to those for the ‘dangerous’ case. They saw the culpability of the offender who intentionally drove whilst drunk and then drove carelessly as equivalent to that of the driver in the ‘dangerous’ case who made a more serious and reckless misjudgement whilst sober.

Greater responsiveness to public opinion?

The position in relation to the ‘disqualified’ offence is both starker and more complicated. It is starker because our findings are unequivocal that people rate the ‘disqualified’ offence as a more serious offence than ‘careless’ driving. The consistency and intensity of public views on this point cannot be doubted. The position is more complicated,

because the decision was made by Parliament to treat this offence as less serious than the 'careless' one, with a maximum sentence of two rather than five years.

In our view the Panel's advice on the sentencing of the 'disqualified' offence represents an anomaly – albeit one which flows inevitably from the maximum set by Parliament for this offence²⁶. We have some sympathy with the widely held view that causing death as a result of ignoring a driving ban is more culpable than doing so through a momentary lapse of attention.²⁷

Aggravation and mitigation

The findings on aggravation and mitigation are in very broad terms consistent with current practice, but there are some consistent areas of departure. We saw in Chapter 4 that people tend to place less store on mitigating factors than on aggravating ones. This suggests that people take for granted that defendants typically express remorse, help their victims, co-operate with the police and so on. The reality can often be otherwise, as anyone who has ever observed courts in session will know. Perhaps the value of the findings here lies less in their potential for fine-tuning the Panel's guidance and more in the way that they direct attention to the *justification* of mitigating factors. If, for example, suffering serious injury is to count as a mitigating factor, the rationale for this needs to be spelt out.

Focus groups versus sample surveys

We have discussed some inconsistencies between the survey and the focus groups. In drawing up our proposals for this research, our working hypothesis was that in the course of in-depth discussion, focus group participants would appreciate the subtleties of

²⁶ With a statutory maximum penalty of only two years it is not surprising that the Panel proposal for this offence is a community penalty.

²⁷ To a degree the public's reaction to the disqualified driver may reflect an inaccurate image that offenders convicted of this offence will have long histories of driving related offences. The findings on seriousness ratings suggest that they simply thought the 'disqualified' offence more serious. On the other hand, it may reflect the public's view that causing death through a momentary loss of attention is a less serious offence than causing the death of another person while driving despite the state having clearly withdrawn the offender's privilege to drive. The seriousness rating data from the present survey support the latter interpretation.

sentencing according to culpability or to harm. We expected them to start off tough, and to end up expressing more moderate views. As we have discussed, this occasionally happened, but more often their final position was rather tougher than the supposedly 'top-of-head' views expressed in the survey. Which set of findings provides the better guide to opinion? All that we can safely conclude here is that people express different preferences in different social settings. Our suspicion is that the focus group dynamic rendered the stark loss of life in the scenarios more salient and downplayed the limited culpability of some of the offenders.

Whatever the case, it was clear that focus group participants largely appreciated the complexity and challenging nature of sentencing. Many came to appreciate the inevitably subjective nature of the sentencing process, and the lack of simple 'right' or 'wrong' answers. This also led a number of participants to comment that the focus group exercise made them realise it's difficult to be judge:

I'm glad I'm not a judge!

I'm starting to feel sorry for judges!

It's very interesting. Must be confusing for judges.

In other words the focus group participants ended up making judgements that were both thoughtful and tough.

PART II

INTERVIEWS WITH RELATIVES OF VICTIMS

Chapter 6 Views of relatives of victims on sentencing

In this part of the report, we present the findings of eleven interviews conducted with a total of 15 victims of death by driving offences. For the purpose of the research, we defined a victim as a close relative of someone killed in a road traffic accident in respect of which a driver was subsequently prosecuted. To ensure that we did not speak to anyone whose grief was still so raw as to make the interview too distressing, we excluded from our sample people who had lost relatives within the past year²⁸. Nor did we include anyone who had lost a relative more than nine years ago.

Although we set out to canvass victims' views on the sentencing of death by driving offences, in practice the interviews were primarily about the *experience* of losing a relative in this way. Hence not only is the interview material a collection of highly personal accounts and views, but it also covers a broader range of issues than sentencing alone, since the respondents clearly regarded the sentence as just one – albeit highly significant – element of a much wider series of interlocking events and experiences related to the criminal justice system. Because of the strength of the respondents' feelings about many of the wider issues, we feel that it would be inappropriate to limit the discussion here to the single issue of sentencing. The views of victims are, therefore, presented here in a separate section of the report. Given the small number of victim interviewees, it is not possible to claim that the findings presented here are generalisable. Because we contacted most of the interviewees via Victim Support and a road victims' charity, it is possible that there was some bias in the sample towards highly traumatised and aggrieved individuals – who are more likely than others to have ongoing contact with these agencies.

This chapter provides a summary of the cases of death by driving in which our interviewees lost relatives; we then go on to look at their views on the sentences received by the offenders. In the chapter that follows we discuss related issues that were raised in the interviews.

²⁸ One female respondent, however, spoke to us about the death of her father-in-law (to whom she had been very close) eight months prior to the interview.

The cases

Eleven victim interviews were conducted with a total of 15 respondents; four of the interviews were conducted jointly with married couples who had lost a son or daughter. Two of the interviews were about the same case: a father and daughter were interviewed separately about the accident in which they had lost their wife/mother. Hence we dealt with a total of ten cases; for details of each, see Table 6.1.

Table 6.1: Summary of cases

| Victim | Offender | Offence | Plea | Sentence |
|--------------------|------------|---|------------|---|
| Male, 28 | Male, 27 | Careless driving* | Guilty | £250 fine & 6-month ban |
| Male, 45 | Male, 56 | Careless driving* | Not guilty | £250 fine, £100 costs, 1-year ban |
| Male, 80 | Male, 45 | Failure to stop & to report an accident** | Guilty | 200 hours community service, £150 costs, 6-month ban |
| Male, 20 | Male, 20 | Death by dangerous | Not guilty | 2 years custody, 5-year ban |
| Male, 38 | Male, 25 | Death by dangerous | Guilty | 2 years custody, 4-year ban |
| Female, 51 | Male, 16 | Death by dangerous | Guilty | 3 years custody, 4-year ban |
| Female, 21 | Female, 20 | Careless/drunk | Guilty | 3.5 years custody, 5-year ban |
| Two males, 60 & 29 | Male, 29 | Death by dangerous | Guilty | 5 years custody (ban unknown) |
| Female, 6 | Male, 21 | Death by dangerous | Guilty | 7 years custody, 8-year ban |
| Two males, 25 & 30 | Male, 57 | Death by dangerous | Not guilty | 8 years custody (ban unknown) |

* These offences occurred prior to the introduction of the offence of 'causing death by careless driving'. The offenders were thus convicted simply for 'careless driving', for which the maximum penalty is a fine.

** The police had originally considered a manslaughter and then a careless driving charge for the offender in this case, but these were not pursued. The case is included in this study because it fits our criterion of a death in a road traffic accident in respect to which a driver was subsequently prosecuted.

The stark details provided in Table 6.1 give only a taste of the ten individual tragedies. In each of the interviews, we heard about a fatal road accident as the core event of a long and anguished story of a family's loss. We learned, to varying extents, about the lives and characters of those who had been killed, and about their relationships with family and friends. We learned of the backdrop to each accident - a young father leaving for work on an icy morning; a young woman going out for the evening with a friend; a small

girl walking with her parents after a school Christmas party. And we learned of the immediate aftermath – news conveyed by police officers at the front door; a frantic trip to hospital or travelling in disbelief to the mortuary to identify the body.

There were many other elements to each interviewee's story. The devastating, life-changing impact of the loss on close family members, and the ripple-effects through the extended family and on friends and neighbours. Immersion in a confusing and often alienating criminal justice system – as police investigations were undertaken, court hearings held, a sentence (eventually) passed. Fury at the offender – intensified by perceptions that he felt no remorse and would not be made to pay properly for what he had done. Financial hardships, and never-ending battles with bureaucracy over compensation and insurance payments. Family, neighbourly or professional support offered and gratefully received – and sometimes lacking. Occasional family rifts, as the strain of coping with the tragedy proved too great. Frustration with a society that seems to accord little significance to deaths on the road.

General views of sentences passed

All the interviewees, without exception, expressed a deep unhappiness with what they perceived to be the leniency of the sentences passed. Words typically used in describing the sentences were 'disgusting', 'a total disgrace' and 'an insult'. The cases of the Symonds²⁹ and the Sheltons, described in Boxes 1 and 2, illustrate the level of dissatisfaction with sentencing.

²⁹ None of the names used in this report are those of the actual individuals interviewed. Minor details of the cases have also been changed in order to protect the privacy of the interviewees.

Box 1: The Symonds' views of the sentence

51-year-old Margaret Symonds was an art teacher in a school for pupils with special educational needs. In February 2003 she was fatally injured as she walked her dog in the local neighbourhood and was hit by a car driven by a 16-year-old. The driver fled the scene and was arrested later that day at his parents' house; he was found to be well over the drink-drive limit. He had bought the car, which was not roadworthy, earlier that day for around £50. While driving it around the neighbourhood he had picked up a 11-year-old boy and was showing him how to do handbrake turns; the 11-year-old was still in the car when the accident happened.

The 16-year-old subsequently pleaded guilty to causing death by dangerous driving, and received a sentence of 3 years' custody and a 4-year driving ban. Mrs Symonds' husband, Pete, had thought that the sentence might be close to the maximum (then 10 years) because of the number of aggravating factors involved. He was 'horrified' when he heard the judge say three years: 'I just stood there – just couldn't control my body – went into basic shock – I was shaking.'

Mrs Symonds' daughter, Philippa, had also expected a far longer sentence: the police had told her 'we'll do him for absolutely everything – we'll make sure he'll be in there for as long as possible'. When she heard the sentence she could barely believe it: 'So I'm like: *Sorry?? What?? How long??*' In short, she thought that the sentence was 'quite ridiculous, really ... It took the piss, really. Completely and utterly.'

Box 2: The Sheltons' views of the sentence

Mr and Mrs Shelton's daughter, Sue, a 21-year-old sales assistant, went out for an evening with 20-year-old Alison in January 2006. The two girls had been close friends, but had fallen out badly. Recently, Alison had said she wanted to repair the friendship, and Sue was encouraged by her parents to accept Alison's overture. Sue decided to meet Alison for a conciliatory drink that January evening; Alison texted her to say she would pick her up from home in her new car.

Late that night, on their way home after buying petrol, Alison lost control of her car on a bend at the bottom of a hill. They crashed into a tree and Sue, the front-seat passenger, was killed. A passenger in the back seat suffered serious injuries and survived; Alison was only slightly injured, and on being breathalysed was found to be over the limit.

Alison was convicted of causing death by driving when drunk. She initially pleaded not guilty to the 'careless' element of the offence; her defence team examined the car for evidence of any fault that could have caused the accident. No fault was found, and ultimately Alison pleaded guilty to the careless/drunk charge, and was given a 3½ prison sentence and a 5-year driving ban.

Mr and Mrs Shelton were extremely unhappy when they learnt that Alison would serve at a maximum of half of the term in prison; they were unhappier still on learning (from the probation service) that she would be released on home detention curfew after 17 months. 'What does that make my daughter's life worth?' asked Mrs Shelton. She felt Alison had committed an offence akin to manslaughter, but with a car rather than a gun or knife, and could not understand why the police had seemed to think they had 'got a result' when the sentence was passed.

At the time of the interview, the couple's distress was heightened because they had just found out that Alison was to have a weekend release from prison in a fortnight's time – which was still several months away from the date of her release on curfew.

Like the Sheltons, all the families in cases in which a custodial sentence had been passed expressed anger and – very often – incomprehension over the fact that the offenders would serve half or less of the period in custody. Mrs Davis' 25 year-old son was killed when a middle-aged man, driving at close to 100 mph and three times over the alcohol limit, drove into the taxi in which he was travelling. The 30-year-old taxi driver was also killed. The offender was convicted of causing death by dangerous driving after a trial. The judge passed an 8-year custodial sentence; immediately, Polly heard someone at the back of the court say 'he'll be out in four' and felt 'devastated. Absolutely devastated... I thought: what's the point of that?.' By her calculation, this meant that the offender would serve just two years for each of the lives lost.

For many of the families, their abiding sense was that the offenders would continue with their lives more-or-less as normal after the disruption of a relatively short period in prison; whereas their own lives were irrevocably changed. As one father said of the offender who had caused his son's death and by now had completed his custodial term: 'So he's back to normal now and we've got a life-time without [our son].' Mr and Mrs Shelton said that Alison would come out of prison and would be able to study, get a job, whereas 'our lives have stopped'.

Disqualification periods

Just as the interviewees were unhappy with the custodial terms received by the offenders, so they felt that the driving bans were highly inadequate. A particular concern – for example for both the Symonds' and the Sheltons – was that a large part of the disqualification period would pass while the offender was in custody. They could not understand why the ban did not come into force on the date of release. In another case, a six-month ban imposed for an offence of careless driving, in which a young man was killed, was meaningless because injuries suffered by the offender in the accident left him unable to drive for the six months in any case.

Another bone of contention was that many offenders continued to drive for months after they were arrested – such as the 20-year-old convicted of death by dangerous driving following the accident in which his friend of the same age, a front-seat passenger in his car, had died. According to the victim's father, Mr Kennedy, the offender was given a

new, powerful car by his own father soon after being released from the hospital where he had been treated for injuries he had himself sustained in the accident. He then proceeded to drive the car up to the day of his trial, many months later. Mr Kennedy, like several other of the interviewees, vehemently argued that an interim driving ban should be automatically imposed on suspects involved in certain incidents of death on the road.

Much to the relief of Mrs Davis, an interim ban was imposed, after some months, in the case involving her son. It emerged at one of the court hearings prior to the trial that the defendant was still driving. The judge asked angrily why this was the case, and demanded to be given the defendant's car keys. The defence barrister asked, 'How is he going to get home?' to which the judge retorted: 'He can walk, for all I care.' Mrs Davis described the judge as 'brilliant'.

Mitigation

Reflecting to some extent the findings of the focus group and survey research, interviewees generally did not accept the validity of factors cited as personal mitigation in court. Age was an issue in a few of the cases, such as that of the Symonds'. Both Pete and Philippa Symonds were disappointed that the judge appeared to take the offender's youth into account in passing sentence: Philippa said that at 16 he was old enough to know what he was doing; Pete said, 'I don't think age comes into it. If you know sufficient, and you are out there doing these things, the sentence should be exactly the same.' In Mrs Davis' case, the fact that the offender was older (57 years) and had no previous convictions was treated as mitigation; Mrs Davis' response to this was simply: 'I don't care if he was 77.'

Remorse as mitigation was similarly viewed as problematic by the interviewees. Notwithstanding the guilty pleas in seven of the ten cases, none of the interviewees accepted that 'their' respective offenders seemed to have shown genuine remorse (see the next chapter for more on the interviewees' perceptions of the offenders). When asked if it would have made a difference to them if the offender had shown genuine remorse, most said that it would have made some difference to how they *felt*, but should make no difference to the *sentence*. One bereaved father commented: 'If a man shows his arrogance when he's committed a crime – lock him up a little bit more.' Several

pointed to the possibility of 'pretending' to be remorseful for the purpose of getting a shorter sentence.

Injury suffered by the offender was also dismissed. One interviewee, Mrs Baldwin, had lost both her husband and son through an offence of death by dangerous driving. She had nothing but disdain for the fact that the judge spoke sympathetically about the permanent injuries suffered by the offender, and felt these should be utterly irrelevant to the sentence. Using the same term as many of our focus group respondents she dismissed the offender's injuries as 'self-inflicted'.

Mr and Mrs Mansfield's six-year-old daughter, Fiona, had died in an accident caused by a 21-year-old man who was said to have psychological problems and a mental age of 14. The parents did not see any relevance of these difficulties to how the offender should be sentenced, and commented that a 14-year-old can tell right from wrong. They talked of their older daughter who had a mild learning disability and yet had succeeded in going to college, had got a distinction in her studies, and wanted to study further. 'She's doing it all for Fiona', they said.

Finally, it should be noted that many of the interviewees objected to the sentence being reduced for a guilty plea. Some questioned the logic of an automatic guilty plea discount where the evidence against the offender was overwhelming. Others simply felt that a guilty plea (like remorse) did not alter what had been done, and should therefore not alter the punishment for the action.

Desired sentences

When asked about what sentence they would like to have seen passed, many interviewees made it clear that, ultimately, no sentence could be sufficient:

You want to kill them. Because they've killed you.

I could've took him out and shot him.

We would just like to see her dead ... I would like to be dead myself, so I can be with [my daughter].

I don't think any amount of sentence would have been right, because it's my dad [who died]... Nothing is good enough.

When asked what kind of sentence they would have found acceptable, the interviewees differed in their responses. The most punitive were Mrs Shelton who wanted at least the maximum 14-year penalty for the careless/drunk offence which killed her daughter, and Mr Mansfield (as described in Box 3) who believed that only a life sentence could be justified. Others added several years on to the custodial sentences actually imposed: for example, Mr Symonds said that if the offender who had knocked down his wife had received a sentence of closer to ten years (rather than three) and been properly remorseful, 'it may have helped me in my recovery, and [my daughter]'.

In relation to the three cases in which non-custodial sentences had been passed, the respondents were highly dissatisfied with the sentences imposed but their 'acceptable' alternatives were not especially punitive. Mrs Yardley's 80-year-old father-in-law (to whom she was very close and called 'Dad') was killed in a hit-and-run accident in relation to which the offender received a community order – for failing to stop and failing to report an accident. She said that she would have found it acceptable if he had received a minimum of 6 months in custody (meaning six months actually served in prison) as this would have made him sit down and reflect on what he had done. 'And it might have helped him. Clearly he's not a nice person – it might have made him realise that you can't go round doing that.'

Box 3: The Mansfields' wish for a life sentence

Mr and Mrs Mansfield's 6-year-old daughter, Fiona, was killed in late 2004 when walking with her mother, father and older sister. She was knocked down and pulled under the wheels of a car when walking up some steps to a play area, and was fatally injured as the 21-year-old driver revved the engine in an attempt to drive off. He then ran away from the scene, leaving her frantic father attempting to free her. Her mother had been knocked down also and was seriously injured; she subsequently spent five days in intensive care and her mobility has been permanently affected. The offender did not have a driving licence and the car was not roadworthy. The car was not speeding at the time of the accident: the driver had simply lost control of it because he did not know how to drive.

Two weeks after the accident the offender was arrested for aggravated, and was subsequently charged also with causing death by dangerous driving. He initially pleaded not guilty to the driving offence, but several months later changed his plea to guilty. He was eventually sentenced to a seven-year custodial sentence and eight-year driving ban, and also received a consecutive two-year sentence for several burglaries.

Although they were extremely unhappy with the sentence, Mr and Mrs Mansfield were not critical of the judge – they felt that he had tried to be 'as nice as he could towards us, but his hands were tied'. The judge said in court that he regarded the offence as having been close to murder, because of the way in which the offender had revved the engine while the little girl was under the wheels, but he had to pass sentence within the range of sentences for this offence.

Mr Mansfield felt strongly that the offender should have received an automatic life sentence; as bereaved parents, he said, 'we've got a life sentence'. He argued that cars should be licensed like lethal weapons, and someone who kills with a car should be viewed as having committed a crime that is equivalent to murder.

Mrs Brown, who had lost her 45-year-old son to an offence of 'careless driving', spoke in a similar way about the offender who had received a £250 fine plus costs and a one-year ban: 'I think he should have gone to prison for a while. That would surely make him think about what he'd done'. Even six months in prison would have been tolerable, she said.³⁰

Mrs Crawley's husband was killed when the mini-bus in which he was a front-seat passenger skidded on some ice. The driver of the mini-bus – who according to the police had been driving within the speed limit but too fast for the icy conditions – was convicted of careless driving, and was fined £250 and received a six-month ban. Mrs Crawley described the sentence as 'an insult, really. £250 fine for his life. ...A waste of time, really – a waste of time and effort and emotion'. However, while she would have liked to have seen a longer ban and much greater fine, and did not wish for a custodial sentence

³⁰ Mr and Mrs Brown's main concern was that the offender, in their view, should have been charged with death by dangerous driving rather than careless driving, as the police had been convinced that the accident had been caused by his falling asleep at the wheel.

because the offender 'is family': he was her late husband's brother-in-law, and at the time of the accident was working with him.

Explanation of sentence

The interviewees' comments about sentences passed suggest there is a need for clearer *explanation* of sentences in court. The difficulty is that victims listen to the passing of sentence in a state of great emotional intensity. Some of our interviewees said they could not remember all of what is said, and one thought that she had fainted briefly when sentence was passed.

Where the judge explains a sentence, it is clearly important to take particular care – in line with existing best practice – to set out as clearly as possible what the sentence actually involves. The issue of 'time served' seems to cause a huge amount of upset – especially when the victims discover the reality only after the event. When the mechanics of the release process was explained to one of the interviewees, she seemed genuinely surprised and said, 'no one's ever told me that before.'

Chapter 7 Views of victims on wider issues

This chapter looks at some of the issues beyond sentencing that were discussed at length by the interviewees: their experiences of attending court; their perceptions of the offender; and the importance of support for victims.

Experiences of court

Most of our interviewees had strong criticisms of the court process. A range of issues were raised. For example, some had been shocked and upset at the amount of time it took from the point of arrest to conviction: many found themselves returning to court for one hearing after another, growing ever more frustrated at the number of adjournments requested for a variety of reasons.

The only case involving a Crown Court trial was that relating to the deaths of Mrs Davis' son and a taxi driver. The defendant was finally convicted of dangerous driving 18 months after the accident and arrest. Mrs Davis attended the trial and various hearings, and described the process as immensely stressful. Inevitably, she found it distressing to hear details of the accident discussed. (She said it was 'terrible' when photos of the accident were shown; she had to leave the courtroom at that point³¹), and particularly the defendant's attempts to deflect blame for what had happened on to her son. She also struggled with the highly impersonal environment of the courtroom in which her personal tragedy was being dissected: 'It was like ...going to the picture show ... Everyone sitting together, watching pictures'.

Several other interviewees also spoke of the impersonality of proceedings, and of their sense that the judge and lawyers treated the case as an entirely routine matter to be dealt with as swiftly as possible. Pete and Philippa Symonds complained bitterly about the prosecution barrister who, during the sentencing hearing, constantly mispronounced their name and had clearly come to the case 'completely cold' – having had a 'quick scan' through the file as the court sat. 'I will always remember that – it will stick in my mind till my last breath', said Pete. Philippa commented that the barrister sat with them

³¹ Another interviewee also talked about the pain she felt in court when pictures of the crash were 'shown all around the room'.

for five minutes after the hearing and said, 'Actually, that's quite a good sentence.' Pete described his overall experience of being at the Crown Court as 'appalling – it was a cattle market.' Mr and Mrs Brown, as outlined in Box 4, were similarly angered by their experience of the magistrates' court.

Box 4: Mr and Mrs Brown's experience of the magistrates' court

Mr and Mrs Brown's 45-year-old son died on his way to work on an early morning in March 2002, when an oncoming car failed to take a bend in the road and collided with his car. The offender was in his 50s, and pleaded not guilty to a charge of careless driving. After nine court hearings over a period of thirteen months, he was found guilty by the local magistrates' court.

As a summary offence, the case of careless driving could only be dealt with by magistrates,³² but the Browns felt strongly that the matter involving the death of their son should have been dealt with at Crown Court. Of the magistrates' court they said:

Mr Brown: *From the minute you walked in there, it was wrong. There was youngsters laughing and joking ... saying what have you done? ... I stole a mobile phone ...*

Mrs Brown: *And there was us, thinking our son has been killed.*

Overall, the Browns felt that the case was treated like an 'everyday occurrence ... just as though you'd knocked down a lamp-post.' The death of their son, it seemed to them, was not even considered. It was like: 'we're looking at a road accident here – blah blah blah and here's the result'.

Another common complaint about being in court was that, as far as many of our interviewees were concerned, the proceedings were geared around the needs of the offender rather than being focussed on the impact of the crime. Several said that they had written a victim impact statement, but were disappointed that this was not read out in court. The Sheltons, for example, said that the prosecutor wished to read out the statement, but was told not to do so by the judge because these things are 'too personal and upsetting'. Mrs Shelton complained that she wanted the court to know 'what [our daughter] Sue was like', but instead 'Sue's life was sidelined – it was all about [the offender] Alison coming from a divorced family and what a good girl she was.' As Box 5 describes, a year after the offender was sentenced, Mrs Baldwin remained intensely angry about how her case was dealt with by the Crown Court.

Box 5: Mrs Baldwin's experience of Crown Court

At six o'clock on an March morning in 2005, Mrs Baldwin's husband left their home to pick up her son (his step-son) from his night-shift as a security officer. As they drove home, both were killed in a head-on collision with a delivery van which was being driven at 80 mph on the wrong side of the road. The driver of the van was a 29-year-old man from Afghanistan who was rushing to get his next delivery for the courier company for which he worked. The offender had previously had an application for asylum rejected, and was working illegally for the company; he also had no driving licence or insurance.

The offender, who was himself seriously injured in the accident, pleaded guilty to causing death by dangerous driving, and was jailed for five years.

As well as being deeply dissatisfied with the sentence, Mrs Baldwin was extremely upset at how the case had been dealt with at court. Her overall perception was that, in the sentencing hearing in particular, the judge was far more concerned about the wellbeing of the offender than anything else. He spoke about the injuries suffered by the offender, and the political situation in Afghanistan which was the reason for his not having been deported at an earlier stage. Mrs Baldwin's response was:

He didn't have to go on and on about his injuries, about Afghanistan ... That's not my problem... I wanted to scream at the judge: hey it's me, I'm the victim; in effect he's the killer, he's the murderer... All I heard about was him ... I wish that judge could come and sit with me now ... I felt I was a nonentity in that courtroom. He thought – oh well, they'll get on with it.

She was also furious that a 'letter of apology' from the offender was read out in court, when she had explicitly said that she did not want it read: 'We didn't want to know what his feelings were.' Her surviving son was so angered by this that he walked out of the court. Although the judge said that the offender was showing genuine remorse, she did not believe this: 'They weren't his words.' She was convinced that the letter had been written by his barrister, because no apology had been forthcoming at earlier hearings.

Some of our interviewees complained about finding themselves sitting close to the offender and/or the offender's family when in court. Pete Symonds, for example, described him and the offender 'sitting there glaring at each other' in the waiting area in the court. The Browns said that one of their surviving sons walked up to the offender in the magistrates' court and 'we had to pull him away'. Mrs Davis said that during the trial she realised that someone sitting behind her was 'eyeballing' her; on complaining to a police officer she was shocked to learn that this was the defendant's son. This young man was the same age as her own son who had been killed, and 'he's giving me the dirty looks.'

There was one notable exception to the interviewees' complaints about their general treatment in court. Mr and Mrs Sennett spoke to us about the death of their son, a 38-year-old, who was knocked off his motorbike in a head-on collision with a car which had overtaken another vehicle on the brow of a hill. The accident occurred in the early hours of the morning: both the offender and victim were driving home from night-shifts. The parents were deeply unhappy with the two-year sentence received by the offender (a man in his 20s) for dangerous driving. However, they said that in court 'everyone was kindness'. The judge, they felt, had been 'sympathetic'. He referred to a letter he had received from their son's widow, and said it was clear from this letter that the offender had done 'untold damage to the family'.

It is clear from the interviewees' descriptions of court processes that much of the pain they experienced was a consequence of the gulf in perceptions of events. What for the victims was a unique series of events surrounding a major personal tragedy was for the lawyers and judges a relatively routine process that focuses not on the victim but on the defendant. Elements of this process – such as the plea in mitigation – are inevitably unwelcome to victims. Within these constraints, however, there is clearly scope to treat victims with more sensitivity than they often are. We have described how a letter of apology was read out despite the family's explicit request that they should not be. (The judge will need to take account of such a letter, of course, but could *refer* to it without reading it out.) Particular care is needed when reporting details of the incidents and when showing photographs. There is much value placed on an explicit recognition in sentencing hearings of the impact of the offence on victims. It was clear for example, that the Sennetts greatly valued the judge's reference to 'untold damage to the family', as they twice quoted this phrase (which dated back to the sentencing hearing of about six years ago) in the course of the interview. We have also described how victims were inadequately segregated from defendants and their families.

Views of the offender

In every interview we conducted, we were told that the offender showed *no remorse* for what he or she had done. Several of the interviewees said that the offender simply 'didn't care': the Sennetts, for example, said that the only time the offender had showed any emotion was when he was told he was going to prison – and then he only looked

'stunned' because he had not been expecting it. Mr Mansfield said that it was clear the offender 'didn't give a damn': when he was in court, he only cared about looking and smiling at his family. (Mr Mansfield also said that the offender's sister tried to approach him – presumably to say that she was sorry for what had happened - but she was stopped from doing so by the police. This was just as well as he would have 'torn her head off' because she had protected her brother in the first few weeks after the crash.)

In some cases, remorse was expressed in court, but dismissed as not genuine by the victims: like Mrs Baldwin (described above in Box 5), who was convinced that the offender had not written his 'letter of apology' himself. Philippa Symonds said the offender's barrister spoke of his 'great remorse', but it was clear from his manner outside the courtroom that he was *not* remorseful. Pete agreed that the offender and indeed his family as a whole 'couldn't care less'. The family lived locally, and one night the Symonds' had found 'a scrappy piece of paper shoved through the door ... saying how sorry they were and this, that and the other'. Pete viewed this as a cynical response to local expressions of anger at the family.

In two cases, views of the offender were complicated by the fact that s/he was well-known to the victim. The fact that Mr and Mrs Shelton's daughter Sue had died in a crash caused by her friend Alison appeared only to add to their grief and anger. They believed that Alison had ill-treated Sue in the months before the crash, and were convinced that subsequently Alison was entirely without remorse. Indeed, they spoke of her 'laughing with her family' at court (although a press report describes her 'sobbing in the dock' throughout the sentencing hearing). The case also caused severe tensions in the village in which both families lived and within Mrs Shelton's wider family, because Alison was dating her cousin.

Mrs Walker's husband had died as a passenger in a van driven carelessly by his brother-in-law; Mrs Walker spoke of her anger at the fact that the cousin had 'not to this day' shown remorse – although she occasionally saw him at family gatherings. He had been injured in the accident and, out of concern for him Mrs Walker had visited him in hospital the next day, where she was shocked to find him 'sat in bed, making jokes – acting as if nothing had happened'. And yet an apprentice who had also been in the mini-bus and was injured was crying, saying 'I'm sorry, I'm sorry'.

While (as noted in the previous chapter) the interviewees did not necessarily want remorse to be treated as a mitigating factor, many had a desire to see some remorse. Mr Kennedy, whose son had – like the Sheltons’ daughter – been killed as a passenger in a friend’s car, spoke of the ‘huge impact’ it made on him when the young man said he took no responsibility at all for his friend’s death. While he was pleading not guilty and was therefore by definition denying full responsibility, Mr Kennedy dearly wanted him to accept at least a degree of responsibility as the person who had driven the car. Mrs Brown told us that outside the magistrates’ court where the careless driving case involving her son’s had been heard, she approached the offender’s wife and asked if she had any children. The woman replied, ‘Yes, and we pray for your son every day’; but the offender himself never said anything to her or her husband.

Support for victims

Several of our interviewees spoke in the warmest possible terms about the professional support they had received from Victim Support and the road victims’ charity. Many had had weekly visits from a volunteer over periods of many months and more, which had proved invaluable:

I really don’t know how we would have survived without them.

Without [the victim support volunteer] coming – no way would I be here now. He’s the one that’s pulled me through.

They were there for us ... They spoke the truth. We got to looking forward to seeing her on a Thursday ... We took her as a friend.

[Victim Support have been] absolutely brilliant ... If it wasn’t for them I wouldn’t be here.

The volunteers provided not only emotional support but also a great deal of practical help. This partly entailed providing information about prosecution and court proceedings: by the nature of what had happened, the victims found themselves plunged into the confusion and complexities of the criminal justice system at a time when they had the least capacity to make sense of it all. Indeed, the volunteers frequently accompanied them to court – to provide moral support and also to explain who was who and what

exactly was going on. Mr Symonds said that if he had not had the volunteer at his side, 'I don't know what I would have done or what I would have said in the courtroom'.

Practical help also took the form of assisting with financial matters: for example, insurance claims, benefits payments, and tax credits. Several of the interviewees had had financial difficulties – not helped, in cases where the offender was uninsured, by the slow and labyrinthine procedures involved in claiming compensation from the Motor Insurers' Bureau. Mr Symonds complained of the 'horrendous' form-filling involved in his MIB claim, and said the four-year process was 'equally as harrowing as going to the court – when you have to start putting values on things'. The Browns commented that it took five years for their son's widow to receive compensation, because of complications over the insurance claim.

Some of the interviewees had also been greatly helped by police Family Liaison Officers. In particular, Mrs Baldwin spoke with great warmth of the two officers who had supported her in the wake of the utterly devastating loss of her husband and son:

The most fantastic people I would ever want to meet. ... Absolutely fantastic – a wonderful pair of people ... The only positive that came out of the boys' death – I actually looked forward to seeing them. I even managed to laugh with them.

Mrs Baldwin's only criticism of the officers, which was echoed elsewhere, was that they could not help her over a longer period. They had warned her that they would have to 'cut the cord' and she realised that this was inevitable, and yet when they stopped seeing or calling her it felt 'so savage'.

Mr and Mrs Brown spoke of the lack of support available in the very immediate aftermath of the accident which killed their son. They had initially been told he had suffered only leg injuries, and went to the local hospital to see him. On arriving, they were put in a 'small room' along with their daughter-in-law and told that he was in surgery. A short time afterwards two doctors came into the room and said, simply, 'We're sorry, we couldn't save him.' They added that if the couple and their daughter-in-law wanted to wait, they could go over to the mortuary to see him. So 'we was ushered over there [the mortuary], then we all just came out and went home'. Mrs Brown subsequently wrote to the hospital to complain at their treatment, and understands that the hospital now has a 'bereavement room' for relatives.

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Appendix A: Survey Characteristics

A quota sample was used for this research, with around 70 sampling points selected from a stratified list of all Census Super Output Areas in England and Wales, the list being stratified by region, urban/rural nature and number of cars in household as a socio-demographic indicator. Points were then selected probability proportional to size. Each sampling point was controlled by interlocking quotas on age, sex and working status. Although social class is likely to be a prime determinant of attitudes to sentencing it was not deemed feasible to set quota controls on social class given the small sampling points being used. The typical class homogeneity within Super Output Areas, allied with the use of a social class variable in the stratification, meant that the achieved sample was nationally representative in terms of class. Because there is no reason why availability or response bias should be correlated with whether people drive or not GfK NOP therefore chose not set quotas for drivers versus non-drivers.

Survey pilot

GfK NOP also conducted a small pilot of approximately 20 respondents, prior to the main fieldwork. This – in conjunction with the initial findings from the qualitative focus groups – gave sufficient insight to determine whether the questionnaire content was appropriate.

Additional Information about Conjoint Analysis

The reason for the popularity of the conjoint analysis in the area of medical research is that respondents in this field are usually physicians who have to provide evaluations for new treatments (drugs) with respect to their patients. In the exercise they are asked to think of their next 100 patients and asked how many they would prescribe to this new treatment and would repeat the exercise a number of times where the features (attribute levels) are changing each time. Through this methodology, we can estimate robustly the number of patients they would prescribe for any given scenario of the new treatment. This differs to traditional conjoint methodologies where we would only be able to see which factors have a positive or negative influence on the number of prescriptions and not how many prescriptions. For each factor shown in the research a 'Utility' score can be generated and this is done by running the data through an advanced statistical package, where the 'Utility' scores have been generated through a hierarchical Bayes model based on a Markov Chain Monte Carol algorithm. The 'Utility' score measures how much influence the factor has on the length of sentence.

Appendix B: Survey Instrument

J451263 – DEATH BY DRIVING OFFENCES

QUANTITATIVE SURVEY QUESTIONNAIRE – V14 – FINAL MAIN (14/02/06)

INTRODUCTION – READ OUT:

Good morning / afternoon / evening, my name is and I am from GfK NOP, an independent market research company based in London.

GfK NOP and the Institute for Criminal Policy Research (ICPR) at King's College, London are conducting a survey on behalf of the Sentencing Advisory Panel, looking at sentencing for death by driving offences. Would you have some time now to take part in a survey?

- Yes – continue
- Yes – arrange appointment
- No - refused

READ OUT:

The Sentencing Advisory Panel provides advice to the Sentencing Guidelines Council, which produces sentencing guidelines for courts in England and Wales. The Sentencing Advisory Panel is currently looking at sentencing on death by driving offences.

Before producing its advice, the Sentencing Advisory Panel wishes to seek the views of the general public about the sentencing levels for these offences. It is interested in hearing your views.

ADD AS NECESSARY:

- All your answers will be treated in the strictest confidence, and nothing you say will ever be attributed directly back to you
- The survey is for research purposes only. This is not a sales call
- The survey will last about 20-25 minutes depending on your answers.

SCREENER QUESTIONS:

Firstly I need to check a few details with you ...

S1. CODE GENDER

- 01. Male
- 02. Female

CHECK IN QUOTA BEFORE CONTINUING

S2. Please could you tell me your age.

RANGE 18 – 99; IF OUT OF RANGE OR OUT OF QUOTA, THANK AND CLOSE

S3. Are you currently working, either full-time or part-time?

SINGLE CODE

- Yes – working full time
- Yes – working part-time

No – not working

INTERVIEWER - CHECK RESPONDENT IS IN QUOTA BEFORE CONTINUING

MAIN QUESTIONNAIRE:

For this first part of the questionnaire, I would like to ask you a few general questions ...

Q1. How many miles do you expect to drive in the next 12 months?

INSERT NUMBER OF MILES (1 – 100,000)

NONE, DO NOT DRIVE

NONE, DO NOT HAVE ACCESS TO A CAR (BUT HOLD LICENCE)

Q2. I want to ask a question not just about driving offences, but about all types of crime. In general, would you say that sentences handed down by the courts, are too tough, about right, or too lenient?

PROBE: Is that a little too tough / lenient, or much too tough / lenient?

SHOW CARD A. SINGLE CODE. REVERSE ORDER

- 01. Much too tough
- 02. A little too tough
- 03. About right
- 04. A little too lenient
- 05. Much too lenient
- DON'T KNOW (NOT ON SHOWCARD)

Now I would you to think about sentences imposed on people who cause a death by driving on the roads in England and Wales.

Q3. Do you think that sentences imposed by the courts for drivers who have committed an offence by causing a death on the road are currently too tough, too lenient, or about right?

PROBE: Is that a little too tough / lenient, or much too tough / lenient?

SHOW CARD A. SINGLE CODE. REVERSE ORDER

- 01 Much too tough
- 02 A little too tough
- 03 About right
- 04 A little too lenient
- 05 Much too lenient
- DON'T KNOW (NOT ON SHOWCARD)

Q4. DELETED

- Q5. In your opinion, which of the following do you think should be the court's main objective for sentencing people who have committed an offence of causing death by driving?

SHOW CARD B. CODE IN ORDER OF MENTION. REVERSE ORDER

1. Punishing offenders
 2. Reducing crime
 3. Reforming and rehabilitating offenders
 4. Protecting the public
 5. Reparation i.e. getting offenders to make amends to the victim and/or the community
- NONE OF THESE (NOT ON SHOW CARD)
DON'T KNOW (NOT ON SHOW CARD)

ATTITUDES TO SENTENCING:

For the next section of the survey, I'd like you to think about four types of death by driving offences. These are as follows:

SHOW CARD C – READ OUT

A. Causing death by careless driving

- Where a person causes the death of someone as a result of driving without due care and attention.
- Where a person drives *below* the standard expected of a competent and careful driver.
- Typically involves a momentary error of judgement, e.g. driver has not noticed a hazard in the road.

B. Causing death by careless driving when under the influence of drink

- Same as for A – death by careless driving, but the driver is over the alcohol limit.

C. Causing death by dangerous driving

- Where a driver causes the death of someone as a result of driving that falls *far below* the standard expected of a competent and careful driver.
- It may be *deliberately* dangerous – e.g. racing or tail-gating at speed.
- It may also be *unintended*, but involves a serious mistake or negligence, e.g. driving a lot over the speed limit or dozing off at the wheel.

D. Causing death by driving whilst unlicensed, disqualified or uninsured.

- An accident resulting in death – e.g. a child running into the road without warning.
- The person's standard of driving is **NOT** to blame.
- But the person shouldn't have been driving because he/she:

Did not have a licence or was uninsured or was disqualified.

- Q6. Thinking about each of these four driving offences in turn, I'd like you to tell me how **SERIOUS** a crime you think each one is.

On this card is a scale to show the seriousness of different crimes, with the scale going from 0 (zero) for a very minor crime like theft of milk bottles from a doorstep, to 20 for the most serious crime, murder.

How would you rate each of these death by driving offences, using the scale from 0 to 20?

ROTATE ORDER

- (a) Causing death by careless driving
- (b) Causing death by careless driving whilst under the influence of drink
- (c) Causing death by dangerous driving
- (d) Causing death by driving whilst unlicensed, disqualified or uninsured

SHOW CARDS C & D. SINGLE CODE. REVERSE ORDER

0 – Very minor crime (e.g. theft of milk bottles from a doorstep)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20 – Most serious crime - murder

DON'T KNOW (NOT ON SHOW CARD)

CAPI – INSERT TIMER HERE

VIGNETTES ON DEATH BY DANGEROUS / CARELESS / CARELESS + DRUNK DRIVING

Within **EACH** of these offences of causing death by driving there will be a variety of cases. The seriousness of a particular case will depend on the factors present in that case. Some cases will be more or less serious than others.

I'm now going to show you one example of a case of ...**[insert F1, F2 or F3]** and then ask you to think about the sentence for that case.

CAPI - INSERT RELEVANT TEXT

F1 - Causing death by careless driving

F2 – Causing death by careless driving whilst under the influence of drink

F3 – Causing death by dangerous driving

Please note that this is just one example of an offence that can take many different forms, with different levels of seriousness.

CAPI RANDOMLY ASSIGNS RESPONDENT ONE VIGNETTE ONLY FROM F1, F2 or F3

F1 – Causing death by careless driving (333 respondents)

F2 – Causing death by careless driving whilst under the influence of drink (333 respondents)

F3 – Causing death by dangerous driving (334 respondents)

RESPONDENT IS THEN ASKED Q7 – Q11 FOR SELECTED VIGNETTE F1, F2, or F3

INTERVIEWER: Read out the relevant vignette (F1, F2, F3) from show card

CASE F1: CAUSING DEATH BY CARELESS DRIVING

Offender: 28-year-old male; part-time student and shop-worker. No previous convictions.

Victim: 35-year-old female.

Circumstances: On his way to visit a friend, the offender was driving within the speed limit along a quiet country road in daylight. Visibility was good. On approaching a slow-moving truck on a straight stretch of the road, he pulled out to overtake it. He misjudged the time he had for this manoeuvre and collided with an oncoming car; the driver of the other car was killed. The offender was breathalysed; the test result was negative.

Plea: Not guilty

CASE F2: CAUSING DEATH BY CARELESS DRIVING WHILST UNDER THE INFLUENCE OF DRINK

Offender: 28-year-old male; part-time student and shop-worker. No previous convictions.

Victim: 35-year-old female.

Circumstances: On the way home from a pub lunch, the offender was driving within the speed limit along a quiet country road in daylight. Visibility was good. On approaching a slow-moving truck on a straight stretch of the road, he pulled out to overtake it. He misjudged the time he had for this manoeuvre and collided with an oncoming car; the driver of the other car was killed. The offender was breathalysed, and was found to be 1.5 times over the drink driving limit.

Plea: Not guilty

CASE F3: CAUSING DEATH BY DANGEROUS DRIVING

| | |
|----------------|--|
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | The offender, on his way to visit a friend, was driving at about 80 mph (20 mph over the speed limit) along a quiet country road in daylight. Visibility was good. He tried to overtake a truck on a blind bend, and collided with an oncoming car. The driver of the other car was killed. The offender was breathalysed; the test result was negative. |
| Plea: | Not guilty |

READ OUT:

The three main types of sentence that might be imposed for such a case are:

- A fine; or
- A community order under the supervision of the Probation Service, which might include up to 300 hours unpaid work and/or a curfew of up to 10-12 hours a day for up to 4-6 months; or
- A prison sentence

Additionally ...

(READ OUT ACCORDING TO WHICH OFFENCE BEING TESTED)

(F1 = careless driving) The offender would be disqualified from driving for a minimum of 12 months and may have to re-take his driving test.

(F2 = careless whilst under influence of drink) The offender would be disqualified from driving for a minimum of 2 years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

(F3 = dangerous) ... The offender would be disqualified from driving for a minimum of 2 years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

-
- Q7. Now, thinking about the specific case I have read to you, in addition to being disqualified and (possibly – **IF F1**) having to re-take his test, which one of these sentences do you think an offender **WOULD** get for this case of causing death by **(INSERT RELEVANT OFFENCE F1, F2 or F3)?**

CAP1 - INSERT RELEVANT TEXT

F1 - ... careless driving

F2 – ... careless driving whilst under the influence of drink

F3 – ... dangerous driving

SHOW CARD G. SINGLE CODE. REVERSE ORDER

1. A fine
2. A community order under the supervision of the Probation Service, which might include up to 300 hours unpaid work and/or a curfew of up to 10-12 hours a day for up to 4-6 months; or

- 3. A prison sentence

- ASK Q8

DON'T KNOW (NOT ON SHOW CARD)

INTERVIEWER NOTE: A curfew requires an individual to stay indoors for the period specified.

ASK Q8 IF PRISON SENTENCE CODED AT Q7:

Q8. What length of prison sentence do you think the offender **WOULD** get for this case of causing death by **(INSERT RELEVANT OFFENCE, F1, F2 or F3)**?

CAPI - INSERT RELEVANT TEXT

F1 - ... careless driving

F2 – ... careless driving whilst under the influence of drink

F3 – ... dangerous driving

INTERVIEWER NOTE: If respondent asks for clarification, explain the likely length of time to be served in custody on any prison sentence:

Custodial sentences are served partly in prison and partly on licence in the community. Offenders will be released from prison at the halfway point and spend the second half of the sentence in the community subject to licence requirements. During the licence period offenders may be recalled to prison if they commit a further offence or do not comply with the licence requirements.

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

____ Years (**CAPI** range: 1-20)

____ Months (**CAPI** range: 1-11)

- Life imprisonment

Don't know - **ASK Q9**

ASK Q9 IF 'DON'T KNOW' AT Q8:

Q9. If you are unable to give an exact number of years / months, can you tell me what **range** of years/months for the length of prison sentence, you think the offender **WOULD** get for this case of causing death by **(INSERT RELEVANT OFFENCE, F1, F2 or F3)**?

CAPI - INSERT RELEVANT TEXT

F1 - ... careless driving

F2 – ... careless driving whilst under the influence of drink

F3 – ... dangerous driving

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

Up to 1 year

More than 1, up to 2 years

More than 2, up to 3 years

More than 3, up to 5 years

More than 5, up to 7 years
More than 7, up to 10 years
More than 10, up to 14 years
More than 14, up to 20 years
More than 20 years
Life imprisonment
DON'T KNOW

ASK ALL:

Q10. What sentence do **you personally** think the offender **SHOULD** get for this case of causing death by ... **(INSERT RELEVANT OFFENCE, F1, F2, F3)?**

CAPI - INSERT RELEVANT TEXT

F1: ... careless driving
F2: ... careless driving whilst under the influence of drink
F3: ... dangerous driving

When answering this question please note that the maximum penalty allowable for this sentence is ...

(F1 – Causing death by careless driving) ... 5 years' imprisonment.
(F2 – Causing death by careless /drink) ... 14 years' imprisonment.
(F3 – Causing death by dangerous driving) ... 14 years' imprisonment.

The offender will automatically be disqualified from driving and (might – **IF F1**) have to re-take his test.

SHOW CARD G. SINGLE CODE. REVERSE ORDER

1. A fine
2. A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or curfew of up to 10-12 hours per day over 4-6 months

3. A prison sentence **- ASK Q10a**

DON'T KNOW (NOT ON SHOW CARD)

ASK Q10a IF PRISON SENTENCE CODED AT Q10:

Q10a. What length of prison sentence do you think the offender **SHOULD** get for this case of causing death by **(INSERT RELEVANT OFFENCE, F1, F2 or F3)?**

CAPI - INSERT RELEVANT TEXT

F1 - ... careless driving
F2 – ... careless driving whilst under the influence of drink
F3 – ... dangerous driving

INTERVIEWER NOTE: If respondent asks for clarification, explain the likely length of time to be served in custody on any prison sentence:

Custodial sentences are served partly in prison and partly on licence in the community. Offenders will be released from prison at the halfway point and spend the second half of the sentence in the community subject to licence requirements.

During the licence period offenders may be recalled to prison if they commit a further offence or do not comply with the licence requirements.

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

____ Years (**CAPI** range: 1-20)

____ Months (**CAPI** range: 1-11)

- Life imprisonment

Don't know - **ASK Q10b**

ASK Q10b IF 'DON'T KNOW' AT Q10a:

Q10b. If you are unable to give an exact number of years / months, can you tell me what **range** of years or months for the length of prison sentence, you think the offender **SHOULD** get for this case of causing death by (**INSERT RELEVANT OFFENCE, F1, F2 or F3**)?

CAPI - INSERT RELEVANT TEXT

F1 - ... careless driving

F2 – ... careless driving whilst under the influence of drink

F3 – ... dangerous driving

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

Up to 1 year

More than 1, up to 2 years

More than 2, up to 3 years

More than 3, up to 5 years

More than 5, up to 7 years

More than 7, up to 10 years

More than 10, up to 14 years

More than 14, up to 20 years

More than 20 years

Life imprisonment

DON'T KNOW

ONLY ASK Q11 IF SPECIFIC SENTENCE HAS NOT ALREADY BEEN CODED AT Q10/Q10a:

F1 - Careless: if community order not coded at Q10 (code 2)

F2 – Careless whilst drunk: if prison sentence not coded at Q10 (code 3) and 2 years not coded at Q10a

F3 – dangerous: if prison sentence not coded at Q10 (code 3) and 5 years not coded at Q10a

Q11. Suppose the judge was considering ...

(READ OUT ACCORDING TO WHICH OFFENCE BEING TESTED)

(F1 = careless driving): A community order, meaning the offender would have to do up to 300 hours unpaid work and/or a curfew of up to 10-12 hours a day over 4-6 months . He would also be disqualified from driving for a minimum of 12 months and may have to re-take his driving test.

(F2 = careless whilst drunk) ... a 2-year prison sentence. He would also be disqualified from driving for a minimum of 2 years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

(F3 = dangerous) ... a 5-year prison sentence. He would also be disqualified from driving for a minimum of 2 years and will have to re-take his driving test. This will be a longer and more detailed test than the usual one.

Would you find this sentence acceptable for this case of death by **(INSERT RELEVANT OFFENCE, F1, F2, F3)?**

CAPI - INSERT RELEVANT TEXT

F1 - ... careless driving

F2 – ... careless driving whilst under the influence of drink

F3 – ... dangerous driving

PROBE TO CORRECT PRECODE. SINGLE CODE

Yes – definitely

Yes – possibly

No – not under any circumstances

DON'T KNOW

ASK ALL:

Q11a. How **LIKELY** do you think this offender would be to commit the same offence again in the future, that is death by **(INSERT RELEVANT OFFENCE, F1, F2 or F3)?**

SHOW CARD H. SINGLE CODE. REVERSE ORDER

01. Very likely

02. Fairly likely

03. Fairly unlikely

04. Very unlikely

DON'T KNOW (NOT ON SHOW CARD)

ASK Q11b ONLY FOR F1 VIGNETTE RESPONDENTS, WHERE FINE HAS NOT BEEN CODED PREVIOUSLY AT Q10 (Q10=1)

Q11b. Thinking of all possible scenarios when someone commits an offence of death by careless driving, what circumstances can you think of, where a fine would ever be an appropriate sentence?

PROBE FULLY FOR CIRCUMSTANCES

OPEN ENDED

None – not under any circumstances (SINGLE CODE)

DON'T KNOW

ASK Q11c ONLY FOR F2/F3 VIGNETTE RESPONDENTS, WHERE COMMUNITY ORDER HAS NOT BEEN CODED PREVIOUSLY AT Q10 (Q10=2)

Q11c. Thinking of all possible scenarios when someone commits an offence of death by ...

F2 ... careless driving whilst under the influence of drink

F3 ... dangerous driving

.... What circumstances can you think of where a community order would ever be an appropriate sentence?

PROBE FULLY FOR CIRCUMSTANCES.

OPEN ENDED

None – not under any circumstances (SINGLE CODE)

DON'T KNOW

CAPI – INSERT TIMER HERE

I'm now going to show you a second example case scenario for another death by driving offence, and I'm going to ask you a few questions about this.

CASI RANDOMLY ASSIGNS RESPONDENT ONE VIGNETTE ONLY FROM J1, J2 or J3

| | |
|--|-------------------|
| J1 – Causing death whilst driving unlicensed | (333 respondents) |
| J2 – Causing death whilst driving disqualified | (333 respondents) |
| J3 – Causing death whilst driving uninsured | (334 respondents) |

Please note that for this offence the driver's **standard of driving is NOT to blame**. He simply shouldn't have been driving because:

- J1 – He didn't have a licence
- J2 – He was disqualified from driving
- J3 – He was uninsured

RESPONDENT IS THEN ASKED Q12 – Q18a FOR SELECTED VIGNETTE J1, J2 or J3

| | |
|---|--|
| CASE J1: CAUSING DEATH WHILST DRIVING UNLICENSED | |
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | The offender, who had learnt to drive but never taken his driving test, was lent a car by a friend, to move some furniture. While driving along a residential street within the speed limit, he knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. |
| Plea: | Guilty |

| | |
|---|---|
| CASE J2: CAUSING DEATH WHILST DRIVING DISQUALIFIED | |
| Offender: | 28-year-old male; part-time student and shop-worker. |
| Victim: | 35-year-old female. |
| Circumstances: | While driving his car along a residential street within the speed limit, the offender knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. The offender was driving having previously been disqualified from driving because he had 12 points on his licence. |
| Plea: | Guilty |

| | |
|--|--|
| CASE J3: CAUSING DEATH WHILST DRIVING UNINSURED | |
| Offender: | 28-year-old male; part-time student and shop-worker. No previous convictions. |
| Victim: | 35-year-old female. |
| Circumstances: | While driving his car along a residential street within the speed limit, the offender knocked down and killed a woman who had stepped out into the road with no warning from between two parked cars. Witnesses said that he was driving safely and there was nothing that he could have done to avoid the accident. He was breathalysed following the accident; the test showed he was sober. The offender was driving with no insurance. |

| | |
|-------|--------|
| Plea: | Guilty |
|-------|--------|

Again, the three main types of sentence that are given to offenders for such a case are:

- A fine
- A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or a curfew of up to 10-12 hours per day over 4-6 months
- A prison sentence

- Additionally the offender would also be disqualified from driving for a minimum of 12 months and may have to re-take his driving test.

Q12. In addition to being disqualified and possibly having to re-take his test, which one of these sentences do you think an offender **WOULD** get for this case of causing death whilst driving (**INSERT RELEVANT OFFENCE J1, J2 or J3**)?

CAPI INSERT RELEVANT TEXT

- J1 –unlicensed
- J2 – disqualified
- J3 – uninsured

SHOW CARD G. SINGLE CODE. REVERSE ORDER

- 1 A fine
- 2 A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or a curfew of 10-12 hours per day over 4-6 months

3 A prison sentence **- ASK Q13**

DON'T KNOW (NOT ON SHOW CARD)

ASK Q13 IF PRISON SENTENCE CODED AT Q12:

Q13. What length of prison sentence do you think the offender **WOULD** get for this case of causing death whilst driving (**INSERT RELEVANT OFFENCE, J1, J2 or J3**)?

CAPI INSERT RELEVANT TEXT

- J1 –unlicensed
- J2 – disqualified
- J3 – uninsured

INTERVIEWER NOTE: If respondent asks for clarification, explain the likely length of time to be served in custody on any prison sentence:

Custodial sentences are served partly in prison and partly on licence in the community. Offenders will be released from prison at the halfway point and spend the second half of the sentence in the community subject to licence requirements. During the licence period offenders may be recalled to prison if they commit a further offence or do not comply with the licence requirements.

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

___ Years (**CAPI** range: 1-20)

___ Months (**CAPI** range: 1-11)

- Life imprisonment

Don't know - **ASK Q13b**

ASK Q13b IF 'DON'T KNOW' AT Q10a:

Q13b. If you are unable to give an exact number of years / months, can you tell me what **range** of years or months for the length of prison sentence, you think the offender **WOULD** get for this case of causing death whilst driving ... (**INSERT RELEVANT OFFENCE, J1, J2 or J3**)?

CAPI INSERT RELEVANT TEXT

- J1 –unlicensed
- J2 – disqualified
- J3 – uninsured

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

- Up to 1 year
- More than 1, up to 2 years
- More than 2, up to 3 years
- More than 3, up to 5 years
- More than 5, up to 7 years
- More than 7, up to 10 years
- More than 10, up to 14 years
- More than 14, up to 20 years
- More than 20 years

Life imprisonment
DON'T KNOW

- Q15. What sentence do **you personally** think the offender **SHOULD** get for this case of causing death whilst driving ... **(INSERT RELEVANT OFFENCE, J1, J2, J3)?**

CAPI INSERT RELEVANT TEXT

J1 –unlicensed
J2 – disqualified
J3 – uninsured

When answering this question please note that the maximum penalty allowable for this sentence is 2 years' imprisonment. The offender will automatically be disqualified from driving and might have to re-take his test.

SHOW CARD G. SINGLE CODE. REVERSE ORDER

01. A fine
02. A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or a curfew of 10-12 hours per day over 4-6 months

03. A prison sentence **- ASK Q15a**

DON'T KNOW (NOT ON SHOW CARD)

ASK Q15a IF PRISON SENTENCE CODED AT Q15:

- Q15a. What length of prison sentence do think the offender **SHOULD** get for this case of causing death whilst driving ... **(INSERT RELEVANT OFFENCE, J1, J2, J3)?**

CAPI INSERT RELEVANT TEXT

J1 –unlicensed
J2 – disqualified
J3 – uninsured

INTERVIEWER NOTE: If respondent asks for clarification, explain the likely length of time to be served in custody on any prison sentence:

Custodial sentences are served partly in prison and partly on licence in the community. Offenders will be released from prison at the halfway point and spend the second half of the sentence in the community subject to licence requirements. During the licence period offenders may be recalled to prison if they commit a further offence or do not comply with the licence requirements.

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

___ Years (**CAPI** range: 1-20)

___ Months (**CAPI** range: 1-11)

- Life imprisonment

Don't know

- ASK Q15b

ASK Q15b IF 'DON'T KNOW' AT Q15a:

Q15b. If you are unable to give an exact number of years / months, can you tell me what **range** of years or months for the length of prison sentence, you think the offender **SHOULD** get for this case of causing death whilst driving ... **(INSERT RELEVANT OFFENCE, J1, J2 or J3)?**

CAPI INSERT RELEVANT TEXT

J1 –unlicensed

J2 – disqualified

J3 – uninsured

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

Up to 1 year

More than 1, up to 2 years

More than 2, up to 3 years

More than 3, up to 5 years

More than 5, up to 7 years

More than 7, up to 10 years

More than 10, up to 14 years

More than 14, up to 20 years

More than 20 years

Life imprisonment

DON'T KNOW

ONLY ASK Q16 IF THE SPECIFIC SENTENCE HAS NOT ALREADY BEEN CODED AT Q15/Q15a:

J1 - Unlicensed: if community order not coded at Q15 (code 2)

J2 – Disqualified: if prison sentence not coded at Q15 (code 3) and "6 months" not coded at Q15b

J3 - Uninsured: if community order not coded at Q15 (code 2)

Q16. Suppose the judge was considering ...

(READ OUT ACCORDING TO WHICH OFFENCE BEING TESTED)

(For J1 – UNLICENSED) ... a medium level community order, meaning the offender would have to do between 80 to 150 hours of unpaid work and be placed on a curfew for 2-3 months, having to stay indoors for up to 12 hours a day. He would also be disqualified from driving for a minimum of 1 year?

(For J2 – DISQUALIFIED) ... a 6-month prison sentence ...

(For J3 - UNINSURED) a medium level community order, meaning the offender would have to do between 80 to 150 hours of unpaid work and be placed on a curfew for 2-3 months, having to stay indoors for up to 12 hours a day. He would also be disqualified from driving for a minimum period of 1 year

Would you find this sentence acceptable for this case of causing death whilst driving
(INSERT RELEVANT OFFENCE, J1, J2, J3)?

PROBE TO CORRECT PRECODE. SINGLE CODE

Yes – definitely
Yes – possibly
No – not under any circumstances
DON'T KNOW

ASK ALL:

Q17. How likely do you think this offender would be, to commit the same offence again in the future, that is causing death whilst driving **(INSERT RELEVANT OFFENCE, J1, J2, or J3)?**

CAPI INSERT RELEVANT TEXT

J1 –unlicensed
J2 – disqualified
J3 – uninsured

SHOW CARD H. SINGLE CODE. REVERSE ORDER

01. Very likely
02. Fairly likely
03. Fairly unlikely
04. Very unlikely
DON'T KNOW (NOT ON SHOW CARD)

ASK Q18 ONLY FOR J1/J3 VIGNETTE RESPONDENTS, WHERE FINE HAS NOT BEEN CODED PREVIOUSLY AT Q15 (Q15=1)

Q18. Thinking of all possible scenarios when someone commits an offence of death by driving whilst ...

J1 ... unlicensed
J3 ... uninsured

.... What circumstances can you think of, where a fine would ever be an appropriate sentence?

PROBE FULLY FOR CIRCUMSTANCES.

OPEN ENDED

None – not under any circumstances (SINGLE CODE)
DON'T KNOW

ASK Q18a ONLY FOR J2 VIGNETTE RESPONDENTS, WHERE COMMUNITY ORDER HAS NOT BEEN CODED PREVIOUSLY AT Q15 (Q15=2)

Q18a. Thinking of all possible scenarios when someone commits an offence of death by driving whilst disqualified, what circumstances can you think of, where a community order would ever be an appropriate sentence?

PROBE FULLY FOR CIRCUMSTANCES.

OPEN ENDED

None – not under any circumstances (SINGLE CODE)
DON'T KNOW

CAPI – INSERT TIMER HERE

READ OUT:

Please now disregard the previous two scenarios I have shown you on ... (CAPI - WORDING WILL BE DEFINED BY CAPI ACCORDING TO VIGNETTES PREVIOUSLY SHOWN).

(CAPI INSERT RELEVANT TEXT)

F1 - ... Causing death by careless driving

F2 – ... Causing death by careless driving whilst under the influence of drink

F3 – ... Causing death by dangerous driving

....and...

(CAPI INSERT RELEVANT TEXT)

J1 – ... Causing death by driving whilst unlicensed

J2 – ... Causing death by driving whilst disqualified

J3 – ... Causing death by driving whilst uninsured

I'm now going to show you a **completely different scenario**, this time for the offence of causing death by careless driving.

EXAMPLE CORE SCENARIOS: (500 respondents get one of two scenarios)

SHOW CARD K1:

CORE SCENARIO A: Careless driving, no previous convictions

Offender: 28 year old male
Victim: 35 year old female

Circumstances: The offender was driving along a quiet road in daylight. Another car pulled out from a side road, well in front of the offender. The offender failed to notice this other car, crashed into it and killed the other driver. The offender had no previous convictions.

SHOW CARD K2:

CORE SCENARIO B: Careless driving, with previous convictions

Offender: 28 year old male
Victim: 35 year old female

Circumstances: The offender was driving along a quiet road in daylight. Another car pulled out from a side road, well in front of the offender. The offender failed to notice this other car, crashed into it and killed the other driver. The offender had previous convictions for different driving offences.

Q19. What sentence do you think the offender **SHOULD** get for causing death by careless driving under these circumstances?

SHOW CARD G & K1/K2. SINGLE CODE. REVERSE ORDER

- 01. A fine
- 02. A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or curfew of 10-12 hours per day over 4-6 months

03. A prison sentence **- ASK Q19a**

DON'T KNOW (NOT ON SHOW CARD)

ASK Q19a IF PRISON SENTENCE CODED AT Q19:

Q19a. What length of prison sentence do you think the offender **SHOULD** get for causing death by careless driving under these circumstances?

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

____ Years (**CAPI** range: 1-20)

____ Months (**CAPI** range: 1-11)

- Life imprisonment

Don't know **- ASK Q19b**

ASK Q19b IF 'DON'T KNOW' AT Q19a:

Q19b. If you are unable to give an exact number of years / months, can you tell me what **range** of years or months for the length of prison sentence, you think the offender **SHOULD** get for this case of causing death by careless driving **under these circumstances?**

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

- Up to 1 year
- More than 1, up to 2 years
- More than 2, up to 3 years
- More than 3, up to 5 years
- More than 5, up to 7 years
- More than 7, up to 10 years
- More than 10, up to 14 years
- More than 14, up to 20 years
- More than 20 years
- Life imprisonment
- DON'T KNOW

CAPI – INSERT TIMER HERE

CONJOINT SECTION:

When deciding on an appropriate sentence, a court will assess the seriousness of an offence by considering the factors present in each case. Some factors may result in the sentence being increased or reduced.

Q20. I'm now going to show you 10 different scenarios, relating to incidents of death by careless driving.

Each scenario includes a number of different factors.

For each scenario I'd like you to tell me what sentence you think this offender **SHOULD** get for causing death by driving, taking the different factors into account.

When deciding what sentence you think the offender should get for each case, please **only consider the factors which are shown for that particular scenario and disregard any factors / scenarios considered previously.**

If there is a piece of information missing from a particular scenario, that may have been included in a previous scenario, then you MUST disregard this and ONLY consider the information in front of you.

EXAMPLE CORE SCENARIOS: (500 respondents get one of two scenarios – SAME RESPONDENTS GET SAME CORE AS AT Q19)

SHOW CARD K1:

CORE SCENARIO A: Careless driving, no previous convictions

Offender: 28 year old male
Victim: 35 year old female

Circumstances: The offender was driving along a quiet road in daylight. Another car pulled out from a side road, well in front of the offender. The offender failed to notice this other car, crashed into it and killed the other driver. The offender had no previous convictions.

SHOW CARD K2:

CORE SCENARIO B: Careless driving, with previous convictions

Offender: 28 year old male
Victim: 35 year old female

Circumstances: The offender was driving along a quiet road in daylight. Another car pulled out from a side road, well in front of the offender. The offender failed to notice this other car, crashed into it and killed the other driver. The offender had previous convictions for different driving offences.

CONJOINT – FULL DESIGN – Same factors for each scenario, K1/K2:

(CAPI will select different aggravating/mitigating factors from the following list; possibly 10 different combinations of 10 scenarios across 500 respondents for each model):

GROUP 1

- 3) A - A second person in the other car was also killed, a passenger as well as the driver
B - The victim was NOT the driver of the other car, but a passenger in the offender's car, who was his close friend
C - Only the driver of the other car was killed (NOT SHOWN)

- 7) A - The offender was driving 10mph over the speed limit
B - The offender was driving 20mph over the speed limit
C - The offender was driving within the speed limit (NOT SHOWN)

- 8) A - The offender was using his mobile phone at the time of the incident
B - The offender was not using his mobile phone at the time of the incident (NOT SHOWN)

GROUP 2:

- 1) A - The offender had only recently learnt to drive
B - The offender was an experienced driver
C - The offender's length of driving experience not known (NOT SHOWN)

- 2) A - At the scene, the offender helped the victim and called the emergency services
B - The offender fled the scene, and was arrested later that day
C - Neither (NOT SHOWN)

- 4) A - The offender was badly injured
B - The offender was not injured (NOT SHOWN)

- 9) A - The offender had been driving for several hours without a break, and was feeling very tired
B - The offender had taken sufficient breaks (NOT SHOWN)

- 10) A - The offender was on medication which he knew could affect his ability to drive
B - The offender was not on any medication which could affect his ability to drive
(NOT SHOWN)

GROUP 3:

- 5) A - It is clear to the court that the offender feels no remorse
B - It is clear to the court that the offender feels intense remorse
C - Remorse of offender not known (NOT SHOWN)

- 6) A - The parents of the deceased are devastated by their loss, and ask that the court imposes a severe penalty
B - The parents of the deceased forgive the offender, and ask the court not to punish him severely
C - Neither (NOT SHOWN)

(ASK FOR EACH OF 10 SCENARIOS):

Q21. What sentence do you think the offender **SHOULD** get for causing death by careless driving under these circumstances?

SHOW SCREEN. SINGLE CODE

04. A fine

05. A community order under the supervision of the Probation Service, for example up to 300 hours unpaid work and/or curfew of 10-12 hours per day over 4-6 months

06. A prison sentence

- ASK Q21a

DON'T KNOW (NOT ON SHOW CARD)

ASK Q21a IF PRISON SENTENCE CODED AT Q21:

Q21a. What length of prison sentence do you think the offender **SHOULD** get for causing death by careless driving **under these circumstances?**

INTERVIEWER NOTE – IF RESPONDENT GIVES A RANGE OF YEARS / MONTHS, ASK FOR SPECIFIC NUMBER; IF STILL UNABLE TO DO SO, CODE AS DON'T KNOW AND ASK FOR A RANGE AT NEXT QUESTION.

___ Years (CAPI range: 1-20)

___ Months (CAPI range: 1-11)

- Life imprisonment

Don't know

- ASK Q21b

ASK Q21b IF 'DON'T KNOW' AT Q21a:

Q21b. If you are unable to give an exact number of years / months, can you tell me what **range** of years or months for the length of prison sentence, you think the offender **SHOULD** get for this case of causing death by careless driving **under these circumstances?**

PROMPT TO CORRECT RANGE IF NECESSARY. SINGLE CODE

Up to 1 year

More than 1, up to 2 years

More than 2, up to 3 years

More than 3, up to 5 years

More than 5, up to 7 years

More than 7, up to 10 years

More than 10, up to 14 years

More than 14, up to 20 years

More than 20 years

Life imprisonment

DON'T KNOW

Now for the next scenario... (READ OUT)

When deciding what sentence you think the offender should get for the next case, please remember to only consider the factors and scenario shown this time, and disregard any factors shown previously.

Q22. And what sentence do you think the offender **SHOULD** get for causing death by careless driving **under these new circumstances?**

(and so on for c.10 scenarios in total....)

ASK ALL

Q23. In cases of causing death by careless driving, some people believe that some factors may result in an offender being given a less severe sentence than normal. Please tell me which of the following, if any, you think should reduce a sentence?

SHOWCARD L. CODE ALL THAT APPLY

The offender ...

1. ... Was suffering from severe depression at the time of the incident.
 2. ... Is of previous good character
 3. ... Holds a clean driving licence
 4. ... Has sole caring responsibilities for others, e.g. children
 5. ... Is very young
 6. ... Is very old
 7. ... Is suffering from post-traumatic stress disorder after the incident
 8. ... Was driving in an emergency situation, at the time of the incident
 9. ... Killed a member of the family, e.g. partner, child or sibling
 10. ... Was seriously injured
 11. ALL OF THESE FACTORS (NOT ON SHOW CARD – SINGLE CODE)
- NONE OF THESE (NOT ON SHOW CARD)
DON'T KNOW (NOT ON SHOW CARD)

CAPI – INSERT TIMER HERE

CLASSIFICATION:

Finally, I just have a few questions for classification purposes...

- C1. Which, of these newspapers, if any do you read nowadays?
SHOWCARD M. CODE ALL THAT APPLY.

01. None
02. Daily Mirror
03. Daily Star
04. The Sun
05. Daily Mail
06. Daily Express
07. The Times
08. Financial Times
09. The Guardian
10. The Daily Telegraph
11. The Independent
12. The Daily Sport
13. Other regional morning papers (e.g. Yorkshire Post, Western Daily Press)
14. Evening paper (e.g. Evening Standard)
- DON'T KNOW (NOT ON SHOW CARD)

- C2. What is your highest qualification?

SHOW CARD N. SINGLE CODE

01. None/no educational qualifications
02. **Entry level** (e.g. City & Guilds cert , BTEC cert)
03. **Level 1** (GCSE D-G, 2 CSEs or less, GNVQ /GSVQ Found., BTEC First , SCOTVEC cert , NVQ/SVQ L1, Less than 5 GCSE A-C)
04. **Level 2** (5 GCSE A-C, GCE O Level, CSE Grade 1, GNVQ /GSVQ Int., BTEC Int /Diploma , NVQ /SVQ L2 , SCOTVEC Diploma,1 A Level, 3 or less AS Levels, 1 or 2 Scottish Highers)
05. **Level 3** (2 or more A levels, 4 or more AS levels, 3 or more Scottish Highers, GNVQ /GSVQ Adv., BTEC Nat., NVQ /SVQ L3 , SCOTVEC Nat)
06. **Level 4** (Degree, PGCE, HND, NVQ /SVQ L4 , SCOTVEC Higher)
07. **Level 5** (Doctorate, Masters, Postgraduate Diploma, Postgraduate Certificate)

C3. To which of these ethnic groups do you consider you belong?

SHOW CARD O. SINGLE CODE

White

- 01. British
- 02. Any other white background

Mixed

- 03. White and Black Caribbean
- 04. White and Black African
- 05. White and Asian
- 06. Any other mixed background

Asian or Asian British

- 07. Indian
- 08. Pakistani
- 09. Bangladeshi
- 10. Any other Asian background

Black or Black British

- 11. Caribbean
- 12. African
- 13. Any other Black background

14. Chinese

15. Any other ethnic group

C4. **OCCUPATION OF CHIEF INCOME EARNER:**

I would now like to ask you about the member of your household who is the person with the largest income, whether from employment, pensions, state benefits, investments or any other source?

Are they/you

READ OUT. SINGLE CODE

| | |
|--|-----------------------|
| Working (either full or part time) | |
| Retired/Not working with private pension/means | ASK OCCUPATION |
| Unemployed less than 6 months | |

| | |
|-------------------------------------|--------------------|
| Unemployed more than 6 months | CODE AS "E" |
| Retired with STATE BENEFIT ONLY | |
| Not working with STATE BENEFIT ONLY | |

| | |
|---------|---------------------|
| Student | CODE AS "C1" |
|---------|---------------------|

OCCUPATION OF CHIEF INCOME EARNER :Job Title/Description/Industry/Number employed/Qualifications Industry.

If manager/Supervisor/Self-Employed Number of People Responsible for.

CODE SOCIAL GRADE:

ABC1C2DE

C5. **CODE GOR (SAMPLE DRIVEN):**

North East
North West
Yorkshire / Humberside
East Midlands
West Midlands
East of England
London
South East
South West
Wales

C6. Has any relative or close friend of yours ever been killed in a road traffic accident involving a third party?

Yes - **ASK C7**

No - **THANK AND CLOSE**
REFUSED

ASK C7 IF YES AT C6:

C7. Finally, I have one last question to ask, which you do not have to answer if you prefer not to:

The Institute for Criminal Policy Research at King's College will be conducting some further research amongst the relatives or close friends of victims of road traffic accidents involving a third party, to find out their views on sentencing.

This additional research would be a one-to-one interview conducted by one of the academics from the research team at the Institute, and would be carried out at a time and location which is convenient to you.

Would you be willing to be contacted to take part in this further research?

Yes - **COLLECT RESPONDENT DETAILS AND INFORM RESPONDENT THAT THESE DETAILS WILL BE FORWARDED TO ICPR FOR THE PURPOSE OF THIS RESEARCH ONLY**

No - **THANK AND CLOSE**

THANK & CLOSE

STANDARD MRS RE-ASSURANCES

| |
|--|
| |
|--|