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Transport Committee

Traffic Law and its Enforcement

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Report, together with formal minutes

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The Transport Committee

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Summary

We all have an interest in whether traffic law is appropriate, and whether it is appropriately enforced. Everyone uses the roads, and most of us use them in a variety of ways – as car drivers or passengers, as pedestrians and as cyclists. We need a legal framework which allows all road users to coexist safely and efficiently, and gives appropriate weight to the desire of users of motorised transport to reach their destination quickly and efficiently, while safeguarding the interests of other road users.

Bad driving is not victimless. Over 3500 people die on our roads each year, and over 33,000 more are seriously injured. Pedestrians and cyclists are deterred from using streets which are dominated by cars travelling at unsafe speeds. Children have their freedom curtailed. And bad driving makes life more difficult for motorists themselves; regardless of the risks of injury, there is ample evidence that traffic would flow more freely if speed limits and road regulations were generally observed.

The Government needs to ensure that offences are appropriate; that penalties are appropriate; and the law is appropriately enforced. The public is rightly outraged at a legal system which considers death or injury as less serious if it has been caused by someone driving a motor vehicle. There needs to be change at all levels; in the way the police handle such cases; in the Crown Prosecution Service and in the courts. We do not believe that any agency currently treats them sufficiently seriously. The law on driving of fences, such as careless and dangerous driving, needs radical overhaul to ensure that decisions about the seriousness of particular cases rests with the courts, rather than with the charging authorities.

Changes are also needed to ensure that we no longer have a culture which considers poor driving standards as acceptable, or at worst careless. It is unacceptable that “turning into a minor road and hitting a pedestrian” should be officially classified as careless driving. It is unacceptable that speeding should be seen as unimportant, until such time as death or injury occurs. Motoring organisations and the press have been quick to criticise local authorities for allegedly disregarding speed camera safety partnership guidelines about camera sites. We believe there would be an outcry if the public realised how strict those guidelines are: they state that static cameras should not normally be installed until there have been at least eight crashes resulting in injury per kilometre, including at least four involving death or serious injury, within a three year period.

Effective enforcement is a key way both to punish and to deter. The transfer of certain responsibilities currently undertaken by the police to other agencies, some of which will not have enforcement powers, should not be used as an excuse for reducing the police’s commitment to road policing. Properly done, such policing can be a valuable way of identifying crime “hotspots”, and of increasing community engagement and renewal. The Association of Chief Police Officers has the right policies; the challenge is to ensure that individual police forces and individual police officers implement them. The National Policing Plan should support this by making road policing one of the police’s core tasks.

The Department for Transport has taken a lead on road safety. It has established targets for
reducing the number of deaths and serious injuries on our roads, and is actively proposing changes to the law to improve road safety. But these changes are comparatively unimportant. The serious issues we have identified do not fall within its remit, but within the remit of the Home Office. Very little is new; some measures, like the introduction of community penalties for driving offences, were recommended years ago. The Home Office needs to act urgently to ensure that there is an appropriate legal framework for dealing with road offenders, and to ensure that the roads are properly policed. Sadly, in the course of this inquiry we have seen no sign that it understands the importance of this task; we hope that it will speedily bring forward legislation that shows we are mistaken.
1 Introduction

1. At one extreme, traffic law deals with those who have caused death on the roads; at the other it deals with behaviour which is inconsiderate rather than dangerous, such as parking on a yellow line. It is both about reducing casualties, and the efficient allocation of road space. Traffic law also provides all those involved in regulating traffic with the legal framework to carry out their duties. This is potentially a vast subject; we do not propose to deal in detail with every parking regulation currently in force. This report considers the role of traffic law in making our roads and communities safer and the role of the police and other agencies in roads policing.

2. We launched this inquiry with a call for evidence on 15 July 2003. We identified the following key questions:

- Is the law on traffic offences appropriate?
- Do police and other enforcement agencies have the right priorities?
- Is sufficient priority given to the needs of pedestrians and cyclists?
- Could more be done to deal with dangerous drivers before they cause harm?
- What impact do uninsured, unlicensed, and banned drivers have on traffic enforcement?
- How will changes in responsibilities [such as the transfer of network management duties from the police to the Highways Agency] affect road safety and effective law and enforcement?

3. Since the inception of our inquiry, the Traffic Management Act 2004 has provided the legal framework for the transfer of responsibilities from police to the Highways Agency; the Department for Transport has published the Greenaway report on unlicensed driving; and the Department has brought forward proposals for further changes in the law relating to road safety.

4. In the course of this inquiry we received some seventy memoranda. They came from a wide range of witnesses including groups campaigning for changes in the law; motoring organisations; breakdown services; insurers; trade associations; police officers and ordinary members of the public. This alone demonstrates how important traffic law is. We took oral evidence from campaigning groups, representatives of the police and local authorities, an insurance company, cycling bodies, research groups and the Department for Transport and the Home Office. We visited the joint control centre run by the Metropolitan Police and Transport for London, and our Chairman and staff also visited the Highways Agency and the West Midlands Motorway Control Group. A full list of all those who gave both written and oral evidence is given elsewhere; we are very grateful to our witnesses and our hosts. We also wish to thank our Specialist Adviser, Mr Rob Gifford of the Parliamentary Advisory Council for Transport Safety for all his work.

5. The delay in producing our report is not because we decided the subject was unimportant. We expected a Home Office consultation on serious road traffic offences to
appear in February or March this year and we thought it best to delay the report to allow us to consider that consultation. The Home Office proposals still have not appeared; we can wait no longer. There are a number of reasons why we believe this subject should be urgently addressed.

Scope of the report

6. Reducing road casualties has been done by using the four e’s: education, engineering, enforcement and evaluation. This report focuses on the third of these, recognising that the fourth is essential to ensure that we allocate resources where they will bring maximum effect. We acknowledge that education and engineering measures, such as physical traffic calming, schemes, can do a great deal to increase road safety. However, a robust legal framework, properly enforced, also has a part to play. Enforcement policies must not undercut the messages of education; if the law demonstrably treats traffic offences lightly, any education on the seriousness of, for example, excessive speed will be undermined. Government needs to ensure that offences are appropriate; that penalties are appropriate; and the law is appropriately enforced.

7. This Report concentrates on the broad issues, applicable to all road users, and on the most important points. However, our witnesses made interesting points about many matters which did not fall within the main thrust of our work; we commend the evidence accompanying this report to road safety experts and to the Department for Transport for serious consideration.

Work related road safety

8. Many of our witnesses suggested that the Health and Safety Executive should take a more active role in ensuring driving at work was carried out safely.¹ Over a third of all road traffic accidents, about 1,000 deaths a year, involve someone who is at work at the time.² There are stringent rules covering the condition of Heavy Goods Vehicles and the hours of their drivers, but a great deal of work related driving is undertaken outside the freight industry. The Work and Pensions Committee has recently completed a study of the Work of the Health and Safety Commission and Executive, which includes consideration of work-related road safety.³ We strongly support greater enforcement of the guidance on work-related road safety, better reporting of work-related road incidents, and a proper study of the case for an Approved Code of Practice on work-related road safety.

Safety

9. Cars are a near essential means of travel in today’s world, and we rely on road freight to move sixty-two per cent of our goods.⁴ However, 3,508 people were killed on Britain’s roads in 2003 and 33,707 were seriously injured. There would be an outcry at such...
preventable loss of life and injury if it occurred on any other transport system. In 2002/03 there were 256 train incident fatalities on the railway system;\(^5\) in 2002 there were 6 crew deaths on fishing vessel and 5 deaths on UK registered merchant vessels.\(^6\) There have been no fatal, serious or minor injuries sustained in reportable accidents in helicopters and passenger aircraft since 2000 (although there has been some loss of life in light aircraft). Each of these industries, quite rightly, has its own Accident Investigation Branch to examine what has gone wrong, and to ensure that it does not happen again. Any major incident provokes huge public interest. In contrast, it is accepted that around 10 people will die on the roads and over 90 people will be badly hurt every day. For far too many, including much of the mass media, road deaths and injuries are simply a fact of life, hardly worth considering. The one exception is the Selby crash, where an event which was essentially a road accident led to two separate working groups and reports from the Health and Safety Executive and the Highways Agency. Essentially, the fact that rail casualties were also involved ensured that the crash was exhaustively investigated, even though it involved a combination of events that statistically was likely to occur once every 350 years.

10. The Government has commendable targets for reducing the number of deaths and serious injuries on our roads;

  to achieve a 40 percent reduction in the number of people killed or seriously injured in road accidents by 2010, compared with the average for 1994-98; a 50 per cent reduction in the number of children killed or seriously injured; and a 10 per cent reduction in the slight casualty rate, expressed as the number of people slightly injured per 100 million vehicle kilometres.\(^7\)

Progress is being made; the statistics for Road Casualties in Great Britain 2003 show:

- the number of people killed or seriously injured was 22 per cent below the baseline;
- the number of children killed or seriously injured was 40 per cent below the baseline;
- the slight casualty rate was 17 per cent below the baseline.\(^8\)

Even so, it is disturbing that the number of deaths of vehicle users rose last year, and although the Government appears to be doing well, the Parliamentary Under Secretary for Transport, Mr David Jamieson MP, told us that although road transport casualties were at the rate of reduction required to meet the target, the number of deaths had reached a plateau.\(^9\)

\(^5\) Excluding suicides and fatalities to trespassers; http://www.hse.gov.uk/railways/annualreport2003/annualreport.pdf
\(^7\) Road Casualties in Great Britain 2003, Summary
\(^8\) Ibid.
\(^9\) Qq 506-7
Tackling crime

11. Road safety is not the only reason to ensure that traffic law is appropriate and properly enforced. There are clear links between disregard for traffic law, and other offending behaviour.10 Using automatic numberplate recognition to identify unlicensed or unroadworthy vehicles has also caught traffic offenders involved in other crimes. The roads are the biggest public space in Britain. Proper policing of behaviour on the roads will be expected to have wider benefits.

Vulnerable road users

12. This inquiry has been notable for the number of responses it has elicited from the general public, as well as from campaign groups, motoring organisations and the government and related bodies. There is a clear theme to this evidence from the public: vulnerable road users, such as pedestrians and cyclists, are being deterred from using the highway by the priority given, in fact if not in theory, to motorised traffic.11 Some witnesses called for changes to the law; all called for action to ensure that existing laws are properly enforced.

Departmental priorities

13. The legal framework for policing our roads will only be appropriate if departments work together to ensure that road traffic offences have proportionate penalties, and that the courts have an appropriate range of sentencing options. We suspect that the difficulties of interdepartmental working have led to delay in implementing previous recommendations for change which would have ensured that road traffic offences were given appropriate penalties. We recognise that it is not possible to construct an absolute scale on which, for example, driving without due care and attention is equivalent to common assault. Nonetheless, in an ideal system penalties for breaches of traffic law should be proportionate to those for other infringements of the law, and the penalties for different breaches of traffic law should also be proportionate to one another.

14. Some work has been done. In December 2000 the then Department of Transport, Local Government and the Regions, the Home Office and the Lord Chancellor’s Department launched a joint consultation on their Review of Road Traffic Penalties. Although in 2002 the Government announced that it would take forward many of the recommendations of that review, very little has been done.12 Although some proposals, such as that to increase the maximum penalty for causing death by dangerous driving to fourteen years have been acted upon, we are concerned that the overall package has not been put into effect. This suggests that, for the Home Office, reducing death and injury on the roads is not a priority. The Government must introduce a proportionate and justifiable system of offences and penalties. Basic principles should be established now, and need to be implemented quickly.

10 Gerry Rose The Criminal Histories of Serious Traffic Offenders, Home Office Research Study 206, 2000
11 See, for example, TLE 01, TLE 03, TLE 04, TLE 09, TLE 15, TLE 18, TLE 22, TLE 24, TLE 27, TLE 38
12 Lord Chancellors Department, Home Office, Department for Transport, Report on the Review of Road Traffic Penalties,
The Department’s recent proposals

15. Earlier this summer, the Department told us that it would like to share its thoughts on possible road safety legislation. In July it presented us with a memorandum on its ideas, which served as the basis of an evidence session with the Minister. We welcome the opportunity to discuss policy intentions at an early stage. It is a creative way of attempting to bring the Committee into discussion in circumstances when the Department does not have a draft bill for pre-legislative scrutiny. We await eagerly evidence that our contribution has influenced the Department’s thinking. However, the proposals necessarily lacked the detail that would be found in a draft Bill, and it must be recognised that this discussion cannot take the place of formal pre-legislative scrutiny, if that is needed. We have dealt with many of the Department’s proposals where they fell naturally in this report; our other comments are made in Chapter 7.

16. The Department for Transport has taken the lead in road safety, but the definition of offences and the policing of the law are responsibilities of the Home Office and the police. While the Department for Transport is showing commendable urgency in its dealings with road safety and enforcement issues, it is not receiving the support it needs from other departments. When we took evidence from Caroline Flint, Parliamentary Under Secretary of State at the Home Office on 17 December 2003 we were told that: “there will be a consultation in the New Year on the issue of serious offences.”13 Not only has the Home Office delayed this consultation, we are far from convinced that it is giving the police the leadership they need on this issue.

2 Roads policing

National Policing Plan

17. As a result of the Police Reform Act 2002, each November the Government produces a National Policing Plan, covering a rolling three-year period. The plan “provides the Government with the opportunity to set out clearly, and in one place, the strategic priorities for the police service over each rolling three-year period.”14

18. The current Policing Plan covers the period from 2004-07. It sets out five key priorities:

- Providing a citizen focused service to the public which responds to the needs of individuals and communities and inspires confidence in the police particularly amongst minority ethnic communities.

- Tackling anti-social behaviour and disorder.

- Continuing to reduce burglary, vehicle crime, robbery and drug-related crime in line with the Government’s Public Service Agreement targets.

- Combating serious and organised crime, both across and within force boundaries.

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13 Q 407
14 National Policing Plan, 2004-07, paragraph 1.1
• Narrowing the justice gap by increasing the number of offences brought to justice.\textsuperscript{15}

There is no mention here of roads policing.

19. Chapter 5 of the National Policing Plan deals with “other important areas of policing” that “do not fall within the strategic priorities”.\textsuperscript{16} It contains two paragraphs on roads policing. The first of these paragraphs asserts “It is expected that the police will play a full role in the Government’s Road Safety Strategy and, in particular, that forces will continue to ensure that they are actively engaged in reducing death and serious injury on our roads.”\textsuperscript{17} The second is entirely given over to a description of the Government’s intention to “to transfer a range of network management issues from the police to a new group of uniformed [Highways] Agency staff in liveried vehicles.”\textsuperscript{18}

20. The failure to place road policing among the strategic objectives identified by the National Policing Plan will have real consequences. Mr Richard Brunstrom, Head of Road Policing of the Association of Chief Police Officers (ACPO), told us the fact that road policing was a second tier objective rather than a first tier objective “has a direct implication on the amount of road policing which will take place” and the reduction in the numbers of traffic officers “flows directly from the Government not prioritising road policing as one of its key priorities.”\textsuperscript{19}

21. The National Policing Plan is underpinned by two “themes”. One of these is “community engagement and civil renewal”. To its credit, the Metropolitan Police considers traffic policing as part of that theme. We agree. Those who break traffic law can do as much to disrupt the community as those who indulge in other, more high-profile crimes. Unlicensed drivers are more likely to crash than others, and those crashes are more severe.\textsuperscript{20} Cars driven at excessive speed not only pose a risk to life and limb, but deter non-motorised road users from activities which used to be normal, such as walking to school or the shops. Uninsured drivers are not only more likely to have an accident than law-abiding drivers, but push up insurance premiums for everyone. Cars which break emissions limits can affect the health of road users.

22. Proper policing of the roads also helps the police to detect or deter other criminal activities. Commander Kaye of the Metropolitan Police told us that his force used information about areas where there were a high number of traffic and transport related incidents to help decide wider policing priorities:

where there are collisions there are lots of people; there is unlawful parking, there are businesses, there are shops, there are robberies, there is criminality. The joint analysis conducted by TfL and the Metropolitan Police across the capital shows real

\textsuperscript{15} National Policing Plan, 2004-7 paragraph 3.2
\textsuperscript{16} National Policing Plan, 2004-7 paragraph 5.1
\textsuperscript{17} National Policing Plan, 2004-7 paragraph 5.6
\textsuperscript{18} National Policing Plan, 2004-7 paragraph 5.7
\textsuperscript{19} Qq 321, 340
\textsuperscript{20} Safety Research Report No. 48, Research into Unlicensed Driving Final Report, November 2003, paras 3.1.4, 4.1.3
coterminosity, not in every case but in many cases of street crime hotspots, criminal hotspots, meeting and collision hotspots.\(^{21}\)

Our roads are public spaces used by everyone; they must be properly policed. **Roads policing must be one of the strategic priorities of police work, otherwise it will not be properly valued and resourced.**

**Police policy**

23. ACPO has produced *Modern Road Policing: A Manifesto For The Future*. This two-page document starts admirably:

> Road policing has in recent years been the poor relation of British policing. This trend is now being reversed. There is an increasing recognition that road policing is a critical component of core police work, and that getting it right is of prime importance.

The manifesto promises:

> We will engage criminals more actively, we will be more successful in saving life on the roads, we will investigate incidents (especially road deaths) more thoroughly, and we will patrol the roads more effectively.\(^{22}\)

Mr Richard Brunstrom has raised the public profile of roads policing significantly during his time as ACPO Head of Road Policing. ACPO appears to have clearly defined policies to carry out its work:

- To use the National Intelligence Model to focus on road policing tasks more clearly and consistently;
- To expand use of the fixed penalty system;
- To use new technology effectively;
- To investigate incidents better and develop the Road Death Investigation Manual “which puts road death investigation on a par with homicide investigations”
- To patrol the road in ways which impact on driver behaviour.

24. ACPO’s policies are admirable but will only have an effect if individual forces implement them. Such evidence as there is suggests that implementation may well be slow and patchy. In 1998 Her Majesty’s Inspectorate of Constabulary (HMIC) produced a *Thematic Report on Road Policing and Traffic*. It commented:

> The ACPO strategy is unequivocal in its intention to reduce casualties and road crime. If chief constables were to mirror this in their strategies, seeing road policing as an integral part of core policing, then the energy and skill of the service deliverers

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\(^{21}\) Q 172

could be channelled more effectively, meeting both public and Government expectations, without a need for significant increases in resources.\textsuperscript{23}

However, the Inspectorate found that in reality traffic policing was not given sufficient priority, or even thought about sufficiently strategically:

\textbf{2.9} The Inspection revealed that many middle and senior managers do not see road policing as a core policing function. Thus this work of service deliverers is not integrated into other force strategic objectives... As a result, valuable intelligence is lost and effort misdirected, and the opportunity is missed to use traffic enforcement as a means to disrupt other criminal behaviour; for example, disqualifying a thief from driving hampers his ability to commit crime.

\textbf{2.10} Her Majesty’s Inspector found a great deal of measurement of the activity of traffic officers but relatively little analysis of how it effected the desired outcome, namely casualty and crime reduction. As a result, many forces had no objective system to decide what proportion of resources should to be allocated to roads policing. Consequently, every new demand for greater police resources to meet a new demand meant less devoted to roads policing, and further demoralisation of the highly specialist officers who remained.

\textbf{25.} The ACPO Manifesto postdates the report, but we received significant amounts of evidence, both from the general public, and from serving police officers, that suggested these problems still remain. For example, one Inspector told us:

There has been a steady erosion of the number of personnel designated as Roads Policing within the force. These officers are then frequently deployed without clear direction and engaged on non Road Policing duties.\textsuperscript{24}

The HMIC Report does not appear to have produced a radical change in the practice of various police forces; for example the Parliamentary Advisory Council for Transport Safety (PACTS) told us: “According to PA Consulting, the number of designated roads police has fallen by 12% over the last 4 years and numbered just under 6,600 in 2001/02”.\textsuperscript{25}

\textbf{26.} The Government told us that:

The priority given to traffic policing should not be measured solely by the number of dedicated traffic officers. A thematic report on road policing by HM Inspectorate of Constabulary identified an intelligence-led model to integrate traffic policing with other core activities and make more effective use of police resources. As forces increasingly adopt this approach the number of dedicated traffic officers may reduce, but this does not necessarily reflect a lower level of enforcement. The increased use of cameras and other technology can allow a reduction in traffic officers whilst maintaining enforcement levels. It also allows traffic officers to be appropriately targeted elsewhere. Any police officer, whether or not engaged in specific traffic

\textsuperscript{23} HMIC Thematic Inspection Report, Road Policing and Traffic, 1998, Executive Summary
\textsuperscript{24} TLE 06
\textsuperscript{25} TLE 19
duties at the time, can enforce road traffic legislation as appropriate when an offence is being committed. 26

However, it was clear from the evidence we received, particularly the evidence from serving police officers, that the reduction in traffic police had been linked to the identification of other, “more important”, priorities, not to an emphasis on traffic policing as a central part of police work. We were struck by the extent to which traffic police felt their work was not appreciated, and not properly managed. Moreover, the Government’s position does not take account of the fact that traffic volumes are rising. It is unacceptable that traffic policing is in decline, even as the level of traffic on the roads increases.

27. There are examples of forces or units which take roads policing seriously. We have already drawn attention to the Metropolitan Police’s use of traffic policing as part of its wider crime strategy. One of the “Metropolitan Police Authority’s policing plan objectives for the Metropolitan Police Service [is] to reduce the number of killed and seriously injured in the capital this year by 4%.” 27 Our Chairman visited the Central Motorway Police Group, which consists of officers from the West Midlands, West Mercia, Staffordshire and Warwickshire forces who work together with Highways Agency staff both to manage the extensive and busy West Midlands motorway system and to use control of the road system as a way of detecting serious criminals through measures such as Automatic Number Plate Recognition. Nonetheless, the evidence presented during our inquiry supports Her Majesty’s Inspectorate of Constabulary’s suggestion that “most forces saw road policing as a peripheral task, often seen by management as a repository of vehicles and officers to be redirected to ‘more important work’”. Some police forces are using roads policing as part of their wider strategy, and are taking the need to reduce road deaths and injuries seriously. They are leading the way. HMIC must ensure other forces follow.

Police enforcement

28. The resources the police devote to traffic policing are important: enforcement is a vital part of ensuring that laws are obeyed. New Directions in Speed Management cites the example of Graz in Austria where new lower urban speed limits met with public approval, but “when enforcement stopped speeds gradually increased to near their previous levels.” 28 Closer to home, the first three year of review of the Road Safety Strategy 29 contains data which strongly suggest that a reduction in the effort police put into breath testing results in a corresponding increase in casualties.

26 TLE 45
27 Q174
28 New Directions in Speed Management – a Review of Policy, DETR, March 2000, para 96
29 Tomorrow’s Roads: Safer for Everyone: The first three year review, Department for Transport, April 2004
Chart 1
Casualty rates from accidents involving illegal alcohol levels and numbers of breath tests

Source: Road Casualties Great Britain 2002; Home Office Statistical Bulletin on Motoring Offences and Breath Tests

29. As the Review notes:

In 2000 the strategy had indicated that there was a much greater chance that drink drivers would be caught as the police had substantially increased breath testing. However, recent Home Office statistics show a steady decline in the number of breath tests administered by the police in England and Wales since 1998. Meanwhile the percentage of tests that have proved positive over this period has risen from 13%, back to the early 1990s level of 16%. 30

The estimated number of drink drive casualties in 2002 was the highest since 1991. The Government has proposed the introduction of alcolocks to prevent convicted drink drivers driving while incapacitated; although we welcome this development, it will not detect or deter their those who have yet to be caught. Some witnesses called for random breath testing to be permissible; but the problem exposed in the Review appears to be police unwillingness to use their existing powers effectively.

30. A comparative study of road safety in Sweden the United Kingdom and the Netherlands found that the effectiveness of drink driving deterrents “depend more on the level of enforcement than on the actual value of the limit.” 31 Britain has the lowest level of

30 Ibid., para. 38
screening of the countries studied and the highest level of drink driving. The fact that breath tests are better targeted does not address the deterrent effect of widespread breath testing. The Road Safety Review data and the SUNflower study suggest that there is a direct link between the level of drink drive casualties and the level of police testing, because there is a link between the level of testing and individuals’ readiness to drink and drive and, by so doing, to put themselves and others at risk. **We are extremely disturbed by the reduction in the number of breath tests administered by the police. Reductions in traffic law enforcement by the police appear to be linked to the number of road casualties. Four times as many people die on the roads each year as are victims of homicide. Better enforcement would save lives.**

**Civil Enforcement**

31. Over the past decades responsibility for some matters which used to fall to the police to enforce have been transferred to local authorities. In addition, there has been a new structure of civil penalties for such matters as infringing bus lanes. It is clear that this transfer of responsibilities has resulted in a dramatic increase in the number of penalties imposed. It is also clear that in some cases it has been accompanied by public resentment. Part of this resentment appears to stem from a feeling that penalties are automatically imposed on cases where police officers might have given informal warnings, and that discretion has been lost. There is also a view, particularly in the case of parking enforcement, that penalties are linked to revenue raising, rather than to the need to keep cities functioning. Local authorities are seen to be using civil enforcement overzealously, and including the revenue they expect to raise from such enforcement in their financial planning.

32. The likelihood of being caught is a deterrent to law breaking. Increasing the number of offences which can be dealt with through civil enforcement should increase the likelihood of detection, and so reduce the number people willing to take the risk of offending. There are other advantages, as spelt out by the Institution of Civil Engineers:

- Evidential requirements can be less onerous.
- The appeals process, both informal and formal, can be much simpler.
- A penalty for a driver offence can be a keeper liability.
- It does not require police and court resources, other than in the last resort for non-payment.
- There is scope for enforcement to help meet an authority’s transport and environmental objectives.
- All penalty revenue can be allocated to enforcement and to transport.
- Income from other parties can be received, eg, as part of a town planning agreement.
- It is better suited for enforcement by external agencies or contractors.\(^\text{32}\)
33. However, there are dangers in civil enforcement:

- It increases the impression that matters allocated for civil enforcement are not "real" breaches of the law;
- it reduces police involvement in dealing with activities which are strongly associated with other types of law breaking;
- it reduces the opportunity for the police to educate drivers;
- it risks creating less accountable enforcers, with a lower degree of training;
- it can reduce public support for enforcement;
- it can reduce police access to intelligence.

It is interesting that Transport for London itself warned that care needed to be taken to ensure that Local Authority enforcement actions were directed towards achieving high levels of compliance with the rules, rather than maximising income.

34. During the proceedings on the Traffic Management Bill, the Government agreed that there should be a statutory Code of Practice to deal with the way in which civil enforcement should be handled. Section 87 of the Traffic Management Act now stipulates:

(1) The appropriate national authority may publish guidance to local authorities about any matter relating to their functions in connection with the civil enforcement of traffic contraventions.

(2) In exercising those functions a local authority must have regard to any such guidance.

The Government must issue guidance under section 87 of the Traffic Management Act to local authorities about the civil enforcement of traffic contraventions. Such guidance must: require that enforcement officers are properly trained; ensure "victimless" infringements, such as overstaying at a meter, are enforced only after a grace period; and set out the circumstances in which measures such as wheel clamping or towing away are appropriate. The guidance should also set out circumstances in which enforcers could properly exercise discretion.

35. The Institution of Civil Engineers noted that “Civil enforcement does not require decriminalisation." Transport for London warned that:

There is a danger that in removing some of their functions, the police become detached from their important traffic enforcement role. It would be short-sighted if police involvement on the major road network was restricted to handling the aftermath of major accidents.

In its view:
there is scope for some decriminalisation of certain offences such as parking – but only in the context of enabling the police to focus on those areas of traffic enforcement where their presence makes a greater impact; for example in enforcing driving standards. 34

- It is noteworthy that TfL has an agreement with the police under which it provides funding of £52 million for 405 police officers, 456 Transport Police Community Support Officers (TPCSOs), 10 traffic wardens and 60 intelligence and support staff. The TfL priorities agreed for the Transport Operational Command Unit are:

  - To ensure that the public and staff feel safe using buses and bus infrastructure on agreed routes and corridors and other agreed priority locations

  - To ensure the efficient movement of buses on agreed routes and corridors and other agreed priority locations on the London Bus Network

  - Enforcement of the law relating to taxis and private hire vehicles (PHV) within the Metropolitan Police District to (MPD) ensure the safety of the public, focusing on agreed priority locations

  - To assist the control and, where possible, the reduction of congestion at agreed priority locations within the MPD. 36

36. Enforcement by non-police agencies should not be an excuse for the police to reduce their work on traffic law still further. There will be many cases where a timely police warning about bad driving will be more effective than an automated demand for a large fine received after the event.

3 Road death and injury

37. Much of the evidence given to us was concerned with the law relating to those who caused death or injury on the roads. It would be an understatement to say there was concern about the way in which the law deals with such cases. All those who wrote to us on the subject, and they were many, were impassioned about what they saw as a tendency to downgrade road traffic crashes. We were told of a tendency to treat serious incidents as “nobody’s fault” or even to blame the victim; a belief it was not appropriate for motorists to take as much care when driving a motor vehicle as they would when undertaking other activities which might endanger the public; a justice system which frequently did not take into account the consequences of a crash; and a disregard for the victims and their families.

38. It is not only victims who believe that the current system does not treat serious traffic offences appropriately. Commander Joe Kaye of the Metropolitan Police told us:

   there seems to be a mental blockage in the criminal justice system …. Manslaughter is charged but very, very rarely. The blockage seems to be that because (like probably most people in this room) they have driving licences, they are car drivers and they realise some of the risk around it that there is some let-off point in it, instead of saying, “With the right to drive your car and drive it along a road there is a
responsibility.” There is a real mental blockage, we find, from the prosecuting side, or let us say the investigating side, about taking these things to the most serious level and some of them indeed would, in the view of my highly skilled collision investigators, amount to manslaughter.35

39. The chief concerns expressed can be divided into:

- The way in which the offences of careless and dangerous driving were defined;
- The penalties available to the courts;
- The prosecution and court process.

40. We have not been able to deal with all the suggestions made in this report, and this chapter focuses on the most important. There are two slightly separate points which we wish to deal with before we turn to the main consideration of the way in which the law deals with motorists who cause death or serious injury.

41. The first is the way in which prosecutors treat those who fail to stop after a traffic accident or fail to report a traffic accident. The maximum penalty for such offences is six months imprisonment or a fine. Although there may occasionally be mitigating circumstances for such offences, in many cases they are tantamount to an attempt to pervert the course of justice. A drunken driver who does not stop not only removes the physical evidence from the scene, but prevents the police from getting evidence of his blood alcohol level. One of the themes of this report is that the law on our roads should not be seen as somehow different from ordinary law. The police and Crown Prosecution Service should bring charges of attempting to pervert the course of justice against those who fail to stop after serious crashes, or do not report them.

42. The second issue is not one of criminal law. The Charging Standards followed by the Crown Prosecution Service reasonably contain the provision that “it is not the function of the prosecution to conduct proceedings merely to settle questions of liability for the benefit of insurance companies.”36 Many witnesses strongly put to us the difficulties caused when there was no court case to decide blame, and vulnerable road users, who might have been severely injured, were left to seek compensation from insurance companies which had the resources to fight cases in the courts. It was suggested that reversing the burden of proof in civil cases so that the motorist should have to prove the vulnerable road user was to blame would go some way to correct this imbalance.37 We not been able to come to a final view, but we believe the proposal deserves further consideration.

Offences and Penalties

43. In principle, there is a range of charges available to deal with those who cause death and injury on the road, including driving without due care and attention, dangerous driving, causing death by dangerous driving, driving without reasonable consideration, causing death by careless driving under the influence of drink or drugs, manslaughter, and causing

35 Q 190
36 Charging Standard agreed by the police and Crown Prosecution Service, para 5.2
37 See, for example, TLE 27, TLE 30, TLE 31, TLE 33, TLE 45
bodily harm by wanton and furious driving. In practice, the charges most often brought are *careless driving*, which is a summary offence, triable only before magistrates’ courts, *dangerous driving*, which is an “either way” offence, triable either in the magistrates’ court or the Crown Court, or *causing death by dangerous driving*, which is a matter for the Crown Court.

44. Currently the penalties for the most serious offences are:

<table>
<thead>
<tr>
<th>Table 1: Offences and Penalties</th>
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<tr>
<td><strong>Offence</strong></td>
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<tr>
<td>Causing Death by Dangerous Driving*</td>
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<tr>
<td>Dangerous Driving*</td>
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<tr>
<td>Causing Death by Careless Driving when under the influence of drink or drugs</td>
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<tr>
<td>Careless and Inconsiderate Driving</td>
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</table>

**Notes**

* Increased from 10 years following the 2002 Report
* Where a court disqualifies a person on conviction for one of these offences, it must order an extended re-test – about twice as long as the ordinary driving test. The courts also have discretion to order a re-test for any other offence which carries penalty points, an extended re-test where disqualification is obligatory, and an ordinary test where disqualification is not obligatory.


45. Many of our witnesses thought that the penalties available for all these offences were inadequate. Sergeant Pattison of the Northumbria Police noted the anomalies both within this sentencing structure itself, and with the sentences available to those who committed other crimes:

… someone can receive serious crippling injuries which will affect their quality of life forever, but the offender can only receive two years. The obscenity of the present restriction is that if one driver punched the other and caused, say a broken nose (assault occasioning actually bodily harm), the offender could be sentenced to five years imprisonment or, if the driver deliberately or recklessly damaged the other driver’s motor vehicle and was charged with criminal damage, a maximum of ten years imprisonment could be imposed, or where life was endangered, life imprisonment. Yet when guilty of dangerous driving and grievous life threatening
injuries are concerned, the maximum available to the Judge, is two years imprisonment.38

The penalties for road traffic offences must match the penalties for other crimes against the person, and for crimes against property. Offenders must not face lower sentences, simply because their crime involved a car.

46. The problem is not simply that the penalties are inadequate. As our witnesses pointed out, there are a number of difficulties with the whole structure of such offences:

a) there is a very large gap between the penalties for causing death by dangerous driving, and those for careless driving

b) while there are higher penalties available when death results from dangerous driving, this is not the case when injuries are caused, however serious those injuries might be;

c) the penalties for careless driving are very low, and, unlike dangerous driving, there is no separate offence of causing death by careless driving;

d) too many people are charged with careless driving for fear of failure to achieve conviction under a more serious charge; consequently it has come to cover a wide range of behaviour from minor slips in concentration, to serious negligence.

47. Because of the wide range in penalties, many of the most important decisions about the degree of culpability shown by a driver are taken by the investigating and prosecuting authorities. Once a driver has been taken to court on a careless driving charge, the maximum penalty available is a fine, even if those hearing the case considered that this is inappropriately light.

48. There have been a range of suggestions as to how the law might be reformed to prevent this. In 2002 a Road Safety Research Report into Dangerous driving and the law recommended the creation of intermediate offences of negligent driving, and causing death/serious injury by negligent driving.39 Mrs Stow of RoadPeace believed that there should be a single offence, based on the results of the accident:

… there must be a charge which recognises that the really important thing that happened was that someone was killed and that charge should be something like motor manslaughter, vehicular homicide, and it should be heard before professional judges and not lay magistrates; and they would have a very wide range of powers which would range … from a disqualification up to a very serious prison sentence.

Many witnesses supported the principle that the fact of death or serious injury should be recognised in court proceedings, and the Metropolitan Police suggested charges of manslaughter should be used more than at present.40

38 TLE 2
40 TLE 41
49. Mr Richard Brunstrom was more cautious:

... I do not agree with the continuum concept because the defendant needs to know what he is being charged with. There already actually is an offence of motor manslaughter. I do not think it has been charged in living memory but it does exist. ... What we do need, I think, is a set of overlapping offences with aggravating factors such that the court is then able to apply the appropriate penalty depending upon the circumstances which are presented to it. The techniques for doing that are available within the criminal law and I am pleased to say that the Home Office is now addressing that.41

50. Mr Brunstrom was referring to the Review of Road Traffic Offences, conducted by John Halliday, formerly Director of Criminal Justice Policy in the Home Office, announced on 13 May 2003. Its terms of reference were “to review the existing framework of criminal law concerning bad driving, particularly where death or injury results, in order to ensure that appropriate offences and penalties are put in place.”42 The Review was expected to be completed by mid September 2003, and, as we have already noted, consultation on the review was expected “by the end of February or early March”43 this year. No consultation had appeared by the time we came to prepare this report in August, though it is hard to believe that the Halliday report has not been delivered, particularly since The Future of Transport notes that “we completed a review of road traffic offences for bad driving in January 2004”.44 There is an overwhelming case for a radical and urgent overhaul of serious motoring offences. We very much regret the Home Office’s delay in producing proposals for change, or even in publishing the Halliday report, nearly a year after it was expected.

51. We recognise that some fatal crashes occur through no fault of the driver, and some are a tragic consequence of a momentary misjudgement. Far more crashes occur as a result of negligent behaviour. A single offence of “causing death/serious injury by negligent driving” should be created in any reform of motoring offences. Courts should have wide discretion over sentencing, which must depend on the full facts of each case. We are confident that the alleged difficulties of a broad offence can be overcome. Sensible enforcement of this offence would help secure justice for victims of negligent driving. It would also dispel the myth that road deaths are usually unfortunate accidents.

52. Any reform of motoring offences should follow three broad principles:

- causing serious injury should be considered very serious;
- all cases which involve death or serious injury should be heard in the Crown Court, not magistrates’ courts;

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41 Q 367
43 TLE 45A
44 The Future of Transport: a network for 2030, Department for Transport, July 2004, Cm 6234, para 11.17
the gulf between the penalties available for causing death by dangerous driving and for other dangerous or negligent driving offences should be closed. In particular, there should be far higher maximum sentences available for some of the behaviour which is now classified as careless driving.

These changes would help make the sentence fit the motoring crime. They would prevent the derisory sentences which are handed down when the CPS brings inappropriate charges, or when the current guidelines pigeon-hole certain behaviour as less serious.

*The Department for Transport’s Proposal*

53. The increase in the maximum penalty for careless driving from £2,500 to £5,000, proposed in the Department for Transport memorandum on possible changes to road safety law, can only be an interim measure. It must be followed swiftly by a fundamental overhaul of the law relating to careless and dangerous driving.

*Prosecution and court process*

54. Several of our witnesses considered the process of bringing prosecutions was deeply coloured by the view that crashes were in effect “accidents”, for which no one was to blame. RoadPeace told us that it was impossible to trace what happens in cases where road users were killed or seriously injured, because the statistics are not kept in such a way as to allow the outcome to be tracked. We asked the CPS and the Home Office whether they had figures. The CPS told us they did not. The Home Office reply confirmed that although the DfT had statistics about the number of deaths and injuries on the road network, it did not keep statistics about how many incidents were involved, or whether criminal proceedings followed. Although Home Office statistics referred to offences rather than incidents, they did not specify where an offence was committed, and unless the offence was specifically one of causing death, did not record whether there was an associated death or injury.

**Policymaking needs to be underpinned by good data. Statistics should be collected in a way which makes it possible to track not only the number of those killed and seriously injured on the roads, but the number of crashes which result in criminal prosecutions and the outcome of those court cases. This would enable at least a cursory analysis of the effectiveness of the criminal justice system.**

55. Such evidence as does exist suggests that a high proportion even of fatal crashes do not result in court proceedings. For example, the Metropolitan Police told us that of 18 fatalities in their area involving cyclists last year, 2 had been classified as accidental deaths and six were “NFA’d”; classed as “not for further action”. Similarly, 66 of the 125 deaths involving pedestrians were either classed as accidental death or “NFA’d”. Since 57 cases were still on going, the proportion of cases in which no court action was taken may be still higher.45

56. The relatively low proportion of serious cases which come to court would not cause concern if the quality of crash investigation and any subsequent legal proceedings was beyond question. There will always be some crashes which are genuine “accidents”; the

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45 E-mail from Inspector Phil Thwaites. Not printed.
important thing is that the public is confident that proper investigation takes place, and that legal proceedings are brought whenever appropriate. Victims and their relatives, and the organisations campaigning for victims, clearly have no such confidence. They appear to be right.

Investigations

57. ACPO has produced an admirable Road Death Investigation Manual. Its Foreword notes that “in many circumstances the investigation of a road death is equivalent in complexity to that of homicide – indeed many road deaths should be treated by police as homicides.”46 The Road Death Investigation Manual complements the Murder Investigation Manual, and “should be seen as forming a suite with it”.47 However, our witnesses had no confidence that the police would properly investigate cases in which harm had been caused, particularly when vulnerable road users had been injured.48 We were given instances of cases in which it was alleged that the police had automatically assumed that a cyclist or pedestrian, rather than a driver, was at fault; in which evidence and witness statements were not promptly collected; and in which police could not be persuaded to take an interest even though, in some cases, serious injury had occurred.49 There were suggestions that some forces did not have the investigative skills they needed.50 Commander Kaye was clear that “the same resources are not applied to fatal road collisions that would be applied to a stranger murder” although he also pointed out that in the case of road deaths the police frequently have a clearer idea of the circumstances surrounding the death, and have access to the murder instrument.51

58. The Association of Chief Police Officers’ Road Death Investigation Manual sets out admirable principles, which should be applied to cases of serious injury, as well as death. But the best manifesto in the world will not produce results unless individual forces and individual police officers take road deaths and injuries as seriously as they take cases of manslaughter or grievous bodily harm. From the evidence we received, it is clear that in many cases they do not.

The role of the CPS

59. Many of our witnesses were also critical of the role of the CPS.52 Some of this criticism was linked to the law on traffic offences, which is beyond the CPS’s control. But there were also criticisms of the way in which the CPS carried out its responsibilities. Representatives of RoadPeace were concerned that the CPS would generally tend to use charges of careless driving rather than of dangerous driving to increase the chances of conviction.53 This meant that the penalties were inappropriately low. Those who had been involved in serious

46 Road Death Investigation Manual, National Police Training 2001
47 Ibid., Foreword
48 TLE 08
49 TLE 03, TLE 18, TLE 44
50 TLE 56
51 Q 196
52 TLE 06, TLE 42, TLE 50
53 Q 7-8, and see TLE 60
cases criticised the lack of explanation the CPS gave for its choice of charges. There was also criticism that the CPS lawyers lacked the expertise to challenge the expert witnesses brought by insurance companies.

60. The Road Traffic Act 1988 distinguishes between careless driving, which occurs when the standard of driving is “below what would be expected of a competent and careful driver” and dangerous driving, where the standard of driving is “far below” what would be expected. There is no statutory definition of what is meant by these terms, and so the Charging Standards agreed between the police and the CPS are extremely influential in deciding what charges will be brought. The Director of Public Prosecutions told us that a new set of Charging Standards was being drawn up, but they have not yet been published.

61. The existing charging standards certainly provide ammunition for those who believe that drivers are expected to display lower standards of care than other users of dangerous equipment. The standards for dangerous driving appear reasonable; they invite those making the decision to “consider whether the act of driving concerns was undertaken deliberately and/or repeatedly” and contain examples such as “racing or competitive driving”; “speed which is highly inappropriate for the prevailing road or traffic conditions”; and “aggressive or intimidatory driving”. However, they must be taken together with the charging standard for careless driving, which includes such behaviour as “overtaking on the inside”; “driving through red traffic light”; “turning into a minor road and colliding with a pedestrian”; and “reading a newspaper/map”. The standard notes that “the above examples explain the driver’s conduct rather than demonstrate a course of driving which necessarily falls below the objective standard of the driving itself”, but although it invites the prosecutor to consider whether a charge of dangerous driving would be appropriate, it is clear that “usually [sic] when this conduct occurs the appropriate charge will be” careless driving.

62. The charging standard claims that assessment of driving behaviour must be “objective”; it is hard to see what could be more objective evidence of a dangerous course of behaviour than actual injury to another road user, particularly when rule 146 of the Highway Code stipulates: “watch out for pedestrians crossing a road into which you are turning. If they have started to cross they have priority, so give way”. The promised revision of charging standards must start from a wholesale reconsideration of the standards, not minor amendments. Some of the existing standards appear unduly lenient. For example, we believe it is unreasonable that conduct such as turning into a minor road and colliding with a pedestrian should usually be considered as the lesser offence of careless driving.

63. The revision of charging standards must also ensure that more cases are brought in the Crown Court rather than in magistrates’ courts. This is not just to emphasise the seriousness of the offences. In cases of causing death by dangerous driving, dangerous driving or causing death by careless driving while under the influence of drink or drugs, it is possible for a jury to find the accused not guilty of the offence charged but guilty of some other offence. A charge of careless driving means that the perpetrator is tried before a magistrate’s court, and there is no opportunity for a more serious charge to be

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54 TLE 31
55 TLE 30, TLE 31
56 Charging Standard, para 5.6
brought if the evidence suggests that it would be appropriate. More cases should be brought for juries, rather than magistrates, to decide.

64. The Metropolitan Police suggested that the standard for competent driving should be that identified in the Highway Code and that “when any assessment of bad driving is to be made the question [should be] ‘would the manoeuvre or series of manoeuvres have caused the driver to fail the driving test?’ If the answer is yes then the case for bad driving is complete.”57 This seems a far better benchmark than those in the charging standards.

65. Ken McDonald QC, Director of Public Prosecutions, told us that

We are taking a number of measures to improve the way in which we deal with road traffic fatality cases. .. the Charging Standard is being revised. In addition we are in the process of setting up a network of specialist prosecutors linked to the CPS areas. They are required to keep an overview of the relevant cases in the particular Area, offer practical advice and assistance to colleagues, and, where appropriate, provide a second opinion. We are also constantly striving to improve the way in which we deal with victims and witnesses. For instance if a fatality is involved, the CPS will offer the family a meeting in which to explain our decision if we decide not to commence a prosecution.

66. We welcome the fact that Crown Prosecution Service is trying to improve the way in which it deals with road traffic cases. It should be extended: injured victims must also be informed how their cases will be handled. Of course, these explanations would be more acceptable if the charging standards were revised as we have recommended.

4 Unlicensed and Uninsured Drivers

67. One of the questions addressed in our inquiry was “what impact do uninsured, unlicensed and banned drivers have on traffic enforcement”? Unsurprisingly, there is a great deal of overlap between these groups. It is estimated that around 470,000 drivers on Britain’s roads do not possess a valid driving licence58 and that 5% of drivers are uninsured.59 In addition, “unlicensed drivers commit 9.3 per cent of all motoring offences. It can also be seen that unlicensed drivers committed nearly a quarter of all insurance offences and almost half of all theft or unauthorised taking offences.”60

68. The Government commissioned a study of the problem of driving without insurance by Professor David Greenaway of the University of Nottingham, which was published in July 2004. Professor Greenaway’s report is excellent, and contains many suggestions for work with the insurance companies; we know from our own evidence, that the insurance industry is eager to help in reducing this problem. However, it is notable that Professor Greenaway’s recommendations for changes to the penalties for driving without insurance contain much that has been said before, in more general contexts.

57 TLE 41
58 Road Safety Research Report No. 48, Research into Unlicensed Driving Final Report, November 2003, Table E1
59 Uninsured Driving in the United Kingdom: a Report to the Secretary of State for Transport, Professor David Greenaway, July 2004, para 3.5
60 Road Safety Research Report number 48, para 3.2.8
69. Professor Greenaway produced ample evidence to support the evidence we received that such drivers present a high risk to other road users. In addition, uninsured drivers impose costs on honest motorists whose premia are increased to cover the £250 million levy for the Motor Insurers’ Bureau (which provides compensation to those injured by uninsured drivers) and the costs which fall directly on insurance companies, which cannot as yet be accurately estimated.61

70. Professor Greenaway has produced a number of recommendations, and the Department for Transport has already announced that it plans to:

- Give the police the power to seize and, in appropriate cases, destroy vehicles that are being driven uninsured,
- Link the DVLA’s Vehicle Register and the Motor Insurance Databases, allowing police to know which vehicles on the road are uninsured,
- Allow fixed penalties for people who ignore reminders that their insurance has expired.

It is also working on

- Concerted action by insurance companies to continue to improve the Motor Insurance Database,
- Simpler and clearer notification procedures so that no one is in any doubt when their insurance expires,
- Automatic reminders sent out to those motorists who forget to insure on time.62

71. Some of Professor Greenaway’s recommendations were addressed to the industry, rather than to government. The person who drives without insurance is likely to be a young male. Professor Greenaway found that annual premia for an 18-year-old driving a “middle-aged” small car could range between £1,378 to £2,317.63 Our Internet survey found premia of over £4,000 for a male 18-year-old in London. Professor Greenaway recommended:

> The insurance industry should continue to develop products which price young drivers into the market earlier, provide incentives to them to gain driving experience and see the benefits of that experience in terms of the premiums they pay.64

We agree. **We all bear the costs of uninsured driving; the insurance companies should continue to look for innovative ways to bring young people into the market.**

72. We welcome Professor Greenaway’s work, which is a comprehensive examination of this important subject. However, the Department’s approach needs to be carefully considered to ensure that traffic law forms a coherent whole. Although the problem of driving without insurance is serious and needs to be addressed, it should not be seen in

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61 Ibid., paras 3.8-3.11
62 DfT Press Notice 2004/0111, 11 August 2004
63 Road Safety Research Report number 48, para 4.12
64 Uninsured Driving in the United Kingdom. Recommendation 6
isolation. There are very clear links between the unlicensed and the uninsured, and between those who commit other serious crimes. This is another case where a greater emphasis on traffic policing would bring wider benefits to society.

73. We consider that the law relating to unlicensed and uninsured drivers needs to be changed as a matter of urgency. In our view, there are two major points of principle. The first relates to the seriousness with which the law and the legal system treat these offences; the second to technical means of detection.

The legal system

74. The way in which the legal system treats those who drive without insurance, or those who drive while disqualified, only serves to reinforce the impression that crimes committed by drivers are somehow unimportant. All too often, penalties are likely to be feeble. The maximum sentence for driving while disqualified is six months imprisonment (12 months in Scotland), a £5,000 fine, discretionary disqualification, and six penalty points on the driving licence. Driving without insurance can be dealt with by a fixed penalty of £200, but the maximum penalties available to the courts are a £5,000 fine, discretionary disqualification and six to eight points on a driving licence. In practice, penalties are usually far below the maximum.

75. Even if insurance companies find ways to reduce the cost of insurance for young people, the fixed penalty of £200 for driving without insurance will remain trivial in comparison. Moreover, rather than accepting the fixed penalty, offenders may opt to go before a Magistrates court in the hope of receiving lower fines, since fines will be set at the level of an individual’s ability to pay. Mr Richard Rumbelow of Direct Line Insurance told us “the average penalty for uninsured driving through a court is roughly £150 compared with the average price of motor insurance, which would be £450”.65

76. As the Report on the Review of Road Traffic Penalties acknowledged, the levels of fixed penalties should not be beyond the financial means of the person who is able to tax, insure and maintain a motor car. While there might be special circumstances to be taken into consideration, mitigation would not normally be applicable. There would also be savings in court costs if offenders were dissuaded from opting for a court hearing.66 It cannot be right that it is cheaper to drive without insurance and to be caught than it is to purchase the proper insurance in the first place, as it is now. The Government has already accepted the principle set out in the Report on the Review of Road Traffic Penalties that “all offences amenable to fixed penalty treatment should be subject in the courts to minima equivalent to the fixed penalty”,67 it should implement it without delay. Ultimately, however, fines need to be higher than the costs of insurance.

77. Just as the current legal system cannot adequately deal with the uninsured, it fails to deal effectively with those who repeatedly drive while disqualified. Chief Superintendent Pattison submitted a chilling list of cases in which offenders had repeatedly driven without

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65 Q 83
67 Ibid., Proposal 22, p. 10
the appropriate qualifications. He began his research as a result of fatal road accident collisions. We find it notable that in one of the cases he cites, an offender was sentenced “to a total of six years imprisonment for burglary and the offences of dishonesty” but “for driving whilst disqualified and using a vehicle without insurance, he received three months concurrent and an Absolute Discharge respectively.”

The penalties available to deal with those who repeatedly drive without insurance or while disqualified must be increased to reflect the fact that these are not victimless crimes. Those who commit these offences are far more likely to crash than law-abiding drivers. They put other road users at risk and increase the costs borne by society.

Penalties

78. A common theme in our evidence was frustration at the fact that community-based penalties were not available for offences such as driving without insurance or driving while disqualified. Professor Greenaway recommends that a review should be undertaken of the non-fiscal penalties which could be made available to magistrates in dealing with uninsured drivers, and that vehicles used in such offences should be forfeited to the police. Both these issues were considered in the Review of Road Traffic Penalties. It proposed that a full range of community penalties should be available for motoring offences for which imprisonment is not presently an option. However, this has not been implemented. The Report on the Review of Road Traffic Penalties noted that the White Paper Justice for All announced the “introduction of a new customised community sentence to replace individual community penalties and give sentencers a menu of options which can be combined to form a single sentence”. A system like this would be attractive, because it could contain a measure of reparatory justice. Yet although the Criminal Justice Act 2003 made extensive provisions about community sentences ACPO told us:

“a broader range of penalties should be available to Magistrates’ Courts dealing with motoring offences. In particular a wide variety of community service type sentences, mirroring those already available for other offence categories, should be a standard outcome in motoring cases. This would ensure that the present, rather harsh, penalty regime could be somewhat softened and that more could be done to improve driving standards rather than merely punishing offenders. ACPO is disappointed that not much progress has yet been made on this proposal.”

79. Similarly, the Report on the Review stated that the Government believed that “there is considerable utility in, and support for, the use of forfeiture.” Nothing has yet been done. It would be better if the Government made progress with existing recommendations, rather than instituting narrow reviews into particular problems.

80. There must be a radical overhaul of the penalties available to magistrates to deal with driving related offences tried in their courts. The community-based penalties for driving related offences promised in 2002 are still not available. But community sentences alone do not demonstrate the seriousness of the offence or deter the repeat offender.
81. Courts should normally order the forfeiture of vehicles used by uninsured or disqualified drivers, except where these are taken without consent. This would reduce offenders access to vehicles to commit repeat offences, and deter those who abet such offences by allowing the use of their vehicle.

**Enforcement**

82. Professor Greenaway has also produced recommendations for greater use of automatic numberplate recognition, and the better integration of the Motor Insurance Database (MID). Once again, the issues raised go far wider than insurance alone. New technology has produced new means for enforcing the law, particularly relating to uninsured drivers and unregistered vehicles. Automatic numberplate recognition cameras can identify vehicles which are not on the DVLA’s database, and such unregistered vehicles can be stopped. In principle, the police then use the MID to cross check the status of the driver.\(^7\) However, as we discovered during our inquiry, there are doubts about the extent to which such cross-references are permitted by the Data Protection Act. This is not the only area where there are difficulties. As the Home Office consultation on *Modernising Policing* acknowledges, there are doubts about whether it is legal for civilian support officers to access the DVLA database.\(^7\) Transport for London told us that the Data Protection Act was preventing it giving the police information about people who repeatedly ignored penalties for such matters as bus lane infringement, even though it was highly likely that those concerned were also involved in a wide range of crime and antisocial behaviour, and the police confirmed that they would find such intelligence useful.\(^7\)

83. Section 29 of the Data Protection Act 1998 exempts information processed for the prevention or detection of crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty or of any imposition of a similar nature, from the first data protection principle (personal data must be processed lawfully and fairly and in accordance with the provisions of the schedules to the Act). This exemption clearly has not prevented a great deal of uncertainty and confusion about what behaviour is or is not permissible. We do not know whether this is a direct result of the Act itself, or of the way in which it is being interpreted and applied, but a law which can give rise to such uncertainty is in itself unsatisfactory.

84. A comprehensive data protection system is essential to protect citizens from the excesses of the state. However, the current framework is ill-suited to circumstances where there is a “family” of enforcement agencies, and many traditional police functions are carried out by civilians, or even non-police agencies. It prevents enforcement agencies from exchanging information which would increase their efficiency. The law should make clear that public authorities which enforce the law, in the widest sense, can exchange data about individuals. This is a sensible way to deal with the transfer of enforcement responsibility from the police to other public bodies. Decriminalisation should not mean that the police lose access to information they

would otherwise possess. In particular, we see no reason why enforcement agencies should not share information about unpaid civil penalties. The police should also be given access to the Motor Insurance Database, since they already have the power to demand insurance documents.

5 Speed

85. In 2002 our predecessors on the Transport, Local Government and the Regions Committee conducted an exhaustive inquiry into Road Traffic Speed.\textsuperscript{73} We do not wish to conduct that inquiry again; in our view its conclusions remain valid, and we welcome the fact that many of its recommendations have been implemented. Accordingly, although we note that many of our witnesses strongly supported the use of speed limiters to automatically enforce speed limits,\textsuperscript{74} we have not re-examined this in detail. Nonetheless the treatment of speeding offences remains important. Most controversy attaches to the use of cameras to detect speeding motorists, and it is notable that although fixed cameras first attracted controversy, there is now a wide spread view that mobile police enforcement is also somehow “cheating”. Certain sections of the media persist in regarding speeding offences as trivial, and enforcement of speed limits anywhere other than at high risk sites as a tax on the otherwise law-abiding public.

86. Speed limits are not arbitrary. As recently as March 2000 the then Department of Environment, Transport and the Regions published New Directions in Speed Management: A Review of Policy. It did not recommend blanket changes in national speed limits, but recommended revision of guidance on local limits to achieve appropriate, consistent standards across country. In other words, speed limits have been recently assessed. It is true that most readers could suggest places where the speed limit is inappropriate. However, Dave Sherborne, Road Casualty Reduction Manager of Leeds City Council, noted that “the vast majority (over 95%) of the requests for speed limit changes being received by Highway Authorities are for reductions.”\textsuperscript{75}

87. It is important to reiterate basic facts and principles.

- there is a clear relationship between excessive speed (which may sometimes be within the legal limit) and the frequency of crashes. The fact that excessive speed is frequently noted as a contributory factor in crashes, rather than a precipitating one, does not mean that speeding is unimportant, or that it has no effect on the severity of the outcome

- there is a direct relationship between the speed of a vehicle and the severity of injuries. At 40mph, 90% of people hit by vehicles die, compared to 20% at 30mph (at 20mph it is just 2.5%).\textsuperscript{76}

\textsuperscript{73} Ninth Report of Session 2001-02, HC 557-I
\textsuperscript{74} see, for example, TLE 08, TLE 10, TLE 12, TLE 17, TLE 20, TLE 47
\textsuperscript{75} TLE 32
\textsuperscript{76} Department for Transport, Managing Speed on our Roads
• the enforcement process allows a significant margin to ensure that drivers are not convicted because of the speedometer error or because of inaccuracies in the equipment used.

Mr Brunstrom told us that the current margin was 10% plus 2 miles an hour; that means that the effective limit in a 30 miles an hour zone is 35 miles an hour; the effective limit on a motorway is 79 miles an hour. The Government needs to publicise more effectively the fact that drivers who receive automatic penalties for speeding have not committed a minor transgression but have significantly exceeded the speed limit. For example, the enforcement threshold means they will have been travelling at least 35mph in a 30mph zone. This difference is not trivial; it means the difference between life and death for many of those involved in collisions. The thresholds for higher speeds are even more generous.

88. The controversy has risen in part because more people are being fined for speeding as extra funding has been provided for enforcement by safety camera partnerships through the fines levied on offenders themselves. The Government attempted to reduce this controversy by introducing guidelines to link the new cameras with safety. Cameras funded by the safety partnership must be clearly signposted and painted yellow. Although it is permissible for up to 15 per cent of camera time to be used in areas where there is local concern, most cameras can only be placed at the locations where there is a demonstrable safety benefit. For static sites there must have been at least four collisions resulting in death or serious injury per kilometre in the last three calendar years, and eight personal injury collisions (including the four collisions above) and, outside rush-hour, at least 20% of drivers must exceed the speed limit.

89. The attempt to make speed cameras more acceptable through tough guidelines on their use has backfired. It would have been better to reiterate the simple message that speeding is dangerous, breaking the speed limit is illegal, and that those caught speeding would be punished. The difficulty with the conditions attached to safety partnership cameras is that although they direct resources to where the safety benefits should be greatest, in practice the guidelines have reinforced the supposition that speeding is only really illegal in particular places. Mobile speed patrols, which, if not funded by the partnerships, need not conform to guidelines are often now portrayed as an illegitimate means of law enforcement.

90. Critics considered the guidelines on where cameras should be sited to be entirely inadequate. Mr Jack Pease gave the example of his road, in which speeding was common, but the accident rate was likely to be low because vulnerable road users had been deterred from using the space. Others spoke of the difficulties in waiting for a significant number of deaths and serious injuries to occur before action could be taken.

91. It is clear that the guidelines have opened up a debate about whether or not particular cameras are properly sited. The Government has recently asked each partnership to audit the siting of its cameras. The overwhelming majority, were found to conform to the guidelines. The Police Foundation raised a slightly different issue. It was concerned that
information about the locations of accidents was not sufficiently precise to be sure that cameras conformed to the guidelines. Their suggestion was for global positioning satellites to be used to ensure locations were given correctly. Ensuring that speed cameras are generally located at high risk sites is a useful way of ensuring that maximum safety benefits are gained. However, it is more important to devote resources to road safety than to expensive means of ensuring that each camera is in a location where exactly the right number of accidents have taken place on exactly the right length of road in exactly the right period.

92. The guidelines for use of safety cameras have had perverse effects. Cameras can only be used if “there has been a site survey by a road safety engineer and there are no other obvious, practical measures to improve road safety along this stretch of road.” We cannot think of any other case where society as a whole is expected to bear the costs of lawbreaking, and effective law enforcement is only deployed as a last resort. In addition, camera safety partnerships are prevented from taking action against speeding traffic by artificial constraints. These mean that most cameras can only be operated once several people have been killed or injured. The guidelines must be amended.

93. Some motoring organisations have been particularly vociferous about the possibility that speed cameras are not being placed in accordance with the guidelines. The AA Motoring Trust told us:

Our questions are not accurately answered as to what the casualty reduction figures actually are for this partnership, what the revenue has been, why are mobile cameras being used in the particular way they are being used when we know there is a revenue shortfall. We do have real concerns. The public is not completely wrong when it is suspicious about the way these partnerships are working.79

We pressed them to explain what they meant by this. Eventually we elicited the reply:

We believe that there are cases where the partnerships are not following the guidelines.80

Even so, the Trust was unable to identify any sites which did not conform to safety camera partnership criteria. Breaking the speed limit is illegal for good reason, whether or not it is at a high-risk site. We believe that the criticisms motoring organisations level at speed enforcement are based on prejudice and anecdote rather than fact: the organisations create a cycle of scepticism. Playing back their members’ claims that the policies are not being properly implemented without any check on the facts gives spurious respectability to unsupported assertions. They need to produce evidence if they want their case considered seriously by this Committee.

Signs

94. We do, however have sympathy with those who consider that speed limits are not always adequately indicated. Our predecessors recommended that repeater signs should be
permitted in 30 mile an hour zones and that the “derestricted” sign should be replaced by a sign indicating the speed limit. The Government rejected this on the grounds that drivers should be aware of the speed limits, and that different speed limits were often applied to different types of vehicles, and indicating a single limit would be misleading. Nonetheless, although in principle drivers should be aware that the national speed limits for cars are 70 miles an hour on divided dual carriageways or motorways, 60 miles an hour on single carriageway roads and 30 miles an hour where there is street lighting and there is no other speed signposted, in practice many are not. This is one case where the Government should recognise the need to compromise its principles. Speed limits need to be better signposted. At the very least, speed camera warning signs should indicate the speed limit in force for cars. The existence of different speed limits for other vehicles is no excuse not to do this; we believe professional drivers of buses and HGVs should reasonably be expected to know when their speed limits are different from those for cars.

The Government’s proposals

95. The road safety proposals Mr Jamieson presented to us in June contained a number of proposals relating to speed:

- Variable tier fixed penalties
- Driver re-training courses as a court disposal
- Penalty for not identifying driver
- Speed enforcement detection and jamming devices
- Speed exemptions

Variable tier fixed penalties

96. The Government proposed that there should be a wider range of fixed penalties and that, as a quid pro quo for enabling higher fixed penalty of six points to be applied in cases where the speed limit is breached by a wide margin, there should be circumstances in which the penalty was only two points. We asked Mr Jamieson to suggest such circumstances. The only example he could produce was cases where drivers triggered four cameras in such a short time that they received the penalty notices together, and had no chance to adjust their behaviour. The Minister admitted that he was not convinced of the merit of such an example. We see no clear reason to reduce the penalty for someone who, in the example given, habitually breaks the speed limits. If there are special circumstances for doing so, the driver has the option of appearing in court to explain. Those of our witnesses who commented on the Government memorandum strongly opposed this proposal.
97. The Government has now published its proposals for variable penalties. **We support the proposal that there should be a higher fixed penalty for drivers who exceed the speed limit by 25% plus 6 miles an hour allowing for speedometer error.**

98. The consultation document also suggests that lower penalties should apply “at speeds below the speed limit, plus 12.5%, plus 6 mph (to allow for the technical limitations of speedometers).” In practical terms this means enforcement would be as follows:

**Table 2: Proposed Government penalties for speeding**

<table>
<thead>
<tr>
<th>Speed (mph)</th>
<th>Lower penalty - 2 points and £40 fine</th>
<th>Standard penalty - 3 points and £60 fine</th>
<th>Higher Penalty - 6 points and £100 fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Speed up to and including (mph)</td>
<td>Speed at or above (mph)</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>No lower penalty for speeding in 20 mph zone</td>
<td>Up to and including 31 mph</td>
<td>32</td>
</tr>
<tr>
<td>40</td>
<td>39</td>
<td>40 – 44</td>
<td>45</td>
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<tr>
<td>50</td>
<td>50</td>
<td>51 – 56</td>
<td>57</td>
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<tr>
<td>60</td>
<td>61</td>
<td>62 – 69</td>
<td>70</td>
</tr>
<tr>
<td>70</td>
<td>72</td>
<td>73 – 81</td>
<td>82</td>
</tr>
</tbody>
</table>

99. Although the consultation paper does not indicate why there is no lower penalty for speeding in a 20 mile an hour zone, we assume it is because of the strong links between speed and the severity of injuries in a crash. If so, the same logic must apply to speeds between 30 and 40 miles an hour, where the severity of any injury increases dramatically with increases in speed. Moreover most deaths and injuries to vulnerable road users occur on built up roads.83 **We reject outright the Government’s suggestion that there should be lower penalties for speeding in built-up areas or villages.** Exceeding a low speed limit is even more serious than exceeding a higher speed limit, because it increases so significantly the risk of death in an accident: 50% of pedestrians hit at 30mph will live; 90% of pedestrians hit at 40mph will die. We do not understand how a Government which professes to practice evidence-based policy-making could even contemplate such a change.

100. In evidence submitted to us long before the consultation, the Slower Speeds Initiative drew to our attention the case of “D”, a nine-year old boy who was killed by a speeding driver in a 30 mph residential area. Although the crash investigation established the driver was travelling at 38 mph when D was hit, there was no prosecution because the enforcement threshold at that time was in excess of 38 miles per hour. The Slower Speeds Initiative commented on the apparent lack of understanding that although the crash might still have occurred if the speed limit had been observed, there would have been a 50% chance of D’s survival. It also noted that this case suggested “a standard of behaviour and vigilance [was] expected of the child that was in effect far higher than that expected of the driver”.84

101. **Reducing penalties for “minor” breaches of the speed limit will affect victims in two ways. First they increase the likelihood that no action will be taken if someone is**
killed or injured as a result of such a breach. Secondly, even if action is taken, the courts will treat the offence less seriously. The sentencing guidelines already say speed may currently only be taken into account if it is extremely excessive, despite the clear links between speed and crash severity. The courts should consider less dramatic speed infringements as aggravating factors, and increase penalties and sentences accordingly. This should be the case even if the Government persists in reducing speeding penalties.

102. We reject the suggestion that lower penalties should generally apply to infringements of higher speed limits; the margins for enforcement are already generous enough. The exception might be relatively minor speed infringements on motorways where a lower penalty might be useful in certain clearly limited circumstances.

103. Variable penalties are only meaningful if speed limits are in fact enforced. The Government’s proposals for lowering some penalties should logically be accompanied by increased enforcement.

Speed awareness courses

104. Currently, some police forces offer speed awareness courses to drivers caught speeding, as an alternative to penalty points. The driver bears the costs of such courses. The Government’s memorandum noted that “the Association of Chief Police Officers is actively working on a national scheme, designed to ensure consistency in courses’ content and rigour” and indicated that the Government “shares the view that, appropriately used, speed awareness training can be an effective way to achieve the objective - people who learn to stop speeding, and drive or ride safely.” It must be better to ensure that drivers have the opportunity to change their behaviour before they are disqualified by offering them suitable training, rather than by simply reducing current penalties for repeat offenders. We recognise that there could be administrative difficulties in ensuring that speed awareness courses were offered to those who would otherwise face disqualification but this cannot be an insuperable problem. We consider that more use of speed awareness courses as a police disposal would be a better means of dealing with speeding than changing the penalty system to reduce the number of drivers who find themselves facing disqualification as a result of “totting up” fixed penalties.

Driver re-training courses as a court disposal

105. The more that drivers can be educated to understand the effects of their speed the better. We therefore support the Government’s proposal “to make provision for magistrates to offer approved driver re-training courses to the more serious speed offenders which come to court, in return for a reduction in disqualification or penalty points”, as long as the courses are more rigorous than those offered as police disposals.

Penalty for not identifying driver

106. We support the proposal to bring the penalties for failing to identify who was driving a vehicle in line with those for speeding. The Government should ensure that
the penalty for failing to identify the driver is never lower than that for the offence in question.

**Speed enforcement detection and jamming devices**

107. The Government is proposing to ban the sale of devices which would jam speed cameras, or identify which cameras were in use. We asked the Minister why the ban did not extend to ban mapping devices which showed the locations of speed camera casings, rather than whether or not particular cameras were active. We were not entirely convinced by his response:

> having a piece of equipment, either on the website or having a map showing where they are, I think is a good thing because those are the very places where we want people to be particularly careful about the speed at which they are travelling.86

The location of speed cameras casings is a matter of public record, although using an electronic device to check the location of speed cameras while driving could be dangerous in itself. **We strongly support Mr Jamieson's proposal that devices which detect or jam live speed cameras should be banned. Maps and devices showing camera locations repeat information which is already publicly available, but enforcement agencies should ensure they take action against motorists whose driving is impaired when they try to use a mapping device.**

**Speed exemptions**

108. The Ambulance Service Association draw attention to the difficulties caused by the inconsistent application of the term “ambulance purposes” for traffic law exemptions, particularly on fixed penalty notices for speeding and for emergency driver training on public roads.87 The Association also told us that

> although all NHS Ambulance staff undertake the national training, drivers with some non-NHS ambulance services do not have similar training but are permitted, through the ‘ambulance purpose’ rules to disregard speed limits and to use blue lights and audible warnings.88

The British School of Motoring also stressed that those given exemptions from the speed limit should have proper training.89

109. The Government memorandum notes

> 39. At present, only vehicles used by the emergency services (fire brigade, police and ambulances) are permitted to exceed speed limits. It would be desirable to extend this exemption to a limited number of other vehicles when used in an emergency, particularly hospital vehicles which are not classed as ambulances,
including those used for blood donor purposes or transporting organs for transplant. The proposal could also include Army bomb disposal vehicles not accompanied by a police escort and Customs officers carrying out police functions.

40. The current proposal relates to speed limits, but it would seem logical for similar exemptions to apply in respect of traffic lights and pedestrian crossings. The Department is giving further consideration to this issue, but would welcome views.

41. The complexities of the issue would make it difficult to amend the primary legislation to encompass all the requirements. We are therefore seeking an enabling power under which the Secretary of State would make an Order containing provisions about the types of vehicle which must be used and the conditions under which they must be used (e.g. driver training, livery and lighting).

110. Changes in the way in which medical services are provided, and indeed even in what is medically possible, mean that the current definition of “ambulance services” is inadequate. There are other emergency functions, such as bomb disposal, which are not adequately defined in current legislation. Since the medical and other emergency services are not adequately covered by the definitions in the current legislation, we support the proposal to allow the Secretary of State to grant exemptions from the law relating to speed on a case by case basis. When such exemptions are granted, the drivers of the vehicles must be adequately trained, and the vehicles must be clearly marked and have emergency lights. The Highway Code must make clear how other drivers should respond when all emergency vehicles approach.

111. ACPO, the Home Office and the Health service have agreed a national protocol to ensure that ambulance services do not have to waste resources challenging such notice. We trust that this proves effective and is applied to other emergency vehicles as necessary. The Government might also wish to consider whether it would be possible to allow some emergency driver training to be undertaken on public roads.

6 The Strategic Road Network

112. When we began this inquiry one of the key questions was “how will changes in responsibilities, such as that announced on 20\textsuperscript{th} June, affect road safety and effective law and enforcement.” The announcement to which we referred was that certain functions of the strategic road network were to be transferred from the police to the Highways Agency. The legislation to enable this transfer has now been passed in the Traffic Management Act 2004 which creates a new class of “traffic officers”, who share with the police power to direct traffic, place traffic signs and remove vehicles on the strategic road network.

113. In December this year we reported on the Traffic Management Bill.\textsuperscript{90} We noted the following concerns:

- “Traffic officers will have responsibility for clearing wreckage rather than ensuring that offences have not been committed; as long as no one is hurt or seriously injured criminal behaviour may go unpunished;
The need to call in police to incidents where criminal behaviour is suspected may in fact add extra delay to the process of investigating and clearing incidents;

The transfer of responsibilities may lead to an inappropriate reduction in the policing of the strategic road network;

The transfer may lead to a tension between those with responsibility for keeping traffic moving and those responsibly for investigating at the scene of road crashes.\(^{91}\)

114. In raising these points, we reflected the evidence we had already received in this inquiry. We were struck by the extent to which traffic police feared that the proposals would mean “a massive reduction in the level of roads policing on strategic roads” and that offences would become commonplace as drivers realised enforcement had been reduced.\(^{92}\) However, it should be noted that responses were mixed; for example, the Freight Transport Association considered that the reduction in the resources the police devoted to the strategic network had resulted in an increasingly long time taken to clear up incidents, and welcomed the new policy.

115. Although the legal framework is now largely in place,\(^{93}\) Traffic Officers currently operate only in the Birmingham motorway box. The Highways Agency plans a gradual rollout. We were impressed by the cooperation between Highways Agency staff and the Central Motorway Police Group that our Chairman observed in June, but at present Highways Agency Traffic Officers have a very limited role. It will not be possible to evaluate the effect of this change in policy for quite some time.

116. The police and Highways Agency currently work in accordance with a formal agreement setting out the organisations’ roles and responsibilities in some detail.\(^{94}\) The agreement specifies that “The police will retain the lead in all incidents requiring the powers and skills of a police officer and the general responsibilities of the police service.” As the experience of the Highways Agency Traffic Officers grows, more incidents are likely to be dealt with by Highways Agency officers. It is notable that in the longer term there are plans that management and investigation of fatal and serious collisions, and management and investigation of minor collisions will become a shared responsibility, rather than one for the police alone. There is also confusion about whether the introduction of Traffic Officers will allow the police to devote more resources to policing of the strategic road network, or whether it will lead to a further reduction of police presence on the network.\(^{95}\) As things stand, this will be an operational matter for the Chief Constables concerned: there is likely to be pressure on them to reduce the resources they allocate to this area.

117. The current agreement between the Central Motorway Police Group and the Highways Agency gives the Highways Agency primacy in all incidents, including collisions on the hard shoulder or in a closed lane, “without injury or alleged offences”. The police

\(^{91}\) Ibid., para 4
\(^{92}\) TLE 06, TLE 09
\(^{93}\) some regulations are still needed
\(^{94}\) Highways Agency and Central Motorway Police Group, Detailed Regional Operating Agreement, 24 March 2004
\(^{95}\) TLE 35
are expected to assume the lead “if the need for police intervention becomes evident.” Whether injury has occurred is not always apparent at the scene of a crash, and it is clear that even now there will be cases where it will be left to Traffic Officers to decide whether there is a need for police intervention.

118. **We remain concerned that the transfer of incident management responsibilities to non-police traffic officers will reduce the police presence on the strategic road network. We also fear that too much priority will be given to minimising the disruption accidents cause other motorists, and too little to proper investigation of offences which may have been committed.**

**Use of the hard shoulder**

**Hard shoulder running**

119. The Highways Agency is currently considering a number of experiments intended to establish whether hard shoulder running is a safe way of securing extra capacity on the roads. Many of our witnesses were extremely concerned about this prospect. The Ambulance Service Association told us that “the loss of the hard shoulder, even if accompanied by reduced speed limits, would compromise ambulance response times to incidents on motorways and increase the risk to ambulance crews at incident sites.” The Royal Society for the Prevention of Accidents also feared that emergency vehicles could lose access to incidents, and the AA Motoring Trust also considered that the change could compromise safety. Mr Bizley of RAC Motoring Services told us that even though motorways were statistically among the safest roads in Britain, 250 people a year were killed or seriously injured on the hard shoulder, including two or three breakdown recovery operators. RAC Motoring Services told us that “RAC statistics reveal that over 75% of motorway breakdowns attended by us are catastrophic, i.e. the vehicle has to come to an immediate stop… this suggests that emergency refuge areas are unlikely to provide a safe haven for many of those who break down” and that “Highways Agency research suggested that vehicles involved in collisions on the hard shoulder have been parked there for an average of only 11 minutes.” We would need very robust evidence to convince us that the hard shoulder could be used as a running lane. Not only is it necessary to have a safe refuge in case of a sudden breakdown, but the hard shoulder also provides access for emergency services. Most proposals suggest that the hard shoulder could be used to provide extra capacity at peak periods; the weight of traffic would give great difficulty to emergency vehicles trying to reach incidents at such times. Motorways are the safest roads in Britain; the Government should ensure they remain so.

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96  Detailed Regional Operating Agreement, 1.1.2
97  TLE 61
98  Q 315
99  TLE 36
100 Qq 74-5
101 TLE 42
Use of the hard shoulder by breakdown services

120. RAC Motoring Services told us there was great inconsistency between different police forces as to whether breakdown services could use the hard shoulder to reach their customers. The police or the network manager need to retain discretion about the use of the hard shoulder in particular circumstances, and we would not wish to undermine this. However, we can see no reason why the Metropolitan Police commonly allow the use of hard shoulders, while those in the North West do not. Vehicles on the hard shoulder are at risk themselves, and put other road users at risk. The presumption should be that if recovery services can only reach them by use of the hard shoulder the police or Network Manager would usually consent.

7 Preventing Harm: the Government’s road safety proposals

121. Much of this report, like much traffic policing, is concerned with how the legal system treats crashes, and in particular, how cases in which death or serious injury occurs should be properly handled. However, in an ideal world, potential offenders would be caught before harm was caused. Many of the proposals we have already discussed, such as a higher level of routine road policing, and more effective means to tackle bad driving, unlicensed and uninsured drivers would go some way to reducing the chance that bad drivers would go on to cause harm.

122. We have already discussed many of the proposals for changes in road safety law brought forward by Mr Jamieson earlier this summer, but the Department’s submission included some other measures which would have the effect of preventing or reducing the potential harm which can be caused by bad drivers, or by bad roads. In principle, we support such changes; we give our views on most here.

Better Roads

123. Two of the proposals brought forward have the potential to improve roads, rather than drivers. The Government proposes to change the law to allow more flexibility to fund local safety demonstration projects, and to allow the trial of motorway rest areas, such as the “aires” in use in France. We support these minor changes, although we note that, as Transport for London and the Safer Speeds Initiative pointed out, much is already known about road safety; the challenge is implementation, and finding funds for implementation, rather than research.

Drink driving

124. The Government proposes

- To allow evidential roadside breath testing;

- To introduce retesting before serious or repeat offenders are allowed to drive again, and to close a loophole which allows drink drivers who have applied for a medical certificate of fitness to drive before that certificate is supplied;
• To allow records of all drink drive related offences to be retained by the DVLA;

• To remove technical distinctions which inhibit courts from ordering offenders to undergo drink drive rehabilitation courses, and to allow more flexibility about the period within which an offender has to pay for such courses.

We support all these initiatives. It must be right to remove habitual drink drivers from the road until they have demonstrated that they are fit to drive. Drivers who attend rehabilitation courses are less likely to offend in future, and we support the Government’s aim of increasing the use of these courses. We have already expressed our concern at the reduction in police breath testing. Currently escorting someone over the limit to a police station for an evidential breath test can take over an hour. We hope that the introduction of evidential roadside testing will ensure that the number of breath tests administered each year increases, by reducing the burden on the police.

**Other bad driving**

125. In addition to increasing the penalties for careless driving, which we discuss in paragraphs 43-52 above, we support the Government’s proposal to make driving without proper control and using a mobile phone while driving endorsable offences. The prospect of penalty points on their driving licence should make people more careful in their own driving, and less tolerant of these behaviours in others. However, these offences must be enforced properly in order to capitalise on these effects.

126. The Government also proposes to introduce mandatory disqualification for a second or subsequent offence of using a vehicle in a dangerous condition. In principle, we agree that this is a serious offence, and repeat offenders should be punished, but we note that the Metropolitan Police Transport Operational Command Unit was concerned that the offence could cover vehicles with a wide range of defects, and care might need be taken to ensure that only serious offenders were caught.102

127. The Government proposes to standardise the penalties for non use of seatbelts so there is no difference in penalties between adults and children. This is a minor piece of tidying up which we do not oppose.

128. The Government should use any legislative opportunity this session to make community sentences generally available for driving offences. We have already noted the disparity between the fines which can be imposed for some breaches of traffic law and the costs of compliance. Such sentences would not only deal with this behaviour; used creatively they could force bad drivers to confront the possible consequences of their behaviour.

**Improving driving standards**

129. We agree that driver training is a key part of harm reduction. The Department proposes a package to improve driver instruction. The key elements are:
• “modernising the existing statutory scheme for car driving instructors
• allowing parallel statutory schemes to be introduced to quality assure professional instructors training on other types of motor vehicle (e.g. lorry, bus and motorcycle)
• a new raft of standards for driving schools, and the regulation of franchisees as well as employees.
• modernised provision of the qualifying exam for driving instructors so assessment is focused on the needs of the particular groups of instructors and is updated in the light of evidence.”

We agree in principle that it is worth improving standards of driver training. We suspect, however, that the way in which this is done will be worthy of great scrutiny, and expect that this will be in secondary legislation.

130. The Department’s memorandum also proposes “to extend the user-pays principle to all forms of test and assessment, to reflect the more modern methods of booking and taking driving tests and current business procedures”. It wants to allow instructors to pay a subscription which would enable them to book, rearrange or cancel tests on behalf of the candidates, and to charge administration fees for those who rearrange driving test appointments. It is not entirely clear to us why such a measure is considered to relate to road safety.

Support for enforcement - driver and vehicle licensing

131. The Department proposes a number of fines to make enforcement better. In addition to measures to make it easier to access insurers’ data, which we have discussed previously, they include:

a) Mandatory mileage recording
b) Registration of number plate suppliers
c) Fixed penalties for drivers with no current GB licence
d) International exchange of driver and vehicle data
e) Recall of paper licences
f) Seizure of fraudulent licences
g) Charges for licence related services

These seem acceptable changes, but we would need to be assured that the charges for renewal of photocard licenses would not be excessive.

132. Some of the legislative initiatives that were presented to us under the guise of road safety turn out to be cost recovery measures. Some deal with loopholes in the law which must have been long known. Even so, we support the bulk of the proposals. It is important to ensure that driving is safe, and a large number of relatively small legislative changes can do a great deal to secure this.
133. We agree that speedy legislation would be desirable on many of the issues the Department has identified. These include

- allowing use of driver training as a court disposal;
- making it easier for the police to access the Motor Insurers Database, and to exchange information with other enforcement agencies;
- closing the loophole which means certain drink drive offences are not recorded by the DVLA;
- introducing endorsements for driving without proper control of the vehicle.

Since such legislation is necessary, it is also likely to be effective to use this opportunity to introduce some of the other legislative reforms that the Department is proposing. Not all legislation can be eye-catching, and it is important that the desire to achieve the headlines does not mean that small but useful measures are crowded out of the legislative programme.

8 Conclusions and Recommendations

134. Over three and a half thousand people are killed on our roads each year. Motorists are well-resourced and vocal. They have the support of effective lobby groups and large sections of the press. Policy makers accordingly shy away from measures which seem “anti-motorist”, even when they would have clear benefits. The media attack better enforcement of existing traffic laws. Commentators suggest that speeding is acceptable because everyone does it. However, deaths which occur when traffic laws are broken are preventable. The public recognises this, and is intolerant of those it considers “really” bad drivers. For the families of the victims there is little difference between a death at the hands of an uninsured, unlicensed driver excessively over the speed limit, and a death which occurs because a lorry carelessly turns left over a cyclist, or because a child has been hit by someone an “acceptable” degree over the speed limit. Indeed, the hurt can be compounded if it appears that the legal system does not expect drivers to take responsibility for their actions, and does not recognise their culpability.

135. Police and the courts need to force negligent drivers to take responsibility for their actions. Policy makers must refuse to be bullied by the motoring lobby into dropping effective but controversial policies. The fact that drink driving is now socially unacceptable shows that the public’s view can be changed. The challenge is to make dangerous and negligent driving equally unacceptable.

136. The Government has suggested many sensible policies, such as the imposition of community sentences for driving offences, but it has not implemented them. The Department for Transport has brought forward changes to road safety law, but roads policing is still not part of the core duty of the police and the transfer of responsibility for the strategic road network from the police to the Highways Agency effectively accepts it will never be. This is fundamentally misguided: not only is enforcement the key to compliance with traffic laws, the evidence shows that dealing with traffic offences helps solve other, non traffic related crimes. In spite of the impression given by much of
the media, the driver who regularly commits traffic offences is not likely to be a hard
done by motorist, but a crook.

137. The action required is clear. Roads policing must be a priority of the National
Policing Plan. Individual forces are failing to implement ACPO policies; the Home
Secretary should use the powers to set performance targets and codes of practice
contained in the Police Act 1996. Existing traffic laws, including the laws on speed,
need to be properly and effectively enforced. There should be a radical overhaul of
existing offences to ensure negligent drivers can be properly punished. Where death or
injury is involved, it appears that police and prosecutors take a more lenient view of
drivers’ behaviour than does the general public. The courts should be able to impose
appropriate sentences for driving offences. Death or serious injury should not be
treated lightly just because it was caused by someone driving a car.

138. In the response to this Report we would like to be told:

• What the Government is doing to ensure the police give roads policing the priority
  it needs;

• What police forces themselves are doing, and how the effectiveness of this will be
  measured;

• What changes the Government will propose to ensure that crimes committed with a
  car are properly punished, and when;

• What steps will be taken to make sure that the legal system no longer fails victims
  and their families.

Legislation will be necessary to bring about many of the changes we, and the public,
demand. The Home Office must bring it forward urgently.

List of conclusions and recommendations

Work related road safety

1. We strongly support greater enforcement of the guidance on work-related road
safety, better reporting of work-related road incidents, and a proper study of the case
for an Approved Code of Practice on work-related road safety. (Paragraph 8)

Departmental priorities

2. The Government must introduce a proportionate and justifiable system of offences
and penalties. Basic principles should be established now, and need to be
implemented quickly. (Paragraph 14)

The Department’s recent proposals

3. We welcome the opportunity to discuss policy intentions at an early stage. It is a
creative way of attempting to bring the Committee into discussion in circumstances
when the Department does not have a draft bill for pre-legislative scrutiny. We await eagerly evidence that our contribution has influenced the Department’s thinking. (Paragraph 15)

**Roads policing**

4. Roads policing must be one of the strategic priorities of police work, otherwise it will not be properly valued and resourced. (Paragraph 22)

5. The evidence presented during our inquiry supports Her Majesty’s Inspectorate of Constabulary’s suggestion that “most forces saw road policing as a peripheral task, often seen by management as a repository of vehicles and officers to be redirected to ‘more important work’”. Some police forces are using roads policing as part of their wider strategy, and are taking the need to reduce road deaths and injuries seriously. They are leading the way. HMIC must ensure other forces follow. (Paragraph 27)

6. We are extremely disturbed by the reduction in the number of breath tests administered by the police. Reductions in traffic law enforcement by the police appear to be linked to the number of road casualties. Four times as many people die on the roads each year as are victims of homicide. Better enforcement would save lives. (Paragraph 30)

**Civil Enforcement**

7. The Government must issue guidance under section 87 of the Traffic Management Act to local authorities about the civil enforcement of traffic contraventions. Such guidance must: require that enforcement officers are properly trained; ensure “victimless” infringements, such as overstaying at a meter, are enforced only after a grace period; and set out the circumstances in which measures such as wheel clamping or towing away are appropriate. The guidance should also set out circumstances in which enforcers could properly exercise discretion. (Paragraph 34)

8. Enforcement by non-police agencies should not be an excuse for the police to reduce their work on traffic law still further. There will be many cases where a timely police warning about bad driving will be more effective than an automated demand for a large fine received after the event. (Paragraph 36)

9. The police and Crown Prosecution Service should bring charges of attempting to pervert the course of justice against those who fail to stop after serious crashes, or do not report them. (Paragraph 41)

10. The penalties for road traffic offences must match the penalties for other crimes against the person, and for crimes against property. Offenders must not face lower sentences, simply because their crime involved a car. (Paragraph 45)

11. There is an overwhelming case for a radical and urgent overhaul of serious motoring offences. We very much regret the Home Office’s delay in producing proposals for change, or even in publishing the Halliday report, nearly a year after it was expected. (Paragraph 50)
12. We recognise that some fatal crashes occur through no fault of the driver, and some are a tragic consequence of a momentary misjudgement. Far more crashes occur as a result of negligent behaviour. A single offence of “causing death/serious injury by negligent driving” should be created in any reform of motoring offences. Courts should have wide discretion over sentencing, which must depend on the full facts of each case. We are confident that the alleged difficulties of a broad offence can be overcome. Sensible enforcement of this offence would help secure justice for victims of negligent driving. It would also dispel the myth that road deaths are usually unfortunate accidents. (Paragraph 51)

13. Any reform of motoring offences should follow three broad principles:

- causing serious injury should be considered very serious;
- all cases which involve death or serious injury should be heard in the Crown Court, not magistrates’ courts;
- the gulf between the penalties available for causing death by dangerous driving and for other dangerous or negligent driving offences should be closed. In particular, there should be far higher maximum sentences available for some of the behaviour which is now classified as careless driving.

These changes would help make the sentence fit the motoring crime. They would prevent the derisory sentences which are handed down when the CPS brings inappropriate charges, or when the current guidelines pigeon-hole certain behaviour as less serious. (Paragraph 52)

14. The increase in the maximum penalty for careless driving from £2,500 to £5,000, proposed in the Department for Transport memorandum on possible changes to road safety law, can only be an interim measure. It must be followed swiftly by a fundamental overhaul of the law relating to careless and dangerous driving. (Paragraph 53)

15. Policymaking needs to be underpinned by good data. Statistics should be collected in a way which makes it possible to track not only the number of those killed and seriously injured on the roads, but the number of crashes which result in criminal prosecutions and the outcome of those court cases. This would enable at least a cursory analysis of the effectiveness of the criminal justice system. (Paragraph 54)

16. The Association of Chief Police Officers’ Road Death Investigation Manual sets out admirable principles, which should be applied to cases of serious injury, as well as death. But the best manifesto in the world will not produce results unless individual forces and individual police officers take road deaths and injuries as seriously as they take cases of manslaughter or grievous bodily harm. From the evidence we received, it is clear that in many cases they do not. (Paragraph 58)

17. The promised revision of charging standards must start from a wholesale reconsideration of the standards, not minor amendments. Some of the existing standards appear unduly lenient. For example, we believe it is unreasonable that
conduct such as turning into a minor road and colliding with a pedestrian should usually be considered as the lesser offence of careless driving. (Paragraph 62)

18. The revision of charging standards must also ensure that more cases are brought in the Crown Court rather than in magistrates' courts. This is not just to emphasise the seriousness of the offences. In cases of causing death by dangerous driving, dangerous driving or causing death by careless driving while under the influence of drink or drugs, it is possible for a jury to find the accused not guilty of the offence charged but guilty of some other offence. A charge of careless driving means that the perpetrator is tried before a magistrate's court, and there is no opportunity for a more serious charge to be brought if the evidence suggests that it would be appropriate. More cases should be brought for juries, rather than magistrates, to decide. (Paragraph 63)

19. We welcome the fact that Crown Prosecution Service is trying to improve the way in which it deals with road traffic cases. It should be extended: injured victims must also be informed how their cases will be handled. Of course, these explanations would be more acceptable if the charging standards were revised as we have recommended. (Paragraph 66)

Unlicensed and uninsured drivers

20. We all bear the costs of uninsured driving; the insurance companies should continue to look for innovative ways to bring young people into the market. (Paragraph 71)

21. It cannot be right that it is cheaper to drive without insurance and to be caught than it is to purchase the proper insurance in the first place, as it is now. The Government has already accepted the principle set out in the Report on the Review of Road Traffic Penalties that "all offences amenable to fixed penalty treatment should be subject in the courts to minima equivalent to the fixed penalty"; it should implement it without delay. Ultimately, however, fines need to be higher than the costs of insurance. (Paragraph 76)

22. The penalties available to deal with those who repeatedly drive without insurance or while disqualified must be increased to reflect the fact that these are not victimless crimes. Those who commit these offences are far more likely to crash than law-abiding drivers. They put other road users at risk and increase the costs borne by society. (Paragraph 77)

23. There must be a radical overhaul of the penalties available to magistrates to deal with driving related offences tried in their courts. The community-based penalties for driving related offences promised in 2002 are still not available. But community sentences alone do not demonstrate the seriousness of the offence or deter the repeat offender. (Paragraph 80)

24. Courts should normally order the forfeiture of vehicles used by uninsured or disqualified drivers, except where these are taken without consent. This would reduce offenders access to vehicles to commit repeat offences, and deter those who abet such offences by allowing the use of their vehicle. (Paragraph 81)
25. A comprehensive data protection system is essential to protect citizens from the excesses of the state. However, the current framework is ill-suited to circumstances where there is a “family” of enforcement agencies, and many traditional police functions are carried out by civilians, or even non-police agencies. It prevents enforcement agencies from exchanging information which would increase their efficiency. The law should make clear that public authorities which enforce the law, in the widest sense, can exchange data about individuals. This is a sensible way to deal with the transfer of enforcement responsibility from the police to other public bodies. Decriminalisation should not mean that the police lose access to information they would otherwise possess. In particular, we see no reason why enforcement agencies should not share information about unpaid civil penalties. The police should also be given access to the Motor Insurance Database, since they already have the power to demand insurance documents. In particular, we see no reason why enforcement agencies should not share information about unpaid civil penalties. The police should also be given access to the Motor Insurance Database, since they already have the power to demand insurance documents. (Paragraph 84)

Speed

26. The Government needs to publicise more effectively the fact that drivers who receive automatic penalties for speeding have not committed a minor transgression but have significantly exceeded the speed limit. For example, the enforcement threshold means they will have been travelling at least 35mph in a 30mph zone. This difference is not trivial; it means the difference between life and death for many of those involved in collisions. The thresholds for higher speeds are even more generous. (Paragraph 87)

27. The attempt to make speed cameras more acceptable through tough guidelines on their use has backfired. It would have been better to reiterate the simple message that speeding is dangerous, breaking the speed limit is illegal, and that those caught speeding would be punished. (Paragraph 89)

28. The guidelines for use of safety cameras have had perverse effects. Cameras can only be used if “there has been a site survey by a road safety engineer and there are no other obvious, practical measures to improve road safety along this stretch of road.” We cannot think of any other case where society as a whole is expected to bear the costs of lawbreaking, and effective law enforcement is only deployed as a last resort. In addition, camera safety partnerships are prevented from taking action against speeding traffic by artificial constraints. These mean that most cameras can only be operated once several people have been killed or injured. The guidelines must be amended. (Paragraph 92)

29. Breaking the speed limit is illegal for good reason, whether or not it is at a high-risk site. We believe that the criticisms motoring organisations level at speed enforcement are based on prejudice and anecdote rather than fact: the organisations create a cycle of scepticism. Playing back their members’ claims that the policies are not being properly implemented without any check on the facts gives spurious respectability to unsupported assertions. They need to produce evidence if they want their case considered seriously by this Committee. (Paragraph 93)
30. Speed limits need to be better signposted. At the very least, speed camera warning signs should indicate the speed limit in force for cars. The existence of different speed limits for other vehicles is no excuse not to do this; we believe professional drivers of buses and HGVs should reasonably be expected to know when their speed limits are different from those for cars. (Paragraph 94)

31. We support the proposal that there should be a higher fixed penalty for drivers who exceed the speed limit by 25% plus 6 miles an hour allowing for speedometer error. (Paragraph 97)

32. We reject outright the Government’s suggestion that there should be lower penalties for speeding in built-up areas or villages. Exceeding a low speed limit is even more serious than exceeding a higher speed limit, because it increases so significantly the risk of death in an accident: 50% of pedestrians hit at 30mph will live; 90% of pedestrians hit at 40mph will die. We do not understand how a Government which professes to practice evidence-based policy-making could even contemplate such a change. (Paragraph 99)

33. Reducing penalties for “minor” breaches of the speed limit will affect victims in two ways. First they increase the likelihood that no action will be taken if someone is killed or injured as a result of such a breach. Secondly, even if action is taken, the courts will treat the offence less seriously. The sentencing guidelines already say speed may currently only be taken into account if it is extremely excessive, despite the clear links between speed and crash severity. The courts should consider less dramatic speed infringements as aggravating factors, and increase penalties and sentences accordingly. This should be the case even if the Government persists in reducing speeding penalties. (Paragraph 101)

34. We reject the suggestion that lower penalties should generally apply to infringements of higher speed limits; the margins for enforcement are already generous enough. The exception might be relatively minor speed infringements on motorways where a lower penalty might be useful in certain clearly limited circumstances. (Paragraph 102)

35. Variable penalties are only meaningful if speed limits are in fact enforced. The Government’s proposals for lowering some penalties should logically be accompanied by increased enforcement. (Paragraph 103)

36. We consider that more use of speed awareness courses as a police disposal would be a better means of dealing with speeding than changing the penalty system to reduce the number of drivers who find themselves facing disqualification as a result of “totting up” fixed penalties. (Paragraph 104)

37. The more that drivers can be educated to understand the effects of their speed the better. We therefore support the Government’s proposal “to make provision for magistrates to offer approved driver re-training courses to the more serious speed offenders which come to court, in return for a reduction in disqualification or penalty points”, as long as the courses are more rigorous than those offered as police disposals. (Paragraph 105)
38. We support the proposal to bring the penalties for failing to identify who was driving a vehicle in line with those for speeding. The Government should ensure that the penalty for failing to identify the driver is never lower than that for the offence in question. (Paragraph 106)

39. We strongly support Mr Jamieson's proposal that devices which detect or jam live speed cameras should be banned. Maps and devices showing camera locations repeat information which is already publicly available, but enforcement agencies should ensure they take action against motorists whose driving is impaired when they try to use a mapping device. (Paragraph 107)

40. Since the medical and other emergency services are not adequately covered by the definitions in the current legislation, we support the proposal to allow the Secretary of State to grant exemptions from the law relating to speed on a case by case basis. When such exemptions are granted, the drivers of the vehicles must be adequately trained, and the vehicles must be clearly marked and have emergency lights. The Highway Code must make clear how other drivers should respond when all emergency vehicles approach. (Paragraph 110)

The strategic road network

41. We remain concerned that the transfer of incident management responsibilities to non-police traffic officers will reduce the police presence on the strategic road network. We also fear that too much priority will be given to minimising the disruption accidents cause other motorists, and too little to proper investigation of offences which may have been committed. (Paragraph 118)

42. We would need very robust evidence to convince us that the hard shoulder could be used as a running lane. Not only is it necessary to have a safe refuge in case of a sudden breakdown, but the hard shoulder also provides access for emergency services. Most proposals suggest that the hard shoulder could be used to provide extra capacity at peak periods; the weight of traffic would give great difficulty to emergency vehicles trying to reach incidents at such times. Motorways are the safest roads in Britain; the Government should ensure they remain so. (Paragraph 119)

43. Vehicles on the hard shoulder are at risk themselves, and put other road users at risk. The presumption should be that if recovery services can only reach them by use of the hard shoulder the police or Network Manager would usually consent. (Paragraph 120)

The Government’s road safety proposals

44. We support the Government's proposal to make driving without proper control and using a mobile phone while driving endorsable offences. The prospect of penalty points on their driving licence should make people more careful in their own driving, and less tolerant of these behaviours in others. However, these offences must be enforced properly in order to capitalise on these effects. (Paragraph 125)
45. The Government should use any legislative opportunity this session to make community sentences generally available for driving offences. (Paragraph 128)

46. We agree in principle that it is worth improving standards of driver training. We suspect, however, that the way in which this is done will be worthy of great scrutiny, and expect that this will be in secondary legislation. (Paragraph 129)
Formal minutes

The following Declarations of Interest were made:

Mrs Gwyneth Dunwoody, Member, Associated Society of Locomotive Engineers and Firemen

Mr Brian H Donohoe, Clive Efford and Mrs Louise Ellman, Members of Transport and General Workers’ Union

Mr Ian Lucas and Mr Graham Stringer, Members of MSF Amicus

Mr Graham Stringer, Director, Centre for Local Economic Strategies

Miss Anne McIntosh, Member, RAC

Wednesday 13 October 2004

Members present:
Mrs Gwyneth Dunwoody, in the Chair

Mr Jeffrey M Donaldson  Mr Ian Lucas
Mr Brian H Donohoe  Miss Anne McIntosh
Clive Efford  Mr John Randall
Mrs Louise Ellman  Mr Graham Stringer

The Committee deliberated.

Draft Report (Traffic Law and its Enforcement), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 138 read and agreed to.

Motion made, and Question put, That the Report be the Sixteenth Report of the Committee to the House.
The Committee divided.

Ayes, 7
Mr Jeffrey M Donaldson
Clive Efford
Mrs Louise Ellman
Ian Lucas
Miss Anne McIntosh
Mr John Randall
Mr Graham Stringer

Noes, 1
Mr Brian H. Donohoe

It was agreed to.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select committee (reports)) be applied to the Report.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Wednesday 27 October at 2.30pm.]
Witnesses

Wednesday 10 December 2003

Mrs Zoe Stow, Chairman, Mrs Brigitte Chaudhry, Founder and National Secretary, and Mrs Cynthia Barlow, Member, RoadPeace

Mr David Bizley, Director Technical, RAC Motoring Services

Mr Stephen Treloar, Commercial Director and Mr Richard Rumbelow, Strategy and Public Affairs Manager, Direct Line Insurance

Ms Lynn Sloman, Transport for Quality of Life and Mr Phillip Darnton, President of the Bicycle Association, The National Cycling Strategy Board for England

Mr Roger Geffen, Campaigns and Policy Manager, and Mr Howard Boyd, Transport Policy Advisor, CTC

Commander Jo Kaye, Metropolitan Police

Mr Peter Hendy, Managing Director, Surface Transport and Mr Jeroen Weimar, Director of Transport Policing and Enforcement, Transport for London

Wednesday 17 December 2003

Mr John Dawson, Director and Mr Andrew Howard, Head of Road Safety, AA Motoring Trust

Ms Lorna Pearce, Senior Project Manager in Road Traffic Legislation and Driver Penalties and Mr David Lynam, Chief Research Scientist, Road Safety, Transport Laboratory

Mr Kevin Clinton, Road Safety Advisor and Mr John Howard OBE, Director, Safety Policy, RoSPA

Dr John Preston, Director, Transport Studies Unit, and Dr Tim Whitehead, Transport Studies Unit, University of Oxford, and Mr Barry Irving, Police Foundation

Mr Richard Brunstrom, Head of Road Policing, ACPO, and Sergeant Alan Jones, North Wales Police

Mr David Jamieson MP, Parliamentary Under-Secretary of State and Sandy Bishop, Head of Road Safety Division, Department for Transport

Ms Caroline Flint MP, Parliamentary Under-Secretary of State and Mr Geoffery Biddulph, Head of Road Crime Section, Public Order and Crime Issue Unit, Home Office

Wednesday 14 July 2004

Mr David Jamieson MP, Parliamentary Under-Secretary of State and Mr Steve Gooding, Director, Roads and Vehicles Directorate, Department for Transport

Mr Trevor Horton, Director, Operational Policy, Drive and Vehicle Licensing Agency
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<td>Robert Pattison, Chief Superintendent, Northumbria Police</td>
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<td>Dr Clive Mowforth</td>
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<td>Colin Howes, CTC Croydon</td>
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<td>William Bramhill</td>
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43 Rita Taylor
44 CTC
45 Home Office and the Department for Transport
46 Association of Chief Police Officers
47 The Intelligent Transport Society for the United Kingdom
48 European Secure Vehicle Alliance
49 Corporation of London
50 National Council on Inland Transport
51 Northgate
52 Raymond Mumford
53 Keith Fentus
54 Mrs Jane Harrison
55 The Bicycle Helmet Initiative Trust
56 Scotland’s Campaign against Irresponsible Drivers
57 Police Foundation - supplementary
58 TRL Limited - supplementary
59 Director of Public Prosecutions
60 P.T. Garvin, Chief Constable of Durham
61 Ambulance Services Association
62 Motorcycle Industry Association

Memoranda received after 14 June 2004

63 Department for Transport
64 The British School of Motoring
65 RAC Foundation for Motoring Ltd
66 Transport for London
67 CTC, The National Cyclists’ Organisation
68 The AA Motoring Trust
69 The Royal Society for the Prevention of Accidents (ROSPA)
70 Metropolitan Police Services
71 Slower Speeds Initiative
# Reports from the Transport Committee since 2002

**Session 2003–04**

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