

SENTENCING FOR CAUSING DEATH BY DRIVING

THE OFFENCES

Causing death by driving is divided into four offences. These are:

- causing death by dangerous driving;
- causing death by careless driving when under the influence of drink or drugs;
- causing death by careless or inconsiderate driving; and
- causing death by driving: unlicensed, disqualified or uninsured drivers.

The main factor that varies between these offences is how much the offender is to blame.

For dangerous driving the standard of the offender's driving will have been so bad as to have created an obvious risk of danger.

In cases of careless driving the level of blame can vary enormously from being on the borderline of dangerous driving to as little as misjudging the speed of another vehicle or momentary inattention while tuning a car radio. Where the driver is under the influence of drink or drugs this further increases the level of blame. In cases of driving while unlicensed, disqualified or uninsured the blame arises from driving when not being allowed to do so.

THE SENTENCE

An offender is sentenced either after pleading guilty to the offence or being found guilty following a trial. The judge or magistrates may sentence immediately or may adjourn the case to obtain reports on the offender.

The harm caused by any offence that results in a person's death is immeasurable. The sentence can never be a measure of the value put on the life of the victim. In sentencing cases of causing death by driving, the court has to weigh up the enormous harm of a loss of life with the seriousness of the act or omission of the offender who caused it.

HOW ARE SENTENCES DECIDED?

The judge or magistrates will decide the appropriate sentence by taking into account the facts of the case and applying the relevant sentencing guidelines.

The judge or magistrates will consider:

- **how responsible the offender was** for what happened;
- **other offences committed at the same time** such as driving a stolen vehicle or failing to stop;
- **the serious harm caused by the offence**, including whether more than one person was killed or injured;
- whether the **offender was seriously injured** or was **a close friend or relative of the victim**; and
- **the circumstances and history of the offender**, such as previous convictions or previous good character, giving assistance at the scene and remorse.

In any case resulting in a person's death the **impact of the offence** will, of course, be assessed as very serious. If the victim's family has chosen to make a victim personal statement the court will use the information it contains when assessing the impact of the crime. If no victim personal statement is made the court will assess the impact of the crime from the evidence.

The **maximum prison sentence** the court can impose for causing death by dangerous driving or careless driving under the influence of drink or drugs is 14 years; for causing death by careless or inconsiderate driving it is five years; and for causing death by driving whilst unlicensed, disqualified or uninsured it is two years. The maximum sentence is reserved for rare cases where blame is exceptionally high.

For some offences of causing death by careless or inconsiderate driving or causing death by driving whilst unlicensed, disqualified or uninsured where the offender is not considered to pose a danger of re-offending and the level of fault is low, a community sentence may be deemed a more effective form of punishment and rehabilitation than imprisonment. In some cases where the level of fault is very low the offender may be fined.

If the **offender pleads guilty** the sentence will be reduced by up to one third depending on how early the plea was made.

All sentences will include a minimum **period of disqualification from driving** followed by:

- a **compulsory extended re-test** for causing death by dangerous driving or careless driving while under the influence of drink or drugs; or
- a **discretionary re-test** for causing death by careless driving or while unlicensed, disqualified or uninsured.

The disqualification period runs from the sentencing, or enforcement if earlier (not from when an offender is released from prison).

WHAT DOES THE SENTENCE ACTUALLY MEAN?

If the offender is sent to prison the law states that they will serve half their sentence in prison and half on licence in the community. During the licence period they are subject to recall to prison if they commit any further offences or breach any conditions that may be set.

If the offender is sentenced to a community sentence the exact details of the order will vary from case to case but it is likely to include supervision and unpaid work.

Useful sources of information

www.gov.uk

The Code of Practice for Victims of Crime provides information for victims of crime and bereaved close relatives of a victim who has died as a result of a crime.

www.sentencingcouncil.org.uk

Find out about sentencing guidelines and how they help judges decide on sentences. Judges must follow guidelines unless there are very good reasons - in the interests of justice - not to. In such cases, the judge has to state these reasons.

www.gov.uk/government/organisations/parole-board

Find out more about how the Parole Board works to protect the public by carrying out risk assessments on prisoners to decide whether they can be safely released into the community.

www.cps.gov.uk/news/fact_sheets/dangerous_driving/

Find out more about the different offences of causing death by driving.

www.gov.uk/government/organisations/attorney-generals-office

Find out more about if and how an appeal for an unduly lenient sentence can be made.

The current sentencing guidelines for causing death by driving were published in July 2008. They are subject to review and may be updated after consultation.

This leaflet is one of a series of leaflets developed by the Office of the Sentencing Council in partnership with the Family Liaison and Disaster Management Team at the Metropolitan Police. It is intended to be used by Family Liaison Officers to help explain to families of victims how certain serious offences are sentenced.

Please contact: info@sentencingcouncil.gsi.gov.uk for further information.