

**2011 BLACKSTONE'S POLICE MANUAL-
VOLUME 3
ROAD POLICING
Simon Cooper and Michael Orme
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Book review by Sally Ramage

Introduction

There are twelve chapters in this volume: *classification and concepts; offences involving standards of driving; notices of intended prosecution; accidents and collisions; drink, drugs and driving; insurance; protection of drivers and passengers; highways and safety measures; construction and use; driver licensing; fixed penalty system* and the final chapter- *forgery and falsification of documents.*

Chapter 1, on classification and concepts includes definitions, important at trial.

Chapter 2, offences involving standards of driving, deals with causing death by dangerous driving, dangerous driving, careless driving, vehicles used for causing harassment, failing to stop, and identity of drivers.

Where a person has been charged with an offence of death by dangerous driving (section 1 Road Traffic Act 1988) or causing death by careless driving when under the influence of drink or drugs (section 3A Road Traffic Act 1988), this usually occurs after a criminal investigation has been conducted by police officers to ascertain whether that person should be charged with an offence. There are two definitions of dangerous driving. The first is defined as driving that would be considered to fall far below the standard of a competent and safe driver. Such driving would be recognised as dangerous by a competent and safe driver. The second definition is that it is obvious that the state of the car is dangerous, regardless of the competency of the driver. Dangerous is defined by causing danger of injury to any person, or serious damage to property. Possible defences for a dangerous driving charge include duress and necessity. A maximum 2 years prison sentence, unlimited fine, mandatory disqualification and an extended driving test to regain licence, is punishment on indictment and conviction.

Note that the CPS policy for prosecuting cases of dangerous driving states that:

'Any person who is driving, attempting to drive, or in charge of a motor vehicle on the road, or in a public place (eg a pub car park or a garage forecourt), may be required by the police to provide a breath test, to ascertain whether they are over the prescribed limit of alcohol - 35 micrograms of alcohol per 100 millilitres of breath (or 80 milligrams of alcohol per 100 millilitres of blood). The request must be made by a police officer, but note the officer does not have to be in uniform anymore to require a preliminary test (breath test), but he does have to be in uniform to administer it (unless after an accident then the police officer does

not have to be in uniform for either the requirement or to administer any of the preliminary tests). The request can only be made if one of the following situations apply : the police officer has reasonable cause to suspect that you have committed, or are currently committing a moving traffic offence, or if, having stopped, an officer has reasonable cause to suspect that the person driving/attempting to drive/in charge of the vehicle has consumed alcohol, or the police officer has reasonable cause to believe that you were the person driving/attempting to drive/in charge of a motor vehicle which was involved in an accident.'

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One of the cases mentioned in this chapter is *Attorney General's Reference (No. 4 of 2000)* [2001] EWCA Crim 780 in which Lord Woolf said:

Lord Chief Justice, giving the judgment of the court, reaffirmed the objective nature of the test for dangerous driving in these terms:

‘The essential limbs, as is common ground, do not require any specific intent to drive dangerously. Section 2A sets out a wholly objective test. The concept of what is obvious to a careful driver places the question of what constitutes dangerous driving within the province of the jury. It is the jury who should set the standard as to what is or what is not dangerous driving.’

Chapter 3 on notices of intended prosecutions relate to those road traffic offences listed in schedule 1 to the Road Traffic Offenders Act 1988. The listed offences include dangerous, careless or inconsiderate driving; dangerous, careless or inconsiderate cycling; failing to comply with traffic signs and directions; leaving a vehicle in a dangerous position; and speeding offences (Road Traffic Regulation Act 1984, s 89). Included in this volume is the caselaw *DPP v Thornley* [2006] (the record from a device can be admitted as evidence without need for witness to prove it).

Chapter 4 on accidents and collisions is most important. Collision scenes are an important source of material for investigations. However, physical material may be very fragile and can easily be destroyed or contaminated. A scene log should be started to ensure that there is no unauthorised entry to the scene(s); the integrity of potential physical material is secured; intelligence opportunities are maximised; and contamination issues are appropriately managed.

Chapter 5, on drink, drugs and driving, especially relevant at Christmastime, is to be taken very seriously. In 2008 drinking and driving accounted for 430 deaths. In 2007 alcohol related fatalities were 15,387, ie. 37% of all fatalities. Alcohol related fatalities went down by 27% in 2007 as compared to 1982. It is of note that section 33A of the Road Traffic Offenders Act 1988, allows the courts to forfeit vehicles of drivers convicted of certain offences, including drink-driving. The legislation allows the Crown to apply for forfeiture at the sentencing stage of drink-driving proceedings. Police in Bournemouth have arrested 44 motorists for driving under the influence between December 1 and 14 of 2010.

In 1989, random samples from a number of road traffic accident fatalities showed that only 3% of the drivers involved in accidents were known to have been driving with drugs in their systems. The figure taken in 2003 was 18% - 6 times the figure taken in 1989. In 2003, Durham police took blood samples from all of the 23 people killed in road accidents and the results were shocking: - 50% of them had traces of either cannabis, cocaine, ecstasy or a prescription drug. Drug analyzers have yet to be type-approved in the United Kingdom although they are being used by customs and police forces across Europe, in Australia, South Africa and the United States of America. One such device can detect cocaine, heroin, amphetamine and cannabis from a single saliva swab in around three minutes.

Chapter 6, on insurance is only ten pages long. Research findings are that when new car insurance customers purchase policies, and they choose a low deductible premium, there are more accidents and higher total losses to the insurer. It seems that new policyholders might have had little opportunity to obtain private information about their risk type and thereby to gain an informational advantage over the insurer. This seems to be the case for new customers who have had three or more years of driving experience – and who have had an opportunity to learn about their risk type. In the car insurance market, insurers are required to share information about their customers with other insurers. Research found that policyholders who leave the insurer are disproportionately ones who had a bad record with the insurer and who could benefit from switching to an insurer they hope might know less about them.

Insurance Fraud is recognized internationally as a multi-billion pound problem. One should ask what exactly constitutes an insurance fraud. Some circumstances where a court of law will find an insured's claim to be fraudulent include those where the insured claims for items that do not exist, increases the value of the property or goods that were damaged, claims for goods that are not damaged, falsifies documents as part of his claim, or makes a false representation of facts, circumstances or information. The UK's Fraud Act 2006 states that false representation is fraudulent if made knowingly, without belief in its truth, or recklessly without care whether it is true or false. It is a fraud if one makes a statement of fact about which he knows he is ignorant, or if he decides to inflate the claim and make a profit out of it (see Criminal Law News, December 2008, Issue 4). Besides, fraud, many drivers have no licence, contravening the Road Traffic Act 1988, section 143 and putting at risk all users of roads for uninsured injuries, as described in chapter 7.

Chapter 8 deals with highways and safety measures, introducing some of the many other agencies which have responsibility for roads and vehicles, etc. Though not mentioned specifically, the Department for Transport (DfT) oversees the delivery of a reliable, safe and secure transport system and determines overall transport strategy. The statutory role of the Fire and Rescue Service (FRS) is to extinguish fires and protect life and property; rescue people from fire and its consequences, and from a range of other hazards including road traffic collisions; and also to collaborate with the community at all levels, with other public services and with business to tackle these challenges effectively. The FRS work proactively with the police and other agencies to prevent harm to road users by using their specialist expertise. The Fire and Rescue Services Act 2004 gives firefighters powers to move or break into a vehicle without the consent of its owner; close a highway; and to stop and regulate traffic.

Chapter 9 relates to the Road Vehicles (Construction and Use) Regulations 1986.

Chapter 10 relates to the Road Traffic (Driver Licensing and Information Systems) Act 1989.

Chapter 11 deals with the fixed penalty system. A table of penalty points is as follows:

Here is a table of Road Traffic Offence Codes, which are endorsed on your licence if you are convicted, and the penalty point range for each type of offence.

	Penalty Points
Accident Offences	
Failing to stop after an accident	5-10
Failing to give particulars or to report an accident within 24 hours	5-10
Undefined accident offences	4-9
Disqualified Driver	
Driving whilst disqualified by order of court	6
Attempting to drive while disqualified by order of court	6
Careless Driving	
Driving without due care and attention	3-9
Driving without reasonable consideration for other road users	3-9

Driving without due care and attention or without reasonable consideration for other road users	3-9
Causing death through careless driving when unfit through drink	3-11
Causing death by careless driving when unfit through drugs	3-11
Causing death by careless driving with alcohol level above the limit	3-11
Causing death by careless driving then failing to supply a specimen for analysis	3-11
Causing death by careless or inconsiderate driving	3-11
Causing death by driving: unlicensed, disqualified or uninsured drivers	3-11

Construction & Use Offences

Using a vehicle with defective brakes	3
Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
Using a vehicle with defective tyre(s)	3
Using a vehicle with defective steering	3
Causing or likely to cause danger by reason of load or passengers	3
Using a mobile phone while driving a motor vehicle	3

Reckless/Dangerous Driving

Dangerous Driving	3-11*
Manslaughter or culpable homicide while driving a vehicle	3-11*
Causing death by dangerous driving	3-11*
Furious driving	3-9

Drink or Drugs

Driving or attempting to drive with alcohol level above limit	3-11*
Driving or attempting to drive while unfit through drink	3-11*
Driving or attempting to drive then failing to supply a specimen for analysis	3-11*
In charge of a vehicle while alcohol level above limit	10
In charge of a vehicle while unfit through drink	10
Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
Failing to provide specimen for breath test	4
Driving or attempting to drive when unfit through drugs	3-11
In charge of a vehicle when unfit through drugs	10

Insurance Offences

Using a vehicle uninsured against third party risks	6-8
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Licence Offences

Driving otherwise than in accordance with a licence	3-6
Driving after making a false declaration about fitness when applying for a licence	3-6
Driving a vehicle having failed to notify a disability	3-6
Driving after a licence has been revoked or refused on medical grounds	3-6

Other Offences

Leaving a vehicle in a dangerous position	3
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Unlawful pillion riding	3
Play street offences	2
Driving with uncorrected defective eyesight or refusing to submit to a test	3
Motor racing on the highway	3-11
Offences not covered by other codes	As Appropriate
Driving with uncorrected defective eyesight	3
Refusing to submit to an eyesight test	3
Failure to give information as to identity of driver etc	6

Motorway Offences

Contravention of Special Roads Regulations (excluding speed limits)	3
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Pedestrian Crossings

Undefined Contravention of Pedestrian Crossing Regulations	3
Contravention of Pedestrian Crossing Regulations with moving vehicle	3
Contravention of Pedestrian Crossing Regulations with stationary vehicle	3

Speed Limits

Exceeding goods vehicle speed limits	3-6
Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles).	3-6
Exceeding statutory speed limit on a public road	3-6
Exceeding passenger vehicle speed limit	3-6
Exceeding speed limit on a motorway	3-6

Undefined speed limit offence	3-6
Traffic Direction and Signs	
Failing to comply with traffic light signals	3
Failing to comply with double white lines	3
Failing to comply with 'Stop' sign	3
Failing to comply with direction of a constable/warden	3
Failing to comply with traffic sign (excluding - stop -signs, traffic lights or double white lines)	3
Failing to comply with a school crossing patrol sign	3
Undefined failure to comply with a traffic direction sign	3
Theft or Unauthorised Taking	
Aggravated taking of a vehicle	3-11

Chapter 12 on forgery and falsification of documents related directly to chapters 6 and 10. All drivers are required to at least have third-party insurance prior to driving or even parking any vehicle on a public highway. Driving without insurance is therefore a serious offence which leaves you looking at a potential fine of up to £5,000 and 6-8 penalty points on your license, as well as facing an unlimited driving ban. It is this type of penalty that incentives people to commit fraud and forgery. A person can be convicted of driving without insurance if he permits another person to operate his vehicle when it is not insured or there is not sufficient insurance in place to cover them.

FURTHER READING

- Black, J. (2005) 'Road traffic update', *Solicitors Journal*, Vol.149 No.15 pg 448.
English, J. and Card, R. (2010) *Police Law*, Oxford: OUP.
Wallis, P., McCormac, K., Niekirk, P., and Wilkinson, G.S. (2010) *Wilkinson's Road Traffic Offences*, London: Sweet & Maxwell.