

9 March 2001

Jisha Salim
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Dear Ms Salim

Road Traffic Penalties

Please find enclosed the Association of Personal Injury Lawyers' response to the Home Office consultation on road traffic penalties.

Please do not hesitate to contact me if I can be of any further assistance.

With kind regards.

Yours sincerely

Annette Morris
Policy Research Officer

HOME OFFICE / DETR / LCD CONSULTATION

ROAD TRAFFIC PENALTIES

A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS

7 MARCH 2001

The executive committee would like to acknowledge the assistance of Colin Ettinger, member of the Executive Committee, for assisting with the preparation of this response.

Any enquiries in respect of this written evidence should be addressed, in the first instance, to:

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ROAD TRAFFIC PENALTIES

1. The Association of Personal Injury Lawyers (APIL) was formed in 1990 and represents around 5000 solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants. The aims of the association are:
 - To promote full and prompt compensation for all types of personal injury;
 - To improve access to our legal system by all means including education, the exchange of information and the enhancement of law reform;
 - To promote health and safety
 - To alert the public to dangers in society such as harmful products and dangerous drugs;
 - To provide a communication network exchanging views formally and informally.

2. APIL welcomes the opportunity to respond to this consultation document regarding road traffic penalties and is extremely pleased to see that government departments are joining together to tackle the issue of road safety.

3. It is strongly believed that harsher road traffic penalties will reduce the incidence of unsafe driving that causes unnecessary risks to other road users, cyclists and pedestrians. For this reason, the proposals for reform outlined in the consultation paper are largely supported. Harsher penalties will only have the desired aim, however, if those using the roads are aware of the harsher penalties and fear that they will be readily imposed for road traffic offences. For too long, the general public have taken road traffic offences less seriously than they ought to have done. Harsher penalties must represent the beginning of a culture change for the general public. Efforts to raise public awareness and disgust for drink driving have largely been successful and there seems no reason why the same could not be achieved in relation to unsafe driving practices that cause deaths and injuries to many each year.

4. In addition, APIL does not believe that it is sufficient to tackle road traffic penalties alone if road safety is to be achieved as far as is possible. Consideration should also be given to road traffic offences. Mobile phone use whilst driving occurs frequently and consideration should be given to creating a specific offence to deal with that risk. Consideration should also be given to creating an offence of causing grievous injury by dangerous driving as has been suggested by Roadpeace. The criminal nature of causing injury by dangerous driving should be recognised.
5. It is not believed that road offences resulting in death are taken seriously enough within our criminal justice system. Whilst penalties should obviously reflect the level of culpability involved, it is believed that deaths caused by careless or dangerous driving should be treated as seriously within our criminal justice system as a deaths caused by any other criminal circumstances. This could be achieved, for example, by creating an offence of motor manslaughter. Driving carelessly or dangerously must be viewed as a serious criminal offence because it always creates the potential for causing deaths. If, therefore, it does, prosecutions should follow.
6. An additional means of changing public attitudes to unsafe driving is to attach the level of culpability, not to the results of the careless or dangerous driving (including speeding), but to the level of risk created by that driving even if nothing occurs. For example, in Florida, the penalty for speeding is doubled if a driver speeds in an area in which workmen are working. Such an approach would, hopefully, focus drivers on the risks they create.
7. The concentration placed on disqualification, forfeiture, retraining and community penalties are fully supported. Disqualification, whilst acting as a punishment, would be such a nuisance to most people that greater use of it is likely to act as a good deterrent. APIL supports, therefore, the proposals that include greater use of disqualification, including the proposed penalties for causing death by dangerous driving and death by aggravated vehicle taking. Forfeiture, again, would be a good deterrent because of the nuisance it would be caused. Requirements to retrain are fully supported. Such requirements

should not be used as an alternative to other penalties, however, but as an additional requirement. This is because retraining has a rehabilitative rather than a punishment role. Community penalties can also play their role if appropriate to the circumstances of the case. To effectively reduce the incidence of road offences, however, the community penalty should be linked to road safety and the victims of road traffic accidents if it is to have the desired deterrent effect.

8. In addition to the above, APIL would like to respond to particular, but not all, proposals as follows.

Proposals 8, 9 and 10

9. APIL believes that the maximum sentences for:

- causing death by dangerous driving (10 years);
- causing death by careless driving under the influence of drink/ drugs (10 years);
- causing death by aggravated vehicle taking (5 years);

should be higher than at present. Whilst custodial sentences may not necessarily be the most appropriate penalty for road traffic offences, the current maximum sentences fail to reflect the seriousness of a death caused by driving. An offence such as burglary, where no death or injury is caused, can attract a maximum sentence of 14 years. This sends out the wrong message to the motoring public and should be addressed. The maximum sentences for these offences should, at the very least, be 15 years.

Proposal 12

10. APIL agrees that a new penalty should be introduced for driving with a higher level of alcohol in the bloodstream. This reflects APIL's earlier suggestion that penalties imposed should reflect the seriousness of the risks created. Driving with a high level of alcohol is extremely dangerous and, for this

reason, APIL believes the penalty should be the same as, or similar to, that available for dangerous driving (currently a maximum 2 year custodial sentence but proposed to be increased to 5 years / three year disqualification).

Proposal 14

11. Driving whilst disqualified shows complete contempt by the offender of the criminal justice system and the need for safety on the roads. Suggesting that there should be a minimum two year disqualification for a second offence within ten years is insufficient because the penalty of disqualification will have proved itself insufficient in the circumstances of the case. For this reason, those who drive whilst disqualified should be punished harshly and the proposal to introduce a wider range of community penalties would not suffice. The maximum custodial sentence should be increased to three years.

Proposal 16

12. Driving whilst being uninsured is an extremely serious offence. As personal injury lawyers, our members often see the difficulties encountered by victims trying to obtain compensation following a road traffic accident where the driver was uninsured. Harsh penalties must be applied to this offence to both ensure that drivers are aware of the seriousness of the offence and deter such a practice effectively.

Proposal 18

13. Speeding causes many accidents, many injuries and many deaths. Speeding offences must be substantially reduced. APIL supports the two-tier penalty regime. The fines imposed within that system should be doubled to increase the deterrent effect of the penalty.

Application of Penalties by the Courts

14. If harsher penalties are to be introduced and are to be effective in reducing the incidence of road traffic crimes and resulting injuries and deaths, the courts must play an active role. Magistrates and judges should be trained and encouraged to apply the harsher penalties effectively. It is only if the courts use the penalties effectively that drivers will fear the consequences of taking risks on the road by driving carelessly or dangerously. It is only if drivers fear the consequences, that the desired deterrent effect of the harsher penalties will be achieved.

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