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The Attorney General's Guidance on Road Traffic Offences

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Introduction

1. This guidance is designed to help prosecutors when charging and reviewing cases involving road traffic offences.
2. The guidance should be read in conjunction with 'AGG2 – The Attorney General's Code for Crown Prosecutors'. The Code for Crown Prosecutors sets out the approach that must be taken when deciding whether to charge a person with a criminal offence.
3. The Code for Crown Prosecutors sets out the evidential test, the public interest test and the general principles to be applied in all cases.
4. When making a charging decision, prosecutors must consider each case on its own facts and on its own merits. The first stage is to consider whether there is sufficient evidence to provide a realistic prospect of conviction in relation to each allegation (the evidential test). If there is sufficient evidence, the prosecutor must then go on to consider whether a prosecution is in the public interest (the public interest test).
5. This guidance compliments the Code for Crown Prosecutors by setting out the factors that are relevant to consider when making prosecution decisions in relation to road traffic offences.

General Principle

1. When considered against the entire spectrum of criminal offending, it is fair to note that many road traffic offences are minor in nature. For many offenders, their prosecution for a road traffic offence will be their only experience of criminal law enforcement. In this context, prosecution for some road traffic offences may appear to be unfair, especially when other types of offending, seen to be more serious, are sometimes addressed by out of court disposals, such as citeable cautions.
2. Different types of criminal offending require different approaches, based on the relevant public policy considerations. For road traffic offences it should be borne in mind that the principle public policy consideration is the promotion of road safety. The consequences of poor road safety can be devastating and the public interest will generally be in favour of prosecuting road traffic offences. Prosecution is the most effective way of addressing the public policy considerations and is a vital component of enforcement, promotion of road safety and the protection of the public.

Criminal Standards of Driving

1. The Road Traffic Ordinance 1948 creates two different standards of criminal driving:
 - (a) Dangerous driving; and
 - (b) Driving without due care and attention or without reasonable consideration (often referred to as careless and inconsiderate driving).
2. Each standard of driving forms the basis of a criminal offence. The Ordinance then contains a number of additional offences which reflect specific circumstances, such as the offence of causing death by dangerous driving and the offence of careless driving when uninsured.

Dangerous Driving

3. The offence of dangerous driving is committed when a person's standard of driving falls far below what would be expected of a competent and careful driver, and it would be obvious to a competent and careful driver that driving in that way would be dangerous.
4. "Dangerous" refers to danger either of injury to any person or of serious damage to property.
5. In determining what would be expected of, or obvious to, a competent and careful driver, regard must be had not only to the circumstances of which that person could be expected to be aware, but also to any circumstances shown to have been within the knowledge of the person.
6. Dangerous driving carries a maximum sentence of 2 years imprisonment and/or an unlimited fine.
7. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
8. In relation to the statutory definition of dangerous driving, prosecutors should note the following relevant factors:
 - (a) Both parts of the definition must be satisfied for the driving to be "dangerous".
 - (b) There is no statutory definition of what is meant by "far below" but "dangerous" must refer to danger of personal injury or of serious damage to property.
 - (c) A person can also be regarded as driving dangerously if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

- (d) When considering the state of the vehicle, regard may be had to anything carried by or attached to the vehicle.
- (e) Skill (or lack of skill) of a driver is an irrelevant circumstance when considering whether the driving is dangerous.

Charging Practice

9. Dangerous driving includes situations where the driver has adopted a particular way of driving, and where there is a substantial error of judgement, that, even if only for a short time, amounts to driving falling far below the required standard. If the driving that caused the danger was taken as a deliberate decision, this would be an aggravating feature of the offence.
10. It is important to remember that the manner of driving must be seen in the context of the surrounding circumstances in which the driving took place (for example; the amount of traffic, visibility, weather conditions, excess speed etc.). These unique factors will be relevant in reaching an appropriate charging decision in each case.
11. The test for "dangerousness" is an objective one: persistent disregard of, say, traffic directions (be they "stop", "give way" signs or traffic lights) may be evidence that the manner of driving has fallen far below the standard required, thus making a charge of dangerous driving appropriate.
12. The following are some common examples of circumstances that are likely to be characterised as dangerous driving:
 - (a) racing or competitive driving;
 - (b) failing to have a proper and safe regard for vulnerable road users such as cyclists, motorcyclists, horse riders, the elderly and pedestrians, or when in the vicinity of a pedestrian crossing, hospital, school or residential home;
 - (c) speed, which is particularly inappropriate for the prevailing road or traffic conditions;
 - (d) aggressive driving, such as sudden changes of road position, cutting into a line of vehicles or driving much too close to the vehicle in front;
 - (e) disregard of traffic lights and other road signs, which, on an objective analysis, would appear to be deliberate;
 - (f) disregard of warnings from fellow passengers;
 - (g) overtaking which could not have been carried out safely;

- (h) driving when knowingly suffering from a medical or physical condition that significantly and dangerously impairs the offender's driving skills, such as having an arm or leg in plaster, or impaired eyesight. It can include the failure to take prescribed medication;
 - (i) driving when knowingly deprived of adequate sleep or rest;
 - (j) driving a vehicle knowing it has a dangerous defect or is poorly maintained or is dangerously loaded;
 - (k) using a hand-held mobile phone or other hand-held electronic equipment, whether as a phone, or to compose or read text messages, when the driver was avoidably and dangerously distracted by that use;
 - (l) driving whilst avoidably and dangerously distracted such as whilst reading a newspaper/map, talking to and looking at a passenger, selecting and lighting a cigarette, or by adjusting the controls of electronic equipment such as a radio, hands-free mobile phone or satellite navigation equipment;
 - (m) a brief but obvious danger arising from a seriously dangerous manoeuvre. This covers situations where a driver has made a mistake or an error of judgement that was so substantial, that it caused the driving to be dangerous even for only a short time. Circumstances that illustrate this principle include:
 - i. Failing to stop at a junction where there was a give way sign, failing to see a vehicle that was being driven across the junction perfectly properly and colliding with it;
 - ii. Unintentionally pressing the accelerator instead of the brake;
 - iii. Driving across a junction marked by a give way sign and colliding with a car that was being driven along the major road where there is no explanation for the failure to see the other vehicle
13. It is not necessary to consider what the driver thought about the possible consequences of his or her actions: simply whether or not a competent and careful driver would have observed appreciated and guarded against obvious and material dangers.
14. In the case of a vehicle in such a state of disrepair as to be dangerous, consideration should be given to whether the vehicle should have been driven at all, as well as to how it was driven in the particular circumstances.

Driving Without Due Care and Attention or Without Reasonable Consideration

15. The offence of driving without due care and attention or without reasonable consideration is committed when:
 - (a) The standard of driving is careless (without due care and attention); or
 - (b) The standard of driving is inconsiderate (without reasonable consideration).
16. The offence carries a maximum sentence of a level 4 fine and the court has a discretionary power to disqualify.

Careless Driving

17. Careless driving is when person's driving falls below the standard expected of a competent and careful driver.
18. In determining what is to be expected of a competent and careful driver, the prosecutor must consider not only the circumstances of which the driver could be expected to be aware, but also any circumstances shown to have been within the driver's knowledge.
19. The test of whether the standard of driving has fallen below the required standard is objective. It applies both when the manner of driving in question is deliberate and when it occurs because of incompetence, inadvertence or inexperience.
20. Occasionally, a collision may occur where there is no evidence of any mechanical defect, illness of the driver, or other explanation to account for why the collision happened. In these cases, a charge of careless driving may be appropriate, but prosecutors should exercise caution. In these circumstances, the case can be put on the basis that there is a very strong inference that the person was driving below the standard expected of a competent and careful driver.
21. In the absence of any explanation by the person as to the cause of the collision, a court may infer that the offence was committed, but where the person does provide an explanation for the collision, prosecutors will have to consider whether to proceed.
22. The civil law doctrine of *res ipsa loquitur* (the thing speaks for itself) has no direct application to the criminal law, but that does not mean that the prosecution has to negate every possible explanation of a person before they can be convicted of careless driving. Where the facts at the scene are such that, in the absence of any explanation by the person, an inference can be drawn that the standard of driving fell below the threshold required.
23. For example, crossing a central white line without explanation is, in itself, evidence of careless driving.

24. In some cases, particularly where there has been a collision, the evidence will show that more than one driver was at fault. It will be necessary to establish that there is evidence from an independent source against any driver who is to be charged, but the possibility of charging more than one driver remains if both have failed to comply with the statutory standard.
25. The following examples are typical of what is likely to be regarded as careless driving:
- (a) overtaking on the inside;
 - (b) driving inappropriately close to another vehicle;
 - (c) inadvertently driving through a red light;
 - (d) emerging from a side road or junction into the path of another vehicle;
 - (e) tuning a car radio when the driver was avoidably distracted by this action;
 - (f) using a hand-held mobile phone or other hand-held electronic equipment when the driver was avoidably distracted by that use. This is a criminal offence in itself, so if the use of the mobile phone is the only relevant aspect of the case it is more appropriate to use the specific offence;
 - (g) selecting and lighting a cigarette or similar when the driver was avoidably distracted by that action.
26. These examples are merely indicative of what can amount to careless driving. In addition, prosecutors should note that some of these examples also fall within the examples of dangerous driving.

Charging Practice

27. Prosecutors must note that the same factors must be taken into consideration as those outlined for the charging practice in respect of dangerous driving offences. The manner of driving must be seen in the context of the surrounding circumstances in which it took place (for example; amount of traffic, visibility, weather conditions, excess speed etc.). The circumstances in every case will be unique and must be considered in each case before reaching a decision as to the appropriate charge.
28. It is necessary to put the facts into context, decide the degree to which the standard of driving fell below that required, and consider whether the particular facts of the case warrant a charge of careless driving, or dangerous driving.

Inconsiderate Driving

29. Driving without reasonable consideration is the second way in which the offence can be committed. The offence is established only when other persons are inconvenienced by the manner of the person's driving.
30. A driving without due consideration charge is more appropriate where the inconvenience is aimed at and suffered by other road users.
31. The essential difference between careless driving and inconsiderate driving, is that in cases of careless driving the prosecution need not show that any other person was inconvenienced. In cases of inconsiderate driving, there must be evidence that some other user of the road or public place was actually inconvenienced.

Charging Practice

32. A charge of inconsiderate driving is appropriate when the driving amounts to a clear act of incompetence, selfishness, impatience or aggressiveness, in addition to some other inconvenience to road users. The following examples are typical of actions likely to be regarded as inconsiderate driving:
 - (a) flashing of lights to force other drivers in front to give way;
 - (b) misuse of road markings to avoid queuing or gain some other advantage over other drivers;
 - (c) unnecessarily blocking an overtaking vehicle;
 - (d) unnecessarily slow driving or braking without good cause;
 - (e) driving with un-dipped headlights which dazzle oncoming drivers, cyclists or pedestrians;
 - (f) driving through a puddle causing pedestrians to be splashed;
 - (g) driving a vehicle in such a way as to alarm passengers.
33. Prosecutors must decide which version of the offence to charge as the Ordinance creates two separate offences.

Drivers of emergency service vehicles and drivers in emergencies

34. In the course of their duties, police officers, ambulance staff and fire fighters may need to drive a vehicle in response to an emergency in a manner that would otherwise be considered unacceptable.

35. The starting point is that it is very unlikely to be appropriate to proceed with a prosecution on public interest grounds if a police officer, member of ambulance staff or fire fighter commits a driving offence while responding to an emergency call.
36. However, every individual case must be considered on its own facts and merits, and when considering whether it is in the public interest to proceed with the case, prosecutors should have regard to the following factors:
 - (a) The nature of the emergency known to or reasonably perceived by the driver. For example, whether the driver was responding to a 999 call in compliance with the operating practice in that service;
 - (b) The level of culpability of the driver (including the nature of the driving); and
 - (c) Whether there is evidence that the driver may be a continuing danger to others. For example, such evidence may include relevant convictions or internal disciplinary proceedings against the driver.
37. When considering the standard of driving in any particular case and potential defences that might arise, prosecutors should be aware that a special skill (such as an advanced driving qualification), is irrelevant when considering whether driving is dangerous. The test to be applied is the objective test of the competent and careful driver as set out in statute.
38. Emergency service workers are not entitled to drive dangerously when on duty or responding to an emergency, they owe the same duty of care to other road users as ordinary members of the public.
39. Prosecutors should also be aware that there will sometimes be cases when a person who is not a member of the emergency services will have to drive in response to an emergency, for example a parent taking a very sick child to hospital. The public interest considerations outlined above (for example, the nature of the emergency and the level of culpability) will apply in these cases.

Further Public Interest Considerations

40. The following is not exhaustive, but the list indicates some further public interest considerations that prosecutors should keep in mind in relation to road traffic offences:
 - (a) The level of culpability of a driver is likely to be relevant. The greater the degree of culpability, the greater the public interest in favour of prosecution;
 - (b) If the driver has caused harm (personal injury or damage), annoyance or distress to other road users, it is more likely to be in the public interest to prosecute;

- (c) If a person drives below the required standard and they have not passed a driving test, are unfit to drive because of a medical condition, or are driving otherwise than in accordance with the conditions of a provisional licence, it is more likely to be in the public interest to prosecute;
- (d) It will not necessarily be appropriate to prosecute every case where a minor collision occurs e.g., where the incident is of a type that involves minimal carelessness that may occur when parking a vehicle or in traffic queues. The extent of any damage does not matter in such cases; it is the extent of the driving error. Prosecutors should ensure that proceedings are not conducted for the sake of settling questions of liability for the benefit of individual drivers or insurance companies;
- (e) The following factors are not relevant when deciding whether an act of driving is dangerous or careless:
 - i. the injury or death of one or more persons involved in a road traffic collision. Importantly, injury or death does not, by itself, turn a collision into careless driving or turn careless driving into dangerous driving;
 - ii. the skill or lack of skill of the driver;
 - iii. the commission of separate driving offences at the same time (such as driving whilst disqualified or driving without a certificate of insurance or a driving licence);
 - iv. the fact that the person has previous convictions for road traffic offences; and
 - v. the mere disability of a driver caused by mental illness or by physical injury or illness, except where there is evidence that the disability adversely affected the manner of the driving.

Offences Involving Death

Murder and Manslaughter

1. If the vehicle was intentionally used as a weapon to kill or commit grievous bodily harm, a charge of murder must be considered.
2. If the killing was involuntary, that is to say, where death or grievous bodily harm was not intended, manslaughter may be considered. Manslaughter may arise as unlawful act manslaughter, gross negligence manslaughter or corporate manslaughter.
3. Unlike the offences of causing death by dangerous driving or causing death by careless or inconsiderate driving, manslaughter is not limited to roads and other public places. Manslaughter should therefore be considered where the driving has occurred "off road" or on an undesignated road.

Unlawful Act Manslaughter

4. It must be proved that:
 - (a) The person's act caused the death of another;
 - (b) The person's act constituted a criminal offence in itself;
 - (c) The person had the necessary intention, appropriate to the unlawful act, which caused the death of another; and
 - (d) The person's unlawful act is objectively recognised as subjecting another to the risk of some physical harm, albeit not necessarily serious harm.
5. Unlawful act manslaughter will be the most appropriate charge when there is evidence that a vehicle was used as an instrument of attack or to cause fright, (but where the necessary intent for murder is absent), and death occurs as a result.
6. In the context of driving offences, it is important to remember that there is a difference between cases where there is a specific unlawful act which relates to the manner and standard of the driving, and those where a death has occurred as a result of driving that is unlawful only because of the negligent manner of its performance.
7. Driving carelessly or driving dangerously do not, on their own, amount to unlawful acts for the purpose of unlawful act manslaughter.
8. Unlawful act manslaughter should, only be charged, instead of causing death by dangerous driving, where there is evidence that the driver either intended to cause injury to the victim, or was reckless as to whether injury would be caused.

Gross Negligence Manslaughter

9. In cases where a death has occurred because of the manner of driving, and it is clear from the available evidence that the standard of driving has been grossly negligent on the part of the driver, a charge of gross negligence manslaughter will be the correct charge.
10. The prosecution must prove the following:
 - (a) The person owed the deceased a duty of care;
 - (b) The person was in breach of that duty;
 - (c) The person caused the death of the deceased;
 - (d) The driving fell far below the minimum acceptable standard of driving such that there was an obvious and serious risk of death; and
 - (e) The conduct of the person was so bad in all the circumstances as, in the opinion of the court, to amount to a crime.
11. There is a general duty of care on all persons not to do acts imperilling the lives of others. This may mean that a "hit and run" driver might be guilty of manslaughter in certain circumstances. For example, where a driver fails to stop or to report a collision where he or she knows, or ought reasonably to have known, that there is a risk of death if no medical assistance is provided to the person who has been hit. The deliberate failure to stop at the scene or report the incident may amount to manslaughter by omission. Consideration should be given to this in appropriate cases where there is clear evidence to satisfy all the above elements.
12. Gross negligence manslaughter should not be charged unless there is something to set the case apart from those cases where the offences of causing death by dangerous driving, or causing death by careless driving could be proven. This will normally be evidence to show a very high risk of death, making the case one of the utmost gravity. This is in contrast to the other offences where all that is required is evidence that the driving was dangerous/careless and that the manner of driving caused the death of another person.

Corporate Manslaughter

13. The offence of corporate manslaughter covers the way in which activities of corporate bodies and other organisations are managed and organised. The offence covers working regimes, dangerous or illegal practices, or negligence that contributed to a death. In these circumstances, liability may arise in respect of corporations, government departments and other organisations.

14. The normal principles of "gross negligence manslaughter" must be followed to determine liability. The prosecution must prove the following:
 - (a) The organisation is a qualifying organisation and caused the death of the deceased;
 - (b) There was a relevant duty of care owed by the organisation to the deceased and the organisation was in gross breach of that duty; and
 - (c) A substantial element of the breach involved the way the activities of the organisation were managed or organised by senior management.

Causation

15. Causation is a vital element in road traffic offences involving death. The prosecution is required to establish that the manner of the person's driving must have been a cause of the death.
16. The person's driving need not be the sole, principal or even a substantial cause of the death. It need only be beyond a negligible cause of the death. The following principles apply:
 - (a) The person's driving must have played a part not simply in creating the occasion for the fatal accident, i.e. causation in the "but for" sense, but in bringing it about;
 - (b) No particular degree of contribution is required beyond a negligible one;
 - (c) There may be cases in which the driving is too remote from the later event to have been the cause of it;
 - (d) It is ultimately for the court to decide whether, considering all the evidence, they are sure that the person should fairly be regarded as having brought about the death of the victim by his or her driving. This is a question of fact to be determined by the good sense and fairness of the court.
17. Establishing when the standard of driving is actually the cause of death may not be a particularly easy concept. Although proving causation in fatal collision cases can, on occasion, be straightforward, prosecutors should be alive to the fact that it is possible, (though this is likely to be extremely rare), for a vehicle to be driven carelessly or dangerously without the careless or dangerous act or omission being causative of death. For example, causation may not be made out where a driver was avoidably distracted by something in the car, and suddenly a pedestrian stepped out into the road and was so close to the driver's car that a collision was inevitable, even if the driver had been paying full attention. Here, the death that occurred was unavoidable, irrespective of the manner of the driving.

18. Another example where causation may be difficult to prove could occur where there has been a collision between two cars, whereupon a third vehicle, being driven by a driver who was momentarily distracted or who failed to react sufficiently to the situation, ploughed into the crash scene. If the drivers of the first or second vehicles suffer fatal injuries, it might not be clear whether the subsequent dangerous or careless driving by the driver of the third vehicle was a cause of death.
19. Causation can be established where the driving contributes in some more than minimal way to the death. In other words, if the driving at the critical time was such as significantly or materially to increase the risk of death resulting from the person's culpable acts or omissions. The causal link required is between the driving and the death, rather than the driving and the collision. For example, there is likely to be sufficient causal link where a person is driving in excess of the speed limit and the excess speed increased the likelihood of death arising from a collision.
20. Evidence of causation requires careful review. Prosecutors will need to have regard to relevant case law on this subject and as always bear in mind that any decision to proceed will ultimately depend on the facts and merits in any given individual case.

Causing Death by Dangerous Driving

21. The offence of causing death by dangerous driving is committed when the person's driving is a cause or factor in the death of another person and the driving was dangerous.
22. "Dangerous" means that the standard of driving fell far below what would be expected of a competent and careful driver and it would be obvious to a competent and careful driver that driving in that way would be dangerous.
23. The examples given above, in relation to the basic offence of dangerous driving, also apply to this offence.
24. Dangerous driving is an offence triable on indictment and carries a maximum sentence of 14 years' imprisonment and/or an unlimited fine.
25. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.

Causing Death by Careless or Inconsiderate Driving

26. The offence of causing death by careless or inconsiderate driving is committed when the manner of the person's driving is a cause or factor in the death of another person and the driving was careless or inconsiderate.
27. A person is to be regarded as driving without due care and attention if the way he or she drives falls below what would be expected of a competent and careful driver.

28. The clear difference between this offence and an offence of causing death by dangerous driving is the standard of driving. For causing death by dangerous driving, the standard of driving must fall far below what would be expected of a competent and careful driver; whereas for this offence the standard of driving must merely fall below what would be expected of a competent and careful driver.
29. The offence can also be committed where death is caused by inconsiderate driving. In this instance, prosecutors must show that inconvenience has been caused to other persons in order to prove this offence. A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving. Again, the standard of driving must fall below what would be expected of a competent and careful driver.
30. The examples given above, in relation to the basic offence of careless or inconsiderate driving, also apply to this offence.
31. Causing death by careless or inconsiderate driving is an offence triable on indictment and carries a maximum sentence of 5 years' imprisonment and/or an unlimited fine.
32. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
33. Prosecutors should either charge causing death by careless driving or causing death by driving without due consideration to others. The charge must specify which limb of the offence the prosecution rely on.

Causing Death by Careless Driving Under the Influence of Drink or Drugs

34. Where drugs or alcohol is involved in the commission of a driving offence, there will be increased culpability and this must be reflected in the charge if the additional elements can be proven.
35. The offence of causing death by careless driving when under the influence of drink or drugs is committed when a vehicle is driven on a road or other public place and:
 - (a) the driving has caused the death of another person;
 - (b) the driving was without due care and attention or without reasonable consideration for other road users; and
 - (c) the driver is either unfit through drink or drugs, or the alcohol concentration is over the prescribed limit, or there has been a failure to provide a specimen.
36. The offence is triable on indictment and carries a maximum sentence of 14 years imprisonment and/or an unlimited fine.

37. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
38. Proper procedures must be adopted and applied in the requesting and/or obtaining of any sample of breath relied upon to establish that the driver was over the prescribed limit of alcohol in breath. In cases where the procedures are flawed, there is a risk that the evidence may be excluded.
39. Where possible, careful consideration must be given to whether the remaining evidence will support an alternative allegation of causing death by careless driving while unfit to drive through drink, in which case, evidence other than that from an intoximeter machine can be relied upon to demonstrate the person's unfitness to drive.
40. It is not necessary to add a further charge relating to drink driving when the person is charged with causing death by careless driving when under the influence of drink or drugs, because a guilty verdict to the relevant drink drive offence can be returned by the court under the alternative verdict provisions. See the section on Alternative Verdicts.
41. Assessing the relevance of the consumption of alcohol or drugs can be a difficult area. Two principles apply in relation to alcohol and drug consumption:
 - (a) the mere fact that the driver has consumed alcohol, or taken drugs, is not of itself relevant to or admissible on the question of whether his or her driving is careless or dangerous. The evidence must tend to show that the amount of alcohol taken was such as would adversely affect a reasonable driver, or alternatively that the driver was in fact adversely affected; and
 - (b) the court retains an overriding discretion to exclude such evidence if its prejudicial effect outweighs its probative value.

Causing Death by Driving While Unlicensed or Uninsured

42. The offence of causing death by driving while unlicensed or uninsured is committed when the person causes the death of another person by driving a motor vehicle on a road and, at the time of driving, one of the following offences was being committed:
 - (a) driving otherwise than in accordance with a licence;
 - (b) using a motor vehicle while uninsured.
43. The offence is triable on indictment and carries a maximum sentence of 2 years imprisonment and/or an unlimited fine a minimum disqualification of 12 months.
44. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.

45. There must be a causal link between the death and the standard of driving but this is not the same as the standard of driving being careless or inconsiderate. There must be present some act or omission in the control of the car, which involves some element of fault, whether amounting to careless or inconsiderate driving or not, and which contributes in some more than minimal way to the death of an individual. The word "causing" involves more than simply placing a vehicle on a road and it cannot be simply the case that the accused had not obtained the appropriate documents, even if, as will usually be the case, there was some level of culpability in not having those documents.
46. Where there is clear evidence that the driving fell below the required standard and was a cause of death, the appropriate offence incorporating dangerous or careless driving should be charged.
47. Where a person was not licensed or insured, prosecutors should set out each limb of the offence in separate charges, rather than in a single charge.

Causing Death by Driving Whilst Disqualified

48. This offence is committed if a person causes the death of another person by driving a motor vehicle on a road, and at the time, was committing an offence of driving while disqualified.
49. The offence is triable on indictment and carries a maximum sentence of 10 years imprisonment and/or an unlimited fine.
50. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
51. As with the offence of causing death by driving while unlicensed or uninsured, the offence of causing death by driving whilst disqualified also means that for a person to be convicted there must be something open to proper criticism in the way the person was driving which contributed more than minimally to the death.

Cases where the Victim is a Close Friend or Relative of the Driver

52. Any case that involves the death of another will inevitably be one of the most serious matters that will be dealt with by prosecutors. Whilst the serious nature of these cases usually means that a prosecution will be in the public interest, prosecutors must acknowledge the greater emotional impact likely to be felt by a driver where the death he or she has caused is that of a relative or someone with whom they share a close personal relationship.
53. When reviewing such cases, prosecutors must balance the circumstances of each individual case with the consequences to the driver, who is likely to have suffered significant personal loss from the bereavement.

54. Whilst there may be sufficient evidence to prosecute, it should be recognised that in some instances, such prosecutions would be inappropriate and it would not be in the public interest to proceed because of the likely life-long consequences of losing a loved one and being responsible for that loss.
55. However, this must always be balanced against the need to ensure the safety of other road users including motorists, passengers, those on public transport, cyclists and pedestrians. If there is evidence to suggest that an individual may present a continuing danger to other road users, the proper course will be to prosecute that individual. Evidence that someone may present a continuing danger to other road users may exist, for example, if they have previous relevant convictions or a medical condition.
56. In cases where the degree of culpability of the driver is low and there is no evidence, they may present a continuing danger to other road users; it is unlikely that a prosecution will be in the public interest. Examples of lower culpability on the part of the driver may include errors of judgement such as a failure to look properly before turning at a junction, due to a momentary lapse of attention; or a genuine mistake on the part of the driver such as a mistaken belief that he or she was insured to drive the vehicle.
57. The same conclusion may sometimes be appropriate if a driver demonstrated a higher degree of culpability but there was no evidence they may be a continuing danger to others, for instance, being distracted by tuning a car radio resulting in a fatality.
58. However, where there is a high degree of culpability, the proper course is likely to be to prosecute. For example, where an individual demonstrated a prolonged course of dangerous driving; drove whilst over the prescribed alcohol limit; or drove whilst never having had motor insurance or having been previously disqualified from driving or never having passed a driving test.
59. This is a non-exhaustive set of examples and prosecutors are reminded that each individual case must be considered on its own particular set of facts and its own merits when determining the level of culpability.
60. If a person other than a close friend or family member is also killed because of the manner of an individual's driving it may well be that a prosecution for an offence relating to each of the deaths is appropriate. Prosecutors will have to consider each case on its own facts and its own merits.

Terminology

61. The term "collision" and not "accident" must be used. This is particularly important in cases involving death or serious injury. Collision is a neutral term that is not suggestive of a particular view on fault or liability.

Bereaved Families

62. Losing a loved one as a result of a road traffic collision is a traumatic experience. Where the collision leads to the making of a charging decision and in appropriate cases the commencement of criminal proceedings, the pressure on bereaved families is immense. Every care must be taken to support bereaved families through this difficult period of time.
63. The guidance contained in 'AGG10 - The Attorney General's Guidance on Victims and Witnesses' must be followed. Victim and witness care must be delivered to a high standard.
64. Prosecutors must invite bereaved families to meet. Where the invitation is accepted, Prosecutors must arrange a meeting. The purpose of the meeting will vary depending on the circumstances of the case and the stage of the proceedings. However, at every meeting it will be important to deal with the family's concerns about the procedure and to instil confidence in the prosecution process.
65. It should be made clear to the family in advance of the meeting that the purpose of the meeting is not to discuss the detail of the evidence. However, it must be recognised that families are likely to ask questions pertaining to evidential or legal issues. Prosecutors should be alive to such evidential issues and when they arise, have regard to risks of prejudicing proceedings when considering how to deal with them. Some family members may be witnesses and this will substantially limit how much can be said in relation to the evidence. Where an aspect of the case cannot be discussed, prosecutors should explain the reasons for this.
66. Prosecutors should liaise with the Royal Falkland Islands Police to make suitable practical arrangements for conducting meetings with bereaved families. Meetings should take place with the police present and in an appropriate location.

Acceptance of Pleas

67. Prosecutors are reminded of the following in relation to acceptance of pleas:
 - (a) Any decision to accept a plea to a lesser offence in fatal collision cases must be carefully considered;
 - (b) Prosecutors should consult the bereaved family before making any decision to accept a plea to a less serious offence. This also applies to circumstances where the person indicates a guilty plea based on certain specified facts. However, the final decision in this regard rests with the prosecution;
 - (c) Any factual basis for sentencing must be clearly agreed and reduced to writing.

- (d) Prosecutors must follow the guidance in 'AGG6 - The Attorney General's Guidance on the Acceptance of Pleas and Sentencing'.
- (e) With charges of causing death by careless/inconsiderate driving, it will not normally be appropriate to accept a plea to an offence of careless or inconsiderate driving.
- (f) With charges of causing death by driving while unlicensed or uninsured, it will not normally be appropriate to accept a plea to an offence of driving otherwise than in accordance with a licence or driving when uninsured. Where there are multiple charges to reflect the different limbs of the offence, (for example where a person is facing one charge of causing death by driving while unlicensed and another charge of causing death while uninsured) it may be appropriate to accept a plea to one of those offences.

Inquests

- 68. Coroners should adjourn an inquest where a person is charged with any of the following offences:
 - (a) causing death by dangerous driving;
 - (b) causing death by careless driving while under the influence of drink or drugs;
 - (c) causing death by driving while unlicensed or uninsured;
 - (d) causing death by driving while disqualified;
 - (e) causing death by careless or inconsiderate driving
- 69. The inquest should not take place until the conclusion of the criminal proceedings unless there is a good reason to proceed with the inquest.
- 70. This general approach does not apply to fatal collisions where it is not being alleged that the driving caused the death. In these circumstances, the trial for the driving offence should be adjourned until after the inquest has taken place. Where it is considered beneficial to do so, prosecutors should attend an inquest where the related criminal proceedings have still to be concluded.

Seizure of Vehicles in Fatality or Serious Injury cases

- 71. In cases where a fatality or serious injury results, consideration should be given to the seizure and retention of the vehicle in its post-collision condition until the conclusion of the case, and after any periods for an appeal have elapsed. This allows an opportunity for expert examination of the vehicle.

72. The condition of the vehicle involved in a road traffic collision may be relevant in explaining why the collision happened, for example, a mechanical defect. In this respect, the police should have established procedures to ensure that no car involved in a collision could be scrapped without their express permission. The police should not allow a car to be destroyed where serious criminal charges could be brought, which might involve the possibility of some mechanical defect to the vehicle becoming a potential issue in the case.
73. However, in some circumstances, it may be appropriate for the police to seize specific defective parts of a vehicle or provide photographic or laser scanned records. Advice should be sought before proceeding in this way.

Offences Involving Serious Injury

Causing Serious Injury by Gross Negligence

41. In cases where serious injury has occurred because of the manner of driving, and it is clear from the available evidence that the standard of driving has been grossly negligent on the part of the driver, a charge of causing grievous bodily harm (serious injury) by gross negligence will be the correct charge.
42. The prosecution must prove the following:
 - (a) The person owed the injured person a duty of care;
 - (b) The person was in breach of that duty;
 - (c) The person caused the serious injury;
 - (d) The driving fell far below the minimum acceptable standard of driving such that there was an obvious and serious risk of causing serious injury; and
 - (e) The conduct of the person was so bad in all the circumstances as, in the opinion of the court, to amount to a crime.
43. There is a general duty of care on all persons not to do acts that cause a risk of serious injury to others.
44. Causing serious injury by gross negligence should not be charged unless there is something to set the case apart from those cases where an offence such as causing serious injury by dangerous driving, or causing serious injury by careless driving, could be proven. This will normally be evidence to show a very high risk of serious injury, making the case one of the most serious examples of its kind. This is in contrast to the other offences where all that is required is evidence that the driving was dangerous/careless and that the manner of driving caused the serious injury to another person.
45. Causing serious injury by gross negligence is not limited to driving that takes place on a road or other public place, unlike the offences of dangerous driving and careless driving. The offence is available for incidents that take place “off-road” or on non-designated roads.

Causing Serious Injury by Dangerous Driving

46. The offence is committed when the manner of the person's driving is dangerous and results in another person suffering a serious physical injury.

47. Dangerous driving has the same definition as set out above and "serious injury" is defined as physical harm which amounts to grievous bodily harm for the purposes of section 64 of the Crimes Ordinance 2014 (the offence of causing grievous bodily harm).
48. The offence carries a maximum sentence of 5 years imprisonment and/or an unlimited fine.
49. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
50. The examples given above to illustrate dangerous driving also apply to this offence.

Charging Practice

51. The charge should only be used in cases where the level of injury amounts to grievous bodily harm and occurred because of an incident involving a vehicle being driven on a road or other public place.
52. Where a person is found not guilty of manslaughter, they may instead be convicted of the offence of causing serious injury by dangerous driving.
53. Where a person is found not guilty of causing serious injury by dangerous driving, they may be convicted of dangerous driving or careless, or inconsiderate driving in the alternative. See the section on Alternative Verdicts.

Causing Serious Injury by Driving Without Due Care and Attention

54. The offence of causing serious injury by careless or inconsiderate driving is committed when the manner of the person's driving causes the serious injury of another person.
55. A person is to be regarded as driving without due care and attention if the way he or she drives falls below what would be expected of a competent and careful driver.
56. The clear difference between this offence and an offence of causing serious injury by dangerous driving is the standard of driving. For causing serious injury by dangerous driving, the standard of driving must fall far below what would be expected of a competent and careful driver; whereas for this offence the standard of driving must merely fall below what would be expected of a competent and careful driver.
57. The offence can also be committed where serious injury is caused by inconsiderate driving. In this instance, prosecutors must show that inconvenience has been caused to other persons in order to prove this offence. A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving. Again, the standard of driving must fall below what would be expected of a competent and careful driver.

58. Causing serious injury by careless or inconsiderate driving carries a maximum sentence of 2 years imprisonment and/or an unlimited fine.
59. The examples given above to illustrate careless and inconsiderate driving also apply to this offence.

Charging Practice

60. Prosecutors should either charge causing serious injury by careless driving or causing serious injury by driving without due consideration to others. The charge must specify which limb of the offence the prosecution rely on.

Causing Serious Injury by Driving Without Due Care and Attention when under the Influence of Drink or Drugs

61. Where drugs or alcohol is involved in the commission of the offence, there will be increased culpability and this must be reflected in the appropriate charge if these additional elements can be proven.
62. The offence of causing serious injury by careless driving when under the influence of drink or drugs is committed when a vehicle is driven on a road or other public place and:
 - (a) the driving has caused the death of another person;
 - (b) the driving was without due care and attention or without reasonable consideration for other road users; and
 - (c) the driver is either unfit through drink or drugs, or the alcohol concentration is over the prescribed limit, or there has been a failure to provide a specimen.
63. The offence carries a maximum sentence of 5 years imprisonment and/or an unlimited fine.
64. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
65. Proper procedures must be adopted and applied in the requesting and/or obtaining of any sample of breath. In cases where the procedures are flawed, there is a risk that the evidence may be excluded.
66. Where possible, careful consideration must be given to whether the remaining evidence will support an alternative allegation of causing serious injury by careless driving while unfit to drive through drink, in which case, evidence other than that from an intoximeter machine can be relied upon to demonstrate the person's unfitness to drive.

67. It is not necessary to add a further charge relating to drink driving when the person is charged with causing serious injury by careless driving when under the influence of drink or drugs, because a guilty verdict to the relevant drink drive offence can be returned by the court under the alternative verdict provisions. See the section on Alternative Verdicts.
68. Assessing the relevance of the consumption of alcohol or drugs can be a difficult area. Two principles apply in relation to alcohol and drug consumption:
- (a) the mere fact that the driver has consumed alcohol, or taken drugs, is not of itself relevant to or admissible on the question of whether his or her driving is careless or dangerous. The evidence must tend to show that the amount of alcohol taken was such as would adversely affect a reasonable driver or alternatively that the driver was in fact adversely affected; and
 - (b) the court retains an overriding discretion to exclude such evidence if its prejudicial effect outweighs its probative value.

Causing Serious Injury by Driving: Unlicensed or Uninsured Drivers

69. The offence of causing serious injury by driving while unlicensed or uninsured is committed when the person causes the serious injury of another person by driving a motor vehicle on a road or other public place and, at the time of driving, one of the following offences is being committed:
- (a) driving otherwise than in accordance with a licence;
 - (b) using a motor vehicle while uninsured.
70. The offence carries a maximum sentence of 12 months imprisonment and/or an unlimited fine.
71. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
72. There must be a causal link between the serious injury and the standard of driving but this is not the same as the standard of driving being careless or inconsiderate. There must be present some act or omission in the control of the car, which involves some element of fault, whether amounting to careless or inconsiderate driving or not, and which contributes in some more than minimal way to the death of an individual. The word "causing" involves more than simply placing a vehicle on a road and it cannot be simply the case that the accused had not obtained the appropriate documents, even if, as will usually be the case, there was some level of culpability in not having those documents.
73. Where there is clear evidence that the driving fell below the required standard and was a cause of the serious injury, the appropriate offence incorporating dangerous or careless driving should also be charged.

74. Where a person was not licensed or insured, prosecutors should set out each limb of the offence in separate charges, rather than in a single charge.

Causing Serious Injury by Driving: Disqualified Drivers

75. This offence is committed if a person causes serious injury to another person by driving a motor vehicle on a road, and at the time, was committing an offence of driving while disqualified.
76. The offence carries a maximum sentence of 4 years imprisonment and/or an unlimited fine.
77. The court must disqualify the driver from driving for at least 2 years, unless special reasons are found for not disqualifying.
78. As with the offence of causing serious injury by driving while unlicensed or uninsured, the offence of causing serious injury by driving whilst disqualified also means that for a person to be convicted there must be something open to proper criticism in the way the person was driving which contributed more than minimally to the serious injury.

Causation

79. There may be cases where the injuries are such that they do not evidentially satisfy the elements of the offence of causing serious injury by dangerous, careless or inconsiderate driving. In these cases, it may be appropriate to consider an additional assault charge.
80. For this course of action to be appropriate, the prosecution must be able to prove that the person subjectively foresaw that the victim would be subjected to unlawful force, however slight, and that the person took the risk (alternatively, that the person foresaw the possibility that the victim would apprehend immediate and unlawful violence and took the risk). If the evidential criteria are satisfied for dangerous driving it will often be the case that the mental element will be made out for the offence of assault.
81. The mental element for an assault, on a reckless basis, requires the person to have been subjectively reckless as to the risk of using unlawful force against another person; which may be through the vehicle coming into contact with an object or person. If a person drives a vehicle whilst being reckless in this manner, that driving is dangerous as it must fall far below that of a careful and competent driver and be obviously dangerous to such a driver.
82. Accordingly, an assault should not be charged in cases where the standard of driving means that the offence of careless driving was committed. If a vehicle was used in an assault, even on a reckless basis, that must mean the driving was dangerous.

Drink Driving Offences

Driving/Being in Charge with Alcohol Concentration above the Prescribed Limit

1. The offence is committed where a person drives, or attempts to drive, a motor vehicle on a road or public place; or is in charge of a vehicle on a road or public place, after consuming so much alcohol that the proportion of it in their breath exceeds the prescribed limit.
2. In relation to being in charge of a vehicle, a person is not guilty if he proves that the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath exceeded the prescribed limit.

Driving/Attempting to Drive or Being in Charge of a Motor Vehicle Whilst Unfit

3. It is an offence if a person drives, attempts to drive, or is in charge of a motor vehicle on a road or other public place, whilst unfit through drink or drugs.
4. In relation to alcohol, where the level of alcohol concentration in breath exceeds the specified limit, then the offence of driving or being in charge with alcohol concentration above the prescribed limit should be charged. Where the alcohol concentration in breath is below the prescribed limit, but there is sufficient evidence of impairment, a charge of driving, attempting to drive or being in charge whilst unfit should be charged.
5. The Royal Falkland Islands Police should always gather evidence relating to impairment, so that that where alcohol concentration above the prescribed limit cannot be established, the offence of driving whilst unfit can be considered.
6. In relation to impairment through drug use, police officers should carefully record the evidence of impairment and the evidence that establishes that impairment is due to drug use. For example, evidence of the presence or possession of drugs and recording of the physical evidence that establishes that the person is under their influence.
7. Prosecutors need to be mindful of the need to distinguish between “attempting to drive” and being “in charge”. An attempt must be more than merely preparatory to the act of driving. For example, opening a car door is merely preparatory to the act of driving, and not an actual attempt to drive. In these circumstances the person is likely to be in charge of the vehicle.
8. A person remains in charge of their vehicle until they have transferred control to another, for example by handing over the key or have gone some distance from the car, in such circumstances that they had no intention of re-asserting control of the vehicle.

Preliminary Breath Tests

9. If a police officer in uniform has reasonable cause to suspect:
- (a) that a person driving or attempting to drive, or in charge of a vehicle on a road or public place, has alcohol in their body or has committed an offence under the Road Traffic Ordinance 1948; or
 - (b) that a person has been driving or attempting to drive or has been in charge of a vehicle on a road or public place, with alcohol in their body and that that person still has alcohol in their body; or
 - (c) that a person has been driving or attempting to drive or has been in charge of a vehicle on a road or public place and has committed an offence under the Ordinance whilst the vehicle was in motion;

The police officer may require the person to provide a specimen of breath for a breath test.

10. A specimen of breath can also be required where a person driving, or being in charge of a vehicle, has been involved in a road traffic accident.
11. A person commits an offence who, without reasonable excuse, fails to provide a specimen of breath when required to do.
12. A police officer may arrest a person if, as a result of a breath test, the officer has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit; or the person has failed to provide a specimen of breath for a breath test when required to do so and the police officer has reasonable cause to suspect that the person has alcohol in their body.
13. When a person is at a hospital as a patient they are not be required to provide a specimen of breath for a breath test, unless the medical practitioner in immediate charge of their case has been notified by a police officer of the proposal to make a requirement and if the requirement is then made it shall be for the breath test to be undertaken at the hospital. If the medical practitioner objects on the ground that the requirement would be prejudicial to the proper care and treatment of their patient, the requirement shall not be made.
14. A person cannot be arrested if they are a patient at a hospital.

Specimens of Breath for Analysis

15. When investigating a drink drive offence, a police officer may require a person to provide two specimens of breath for analysis by means of an approved device.
16. This requirement can only be made at a police station and the police officer shall warn the person that a failure to provide the specimens may result in prosecution.

17. A person commits an offence who, without reasonable excuse, fails to supply a specimen of breath when required to do.
18. The Royal Falkland Islands Police use Form 15 when dealing with drink driving offences. Prosecutors should note the contents of the form and the procedures that it prescribes.
19. In the event of a not guilty plea to a drink drive offence, prosecutors should seek to agree the contents of the form by formal admission. Such an admission must include the name of the person, the date and place of the offence and the results of the breath test. If such an admission cannot be secured then the officers conducting or witnessing the sampling procedure will normally have to be called to give evidence in person.
20. Form 15 contains assertions of fact; it is a document made out of court and is inadmissible under the hearsay rule. The law only permits that the evidence contained in a witness statement is admissible were the maker of it in the witness box. If the officer who filled out the Form were in the witness box, he could not produce the Form in chief as an exhibit, though he could refer to it as a memory-refreshing document. The production in evidence of that Form attached to a short witness statement will not render the content admissible.
21. The only way in which the information contained on Form 15 can be produced in documentary form as admissible evidence is if that information is extracted from the form and incorporated into a witness statement made by the officer. This course must be followed in the event of a prosecution for causing death by careless driving when under the influence of drink or drugs.
22. In cases involving a person aged 17 years or under, the young person may consent to the provision of breath specimens without the need for parental or other approval. The officer must be satisfied, as they would with any consent, that the young person has the necessary mental capacity. The procedure need not be delayed until an appropriate adult attends since the procedure does not constitute an interview for the purposes of the Codes of Practice.
23. The youth must have sufficient capacity to understand what he or she is being asked to consent to and the consequence of refusing to provide the specimen (namely, that a failure or refusal, to provide it, without reasonable excuse, may render him or her liable to prosecution for an offence of failing to provide).

Charging Practice

24. The prescribed breath alcohol limit is 35 micrograms but a driver should not be prosecuted with a breath alcohol level of less than 40 micrograms. This provides a sensible margin of tolerance, prevents prosecution in borderline cases and ensures that only those who have clearly exceeded the prescribed limit are subject to prosecution.

Post Driving Consumption and Back Calculations

25. A driver may claim that the proportion of alcohol in a breath specimen is above the legal limit because they consumed alcohol after they ceased to drive. The driver will need to rebut the presumption that the proportion of alcohol in his breath at the time of the alleged offence was not less than in the specimen. That presumption can be rebutted if the driver proves, on a balance of probabilities, that he consumed alcohol after he had ceased to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen; and that had he not done so the proportion of alcohol in his breath would not have exceeded the prescribed limit and/or impaired his ability to drive properly. This usually requires expert scientific evidence to establish that the alleged post driving consumption of alcohol accounts for the excess found in the sample.
26. The defence must call medical or scientific evidence on the point unless it is obvious to a layperson that the post offence consumption explained the excess. Experience has shown that this is frequently argued in cases where the person claims to have consumed no alcohol prior to driving. Even here, it will not be "obvious" where the quantity of alcohol subsequently consumed is not consistent with the measured breath sample.
27. Conversely, a driver may provide a specimen some hours after the time of the alleged offence that is below the legal limit. Back calculations, based upon rates at which the human body eliminates alcohol, could establish that the driver was in excess of the legal limit when the offence occurred. The prosecution is entitled to rely upon such back calculations for the purposes of proving an offence, but only if that evidence is easily understood and clearly persuasive of the presence of excess alcohol at the time of the alleged offence.
28. Expert evidence will include evidence of mathematical calculations based upon the elimination of alcohol within the driver's body. Ideally, the evidence provided by the expert should relate as closely as possible to the physical characteristics of the driver and their consumption of both food and drink over the relevant period. The following information is relevant, where available:
 - (a) the weight, height, build, age and sex of the driver;
 - (b) details of any food consumed from six hours before the offence and the provision of a breath or laboratory specimen;
 - (c) any known medical condition;
 - (d) details of any medication taken regularly, or within 4 hours prior to drinking;
 - (e) the type and quantity of alcohol consumed before the offence and, if possible, the times at which individual units of alcohol were consumed;
 - (f) the same information concerning any alcohol allegedly consumed after the offence but before the provision of a breath or laboratory specimen.

Back Calculations and the Public Interest

29. When considering a case based upon back calculation evidence, the prosecution should consider whether a prosecution on this basis would be in the public interest. Factors to consider in the context of such a case in favour of prosecution might include:
- (a) Where a considerable lapse of time occurred between the incident of driving and the driver's arrest because of the driver's own culpable actions by, for example, absconding from the scene of an accident;
 - (b) Where there are clear grounds for believing the driver to be a danger to other road users, such as the existence of previous drink drive convictions;
 - (c) Where there are other aggravating features, such as the fact that the driver was disqualified from driving or serious injury was caused to another person;
 - (d) When a death occurs because of careless driving when under the influence of drink or drugs.

Challenging the Evidential Breath Testing Instrument

30. Any challenge to the decision to approve a breath analysis device must be made by way of an application for Judicial Review, not in the course of a trial relating to the performance of a particular device.
31. There is a statutory presumption that at the time that the person was driving the proportion of alcohol in their breath was at least what was found in the specimen. However, that presumption may be challenged by evidence relevant to the circumstances of that particular case. In order to convict in the face of such evidence the court must remain satisfied that the instrument provided a reading upon which they can rely.
32. Prosecutors should be robust in challenging speculative defence applications for disclosure of material such as calibration service sheets or engineers' reports, for example relating to the history of the machine which produced the reading relied on.
33. The disclosure duties only apply to material which is in the possession of the prosecutor or which the prosecutor has inspected or which the prosecutor must, if they ask for the material, be given a copy or must be allowed to inspect. The manufacturers of a breath testing device are third parties and any records they hold relating to the machine are not 'prosecution material' within the meaning of the disclosure provisions.
34. Records held in the custody suite are in the possession of police (but not the prosecutor). However, these will only meet the definition of 'prosecution material' if they are relevant and it would constitute a 'reasonable line of enquiry' for the prosecutor to ask the police to provide them.

35. If there is no reason to believe that they contain anything relevant which would meet the criteria for disclosure then obtaining them will not be a reasonable line of enquiry. Therefore, defence applications for disclosure of this sort of material must identify a proper evidential basis for concluding that the material sought might reasonably be expected to meet the criteria for disclosure.
36. Evidential Breath Testing Instruments are computers. The law presumes that any mechanical or other device is working properly unless the contrary is proved. Consequently, the record produced by a computer is admissible as real evidence as it is presumed that the record is accurate. That presumption can be rebutted if evidence to the contrary is adduced. In that event, it will be for the party seeking to produce the computer record in evidence to satisfy the court that the computer was working properly at the material time.

Charging Practice

37. There is a very clear public interest in prosecuting drink or drug driving offences, due to the danger posed to others by such behaviour. Where an individual has driven a motor vehicle and the evidence is sufficient to support a charge, a prosecution will almost invariably follow.
38. Offences of failing to provide specimens of breath, may be committed whether the person has been driving, attempting to drive or was in charge of a vehicle. Where the prosecution is satisfied that the person has done none of those acts, but has failed to provide a specimen, there is a greater degree of discretion as to whether proceedings are appropriate. However, failing to provide evidential specimens of breath when lawfully required is a serious offence and a prosecution will normally be in the public interest.

Impairment/Unfitness to Drive

39. If there is clear evidence of impairment over and above the evidence of the breath analysis, consideration should be given to a charge of driving whilst unfit. If the evidence supports both an allegation of unfitness and an allegation of being over the prescribed limit, joint proceedings are normally unnecessary. However, consideration should be given to charging both offences when:
 - (a) evidence indicates impairment as a result of both drugs and excess consumption of alcohol;
 - (b) there is a possible defence to the prescribed limit offence because the specimen taken by the police is likely to be ruled inadmissible.
40. Where there is evidence to support unfitness and also evidence to support an allegation of failing to provide a specimen, it may be appropriate to charge both offences to reflect the additional offending. This may be particularly appropriate if there is a possible defence to the charge of failing to provide a specimen.

Failing to Provide a Specimen

41. A charge of failing to provide a specimen of breath for screening should be preferred when supported by the evidence. In the event of a guilty plea being tendered to a related offence, it will normally be in the public interest to accept the plea to the substantive offence.
42. There is no need to state in a charge relating to failure to provide, the offence which is suspected and being investigated by a police officer. It is the fact that an investigation is in process that gives rise to the requirement to provide a specimen for analysis. The nature of the offence under investigation is not relevant to the requirement to provide.

Disclosure of Unused Material

43. Standard records, such as the maintenance log for each instrument, does not form part of the investigation into an offence, will not form part of the standard unused material of an investigation, and should not be routinely disclosed to the defence.
44. The defence may request copies of technical documents relating to the specification, construction and performance of the instruments. Disclosure to the defence of such unused material is governed by the usual disclosure rules on defence material. Prosecutors should bear in mind that material in this category might be commercially confidential.
45. If there is any reason to believe that an instrument whose readings are relied upon in evidence was not working correctly, that information, which will undermine the prosecution case, must be disclosed to the defence. There should, however, be an evidential basis for believing that the instrument was not working correctly, rather than a speculative assertion.

Other Road Traffic Offences

Failing to Stop and Failing to Report an Accident

1. In accordance with the Road Traffic (Provisional) Regulations Order 1986, a person driving a motor vehicle shall:
 - (a) when any accident occurs whereby damage or injury is caused to any person, vehicle, bicycle, horse, cattle, sheep, pig, goat or dog, stop and give their name and address, and the name and address of the owner and the identification marks of the vehicle to any person having reasonable grounds for requiring them to do so;
 - (b) in the case of an accident, if the driver does not for any reason give their name and address to any person requiring their details, the driver shall report the accident to the police station as soon as practicable and in any case within twenty-four hours of the occurrence.
2. Failure to comply with these duties is a criminal offence.
3. The duty to stop means to stop sufficiently long enough to exchange the required particulars.
4. There is an obligation on the driver, if he does not give his name and address, to report the accident to the police station as soon as reasonably practicable and in any case within 24 hours. The duty to report means 'as soon as reasonably practicable'. It does not mean the driver has twenty-four hours within which to report the collision.
5. When the evidence reveals a failure to comply with both the failure to stop and the failure to report, proceedings should be brought for both offences. The failure to stop is usually viewed as the more serious of the two.

Failing to Comply with Road Traffic Signage

6. The Road Traffic (Provisional) Regulations Order 1986 contain a general duty on drivers to comply with every road sign put in place or erected by the Government or the police, and with every reasonable direction or signal given by a police officer in uniform.
7. Failure to comply with this duty is a criminal offence. Offences relating to specific road markings and signage, such as pedestrian crossings and no waiting regulations, are contained in individual statutory instruments made under the Road Traffic Ordinance 1948.
8. It is no defence that the driver failed to see the sign. There is no mental element to the offence and it does not need to be proven that a person knowingly, or recklessly, failed to comply with the road marking or road sign.

9. A mechanical defect of which the driver was unaware, may amount to a defence, as will the loss of control over the vehicle due to circumstances beyond the control of the driver.
10. It will often be appropriate to prosecute for both the offence of failing to comply and for careless driving as a result of the same incident of driving. However, it will rarely be necessary for the prosecution to seek to secure convictions on both offences.

Driving or Obtaining a Driving Licence Whilst Disqualified

11. A person is guilty of an offence if, while disqualified from holding or obtaining a licence, they obtain a licence, drive a motor vehicle on a road or fails to give particulars of an endorsement.
12. There is a duty on a person who chooses to drive to ensure that they are entitled to do so. It is no defence for that person to say that he or she thought the disqualification had expired. It is no defence for a person disqualified in their absence to claim that they did not know that they had been disqualified. However, courts should be reluctant to disqualify offenders in their absence because of this potential problem.
13. Proof of disqualification is essential but there is no prescribed way that identification has to be proven as this could be proved by any admissible means. In many cases the fact of disqualification will not be in dispute and can be agreed by admission. Police officers may give identification evidence and documentary evidence can be relied upon to establish similarity of name, date of birth and address.

Charging Practice

14. Driving a motor vehicle on a road whilst disqualified is a serious matter since it will usually involve the deliberate flouting of a court order. But where a disqualified person has had his driving licence returned in error, the prosecution should take that fact into account in deciding whether or not to proceed. Much will depend on the nature of the error and any explanation given by the person.
15. Generally, the offence of driving while disqualified should not be withdrawn just because the person is pleading guilty to other offences. However, that course can be taken where the other offences are serious and are liable to result in a substantial term of imprisonment or period of disqualification, or the person has already been sentenced to a lengthy term of imprisonment in any event.
16. It is no defence that the person did not think he was driving on a road. When such a point is raised, the prosecution should consider the reason for the person's belief, the distance driven and the degree of risk, if any, to the public when determining whether it is in the public interest to proceed.

Using a Vehicle Without Insurance

17. Any person who drives, or causes, or permits any other person to drive a motor vehicle on a road without a policy of insurance, commits an offence.
18. A policy of insurance shall be one which insures such persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by them in respect of the death or bodily injury to any person caused by or arising out of the use of the vehicle on a road (third party insurance).

Charging Practice

19. There is a clear public interest in prosecuting offenders because uninsured drivers pose a substantial risk to other road users.
20. Offences of causing or permitting the uninsured use of a vehicle should be regarded as being as serious as using a motor vehicle without insurance.
21. Where a driver has obtained a policy of insurance by deception, the policy will be valid so far as liability is concerned until the insurers have taken steps to "void" it.
22. An allegation of driving without insurance should never be withdrawn as a matter of convenience when pleas of guilty are tendered in respect of other offences.
23. It is not for prosecutors or court staff to undertake investigations in relation to documents produced at court purporting to be valid policies of insurance. If necessary, the case should be adjourned for validation to be carried out by the police. Considering whether a policy of insurance is a genuine policy covering the person producing the document is a matter for police investigation and prosecutors must be alive to the sophistication of fraudulently produced material.

Using Mobile Telephones

24. In accordance with the Road Traffic (Mobile Phones etc) Order 2011 a person must not use a hand-held mobile telephone or another hand-held communication device when driving on a road.
25. A communications device includes a device that transmits or receives data for one or more of the following purposes:
 - (a) sending or receiving oral or text-based messages;
 - (b) sending or receiving facsimile documents;
 - (c) sending or receiving still or moving images; and
 - (d) accessing the internet.

26. "Using" includes each of the following actions:
- (a) making or receiving a telephone call with it;
 - (b) transmitting or receiving data with it;
 - (c) holding it in a position in which it could be used;
 - (d) operating any of its functions; and
 - (e) looking at its display.
27. An exception applies to a person using a hand-held mobile telephone or another hand-held communications device if all three of the following conditions are satisfied:
- (a) the person is using the hand-held mobile telephone or other hand-held communications device to call the police on 112, 911 or 999;
 - (b) the person is making the call in response to a genuine emergency; and
 - (c) either-
 - i. if the person is driving, it is unsafe or impracticable for the person to stop driving in order to make the call; or
 - ii. if this article applies because the person is supervising or being carried as a passenger, it is unsafe or impracticable for the provisional licence holder to stop driving while the call is being made.
28. An exception also applies to a person using a two-way radio only to conduct a voice conversation using a push to talk handset and loudspeaker.
29. Whether or not a person is driving at the time of using the device will be a matter of fact and degree in every case. A vehicle may be being driven even when it is stationary. It is not necessary that the vehicle should be in motion.
30. A person is obviously driving when they are stationary in a traffic block or waiting at a level crossing or at traffic lights or filling up with petrol. It does not make any difference if in a traffic block the driver switches the engine off to prevent it overheating or to save petrol.
31. The following matters should be considered when considering whether a person was driving at the time of using the mobile telephone:
- (a) the operations of applying the handbrake, switching off the ignition etc. should be considered as part of the driving;

- (b) If the driver has reached the end of their journey they should no longer be regarded as driving;
 - (c) When the driver stops during the journey the following questions will be relevant in deciding whether they are still driving or not:
 - i. Is the purpose of the stop connected with the driving?
 - ii. How long was the stop? The longer it was the less likely it is that they can still be considered to be driving;
 - iii. Did the driver get out? If not, that is an indication (although not conclusive) that they are still driving.
 - (d) When a motorist has been effectively prevented or dissuaded from driving then they are no longer to be considered as driving.
32. An individual stopped at a traffic light or held up in traffic can be prosecuted for a mobile phone offence.
33. A person who uses their phone while stationary at traffic lights will be distracted and less able to move off safely when the lights change. Similar considerations would apply to a driver stationary in a traffic jam.

Charging Practice

34. There is a clear public interest in the promotion of road safety. Numerous academic studies from across the world have concluded that the using a hand-held mobile phone whilst driving significantly decreases driver performance. Accordingly, the public interest will weigh in favour of a prosecution for a mobile phone offence where the evidential test is met.
35. Where the relevant evidential requirements are met, the use of electronic devices when driving may also amount to the offence of dangerous driving or the offence of careless driving.

Commencement of Proceedings

Limitation of Time

1. Many road traffic offences carry maximum penalties of six months imprisonment or less. Prosecutors must bear in mind section 182 of the Criminal Procedure and Evidence Ordinance 2014 which stipulates that a prosecution for an offence that carries a maximum sentence of six months imprisonment or less, must be commenced within six months of the date of commission of the offence.
2. This time limit is of particular significance for two reasons:
 - (a) Substantial delay may occur (in the investigation or otherwise) before it is decided to institute proceedings.
 - (b) The time limit may prevent additional/alternative charges being added at a later date.
3. A prosecution of a person is commenced when the complaint or information in relation to the offence in question is presented to the Court Office.

Disqualification

Discretionary Disqualification

1. Any court before which a person is convicted of an offence in connection with the driving of a motor vehicle may order the person to be disqualified from holding or obtaining a driver's licence for such period as the court thinks fit.

Obligatory Disqualification

2. On conviction, a number of road traffic offences attract obligatory disqualification and the court must disqualify an offender from driving for a minimum period of time. The period of disqualification can be for longer but it cannot be for less than the minimum period, unless special reasons apply. See the section below (Disqualification: Special Reasons).
3. In relation to driving or being in charge of a vehicle when under the influence of drink or drugs, driving or being in charge with alcohol concentration above the prescribed limit and failing to provide specimens of breath, the obligatory disqualification period is 12 months. If a person has a similar previous conviction in the last 10 years, the minimum period of disqualification is 3 years.
4. For all offences involving death, serious injury or dangerous driving the obligatory period of disqualification is 2 years. If a person has a similar previous conviction in the last 10 years, the minimum period of disqualification is 7 years.
5. The obligatory periods are minimum periods of time and in serious cases the court is likely to disqualify a person for a much greater length of time than the statutory minimum.

Extension of Disqualification for Custodial Sentences

6. Where a person is sentenced to an immediate custodial sentence and where the court is imposing a period of disqualification, the disqualification period must be extended to cover the period of imprisonment.
7. Disqualification applies to people who would otherwise be permitted to drive a vehicle. A person serving a custodial sentence is not in that position and an extension is justified to ensure that the disqualification period does not expire before the person is released from the custodial part of the sentence.
8. The period of extension is a period equal to two-thirds of the total custodial term imposed. Fractions of a day are rounded down to the nearest number of whole days. Two-thirds is the term that a person will serve in custody before being eligible for release on licence. The extension therefore covers the custodial period of the sentence.

Disqualification: Special Reasons

1. The requirement for obligatory disqualification is not absolute and the court need not impose the obligatory minimum term if special reasons apply.
2. Special reasons mean special reasons related to the commission of the offence and does not, except in so far as they may be related to the commission of the offence, extend to circumstances related to the offender.
3. A special reason is one which is special to the facts of a particular offence. It is a mitigating or extenuating circumstance which is directly connected with the commission of the offence and which can properly be taken into consideration by the sentencing court. A circumstance peculiar to the offender, as distinguished from the offence, is not a special reason.
4. Where special reasons are put forward, the court must consider the following factors:
 - (a) the possibility of danger to other road users (the most important factor).
 - (b) the reason for driving;
 - (c) the distance driven;
 - (d) the manner of driving;
 - (e) the condition of the vehicle driven;
 - (f) whether or not it was the driver's intention to drive any further; and
 - (g) the road and traffic conditions at the relevant time.
5. Case law establishes that the key question the court should ask when assessing if special reasons exist on which they might decide not to disqualify is: what would a sober, reasonable and responsible friend of the person, present at the time, but himself a non-driver and thus unable to help, have advised in the circumstances, to drive or not to drive?
6. The onus of establishing special reasons lies on the defence, and the standard is the balance of probabilities.
7. The defence should also give notice that they will be seeking to advance special reasons. Failure to do so will entitle the prosecution not only to seek an adjournment but also to cross-examine the person on their failure to give such notice so that the court may consider whether that failure reflects upon the genuine nature of the special reasons advanced.

8. When notice is given, prosecutors should carefully consider:
 - (a) the nature of the special reason and the evidence (including expert evidence) required to rebut it;
 - (b) what evidence can be properly served /agreed; and
 - (c) any issues raised by a defence expert.
9. Prosecutors should:
 - (a) Procure expert evidence where the defence expert's statement is incorrect, inconclusive or misleading.
 - (b) Address the court, after the defence, and should remind the court that there is a two-stage process: first, to determine whether there are special reasons and, second, if there are special reasons, to consider whether to exercise the court's discretion not to disqualify (or to disqualify for a shorter period than the statutory minimum).
10. A challenge to a decision not to disqualify because of special reasons should normally be by way of case stated rather than judicial review. It is usually not appropriate to challenge the decision by judicial review as it involves the exercise of discretion and the decision is unlikely to be interfered with if all relevant matters were properly considered. Such a challenge should usually be considered only if the law was wrongly applied (case stated) or the decision can be shown to be 'Wednesbury unreasonable' (judicial review).

Cycling Offences

Criminal Standards of Cycling

1. In a manner similar to driving offences, the Road Traffic Ordinance 1948 creates two different standards of criminal cycling:
 - (c) Dangerous cycling; and
 - (d) Cycling without due care and attention or without reasonable consideration (often referred to as careless and inconsiderate cycling).
2. Each standard of cycling forms the basis of a criminal offence. The Ordinance then contains a number of additional offences which reflect specific circumstances, such as the offence of causing death by dangerous cycling and cycling when under the influence of drink or drugs.

Dangerous Cycling

3. The offence of dangerous cycling is committed where a person rides a cycle and the standard of cycling falls far below what would be expected of a competent and careful cyclist and it would be obvious to a competent and careful cyclist that cycling in that way would be dangerous.
4. "Dangerous" refers to danger either of injury to any person or of serious damage to property. In determining what would be obvious to a competent and careful cyclist in a particular case, regard must be had not only to the circumstances of which that cyclist could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.
5. Dangerous cycling carries a maximum sentence of a level 4 fine.

Cycling Without Due Care and Attention or Without Reasonable Consideration

6. The offence of cycling without due care and attention or without reasonable consideration is committed when:
 - (a) The standard of cycling is careless (without due care and attention); or
 - (b) The standard of driving is inconsiderate (without reasonable consideration).
7. The offence carries a maximum sentence of a level 3 fine and the court has a discretionary power to disqualify.

8. Careless cycling is when person's cycling falls below the standard expected of a competent and careful cyclist.
9. In determining what is to be expected of a competent and careful cyclist, the prosecutor must consider not only the circumstances of which the cyclist could be expected to be aware, but also any circumstances shown to have been within the cyclist's knowledge.
10. Cycling without reasonable consideration is the second way in which the offence can be committed. The offence is established only when other persons are inconvenienced by the manner of the person's cycling.
11. A cycling without due consideration charge is more appropriate where the inconvenience is aimed at and suffered by other road users.
12. Prosecutors must decide which version of the offence to charge as the Ordinance creates two separate offences.

Causing Death by Dangerous Cycling

13. A person who causes the death of another person by riding a cycle dangerously on a road or public place commits an offence.
14. Causing death by dangerous cycling is an indictable offence and carries a maximum sentence of 14 years imprisonment and/or an unlimited fine.
15. The guidance set out above regarding offences involving death in relation to driving offences, also applies to this offence.

Causing Death by Careless or Inconsiderate Driving

16. The offence of causing death by careless or inconsiderate cycling is committed when the manner of the person's cycling is a cause or factor in the death of another person and the driving was careless or inconsiderate.
17. Causing death by careless or inconsiderate cycling is an indictable offence and carries a maximum sentence of 5 years' imprisonment and/or an unlimited fine.
18. Prosecutors should either charge causing death by careless cycling or causing death by cycling without due consideration to others. The charge must specify which limb of the offence the prosecution rely on.
19. The guidance set out above regarding offences involving death in relation to driving offences, also applies to this offence.

Causing Death by Careless or Inconsiderate Cycling While Under Influence of Drink or Drugs

20. The offence is committed when a person causes the death of another person by riding a cycle on a road or other public place without due care and attention or without reasonable consideration for other persons using the road or place and the person is at the time of riding the cycle unfit to do so through drink or drugs.
21. Causing death by cycling while under influence of drink or drugs is an indictable offence and carries a maximum sentence of 14 years imprisonment and/or an unlimited fine.
22. The charge must specify whether the prosecution relies on careless cycling or on inconsiderate cycling.
23. The guidance set out above regarding offences involving death in relation to driving offences, also applies to this offence.

Causing Serious Injury by Dangerous Cycling

24. A person who causes serious injury to another person by riding a cycle dangerously on a road or public place commits an offence.
25. Causing serious injury by dangerous cycling is an indictable offence and carries a maximum sentence of 5 years imprisonment and/or an unlimited fine.
26. The guidance set out above regarding offences involving serious injury in relation to driving offences, also applies to this offence.

Causing Serious Injury by Careless or Inconsiderate Driving

27. The offence of causing serious injury by careless or inconsiderate cycling is committed when the manner of the person's cycling causes serious injury to another person and the cycling was careless or inconsiderate.
28. Causing serious injury by careless or inconsiderate cycling carries a maximum sentence of 2 years imprisonment and/or an unlimited fine.
29. Prosecutors should either charge causing serious injury by careless cycling or causing serious injury by cycling without due consideration to others. The charge must specify which limb of the offence the prosecution rely on.
30. The guidance set out above regarding offences involving serious injury in relation to driving offences, also applies to this offence.

Causing Serious Injury by Careless or Inconsiderate Cycling While Under Influence of Drink or Drugs

31. The offence is committed when a person causes serious injury to another person by riding a cycle on a road or other public place without due care and attention or without reasonable consideration for other persons using the road or place and the person is at the time of riding the cycle unfit to do so through drink or drugs.
32. The offence carries a maximum sentence of 5 years imprisonment and/or an unlimited fine.
33. The charge must specify whether the prosecution relies on careless cycling or on inconsiderate cycling.
34. The guidance set out above regarding offences involving serious injury in relation to driving offences, also applies to this offence.

Cycling When Under the Influence of Drink or Drugs

35. A person who, when cycling on a road or other public place, is unfit to ride a cycle through drink or drugs commits an offence.
36. A person is unfit to ride a cycle if the person is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the cycle.
37. The offence carries a maximum sentence of a level 4 fine.
38. The Royal Falkland Islands Police should record evidence relating to impairment so that that the element of unfitness can be established.
39. For this offence, there is no power to require a roadside breath test. Evidence of impairment will relate to the standard of cycling and the recorded observational evidence of the person being under the influence of drink or drugs, such as smelling of alcohol or drugs, the possession of alcohol or drugs, physical impairment, glazed eyes, poor communication etc.
40. Evidential specimens of breath can be required at a police station using an approved device. Officers should follow the same procedure as when requesting evidential specimens of breath in driving cases.
41. It will only be necessary to obtain evidential specimens of breath for serious offences involving cycling, where death or serious injury has been caused. Evidential specimens can be requested in standard cases of cycling when under the influence of drink but this will only be appropriate where more serious offending is suspected and permits the use of the evidence for the basic offence, if more serious offending is not charged,

Alternative Verdicts

1. The Road Traffic Ordinance 1948 makes provision for alternative verdicts to be returned in certain cases.
2. The following table sets out the available alternative verdicts:

Offence charged

Manslaughter

Alternative verdicts

Section 18A (causing death by dangerous driving)
 Section 18B (causing serious injury by dangerous driving)
 Section 18C (dangerous driving)
 Section 18E (causing death by driving without due care and attention)
 Section 18F (causing serious injury by driving without due care and attention)
 Section 18G (driving without due care and attention)
 Section 18I (causing death by driving: unlicensed or uninsured drivers)
 Section 18J (causing serious injury by driving: unlicensed or uninsured drivers)
 Section 18K (causing death by driving: disqualified drivers)
 Section 18L (causing serious injury by driving: disqualified drivers)
 Section 18M (causing death by driving without due care and attention when under influence of drink or drugs)
 Section 18N (causing serious injury by driving without due care and attention when under influence of drink or drugs)
 Section 39A (causing death by dangerous cycling)
 Section 39B (causing serious injury by dangerous cycling)
 Section 39C (dangerous cycling)
 Section 39E (causing death by cycling without due care and attention)
 Section 39F (causing serious injury by cycling without due care and attention)
 Section 39G (cycling without due care and attention)
 Section 39H (causing death by cycling without due care and attention while under influence of drink or drugs)

	<p>Section 39I (causing serious injury by cycling without due care and attention while under influence of drink or drugs)</p> <p>Section 39J (cycling when under influence of drink or drugs).</p>
Section 18A (causing death by dangerous driving)	<p>Section 18C (dangerous driving)</p> <p>Section 18E (causing death by driving without due care and attention)</p> <p>Section 18G (driving without due care and attention)</p>
Section 18B (causing serious injury by dangerous driving)	<p>Section 18C (dangerous driving)</p> <p>Section 18F (causing serious injury by driving without due care and attention)</p> <p>Section 18G (driving without due care and attention)</p>
Section 18C (dangerous driving)	<p>Section 18G (driving without due care and attention)</p>
Section 18E (causing death by driving without due care and attention)	<p>Section 18G (driving without due care and attention)</p>
Section 18F (causing serious injury by driving without due care and attention)	<p>Section 18G (driving without due care and attention)</p>
Section 18I (causing death by driving: unlicensed or uninsured drivers)	<p>Section 6(1) (drivers' licences)</p> <p>Section 9(1) (third party insurance)</p>
Section 18J (causing serious injury by driving: unlicensed or uninsured drivers)	<p>Section 6(1) (drivers' licences)</p> <p>Section 9(1) (third party insurance)</p>
Section 18K (causing death by driving: disqualified drivers)	<p>Section 6(13) (driving while disqualified)</p>
Section 18L (causing serious injury by driving: disqualified drivers)	<p>Section 6(13) (driving while disqualified)</p>
Section 18M (causing death by driving without due care and attention when under influence of drink or drugs)	<p>Section 18E (causing death by driving without due care and attention)</p> <p>Section 18F (causing serious injury by driving without due care and attention)</p> <p>Section 18G (driving without due care and attention)</p> <p>Section 19 (driving or being in charge, while under the influence of drink or drugs)</p>

	<p>Section 21 (driving or being in charge of motor vehicle with alcohol concentration above prescribed limit)</p> <p>Section 23 (breath tests)</p> <p>Section 24 (provision of specimens for analysis)</p>
Section 18N (causing serious injury by driving without due care and attention when under influence of drink or drugs)	<p>Section 18F (causing serious injury by driving without due care and attention)</p> <p>Section 18G (driving without due care and attention)</p> <p>Section 19 (driving or being in charge, while under the influence of drink or drugs)</p> <p>Section 21 (driving or being in charge of motor vehicle with alcohol concentration above prescribed limit)</p> <p>Section 23 (breath tests)</p> <p>Section 24 (provision of specimens for analysis)</p>
Section 19(1) (driving or attempting to drive a motor vehicle while unfit to drive through drink or drugs)	<p>Section 19(2) (being in charge of a motor vehicle while unfit to drive through drink or drugs)</p> <p>Section 21(1)(a) or (b) (driving or being in charge of a motor vehicle with alcohol concentration above the prescribed limit)</p> <p>Section 23 (breath tests)</p> <p>Section 24 (provision of specimens for analysis)</p>
Section 21(1)(a) (driving of motor vehicle with alcohol concentration above prescribed limit)	<p>Section 19(1) (driving or attempting to drive a motor vehicle while unfit to drive through drink or drugs)</p> <p>Section 19(2) (being in charge of a motor vehicle while unfit to drive through drink or drugs)</p> <p>Section 21(1)(b) (being in charge of motor vehicle with alcohol concentration above prescribed limit)</p> <p>Section 23 (breath tests)</p> <p>Section 24 (provision of specimens for analysis)".</p>
Section 39A (causing death by dangerous cycling)	<p>Section 39C (dangerous cycling)</p> <p>Section 39E (causing death by cycling without due care and attention)</p> <p>Section 39G (cycling without due care and attention)</p>
Section 39B (causing serious injury by dangerous cycling)	<p>Section 39C (dangerous cycling)</p> <p>Section 39F (causing serious injury by cycling without due care and attention)</p> <p>Section 39G (cycling without due care and attention)</p>
Section 39C (dangerous cycling)	<p>Section 39G (cycling without due care and attention)</p>
Section 39E (causing death by cycling without due care and attention)	<p>Section 39G (cycling without due care and attention)</p>

Section 39F (causing serious injury by cycling without due care and attention) Section 39G (cycling without due care and attention)

Section 39J (cycling when under influence of drink or drugs) Section 39G (cycling without due care and attention)

Section 39H (causing death by cycling without due care and attention while under the influence of drink or drugs) Section 39A (causing death by dangerous cycling)
Section 39C (dangerous cycling)
Section 39E (causing death by cycling without due care and attention)
Section 39G (cycling without due care and attention)

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