‘Killed and Seriously Injured’ (KSI) pedal cycle collisions and the London criminal justice system 2007 to 2009

Summary

Background

The substantial increase in cycling trips made in recent years has been accompanied by a comparatively small increase in cycle collisions resulting in casualties. The relative risk of cycling per trip is reducing. The Mayor’s Cycle Safety Action Plan[1] aims to drive this positive trend forward and improve the perception and experience of cycling as a safe and attractive transport option. The Plan is supported by TfL, the Metropolitan and City of London Police Services and other partners. It includes the commitment to:

> *Work with the London Criminal Justice Board to review “Killed and Seriously Injured” (KSI) collisions with a view to strengthening criminal justice arrangements for dealing with such cases*

This priority is important for ensuring there are robust processes in place which will deliver better support to cyclists and their families affected by bad driving, and instil confidence that cases are investigated and prosecuted to the best of Criminal Justice Service (CJS) agencies abilities in a fair and effective manner.

Focus of the report

This research has been conducted in partnership with the City of London Police, the Crown Prosecution Service, the London Criminal Justice Partnership, the Metropolitan Police Service, and TfL.

A project steering group comprising representatives from the above agencies directed this review to cover:

- Each agency policies and processes concerning the management and handling of criminal cases involving cyclists that have resulted in a fatality or serious injury;
- A review of collision investigation and prosecution case files for KSI collisions between 2007 and 2009; and
- From this Identification of changes and improvements already made and opportunities to further strengthen criminal justice arrangements.

Limitations

As the stated priority concerns KSI collisions, other less serious (or slight injury collisions) were not addressed. Whilst KSI collisions involving a cycle average almost 450 per year between 2007 to 2009, slight injury collisions involving a cycle are far larger in magnitude

[1] http://www.london.gov.uk/who-runs-london/mayor/publications/transport-and-streets/cycle-safety-action-plan

averaging over 2,800 per year in the same period and have also increased year on year during the period.

2007 – 2009 was chosen to allow an end to end review of collisions through the criminal justice system.
The large volume of fatal and serious personal injury case files precluded a complete review of all KSI collisions; hence a small sample was selected for the detailed assessment of compliance against agency processes.

Only collisions involving cycles were examined, hence it is unclear whether similar findings would be prevalent within collisions involving other vehicles or pedestrians.

Services provided by the Courts and Tribunals Service were not assessed as the research team were unable to gain access to HMCS within the timeframe available.

The agreed purpose was not to review on the quality of police investigation or assess CPS process in reaching a charging decision. Other organisations such as the HMIC and HMCPSI are far better placed to assess the accuracy, completeness and decision making. This review does not make a judgement on whether sufficient evidence was gathered or the correct charging decision made.

Key findings

The majority of fatalities upon London's roads involve pedestrians, next riders of powered 2 wheeler vehicles (mopeds and motorbikes), followed by cyclists. The trend for cycle collision fatalities has in recent years declined below levels in 2000, whilst seriously injured cycle casualties have recently risen above 2000 baseline levels.

There is wide variation in cycle collision casualties across London's 33 boroughs which should be borne in mind from a policing and prosecution perspective. The capacity and expertise required by partner agencies to successfully investigate and prosecute needs to match this.

Where there is evidence to be considered, fatal cycle collisions are reviewed by the CPS ahead of reaching a charging decision. The proportion prosecuted has risen in recent years however a low number result in convictions. During 2007 only three out 14 (21%) of fatal collision investigations resulted in prosecution, with all of these resulting in a conviction. In 2008 and 2009, this improved with eight out of 13 (62%) investigations resulting in prosecution for both years, however only two of these had a conviction in 2008 and there was only one conviction in 2009 (see table 10). The majority of collisions with no further action taken resulted in a decision of accidental death at Coroner inquests.

The proportion of serious personal injury collisions, as investigated by the MPS Traffic Serious Casework Unit, prosecuted has fluctuated in recent years although on average over a third of collisions investigated were prosecuted. The proportion of collisions prosecuted resulting in a conviction has increased year on year (from 53% in 2007 to 78% in 2009).

The police and CPS processes for investigating fatal and serious personal injury collisions are very thorough. This should be publicised to give greater confidence and public reassurance that they conduct careful and meticulous investigations and subsequent prosecutions.

The communication and correspondence between the MPS and CPS, when handling collision casework, is very positive. It is evident that their relationship developed from 2007 to 2009 with the frequency of communication increasing and directed to the relevant person thereby avoiding potential delays in the investigation and charging decision. The agencies interact with each other very well responding promptly to calls for advice or requests for further evidence. The CPS consistently delivers a charging decision within the statutory time limits.

The CPS has a good review process and continually reviews case files throughout the prosecution. Forms are completed detailing the latest progress the case has made and any actions for developing the case further.

With regards to serious personal injury cases the quality of information captured within each case file clearly improved between 2007 to 2009, suggesting an improvement in case investigation. This is further evidenced by the increase in the proportion of collisions prosecuted resulting in a conviction increasing year on year. Collision cases involving cyclists are being afforded an additional layer of quality assurance and scrutiny by the Traffic Criminal Justice Unit during investigations.

During the course of the research and the steering group meeting during 2010, further changes have been implemented by the CJS, and more planned. These changes will further enhance the quality and provide more vigour and support to investigations of the most serious life threatening and life changing injury collisions.

Agency improvements

There were several policy and process improvements undertaken in recent years (and planned for the future) to improve the investigation and prosecution of cycling collisions. The key improvements are listed below with more detail available in section eight of this report:

- Enhancement of the MPS Road Death Investigation Unit , increasing staff and assets, including more detectives and a specific intelligence team;
- Transfer of the investigation responsibility for the most serious personal injury collisions from the MPS Traffic Serious Casework Unit (TSCU) to local Borough Operational Command Units (BOCU) affording a higher standard of care than previously possible plus allows the TSCU to take on additional work particularly regarding collisions involving vulnerable road users (including cyclists);
- MPS plan to manage witnesses better at collision scenes through attendance of experienced detectives at every collision scene plus redesign of the MPS Scene Management Log book;
- The joint TfL / MPS Roads Reopening Protocol to ensure the prompt re-opening of the road network following fatal and serious collisions. This new protocol is designed to provide the framework for the MPS and TfL to work together with maximum efficiency

to ensure the collection of all available physical evidence whilst reducing the impact of the road closure against other users;

- Improved support for the City of London Police (CoLP) officers through better use of technology (case management system), specific training programmes and enhanced procedures;
- The Director of Public Prosecutions has extended the service for bereaved families at court to offer additional meetings with the CPS;
- The CPS has created an Optimum Business Model to ensure case progression processes are more robust, consistent across all units and strengthen aspects including compliance with Court orders and defence requests for information. This should ensure actions are dealt with effectively;
- The Director of Public Prosecutions issued Core Quality Standards which outline the level of service that the public and other criminal justice stakeholders can expect at each stage of the process; ranging from early advice to investigators at the outset of a case through to how the CPS will respond to complaints or feedback which might follow at the conclusion of a case. Performance against the standards are monitored and reported to the public at the end of each financial year; and
- The CPS Complex Casework Unit includes a Homicide Team that, from 1st April 2011, will deal with all fatal collision casework.

Recommendations

A few areas for improvement were identified by this research, plus examples of good practice to be highlighted and disseminated more widely. These are summarised below with more detail available in the last section of this report.

Metropolitan Police

1. Continue the MPS review into the SOP for managing life threatening/changing investigation
    - Whilst a new Standard Operating Procedure (SOP) has been introduced ensuring BOCUs take on the investigation of the most serious SPIs (not dealt with by the Road Death Investigation Unit - RDIU), the MPS should review their resourcing of BOCU units responsible for life changing / life threatening personal injury collisions in light of the varied volume of serious injury collisions that were recorded in previous years to ensure that there are adequately trained resources to manage investigations within each borough. The MPS should consider how boroughs with different demand will develop and retain the necessary expertise to effectively investigate these collisions.

2. Improve reporting processes for prosecution decisions and court outcomes and conduct analysis upon outcomes
    - Through the research it is clear that even recent historic records have been difficult to obtain; this has led to an incomplete appreciation of the scale of prosecutions conducted for serious pedal cycle collisions and their ensuing progress at court. With the move to BOCUs being responsible for certain collisions and any ensuing prosecution locally, it is even more important that the Traffic Criminal Justice Unit (CJU) considers centralised recording of all collision

prosecutions across London and in turn analysing findings on a regular basis to identify any trends requiring further attention.

3. Improve communication with Serious Personal Injury (SPI) victims and documentation of contact made within the case file
    - There were a few instances from the historic case file review of inconsistent contact with victims; these should be reviewed to determine the circumstances and ensure these are not repeated in future. In some SPI cases reviewed, it was difficult to determine whether regular contact was being made and documented. This could reflect the change in recording systems and processes used rather than poor practice. Where the Summons Package electronic diary transcripts were included in files, it was evident that contact is frequently made; however this was not included in all the SPI case files reviewed. It is recommended that the TSCU ensure transcripts of the Summons Package electronic diary are included in all case files and updated with all new contact; this would also act as a useful form of back up should the Summons Package electronic diary be unavailable.

4. Review witness appeal boards prior to despatch
    - The single instance of a witness appeal board asking for witnesses following a collision involving a pedestrian, instead of a cyclist, may have prevented witness recall and been ineffective at identifying additional witnesses. Whilst this was an isolated incident it is recommended the RDIU Detective Inspectors provide quality assurance of witness boards before they are placed at the collision scene.

5. Review relationship with London Ambulance Service (LAS)
    - In both the fatal and SPI case file review there were instances of conflicting victim injuries reported to collision scene officers and a delay in provision of accurate diagnosis. Whilst accepting it can be challenging to accurately diagnose victim's injuries, it would be useful to review how the collision scene officers and LAS personnel engage with one another to identify any possibility of more accurate diagnosis being provided more quickly...
6. For the CPS, review support given to victims dissatisfied with charging decisions
    - In a few instances, SPI victims unhappy with the charging decision were treated poorly in terms of the length of time taken to supply requested case file information. It is recommended that the processes for engaging with victims dissatisfied with the service provided by the TSCU are reviewed to ensure that future requests for case file information are dealt with promptly and fairly. This would help improve victim satisfaction with the MPS plus help to reassure victims that the investigation into their case was conducted in the appropriate manner.

7. Improve collection of victim statements
    - The majority of SPI case files containing victim statements revealed gratitude from the victims at being able to put forward their point of view. In one case a victim had to request for her statement to be taken several times before it was finally collected. It is recommended that the process for offering and collecting

victim statements is reviewed to ensure future collection of these is speedy and supportive to victims.

8. Update MPS SOPs by reference to the 2009 serious personal injury case file reviewed as an example of good practice
    - The final 2009 serious personal injury case file reviewed, was well documented and provided a great deal of support to a vulnerable cyclist. It is recommended that this case file is highlighted amongst investigators as an example of good practice to refer to when conducting future case file reviews.

9. Improve letters of court attendance sent to victims
    - Copies of letters sent to victims and witnesses to attend court appeared indistinguishable and standardised. It is recommended that standard information is included (such as, case reference number and court date), alongside tailoring the letters to the individuals being written to, especially in the case of victims.

City of London (CoLP) and Metropolitan Police

10. CoLP and MPS to conduct joint review of their investigation processes
    - Whilst both forces have collaborated together, particularly where collisions occur on the border of the City with MPS boroughs, there is little evidence of systematic learning from one another to help strengthen existing processes and provide a truly consistent approach to collision investigation across the whole of London. It would also be worthwhile the CPS London Traffic Unit (LTU) and City CPS unit establishing a joint review of processes to ensure CPS consistency in collision prosecution across London.

Crown Prosecution Service

11. Analyse outcomes of all fatal road traffic cases to identify learning points and disseminate lessons
    - As identified in the HMCPSI 2008 review, there was a need to ensure this happens for all fatal cases irrespective of outcome. Adverse outcomes are reviewed, however there should be consideration given to all fatal case files, where resources permit. This could be an opportunity to work jointly on these case reviews to ensure holistic appraisal.

12. The CPS should clarify and collate the guidance relating to its commitments to victims' families in road traffic fatality cases
    - A project is currently underway within CPS HQ that should aid delivery of this. The CPS Victim and Witness Project aims to streamline commitments to victims and witnesses regarding levels of support to bereaved families; this includes plans to produce a public document setting out the standards of care that victims and witnesses are entitled to receive from the CPS and Witness Care Units.

13. Following any meeting with the victim's family, a letter should be sent confirming key points discussed
    - This does not currently happen, and when consulted the CPS LTU agreed this would be a useful idea to ensure that victim's families have a record of what was

discussed, therefore it is recommended that this is undertaken following all future meetings held between victim's families and the CPS. The Homicide Team (see below) will continue to offer meetings as LTU have prior to 1st April 2011 and should consider this recommendation.

14. Review the recent transition of fatal collision prosecutions from the CPS London Traffic Unit to the CPS Complex Casework Unit Homicide Team
    - This recent change which occurred during the final writing of this report should be monitored to assess the impact, on how fatal collisions involving cyclists are progressed, and whether this will enable the LTU to deal more effectively with non-fatal collision casework.

15. Review outstanding recommendations from previous 2008 and 2010 HMCPSI reports
    - There were four recommendations, from the 2008 and 2010 HMCPSI reports into fatal collisions prosecutions and the London Traffic Unit, where progress could not be determined at time of writing this report. The CPS should review these and take action where required.

Identified Good Practice

Metropolitan Police

1. Most serious SPI collisions investigated by BOCU
    - Since August 2010, the most serious SPI collisions not investigated by the RDIU are investigated by the BOCU where the collision occurred. This has enabled the TSCU to undertake additional work in respect of vulnerable road users and is envisaged to have positive impact upon victim satisfaction and confidence in how the police handled the investigation.

2. Improved efficiency of Collision Investigator's Reports (CIR) production
    - Since March 2011, a new Standard Operating Procedure has clarified the role of the Collision Investigator (CI) within investigations conducted by the RDIU. A particular emphasis is now upon only relevant witness statements to be included within the CIR; previously the CIs waited for all witness statements to be compiled and used this information within their CIR which introduced unnecessary delays to the final report production.

3. Breath tests conducted in all reviewed fatal case files
    - There was evidence of these being conducted in every fatal case file reviewed in a timely fashion (within one hour of the collision).

4. Contacting next of kin and collaboration with UK and overseas police forces
    - There was evidence of excellent work undertaken to determine and then contact next of kin of fatal victims. This included good collaboration with other police forces in the UK and overseas.

5. Care of young witnesses

- One case file revealed good processes to ensure traumatised witnesses were supported to provide their statements at a later date, plus specialist officers trained in dealing with young people were involved and properly briefed on the case details to ensure both the care of the witness and collection of evidence for the investigation.

6. Handover between Road Death Investigation Unit and Traffic Serious Casework Unit
    - Where cases were handed over from the RDIU to the TSCU, the use of a handover form documenting the material included and the reason for inclusion was invaluable for ensuring the case could be progressed promptly following handover. Given the increased involvement of BOCUs for investigating life changing / threatening collisions, that may be handed over to them by the RDIU, it is important that this process is followed in future.

7. Letters sent to victims and witnesses
    - There were some good examples of letters sent at the conclusion of case investigation and prosecution. It is recommended that the MPS identify examples of good letters, in terms of tone and content, and circulate these to relevant staff to ensure they follow these in future correspondence.

8. Road Death Investigation Unit record of incident attended form
    - Where included in the case files reviewed, this form provided excellent concise complete overview of the collision and the various parties involved. This form should continue to be used in all collision investigations to enable other officers to quickly gain appraisal of the nature of the collision.

9. Traffic Serious Casework Unit follow up of Form 966
    - There is excellent follow up and enquiry on all parties sent this form. This should be continued and shared with the BOCUs that investigate life changing / threatening collisions to enable gathering of all possible evidence.

10. Senior Investigating Officer Forums
    - This forum was established during 2010 where all the RDIU SIO's meet to receive relevant training, presentations and to share good practice; for example, the identified issue of eyesight tests being properly conducted has been addressed through this forum.

11. Management of investigations upon the CRIS system and regular investigation review
    - The RDIU now manage investigations upon the Crime Recording Information System (CRIS), with officers encouraged to enter upon this all information and actions taken relevant to the investigation; the Detective Sergeants and Detective Inspectors undertake regular review of the investigation progress and use a quality assurance checklist to ensure specific actions are undertaken. This process should ensure lines of enquiry such as this are followed and recorded for others to see.

12. Maintain the same Family Liaison Officer (FLO) throughout a case where possible

- As reported in the fatal case file review findings there was evidence of a FLO changing throughout a case investigation and ensuing prosecution. The aim of the RDIU is to ensure that the same FLO is maintained throughout each case, and on the rare occasions this is not possible ensure the handover between FLOs is conducted efficiently to provide continuity in the support and relationship developed with the victim's family.

Crown Prosecution Service

13. Adherence to delivering prosecution charging decision within statutory time limits (STL)
    - Despite any delays in supply of evidential material from the police, the CPS LTU has consistently delivered a charging decision within the STL. This is in large part due to the tracker system in place monitored by both the TSCU and the CSP LTU, plus the co-location of MPS and CPS staff in the same premises ensures that regular face to face discussion can take place.

14. MPS and CPS case file surgeries
    - The monthly case file surgeries are a crucial forum for consultation on case progression and evidential requirements to enable CPS charging decision. These should be continued and adopted in the BOCUs with their local CPS colleagues when working upon life changing / threatening case file investigation.

15. Specialist Lawyers in the CPS Complex Casework Unit Homicide Team
    - Prior to 1st April 2011, there were three specialists in traffic law responsible for charging decision for all cases dealt with by the LTU. From 1st April, the case work concerning fatalities was moved to the CPS CCU Homicide Team. To ensure the continuity of input one of the specialists from the LTU was transferred to the Homicide Team. This move was undertaken to ensure that specialist input is maintained from pre-charge to disposal in the Crown Court; prior to this if the case proceeded to the Crown Court, the case would be allocated to a local borough unit to handle, at which point specialist input would be lost. The specialist prosecutor is also deployed to the magistrates' court to assist with any trials heard.
    - The City of London CPS Unit also has a trained traffic prosecutor working upon traffic prosecution cases thereby providing consistency in decision making across London.

16. Charging decisions (fatal collisions and dangerous driving serious personal injury collisions) are quality assured by the Legal Director
    - The Legal Director of the LTU reviews and quality assures every fatal collision charging decision made acting as another layer of quality assurance.