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## **Discretion, negotiation and legality: What can policing contribute to reducing the harm caused by distracted driving?**

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### **Source Article**

Briggs, G., Savigar-Shaw, L., & Wells, H. (2024). 'Why aren't you using Bluetooth?!' Officer understanding of the dangers of handheld and handsfree mobile phone-use by drivers. *The Police Journal*. <https://doi.org/10.1177/0032258X241309187>

### **Take Home Messages**

- Decades of international research has shown that handsfree phone-use by drivers is just as dangerous as handheld phone-use. Despite this, most jurisdictions only legislate against handheld use.
- Police officer interactions with mobile phone offenders represent an opportunity to share evidence-based safety advice, above and beyond compliance with the law.
- Officers are supportive of enforcing the law but value their discretion, which can lead to variability in prosecution decisions. Most are unaware of the dangers of handsfree use and routinely recommend this dangerous practice to drivers.

### **Why did the researchers conduct the study?**

Mobile phone-use by drivers is a significant safety concern, with both the number of drivers admitting to the behaviour, and the number of collisions attributed to driver distraction, increasing.<sup>1</sup> Internationally, researchers have identified that phone-using drivers are four times more likely to be involved in a collision than undistracted drivers;<sup>2</sup> often fail to notice and react to hazards;<sup>3</sup> weave in and out of their lane; and have poor awareness of the overall driving situation.<sup>4</sup> Phone-using drivers have also been shown to look directly at hazards but fail to *see* them<sup>5</sup>, as their attention is directed to their phone conversation, rather than the driving situation. None of these factors are improved by using a handsfree kit, because attempting to multitask while driving overloads a driver's limited attention, leading to what is known as cognitive distraction.<sup>6</sup>

Research on the dangers of handsfree phone-use is widespread, but the findings are not well known by the public or the police.<sup>7</sup> This is perhaps due to most jurisdictions only banning handheld phone-use by drivers, which implies that handsfree use is a safe alternative. Policing efforts are understandably focused on enforcement of the law as it stands, but what the research suggests is that even making efforts to generate 100% compliance with the (handheld) law, would not eliminate deaths and injuries caused by distracted driving, if offenders simply switched to handsfree use. Nevertheless, every police roadside 'stop' of a handheld phone-using driver is a potential opportunity for officers to educate about distraction, allowing them to play a key role in both enforcing the law *and* providing advice focused on safety. This is logical given that the reason for the law in the first place is safety.

Given the position of the law, and knowledge of research findings, we were keen to know what happens when officers interact with phone-using drivers at the roadside including what advice they give, and how they apply the law.

## **How did the researchers conduct the study?**

In the study described in the [source article](#), we surveyed 411, and interviewed 10, officers from 28 of the 43 UK forces about their interactions with mobile phone offenders and their understanding of the dangers of handsfree phone-use. 64% of the officers worked in a dedicated roads policing unit (RPU), while the remainder were response officers who regularly encountered mobile phone offenders. We analysed the survey data to measure the level of officer agreement with different aspects of policing phone-use. The interview transcripts were analysed to identify common themes in officer responses to questions.

## **What did the researchers find?**

We identified three key themes in officer responses: (1) officers focused on handheld phone-use predominantly, associating the dangers with visual and manual distraction, while promoting handsfree use as a legal alternative; (2) even when confronted with offending drivers, officers use discretion in their considerations for prosecution, dependent on the context of phone-use and attributes of the offender; (3) officers wish to appear fair, and are keen for a positive relationship with the public, which impacts how they negotiate encounters with offenders. Promoting handsfree use is one way of achieving this.

We found that while there was strong agreement from officers that illegal phone-use is a significant safety concern, there was variation between officers in how they went about enforcing the law. 76% of officers agreed that illegal phone-use should always be prosecuted, yet evidence also emerged that officers felt that it was up to them to decide what constituted law breaking and hence what the appropriate response was. 47% agreed that before using a mobile phone charge they think carefully about the situation and level of danger involved, and responses were mixed over the seriousness of phone-use while stopped in traffic.

Officers were very keen to educate drivers at the roadside of the dangers of phone-use. However, 72% believed (wrongly) that handsfree phone-use is safer than handheld use. This might explain why 82% of our sample said they actively and routinely advise offenders to use handsfree in future.

Perhaps unsurprisingly, officers were giving advice based around what is, and what is not, legal – but this is a problem when the law itself fails to reflect what is, and what is not, dangerous. Some of this misguided advice stems from officers themselves misunderstanding the dangers of handsfree use (52% said they thought, wrongly, that it was the same as talking to a passenger) but our interviews also reveal that, for many officers, discretion is used in charging decisions to help them negotiate encounters by appearing ‘fair’, while maintaining policing legitimacy.

As such, the use of police discretion helps both the officer and the offender in the interaction: a friendly suggestion of future handsfree use, rather than a fine, means the driver can legally continue their phone-use, while the officer is considered to be fair. However, the variability in use of officer discretion has the potential to lead to inequalities in treatment for the same behaviour, purely based on officer attitude.

For a variety of reasons, then, our research shows that some officers are giving out dangerous advice to drivers, promoting distracted driving – and in some cases actively enabling it by proudly helping motorists to set up what they believe to be a safer option; a handsfree system

in their car. Crucially, officers believe the advice they give to offenders meaningfully improves future road safety, highlighting the need for education in this area.

### **How can the police use these findings?**

Our findings show significant tensions and misunderstandings operating when police officers encounter mobile phone using drivers. They also show that these encounters could be more effective in preventing future road harm if officers were educated on the dangers of handsfree phone-use and instructed not to routinely recommend it to offenders.

Crucially, the education offered to officers should contain evidence-based information on the dangers of different forms of phone-use and should ideally allow officers to experience handsfree, cognitive, distraction for themselves: officers need to be convinced themselves of the distraction phone-use causes, prior to educating others. Police leaders should also receive this education prior to providing a directive to officers. In the absence of such instruction, officers will continue to promote the use of handsfree to help negotiate potentially challenging encounters with offenders.

To assist officers in promoting safety as well as legality, specific guidance on negotiating offender interactions could usefully be provided, equipping frontline staff with responses to common questions and resistance to research findings, as identified in previous research.<sup>7</sup> The introduction of evidence-based educational diversionary courses, in place of fines and penalty points, should also be considered for mobile phone offenders. This would facilitate driver education about all kinds of distraction<sup>8</sup>, assist officers in negotiating roadside stops by providing an alternative to prosecution, and ensure that offenders detected by technology can be offered education that has the potential to dissuade them from moving to handsfree phone-use.

If these issues are not directly addressed, continued efforts to enforce the law against handheld phone-use will not reduce the number of distracted drivers on the road, or the number of distraction-related collisions, injuries or fatalities.

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