

Thematic Report 3

Submitters of journey cam footage as victims, witnesses... or offenders

1. Introduction and methods

This report considers the issue of the labelling and status of those submitting journey cam footage to the police. It explores the meaning and significance of describing submitters as victims, witnesses or – at times – as responsible for incidents, and the different treatment and experiences that different labels produce. The debate is far from academic, as the experience of someone labelled as a witness in a police process is different to the experience of someone labelled differently, for example as a victim. As Prof Sally Kyd discusses below in detail, victims are entitled to 12 *Rights* under the *Code of Practice for Victims of Crime in England and Wales* (VC, 2020) – many of which refer to being heard and understood, but also to the right to understand and remain informed from the outset (and even until after the case is concluded).¹ Witnesses are permitted to have a different set of *Expectations* under the *Witness Charter* (WC, 2013). While the WC does state that ‘keeping you informed of the progress of the case’ is central to the standards of care a witness can expect, it sets out much less stringent obligations on the authorities than for individuals considered victims, and it focuses on elements of witnesses’ experience at court.

The contentious and highly technical nature of the debates involved led the research team to draw on a wide range of sources and contributions to produce this report. Besides our journey cams project data (mostly interviews with submitters and with police personnel), it relies on legal expertise provided by Professor Sally Kyd (who, in turn, draws on findings from a previous RST funded project) and Road Safety Support, as well as on previous relevant academic work and wider literature.

The thematic report helps to construct the background to Recommendation 15 which emerged from the project and stated that:

"Further work could usefully explore the consequences and significance of labelling submitters as victims or witnesses, or implying that they are themselves to blame. In the meantime, decision-makers should receive training to allow them to correctly identify when an incident has a victim and why it is important to do this. "

In support of that recommendation, we have observed that:

¹ <https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime/code-of-practice-for-victims-of-crime-in-england-and-wales-victims-code>

- Whether or not submitters were appropriately described, and treated, as victims or witnesses, was one of the most contentious issues identified in this research, inductively emerging from our conversations with submitters and police personnel.
- Many submitters (often, but not exclusively, vulnerable road users) were clear that they had been victims of incidents, some referring to the camera, rather than themselves, as *the witness*.
- Defining a submitter as a victim would mean that the *Code of Practice for Victims of Crime in England and Wales (2020)* ('The Victim's Code') applied to their experiences.
- The Victim's Code identifies a victim as a person "who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence" and this would appear consistent with what some submitters (and particularly cyclists) reported. Under the code, victims are entitled to receive information about the outcome of their case.
- However, other submitters (across all modal types) were clear that they considered themselves to be witnesses to incidents, often that involved other people who were more accurately described as victims, or that there were no apparent victims.
- Many police participants were absolutely clear that, in their view, submitters were witnesses to incidents and therefore should not be treated as victims. Their reasoning sometimes appeared to be based on the absence of any *physical* harm, but practical issues like the workload implications of recognising submitters as victims were much more often quoted as the reason for the choice of label.
- Regardless of whether a submitter was accurately described as a victim or a witness, force interviewees explained that they did not have the resources to allow them to treat submitters as victims of what they had experienced. This is particularly the case in relation to regular updates and feedback – in turn one of the most consistent demands of submitters.
- Some of our force participants, including decision makers, operated on the basis that incidents were *either* high frequency/low risk, *or* low frequency/high risk. Submitters were keen to challenge this idea and described the everyday experiences of endangerment captured by their journey cams.
- Certain road user groups (namely cyclists and equestrians) are asked by some forces, when submitting, to describe their clothing or otherwise account for their visibility on the road. This provoked strong opposition from individuals who knew that this was not something other kinds of road users (those with 4 wheels) were asked, and was taken to imply some blame for any incident might lie with the person submitting the footage, simply by virtue of their mode of travel. This feeling is what we are referring to when, as

in the title of this report, we refer to submitters not only treated as victims or witnesses, but also as *offenders*.

This report unpicks these observations further, and supports them with data from the project. First, we explore the issue of the status of a submitter in law, relying on work from Prof Sally Kyd.

2. Victims or Witnesses: the view from a(n academic) lawyer

Professor Sally Kyd, University of Leicester

This contribution is informed by the results of another Road Safety Trust funded project entitled *Promoting Safety for Vulnerable Road Users: Assessing the Investigation and Enforcement of Endangerment Offences*, which was conducted at the University of Leicester from 2018-2019 (Kyd and Cammiss, 2019).

This project was conducted because anecdotal evidence had suggested that offences such as careless and dangerous driving were rarely prosecuted in the absence of a collision resulting in injury or damage to property, despite such harms not being a required element of the offence. We understood this to be a matter of *evidence*.² It also sought to explore the issue of overlap between these general driving offences and more specific offences such as using a handheld phone or speeding, which in addition to amounting to offences in their own right can also provide evidence to support a charge of careless or even dangerous driving.³

These offences are predicated not on the existence of an identifiable victim but, rather, on the creation of a second-order harm in the form of a risk to any other road-user who might be in the vicinity of the offending driver. We were therefore particularly interested in examining the kind of evidence which the police and CPS think is required to support allegations of careless driving, dangerous driving, and use of a mobile phone whilst driving.

The project analysed 301 Traffic Offence Reports (TOR) from three police forces to assess the outcomes in light of the available evidence. It also involved interviews with police officers, including senior officers, and Traffic Process Office/Unit civilian staff who process the TOR. The project was particularly interested in the emergent use of third-party footage from journey cams to support prosecutions for driving offences, and interviewed staff at Dyfed Powys police about the new Op Snap process, in addition to the forces that supplied the TOR.

² The opinion of Prof Kyd was shared by legal experts from the Road Safety Support. They describe recurrent occasions of quizzing police decision makers in these situations and getting the answer: “there wasn’t a crash”. They believe this is not satisfactory and refer us to the very definition of ‘danger’: 1. the possibility of suffering harm or injury; 2. a cause or likely cause of harm or injury; 3. the possibility of something unwelcome or unpleasant happening.

³ See CPS Legal Guidance: <https://www.cps.gov.uk/legal-guidance/road-traffic-charging>. (accessed 17 November 2023).

Alongside this analysis of TOR and interviews, we also conducted focus groups with cyclists to understand their perspectives of road traffic offence enforcement.

As we report in an article presenting our results:

In one sense they are “victimless” crimes, in that it is not necessary for a complainant to have suffered any identifiable harm as a result of the offence. On the other hand, they are offences that have the potential to cause considerable harm and result in death, depending on circumstances and factors that may be outside the control of the offender.⁴ Given that these offences may result in “near misses” or even collisions resulting in anything from minor damage to property to injuries to the person,⁵ in reality they are often not “victimless”. In essence, the current offences exist as endangerment offences to punish causing the second-order harm of risking harm to others. (Kyd and Cammiss 2020: 225)

Such victims are not beneficiaries of the Code of Practice for Victims of Crime.⁶ The definition of a “victim” under the Code is that of:

A person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by a criminal offence

“Criminal offence” in turn means an offence that is committed, or subject to criminal proceedings. A couple of points of argument arise here:

1. The second-order harm of “risk” which driving offences are designed to censure is not likely to be included within the meaning of harm in the Code. In some cases, it might be argued that a submitter has suffered “mental” harm as a result of offending behaviour, but there is no automatic assumption that this will be the case, *and no opportunity to make that argument.*
2. The definition of “criminal offence” requires a decision by the police or CPS that an incident is to be subject to criminal proceedings. The definition of it meaning “an offence that is committed” is meaningless without some clarity on *who* is to determine whether it has been committed (the police in the case of a fixed penalty notice? Or the court?).

Our project findings showed that there are broadly three different sources of allegations of the offences under investigation: road traffic collision (RTC) which will naturally give rise to a “victim”; police witnessed; and third-party allegations. Third-party allegations are unlikely to be progressed through the criminal justice system in the absence of supporting evidence,

⁴ Causing death by dangerous driving and causing death by careless driving exist as constructive offences far more serious than their endangerment counterparts. For a discussion of how these offences have been used in the past, see S. Kyd Cunningham (2013) 8

⁵ Causing serious injury by dangerous driving, and by disqualified driving, are offences under s.1A and s.3ZD Road Traffic Act 1988. More recently the offence of causing serious injury by careless driving has been inserted into s.2C Road Traffic Act 1988 by the Police, Crime, Sentencing and Courts Act 2022.

⁶ Ministry of Justice, *Code of Practice for Victims of Crime* (2020), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

usually in the form of footage submitted to the police by a third-party, or self-identified “victim”. Those who submit footage to portals (submitters) are sometimes “victims” of the offence evidenced, such as cyclists who have been “close-passed”, or they might be fully independent witnesses, often car-drivers who have caught something on camera without themselves having been endangered, but want to see the offender brought to justice.

In an ideal world, submitters, whether victims or witnesses, would be informed of the outcome of “their” case.⁷ As we argue, the focus of any response to such offending should be on the driver behaviour rather than the immediate harm, or lack thereof, given that the second-order harm takes many forms and affects those beyond the immediate victim. At the time of our project, informing submitters of the outcome did not happen in most forces (although one force did do this), as the TPU staff simply did not have the time to communicate results to the public. There is also the concern that staff should not be getting into debates with members of the public as to what the appropriate outcome is. As complainants are not, in law, considered to be “victims”, there is no obligation upon the police to update them on any decisions made. We found that on balance there were good reasons to invest in the capacity to enable submitters to be informed about any action taken in “their” case (Kyd and Cammiss 2019, p. 50).

Identifying submitters as “victims” in appropriate cases also has the potential to strengthen a case if it goes to court, given that police participants in our project were of the view that magistrates engage more with cases where the prosecution can place a victim in the witness box, and sentences tend to be higher in RTC cases because the presence of a victim who has been injured humanises the experience (Kyd and Cammiss 2019, p. 56). In the absence of an RTC, the presence of another human being who has been endangered by a piece of bad driving and self-identifies as a “victim” will likely have a similar impact in the witness box.

There is a balance to be struck here. On the one hand, those submitters who feel that they have been harmed, if only in a second-order manner (e.g. they have been at immediate risk of injury due to a close-pass) ought to be recognised as victims and not just witnesses, in order to acknowledge this harm. On the other hand, in acknowledging such “witnesses as victims”, one would not want to inadvertently create a situation in which it was felt that an identifiable victim had to exist before any action was taken in relation to a driving offence,⁸ since that would undermine the law and potentially weaken its impact. The focus in all cases, when making a decision on case disposal, should be on the defendant’s standard of driving. However, we also concluded that there is a need for decision-makers within the criminal justice system to highlight the link between the risk being penalised, and the harm that might

⁷ It is worth noting here that legal experts from Road Safety Support suggested that keeping witnesses updated does not need to be burdensome and “the case status can be reported back to the witness either with a secure access to their individual case, or by email as the status of the case is changed on the administration system by the police”.

⁸ The use of third-party submissions to support allegations of bad driving seems to have developed to the extent that in some forces the police will not consider taking action in the absence of such footage. This is an unfortunate development. One would equally not want to see the police refusing to take action against a driver for careless or dangerous driving because there were only witnesses and no “victim” in a particular case.

have occurred. This is far easier to do in cases in which a victim of second-order harm is available to give evidence, and it makes sense to label the individual as a “victim” to underline this communicative function of the criminal law. Our suggestion was that the process, and those involved in the process should, as far as is possible, acknowledge the existence of victims of driving offences where they exist (Kyd and Cammiss, 2020).

3. Data from our project interviews

As important as the debate on the legal intricacies of determining a person’s role in a criminal justice process (for example, by deciding to what extent someone has been sufficiently ‘harmed’) is the perception of protagonists of their own role and entitlement. This perception, affects people’s experiences of the forces’ approach and, as such, directly affects the sustainability and success of this area of roads policing business – after all, this approach is dependent on the public to supply evidence for the police to consider. This section of the report is therefore based on findings from in-depth semi-structured interviews with police personnel and road users. Twenty-three Interviews were carried out with 23 police staff, including 8 frontline decision-makers from six forces and 15 individuals in leadership and strategic positions at national or force levels. Amongst road users, this report relies on 33 interviews with members of the public who have submitted journey cam footage to police forces; 27 of them declared multi-modal use of roads – generally a combination of driving, cycling and walking, but our sample also included motorcyclists and drivers of larger vehicles. Users of cycle cams were a majority in our sample (n=26) and 14 of our interviewees used journey cams in more than one modality (most commonly in their private cars and bicycles). Twenty-five of our interviewees responded to a separate and anonymous short demographics survey. In terms of gender, 7 interviewees declared to be female, 18 male, and one non-binary. The sample of road users was disproportionately white, with 24 respondents indicating they were ‘White British’, one ‘Irish’, and one of ‘mixed background’. Education and income were also consistently above general population averages, with 21 (84%) holding at least bachelor’s or equivalent qualifications, none of the participants being unemployed or unable to work, and a sizeable majority (n=19) declaring gross personal income above £40,000. Three of the road user participants considered themselves to have a disability.

Journey cams capture a variety of incidents, and submitters subjectively, and sometimes apparently subconsciously, determine what they perceive their role was in those incidents. However, as discussed below, policing processes and systems label all submitters as witnesses, addressing them by this term and asking them to (for example) complete witness statements and provide information that can be passed to witness support in the event the submission results in a court appearance. Our police contributors describe this, on the one hand, as the result of a consistent interpretation of the interplay of the Victims and Witnesses charters, with the assumed lack of harm automatically pigeon-holing submitters as witnesses.

On the other hand, they also admit to the existence of entrenched institutional cultural practices that prevent submitters from being placed in the ‘victims’ category, even when it would not be much of a stretch to agree to them being *a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence* (as per the definition of a victim in the Victim’s Code). The VC places legal obligations upon the police, while the WC works as *guidance* aimed primarily at supporting witnesses in their court experience (an experience that most journey cam submitters will not have, due to the nature of the incidents reported). A victim has a legally enshrined right to be given updates of the process of the case and about the offender post-conviction, which the WC does not grant.⁹

It is by no means logical that one term (and therefore one subsequent experience of policing) can accurately apply to all submissions, but it is clear that some submitters felt that the label ‘witness’ was not appropriate in their case. Others did not appear to have reflected on the terminology that was used, and some naturally felt differently in relation to different incidents. We start the discussion of our participants’ views on the matter with the perspectives of police personnel that deal with the cases and ultimately make the call on the labelling of participants.

There would seem to be at least four ‘labelling’ options in this respect: 1) All submitters are classed as victims, 2) all submitters are classed as witnesses, 3) submitters select which label *they* think most accurately captures their experience and 4) the police select the label that *they* think applies.

3.1 Victim or witness? The force perspective

Often linked with conversations around public demand for detailed feedback on submissions,¹⁰ data protection legislation and associated limits to the disclosure of information to members of the public, force interviews touched upon the issue of whether submitters should be considered as, and treated as, witnesses or victims. In line with the opinion of some of the legal experts that we consulted, many force interviewees seemed to

⁹ It is worth noting that legal tools that legitimise more open and fluid communications with submitters, whatever their status, do exist - the NPCC, for example, has considered that provision of feedback may fall under chief officers’ statutory power to ‘do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the Chief Constables/Commissioner’ (para 7 to Sch 2 and para 4 to Sch 4 of the Police Reform & Social Responsibility Act 2011 respectively), functions that include “maintaining public confidence in the force as a whole, as part of the general common law duty to secure the preservation of the Queen’s peace and the enforcement of the law.”

¹⁰ The topic was not only recurrent in interviews with submitters, but many of the members of the public who contacted us to be interviewed briefly describing their experience would state that the lack of information following one or a few submissions had discouraged them to the extent of ceasing to submit evidence of incidents.

feel that the status of victim or witness was a matter for the law and criminal justice system and was a label attached to ensure the appropriate treatment of people in a system sense, rather than having any meaning or relevance to that individual. Labels, according to this view, simply facilitated processing and that, in turn, produced justice defined as an organisational outcome. Most police interviewees saw submitters as witnesses, with some offering explanations as to why they believed this to be the case:

Some of the stuff you get is so trivial that you're not sure that it qualifies for that one because they're not [...] I think you know I can't say 'victims' in inverted commas. I think I'd, you know, I'd say it because I'm not entirely sure that they're necessarily victims, they just happen to record something that's happened in front of them and it's something they think "oh the police will wanna know about that". So you know there's not been any harm done to them.¹¹

You know, as a rule, personally, I think you cannot be a victim. You have to be...you, you're a witness. You are a witness to something that happened to you, admittedly, but I can't, I don't see how you can. How can we say the problem [is] it's not necessarily that they're not a victim? It's the differentiating. So, if you look at any crime, whether it be traffic or a criminal case. If someone is raped, you know who your victim is. If someone is beaten in the street, you know who your victim is. If someone is run over at the crossing, you know who your victim is. And all of a sudden we're saying this person who we're going to send a course [invitation] out [for] a car who drove a bit close - we're gonna treat them the same as the rape victim person [or] who has run over the person? When is that fair and is that right? Is that going to start breaking down what a victim is?¹²

However, another decision maker from a participating force, presented a more nuanced stance that includes seeing the matter from the point of view of the submitter, and considering the circumstances of the individual submission:

My thought process was, well, why should it be any different to a criminal investigation where the victim or whoever's reporting is fully updated on what happens to the offender? It's no different. So, I tell them as much as I can...I think it's always important to when speaking with the victim or the witness, to basically try and see it from that point of view but then also be realistic about what we can do and the fact that what we do is proportionate up to the circumstances, and it also at the end of the day, it has to be in the public interest because we haven't got infinite resources to look at everything.

¹¹ Chief Inspector at one of the participating police forces.

¹² Processing Unit Lead at one of the participating police forces.

This decision maker relativises or even voids the differences between the two different regulations, and blurs the distinction by a) putting themselves in the place of the submitter, b) deciding that this means telling them as much as they can and keeping them ‘fully updated’, and, crucially, c) keeping this realistic and proportionate

In many cases, interviewees (like the decision maker above) implied that, regardless of whether a submitter was accurately described as a victim or a witness, they *did not have the resources to allow them to treat submitters as victims of what they had experienced*. Legislation and policy are always open to interpretation and, whatever the particular characteristics of the experience of any given submitter, the practical issue of resources appears to be at the forefront of police decision to treat them all as witnesses. This is a concern unanimously acknowledged, by police personnel, submitters, and legal experts - the Road Safety Support, in their comment on the issue, warned of the police finding the process “a burden” when there is a victim declared, a reason hence there will be “reluctance” and a “high bar” placed upon police staff decision makers.

3.2 Victim or Witness? The submitter perspective

We conducted 35 interviews with road users who had submitted journey cam footage to the police. We, firstly, asked questions around the interviewees’ broad motivations for owning, using, and submitting footage from, journey cams. A significant number of participants referenced a perception that, generally, roads were not a particularly safe place to be, regardless of your own attempts at using them safely. In a general sense, unsafe experiences had become the norm:

I yeah, I mean I started experiencing so much bad driving, close passing and just, you know, pulling out at roundabouts and junctions without either, without looking or caring that there's a there's a bike you know in the way. (Alex, cyclist)

For many interviewees, there was a definite sense that, in recent years, road use had become *more dangerous* and that *standards of driving were getting worse*:

Umm, so I think having a camera is even more important now, and especially from experience after the pandemic from the lockdown. People seem to forget how to drive, how to be patient, and people seem to have forget how to behave properly. There’s, so many people are rude now. (Bethan - driver and motorcyclist)

Yeah, I was just seeing the general trend towards an increased number of and, you know, and a decrease in the quality of driving on the road...And recently I've just seen a real sort of reduction in sort of skills, empathy towards other road users (Harry - driver and cyclist)

Whilst some participants (as above) referred to general and accumulated experiences, for others it was a particular experience that had led them to become a dash cam or helmet cam user:

I was actually hit by a trailer. So, approaching a roundabout, I was in the middle lane. There was a 4x4 carrying a trailer with a small digger on the back. He swung towards me to take the corner, and hit the side of my leg. I mean it, it could have been a lot nastier. It was just a mere flesh wound, umm, but you know I could quite easily have lost my foot over it. (Ray - driver and cyclist)

Uhm [my motivation was] nearly being killed. So 18 months ago I was not quite [in] a road traffic collision, but it was nearly a road traffic collision. But anyway it resulted in me having a fractured wrist. (Mick - driver, cyclist and pedestrian)

Strikingly, for a notable number of submitters, the motivation for capturing data about their experiences was that, if they were to be killed, there would be evidence to show that it had not been their fault:

I absolutely know the camera will do nothing to prevent that happening but if it happens, I wanna have a record that it happens and it's another cycling friend tells me that, "you know, if one day I get killed by a maniac, I don't want someone to think that I it was my fault because there's an awful lot of blame going around for cyclists" and you're absolutely right. (Matthew – driver, cyclist and pedestrian)

I want there to be evidence of what happened to me and that I wasn't at fault. And if some bugger kills me, or injures me, there's evidence... (Estelle – driver and cyclist)

It's irrefutable evidence of what actually happened. If for some reason *touch wood* I can't use the words to tell them (Bethan - driver and motorcyclist)

Underlying these reflections on the motivations for using a journey cam are references to a variety of incidents where our participants were physically injured or emotionally affected, as well as those where they were/positioned themselves more of an observer of other people's experiences. One area of consistency in an otherwise notably inconsistent journey cam landscape (see Thematic Report 1) was, however, that police processes treated all submitters as witnesses. As noted above, this police-assigned status has consequences in terms of the way in which the police should, handle a case and communicate with a submitter.

As well as exploring general motivations for engagement in the process, we also specifically asked our submitter interviewees whether they identified more with the role of 'victim' or 'witness' in relation to their journey cam submissions. As noted above, the range of experiences reported to us by interviewees did cover incidents that could legitimately be considered to be clear examples of either being a witness or a victim. What we are interested

in are the participants *perceptions* of their experiences and role, and the expectations of police action that they engender. These were varied. Some submitters appeared to decide based on the specific incident whether one label or the other was more appropriate, whilst others conceptualised themselves as one or the other in advance, and seemed to operate on that basis in relation to journey cam submissions.

Uhm, I don't think I would class myself as a victim, apart from the time I was hit by the trailer. You know, I haven't suffered any detriment. Other than you know my risk having gone up, nothing's actually happened to me, so I wouldn't say that I felt like a victim for any of those cases. (Ray, driver and cyclist)

So I don't see myself as a victim. It's more of like a vessel for the police to see what actually is going on the roads. (Bethan – driver and motorcyclist)

Ooh, right. As a cyclist, I see myself as a victim. Even if they're just on their phone and they don't come anywhere near me I'm a potential victim because again, the statistics on distracted driving is just terrifying and I am submitting there because I feel threatened (Matthew – driver, cyclist and pedestrian)

Umm. I guess for all the ones I've put in, probably just more of a witness. There hasn't been anything that's massively felt like I've been put at risk by the driving, but obviously somebody somewhere will have been. I guess mostly it's just the witness side of it more than a victim. (James - driver)

Some submitters drew parallels with other offences where no one was physically injured, but the law was still clear that there could be a victim. This contradicts what force participants said about there being no victim in the kinds of road traffic offences that were routinely submitted. Cyclists, in particular (and in line with the definition in the Victim's Code) were more likely to feel that they were victims of the incidents that they reported, whether or not a physical injury had occurred:

If I am, I don't know, say physically shaking after it and if something scared me so I had to stop and, you know, sort of like, calm down a bit - for that to be treated as a [witness]. It's like uh, how? How can I compare? You can be verbally assaulted, and that's a similar thing, it isn't actually a physical thing as such, but you're still a victim and that gets treated differently. I don't know. Sexism, racism, and all that sort of stuff. It's a victim and it doesn't actually physically have to be anything for it to be like a close pass or a punishment or cut up for anger for it not to be classed as being a victim. (Will – driver and cyclist)

In some cases a submitter saw themselves as a 'victim in waiting' (escaping injury only via luck or their own evasive action) or as a victim of harassment or intimidation (something policing

is well-used to dealing with using a victim label). In these cases, it was the camera, not the individual, who was understood to be accurately labelled as the witness.

You know, over the 45 years I've had people undertake me overtake me, squeeze me one time somebody drove into the back of me there and 45 years I've been putting up with it. And lo and behold, the first time I have the camera on, I have a witness to it, so it's good. (Gwen – cyclist)

We were clear that we were interested in how submitters felt that they should be considered, rather than how the systems and processes made them feel, though on occasion interviewees did provide insight into the latter also, suggesting that the language and approach of the submitter forms presumed a 'witness' identity that did not always feel appropriate. Consider this excerpt from the interview with James, a driver and cyclist who has submitted footage from both modes of transport. Despite generally considering himself a witness of the incidents he has submitted, he reflects on the preparedness of the form to capture experiences of victimisation:

You know if this were a robbery in the street, when it ended up in court, then your feelings and your emotions would be taken into account as part of the victim side of considerations. I feel in these submissions it's very, it's very, there's no real space for that. You know, there's basically "in your own words, describe briefly what happened, location, date, time, details of the other vehicle", and then your own personal information. There's nowhere that you could sort of say you know, if they were to ask a simple question "on one to 10, how at risk did you feel by this situation?" You know "how much injury do you feel there may have been?" You know, just something that tries to quickly ascertain a score that they can use to sort of understand the setting, the kind of severity and the and the impact and. You know, it's those, those kind of things I think would help. It's a very, you know, back to your question, it is very much a witness statement.

These limitations are most apparent when someone who sees themselves as a victim of an incident is treated under witness policies/protocols. There were notable examples of submitters going to some lengths to find out, or try to deduce, what had happened in their case, such as viewing footage shared in the media by the police in the hopes that their incident would be featured, and an outcome revealed. As a victim, they would have the *right* to be informed of this. It is important to add that legal experts from the Road Safety Support consulted on this matter did suggest that "it would not be unreasonable for the submission process to be designed so that the person submitting the evidence can declare with justification why they may be classed as a victim." The point is that embedding opportunities for a submitter actively 'making a case' for being considered a victim and treated accordingly

(as James appears to suggest) shall not be entirely out of the question.¹³ The RSS experts concluded that the point is not against police making decisions based upon what they can manage, but (like with using automated feedback) that technology is not currently being used effectively to assist the police in increasing their capacity. Expectations, they added, should in any case be carefully managed and clearly informed at the outset.

For other submitters, however, there seemed to be a wish to resist the label of 'victim' as though adopting that as a 'master status' in relation to their road use implied something unwelcome about the vulnerability or world-view of the submitter, or would make them behave differently on the roads:

I've never felt myself to be a victim of any way, shape or form. Umm. As silly as it may sounds, I still think even at the age of 76 I'm big enough to look after myself. And so I don't wanna ever wanna be a victim. I think if I started to be a victim, maybe I wouldn't be using the roads at all because you'd be looking out for things that perhaps you should not be looking for. But I think a witness as to what's happened. OK, I'm involved. But I was the witness as to what happened, not the victim of it.

A point in common amongst submitters, whatever label they attached to themselves in any given incident, is the need for some degree of communication and feedback from the police on the progress and outcome of their submissions. Submitters, especially regular ones, are very aware of limitations in police resources and rarely if ever sounded unreasonable in what they expected. Feedback of some sort remains crucial though – as evidenced by the recurrent story of prospective participants who simply quitted submitting altogether after feeling left in dark in their first few submissions. This process was variously described as the submitter having "Lost faith", that they "can't be bothered with [police force]" any more, or "heard absolutely nothing in return". An experienced driver and journey cam user, in their email contacting us to participate in the research, summarised these feelings:

"not receiving any feedback to the submissions would be detrimental to receiving future submissions. Whilst people may be aware that certain information cannot be disclosed due to data protection, to receive a personal acknowledgement that the footage has been viewed and either 'no action can be taken because...', or 'action is being taken, but we cannot disclose what...' makes it worthwhile."

Interestingly, the sense of the process involving some degree of human interaction also appears to be valued, even if limited to small details. Consider for example the description of Natalie, a keen cyclist who had given up submitting footage – but after a particularly serious incident was encouraged to make direct contact with an individual within a force by email instead of using the web portal

¹³ Prof Kyd, while not disagreeing with the legal merits of such an approach, casts doubts as to whether something useful would be achieved and what it would mean in terms of submitter expectations of police work.

Umm, it's just at the time, my opinion was if I put it on the website it just disappears into a void and nobody does anything with it. At least I had a feeling that somebody was taking an interest.

3.4 Victim, witness...or offender?

As discussed above, the camera was, for some road users, viewed as an independent witness to incidents on the road. The helmet- or dash-cam was, in many cases, seen as a way of proving that the user had done nothing wrong, either to the police or to insurance companies. It therefore had a role in establishing (where it might not be immediately obvious) who was a victim and who was an offender:

I decided to get a dash cam which has actually just paid for itself because somebody didn't manage to stop in time and on a single track road and went into the front of me. Because I had the dashcam, I was able to show it was completely the other party's fault. (Phil - driver and cyclist)

I guess I do a fair amount of driving and I see a range of dodgy behaviours on the road and the reason I bought the rear camera was that someone drove into the back of my car and drove off. So I felt as if that was something I needed to have for insurance purposes. (Denise – driver, cyclist, pedestrian and public transport user)

Digital evidence was seen to be providing the truth of the matter in situations where there was often conflict and dispute, so to not arm yourself with the means to collect that footage was to render oneself vulnerable to accusations of offending. For journey cam users like these, rather than their motivation being 'out to get' other drivers (something dismissed by all our interviewees), their use was more related to a perception that other road users might be 'out to get' them.

Submitters can of course also be offenders. All the FAQs of submission websites to police forces warn submitters that their behaviour as shown in the footage will be scrutinised and any offence on their part prosecuted. Road users are well aware of this: approximately 30% of respondents to our population survey admitted to being worried that footage they might send 'could be used against [themselves]' – with little variation between journey cam users and non-users in this respect.

But in another, more striking, sense, some submitters also report that they were made to *feel* like offenders as a result of their engagement with the process. The issue of labels (witness, victim or offender) also arose when both submitters and decision makers discussed the fact that submission portals often included a question about what the road user was wearing (whether a cyclist was wearing 'hi-viz' or a helmet, for example, or a less specific box asking

about 'clothing') or whether their horse was sufficiently visible (what colour it was or whether it was wearing 'hi-viz' tack or clothing). Drivers were not asked questions relating to the visibility of themselves or their vehicle. This was taken, by road users of these types, to imply that sometimes vulnerable road users were (at least partly) responsible for what happened to them and, by extension, that they had been the cause of the incident, the wrongdoer. Recent work by Cubbin et al supports the suggestion (made in more detail in our rationale for Recommendation 6 around police training and empathy with all types of road users) that the perspective of the viewer and their experience as either a driver or rider, impacts on the way in which they see incidents, and the judgement of responsibility and blame that they make (2023: 319-320)

For a few submitters who had sent in helmet camera footage collected while using a bicycle, this was a point of friction built into the process itself, which was interpreted as victim blaming, or judging the submitter, as though their choices somehow amounted to self-incrimination or 'asking for it':

They are a bit, they can be a little bit judgy because they're a bit like, you know, "were you wearing a helmet" and I'm like, "f**k off". But yeah, that is what it is. (Sonia – driver and cyclist)

Uh and yeah, the form itself tends to resist autofill functions in a browser, so you know you can't go through it quickly. I mean I have I have a, you know I have a Word document with all the standard responses but I just couldn't copy and paste, and then this is the famous question, you know, "Clothing worn?" to which I generally respond "Yes". (Steve – driver, cyclist and pedestrian)

The uneasiness of these submitters with questions about their own behaviour in the face of experiences of endangerment harks back to debates on victim blaming and, more generally, to critiques of 'responsibilisation' of individuals for their safety on the roads. These narratives tend to obscure both the substantial power and dangerousness differentials, and shortcomings in institutional responses (see, for example, Pimentel 2017 and Spotswood et al 2015).

4. Next steps

Having begun to bring together a range of viewpoints in this report, we offer the following additional suggestions based on the consultation with various stakeholders that fed into this report:

Submitters may be accurately described as victims or witnesses of what they have captured, depending on the specific incident. Whilst each submitter is entitled to apply their own label to their understanding of their experience, for policing purposes, there are criteria that need to be applied in order for a submitter to be classified as a victim for prosecution or other disposal purposes. Further research could consider advantages and disadvantages of allowing

submitters to select their own label when submitting or declaring any type of harm suffered (physical, mental, emotional, economic loss, as per the VC).

Interestingly, neither the Code nor the Charter appear to consider the format or method by which witnesses or victims should be 'contacted' or 'kept informed'. Future practice should, however, consider the various ways that individuals may interact with the police and what form those encounters could and should take. Ongoing work on fairness, trust and legitimacy in policing (Aston et al, 2022| Bradford et al, 2022; Wells et al, 2023) suggests that the introduction of technology into encounters may change the way in which they are experienced and that – whilst technology can improve efficiency and ensure consistent treatment – it may have shortcomings compared to genuinely human encounters. In our context, this may mean that generic automated responses or self-service updates on case progress (where a submitter visits a portal to receive information) may indicate less respect, politeness, and provide less of a sense of process control and of being genuinely 'heard'. As such, a process that is reliant on the good will and engagement of the public should exercise caution in offering standardised or automated responses and not necessarily only judge them in police-focused 'efficiency' terms.

Police decision-makers should also be encouraged to consider whether the footage contains a victim, or not (whether or not that is the person who has captured the footage) for the reasons Prof Kyd notes above (it can strengthen a case or increase a sentence). But our research suggests that decision-makers need to be trained with regards to the VRU experience before they are given that role. This training should also include an understanding of both the Victims Code and Witness Charters before they make the decision, as well as any implications of either decision.

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