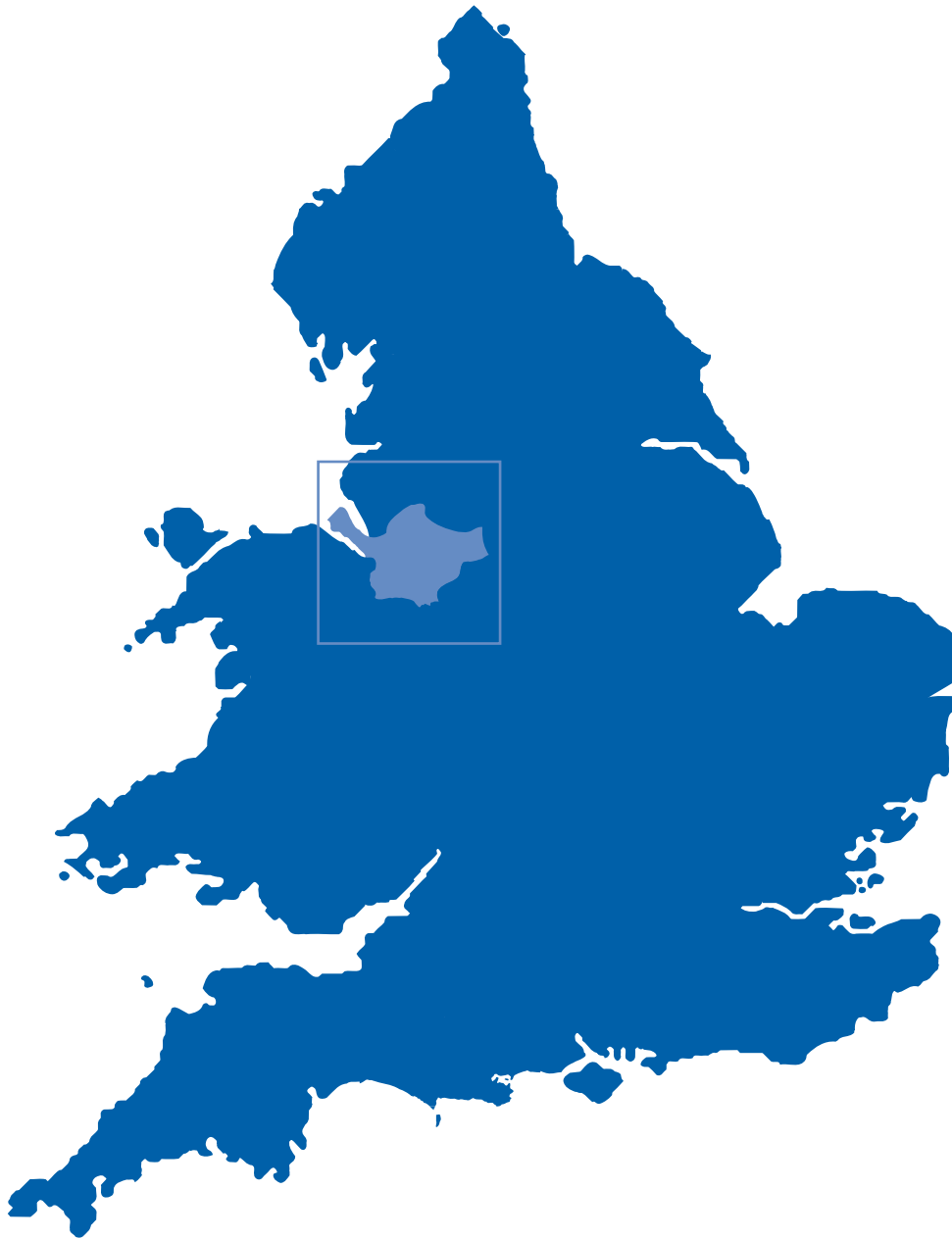


THE INSPECTORATE'S REPORT
on
THE CHESTER BRANCH
of
CPS NORTH WEST

Chester Branch



BRANCH OFFICE

◆ Chester

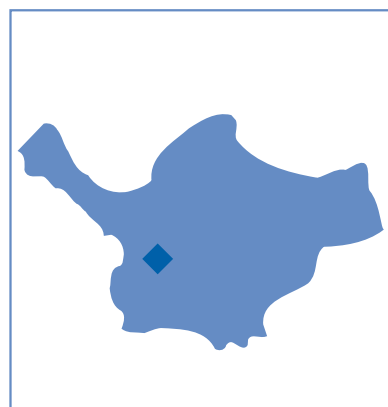
COURTS COVERED

Magistrates' Courts

Chester
Ellesmere Port & Neston
South Cheshire (Crewe)
Vale Royal (Northwich)

Crown Court

Chester
Knutsford
Mold
Warrington



REPORT ON THE INSPECTION OF THE CPS CHESTER BRANCH

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INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Chester Branch of CPS North West.
- 1.2 A good casework decision is one which results in the right defendant being charged with the right offence in the right tier of court at the right time, thereby enabling the right decision to be taken by the court. The decision must also be taken at the right level within the Crown Prosecution Service (CPS) and be prosecuted by the right prosecutor.
- 1.3 The purpose and aims of the Inspectorate are set out on the inside back cover of this report. The inspection process focuses on the core business of the Service: providing advice; reviewing cases; preparing cases; and presenting cases in court.
- 1.4 The Chester Branch is in CPS North West Area and has its offices in Chester. On 18 May 1998, it employed 40.1 staff (the Branch Crown Prosecutor (BCP) and 16.6 other prosecutors; 18 caseworkers; 3.5 typists; and one receptionist).
- 1.5 The Branch comprises two teams. The Chester and Ellesmere Port team (8.8 prosecutors and 9.5 caseworkers) is responsible for prosecutions in the magistrates' court at Chester (where, at present, magistrates for Chester and for Ellesmere Port and Neston petty sessional divisions sit). The Crewe and Northwich team (7.8 prosecutors and 8.5 caseworkers) is responsible for prosecutions in the magistrates' courts at Crewe (South Cheshire) and Northwich

(Vale Royal). Each team is also responsible for Crown Court cases originating from its magistrates' courts.

- 1.6 The team of three inspectors visited the Branch between 18 and 29 May 1998. During this period, we visited each of the four magistrates' courts covered by the Branch. We observed 11 CPS advocates prosecuting cases in the magistrates' courts, and in the youth courts at Chester and Crewe. We observed counsel in the Crown Court sitting at Chester.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch carries out most of its casework to a high standard. The standard of advocacy is good, and the Branch shares an effective and good working relationship with other agencies in the criminal justice system. The respective agencies strive to improve the service that they provide to one another, and to the community.
- 2.2 Staff in the Branch demonstrate a high level of commitment to their work, and we observed effective communication between prosecutors and caseworkers. The Branch has a number of effective systems which are designed to ensure that there are appropriate opportunities to check that work is carried out in a timely manner.
- 2.3 There are, however, some aspects of the Branch's casework and office procedures which require attention. In particular, we recommend that:
 - i the BCP should seek to reach agreement with the police on the types of case which should be submitted to the Branch for advice (paragraph 4.5);

- ii prosecutors should ensure that they are in possession of all relevant information before advising the police (paragraph 4.14);
- iii the BCP should introduce a system to ensure that proper and effective monitoring is carried out of the quality of advice tendered to the police, and that such advice fully explains how and why decisions are reached (paragraph 4.18);
- iv the BCP should ensure that effective review is carried out in all cases, at all appropriate times, and that decisions to terminate cases or amend charges are taken at the earliest appropriate opportunity (paragraph 5.8);
- v the BCP should ensure that the charging standard relating to offences involving assaults is applied consistently by all Branch prosecutors (paragraph 5.12);
- vi the BCP should bear in mind the concerns expressed in paragraph 5.38 when reviewing the training needs of individual prosecutors (paragraph 5.39);
- vii prosecutors should ensure that a written note of their review is recorded on the file, to include references to both the evidential and public interest tests, and to considerations of mode of trial, so that colleagues and counsel have a comprehensive guide to the decisions and actions that have been taken, and the reasons for them (paragraph 5.43);
- viii the BCP should ensure that adequate systems are in place to enable learning points from the Branch's cases, both successful and otherwise, to be identified and disseminated (paragraph 5.48);
- ix the BCP should provide guidance on the provision of advance information when requested in summary cases, to ensure that a uniform approach is adopted by prosecutors (paragraph 6.6);
- x the BCP should ensure that committal papers are checked by the reviewing prosecutor before committal, and that the prosecutor's check of the papers is endorsed on the file (paragraph 6.23);
- xi prosecutors and caseworkers should ensure that, in all relevant cases, the instructions to counsel fully address the issues in the case, and the acceptability of any possible mixed pleas (paragraph 6.28);
- xii the BCP should ensure that prosecutors attending the plea and directions hearings (PDHs) at the Crown Court should make themselves familiar with the files listed for that day's hearing, so that they are able to take prompt and informed decisions on the acceptability of pleas and other issues (paragraph 6.39);
- xiii the BCP should seek to improve the percentage of cases in which counsel originally instructed attends the trial and sentencing hearing (paragraph 7.8).

THE INSPECTION

- 3.1 In the twelve months to 31 March 1998, the Branch dealt with 11,703 defendants in the magistrates' courts and 989 defendants in the Crown Court. In a further 998 cases, advice was given to the police before charge.

3.2 The inspection team examined a total of 243 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Branch and representatives of the criminal justice agencies that directly affect, or are directly affected by, the quality of casework decisions taken in the Chester Branch. A list of those representatives from whom we received comments is at the end of this report.

PROVIDING ADVICE

Appropriateness of requests for advice

- 4.1 In the year ending 31 March 1998, the Branch dealt with 998 advice cases, which constituted 7.9% of the Branch's total caseload, compared with 3.8% nationally.
- 4.2 There is no local agreement with the police about the type or quality of file that should be submitted for advice, and we were told that some cases were submitted to the Branch when the decision should have been taken by the police. We were also told that the Branch has occasionally returned files to the police, indicating that they were inappropriate cases to submit for advice, but that the usual practice was to deal with any advice files submitted.
- 4.3 We considered that one of the ten cases in our sample was inappropriately submitted.
- 4.4 We were told that both the Branch and the police are reluctant to adopt any measures that might deter police officers from making appropriate requests for advice. The BCP and the Prosecution Team Leaders (PTLs) expressed confidence that the resources needed to deal with

any inappropriate advice files did not detract from the teams' ability to deal expeditiously with other work. Nevertheless, prosecutors deal with a high proportion of advice files, and a number of these files are inappropriately submitted.

4.5 We recommend that the BCP should seek to reach agreement with the police on the types of case which should be submitted to the Branch for advice.

- 4.6 Given the concerns that have been expressed to us about the potential negative effect that such an agreement might have on the submission of cases for advice, the BCP will undoubtedly want to monitor how the agreement is working; assess the impact which the agreement has on the volume of advice cases submitted; and liaise with the police to make sure that their concerns are properly addressed.
- 4.7 The Branch does not allocate lawyers to attend police stations to be available to give advice. We were told that this had been considered by the Branch and the police, but that such a scheme had not been thought to be appropriate. However, the Branch does not discourage informal requests for advice by telephone or, sometimes, by police officers attending the Branch office.
- 4.8 During the period 1 July 1997 to 30 April 1998, of the 739 advice cases recorded, (amounting to 7.7% of the Branch's caseload), 149 (1.6% of the Branch's caseload) were informal requests for advice.
- 4.9 The Branch has an effective system for recording these informal requests for advice. A

self-carbonating form is available, on which the prosecutor who gives the advice records both the information which is provided by the police, and the advice which is given. One copy is kept on file in each team, and the other is used for Branch recording purposes.

- 4.10 We commend both the system, and its effective use by the Branch. We suggest that the BCP improves this already good system, by sending a copy of the form to the police.

Quality of advice

- 4.11 Advice files are allocated by the PTLs to prosecutors in their teams. When the advice has been prepared, the police file and the advice are sent by the prosecutor directly to the police. Only a copy of the advice is retained in the Branch.

- 4.12 Whilst keeping a copy of the papers originally submitted by the police could create some storage problems, the BCP ought to consider whether this practice should be introduced. This would provide a copy of not only the advice given, but also the material upon which it was based. This would enable the reviewing prosecutor, upon receipt of a subsequent prosecution file, to be aware of the basis of the original advice.

- 4.13 We examined ten cases in which advice had been given by Branch prosecutors. We agreed with the advice in eight cases. In the other two cases, further information should have been sought from the police before the advice was given. That information, when received, could have fundamentally affected the advice given.

- 4.14 We recommend that prosecutors should ensure that they are in possession of all relevant information before advising the police.**

- 4.15 All the advice was typed and well presented. In one case, however, it was clear that the prosecutor had not read the file properly, because in the advice he asked for information that had already been supplied in the original file submitted by the police. We found in a further two cases that the advice was poorly worded. It did not contain sufficient detail or explanation of the decision made.

- 4.16 In the course of our inspection generally, we examined a number of other files that had been prosecuted following advice given by the Branch. In two cases, we considered that the advice was wrong. Both cases, one of which had been committed to the Crown Court, had resulted in acquittal. If appropriate advice had been given at the time it was originally requested, the resources used to prosecute these cases would have been saved. We deal with the cases in more detail in paragraphs 5.31 and 5.34.

- 4.17 We were told that the PTLs examine one advice file for each lawyer every month, to monitor the quality of the advice given, before the file is returned to the police. We are not satisfied, however, that the present monitoring of the quality of advice files is fully effective.

- 4.18 We recommend that the BCP should introduce a system to ensure that proper and effective monitoring is carried out of the quality of advice tendered to the police, and that such advice fully explains how and why decisions are reached.**

Timeliness of advice

- 4.19 The Branch monitors the timeliness of advice effectively. When written requests for advice are received from the police, the file is given an

action date of 14 days after receipt. If the advice has not been dealt with by that date, an explanation for the delay has to be given by the prosecutor dealing with the matter.

- 4.20 In all ten advice cases that we examined, the advice was sent to the police within the nationally agreed timescale of 14 days from the receipt of the file. The Branch records that, in April 1998, advice was tendered on time in 84.9% of cases.

Advice from counsel

- 4.21 It is very rare for counsel to be asked to advise on cases before charge or committal. Any such request has to be approved by the BCP. In our sample, counsel had been asked to advise in one case, which was complex and involved a serious offence. The request was appropriate.
- 4.22 Whether counsel is asked to advise after committal is a decision taken by the reviewing prosecutor in conjunction with the caseworker. The PTL or BCP are not automatically consulted. Nonetheless, we were told that such requests were now infrequent.

REVIEWING CASES

Quality of review decisions

- 5.1 Under the Prosecution of Offences Act 1985, the CPS is required to review every case it deals with in accordance with the Code for Crown Prosecutors (the Code). It must establish whether there is sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to prosecute the matter.
- 5.2 We specifically inspected the quality of the review decision in 81 files, covering cases in the

magistrates' courts and the Crown Court. We agreed with the review decision on the evidential sufficiency test in 79 cases (97.5%), and we agreed with the public interest decision in all cases. One of the two cases in which we disagreed with the decision to prosecute, also involved a failure to apply the charging standard in respect of assault cases. We comment further upon charging standards in paragraphs 5.9 – 5.12.

- 5.3 The PTLs monitor the quality of review by sampling files on a monthly basis. Additionally, they regularly prosecute in the magistrates' courts, and therefore have the opportunity to see files that have been reviewed and prepared by prosecutors from their teams.
- 5.4 We found that cases were dealt with at the appropriate level. PTLs, or a nominated person in their absence, allocate all cases to the prosecutors in their teams for review. Sensitive or complex cases, for example cases involving child abuse, domestic violence or youth offenders, are identified and are allocated to prosecutors who have been trained, or who have the appropriate expertise to deal with the particular type of case. One team allocates the remaining files to the prosecutor who will deal with the cases in court at the first hearing; the other team allocates the files on the basis of sharing the workload equally between the prosecutors.

Timeliness of review

- 5.5 The police generally submit files of a good standard and well in advance of the first hearing date. This enables the Branch to deal with review at an early stage.
- 5.6 Figures kept by the Branch record that, in April 1998, 742 out of 804 files (92.3%) had been reviewed within five working days of receipt.

5.7 A small number of cases, however, are not effectively reviewed at this stage. As a result, some of these cases are not terminated, or the charges in them are not amended, as quickly as possible. If not properly reviewed, cases may 'drift' through the system, even to the extent of reaching the Crown Court before problems are addressed. We were particularly concerned with the small number of cases which resulted in judge ordered or judge directed acquittals, discharged committals, or in which the magistrates found no case to answer at the close of the prosecution case. We comment specifically on these cases in paragraphs 5.27 – 5.39.

5.8 We recommend that the BCP should ensure that effective review is carried out in all cases, at all appropriate times, and that decisions to terminate cases or amend charges are taken at the earliest appropriate opportunity.

Selection of the appropriate charge and charging standards

5.9 We found that the original police charges in 17 out of 81 cases (21%) required amendment. The Branch amended ten charges at first review. Four of the remaining seven charges concerned assaults, and the amendment was required in order to apply the appropriate charging standard.

5.10 Charging standards have been agreed nationally between the police and the CPS in respect of certain types of criminal offence, including assaults, with a view to ensuring that there is consistency in charging practice throughout England and Wales. The local police force does not follow the standard in relation to less serious assaults. Indeed, we have seen specific written instructions addressed to all police officers, setting out the relationship between various

injuries and the level of charge, which do not reflect the nationally agreed standard.

5.11 We noted 12 out of 37 relevant cases (32.4%) in which the police had not followed the charging standard on assault cases. The Branch had appropriately amended eight charges at initial review. The Branch is aware of the necessity to apply the charging standard at initial review, but does not always achieve this.

5.12 We recommend that the BCP should ensure that the charging standard relating to offences involving assaults is applied consistently by all Branch prosecutors.

Mode of trial

5.13 We agreed with the prosecutor's decision about whether the case should be dealt with in the Crown Court or the magistrates' court in 48 out of 49 relevant cases in our sample. Only eight files (16.3%), however, contained a written record of the prosecutor's reasoning.

5.14 The absence of any written record of the factors that should be taken into consideration makes it more difficult for the advocate who subsequently addresses the court on this issue. We comment further on the adequacy of review endorsements generally in paragraphs 5.40 – 5.43.

Bail

5.15 We were told that the Branch's prosecutors opposed bail in appropriate cases, and that they dealt effectively with bail applications in the magistrates' courts and in the Crown Court. We examined 11 cases where the defendant appeared in custody, and an appropriate decision whether to oppose bail was made in all cases. Furthermore, the magistrates' reasons for

refusing bail were endorsed on the file in all cases.

5.16 Under the provisions of the Bail (Amendment) Act 1993, the prosecution is able, in certain cases, to appeal against the magistrates' decision to grant bail. It is important that the decision to appeal is taken at the earliest possible opportunity. We saw a number of files where the possibility of an appeal had been considered at an early stage, prior to the application for a remand in custody being made to the magistrates. The files had been clearly endorsed to this effect.

5.17 Branch prosecutors are aware of the provisions of the Act, and since it came into force, they have dealt with 36 appeals. Twenty-eight appeals were successful, although we noted that the number of such appeals differed between the magistrates' courts dealt with by the Branch.

5.18 Only one appeal was made in respect of a decision made by the South Cheshire Magistrates' Court (sitting at Crewe), and only two from the Vale Royal Magistrates' Court (sitting at Northwich). All these appeals were allowed.

5.19 There were 11 appeals arising from decisions in the Ellesmere Port and Neston Magistrates' Court, of which nine were allowed. There were 22 appeals arising from decisions made by Chester Magistrates' Court, of which 16 were allowed.

5.20 We were told that all the appeals were appropriate. Indeed, there was no criticism of the Branch by the judiciary for pursuing any of the appeals, including those which were not allowed.

Discontinuance

5.21 The Branch's discontinuance rate, for the 12 months ending 31 March 1998, is significantly lower than the national figure (6.7%, against 12.1%). We were told that the Branch is able to maintain a low rate of discontinuance because of a number of factors. These include the high rate of advice requests, which, it was maintained, lead to inappropriate prosecutions not being commenced, and the generally high standard of police decisions relating to the commencement of proceedings.

5.22 We examined a sample of 59 cases stopped by the prosecution in the magistrates' courts, to look at the reason for the termination, and to find out whether the police were consulted about, and agreed with, the decision. Discontinuance was used in 34 cases (57.6%), with 18 (30.5%) being withdrawn at court. In the remaining seven cases (11.9%), no evidence was offered by the prosecution.

5.23 Nineteen cases (32.2%) were stopped because there was insufficient evidence, and 17 (28.8%) because it was not in the public interest to prosecute. In 15 cases (25.4%), the prosecution was unable to proceed because, for example, witnesses refused to give evidence or failed to attend court. Eight cases (13.6%) were stopped because defendants produced their driving documents.

5.24 We examined ten terminated cases in order to assess whether the Code tests had been correctly applied. We agreed with the decision about the sufficiency of evidence and the public interest in all cases.

5.25 However, elsewhere, we found a small number of cases in which it would have been appropriate to

discontinue the proceedings at an early stage, but which were prosecuted, even to trial in the Crown Court. We refer to examples of such cases in the following paragraphs.

Judge ordered and judge directed acquittals

- 5.26 In the 12 months to 31 March 1998, there were 49 cases stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals). This represents 6.1% of the Branch's Crown Court caseload, against 7.7% nationally.
- 5.27 We examined 17 cases in this category. We agreed with the decision to prosecute in 15. One case where we disagreed involved offences of violence, in which the difficulties with identification evidence had been noted before committal from the magistrates' court. Despite this, the case was allowed to continue to the Crown Court, before being stopped by the judge at the request of the prosecution. The other case involved allegations of possession of controlled drugs with intent to supply, where there was insufficient evidence to prove possession. This should have been recognised at initial review, and discontinued at an early stage, unless the police had been able to provide additional evidence.
- 5.28 During the same 12 month period, there were seven cases in the Crown Court in which the judge directed an acquittal after the trial had started. This represents 0.9% of the Branch's Crown Court caseload, compared with the national average of 1.9%.
- 5.29 We examined three of these cases and agreed with the decision to proceed in two. In each, the case was stopped by the judge because of conflicting evidence given by prosecution witnesses, which made it unsafe for the case to

continue. This could not have been foreseen by the prosecution.

- 5.30 We disagreed with the decision to prosecute in one case. This involved an allegation of theft, where the prosecution was unable to establish dishonesty on the part of the defendant, which is an essential ingredient of the offence. The case had originally been submitted as an advice file (see paragraph 4.16), and we disagreed with the advice to prosecute. As the case progressed, it appears that there was an unjustifiable determination to continue the proceedings, despite clear reservations by prosecuting counsel.

Cases lost on a submission of no case to answer in the magistrates' courts and discharged committals

- 5.31 In the year ending 31 March 1998, the Branch prosecuted 39 cases that were stopped by the magistrates at the close of the prosecution case. This represents 0.4% of the Branch's caseload, higher than the national average of 0.3%.
- 5.32 We examined four such cases, and we agreed with the decision to proceed in two.
- 5.33 One case in which we disagreed with the decision had also started as a result of advice given by a Branch prosecutor (see paragraph 4.16). That advice had been to charge the defendant with a summary offence, in respect of which there was a statutory limitation on the time within which the proceedings could be commenced. That time limit had expired, and the proceedings were wrongly started.
- 5.34 The other case involved a serious road traffic accident, in which the driver of a car had

sustained injuries from which he subsequently died. In our view, there was insufficient evidence to prove that the driver of the other vehicle involved had been criminally liable for the accident.

5.35 The defendant was charged with offences of causing death by dangerous driving and, in the alternative, driving without due care and attention. Committal proceedings in respect of the first charge were held at the magistrates' court. The magistrate declined to commit the defendant, on the basis that there was no case to answer, and he was discharged. This was the only discharged committal file in our sample, and we disagreed with the decision to proceed.

5.36 It was decided to go ahead with the lesser charge of driving without due care and attention, an offence that can only be dealt with in the magistrates' court. Although the magistrate appears to have indicated that this was an appropriate course of action, in our view there was still insufficient evidence to justify proceedings. At trial, the magistrates dismissed the matter at the close of the prosecution case.

5.37 We are concerned that this appears to be another example (see paragraph 5.30) of a determination to proceed once a decision has been made to prosecute, irrespective of the correctness of the initial decision, or any change in circumstances.

5.38 The proportion of cases that are inappropriately pursued is very small, but we are concerned by the examples that we have given in paragraphs 5.30 and 5.34 – 5.36. These suggest a failure properly to weigh the evidence at all stages of the proceedings, compounded by an apparent reluctance to pay due regard to the concerns expressed by others about the strength of the

case. It is not a problem that is widespread within the Branch, but where it exists, it needs to be addressed.

5.39 We recommend that the BCP should bear our concerns in mind when reviewing the training needs of individual prosecutors.

Review endorsements

5.40 Effective review must be supported by good review endorsements. In our sample of 81 cases, we found that the reviewing prosecutor had made an appropriately full note of the evidential issues in only 34 cases (42%). Public interest factors were fully endorsed in only 26 cases (32.1%).

5.41 In many cases, we found little evidence of the reviewing prosecutor's analysis of the issues. Some were serious and complex cases that clearly would have benefited from a full record of the reviewing prosecutor's assessment.

5.42 One such case concerned five defendants involved in violent disorder offences, where identification was clearly an issue. The review endorsement did not make any reference to the strength of the evidence. In another case, the defendant was charged with attempted murder, where intent, or the lack of it because of intoxication, was clearly an issue. There was no review note at all in this case.

5.43 We recommend that prosecutors should ensure that a written note of their review is recorded on the file, to include references to both the evidential and public interest tests, and to considerations of mode of trial, so that colleagues and counsel have a comprehensive guide to the decisions and actions that have been taken, and the reasons for them.

Learning from experience

- 5.44 Reports are prepared by the caseworker in court in respect of cases that do not result in a conviction in the Crown Court, and by the prosecutor in cases that are stopped at the end of the prosecution case in the magistrates' courts. There is no formal reporting method for successful cases, even though these may also give rise to important issues.
- 5.45 The reports are seen by the BCP, the PTLs and the reviewing prosecutor. We were told that any points of significance are disseminated to the other prosecutors and caseworkers in the Branch by means of a minute from the BCP. Alternatively, such cases are discussed at team meetings, which are held monthly and minuted.
- 5.46 There is no other formal method of dissemination of appropriate information, and the majority of any information relating to the outcome of prosecutions comes from informal discussions in the office.
- 5.47 We consider that the Branch may not be taking full advantage of its own experience, in respect of both cases which fail, and, just as importantly, the great majority of cases which are successfully prosecuted.
- 5.48 We recommend that the BCP should ensure that adequate systems are in place to enable learning points from the Branch's cases, both successful and otherwise, to be identified and disseminated.**

PREPARING CASES

Advance information

- 6.1 National guidelines require advance information to be provided to the defence within five working

days of the Branch being sent the file by the police and knowing the identity of the defence solicitor. Branch prosecutors identify the material that should be served as advance information when they carry out the initial review. Because of the timeliness of police files and the early review of files, Branch staff are often able to supply advance information before the first hearing date, if the defence solicitor is known.

- 6.2 In our file sample, advance information was served within the national guidelines in 40 out of 46 cases (87%). The Branch's monitoring shows that timely service of advance information was made in 80.9% of cases in April 1998.
- 6.3 In summary cases, where the law does not require the disclosure of the prosecution case, the decision whether to supply advance information is left, we were told, to the discretion of the prosecutor. In general, it will be given if it is considered that it would assist the progress of the case.
- 6.4 The form of the disclosure varies between teams. One team is prepared to supply a copy of the material, whereas the other team will usually tell the defence about the case, often by telephone.
- 6.5 The general discretion about the provision of advance information, and the varying methods of disclosure, lead to inconsistencies in practice, although the Branch generally provides information in some form, if it is requested.
- 6.6 We recommend that the BCP should provide guidance about the provision of advance information when requested in summary cases, to ensure that a uniform approach is adopted by prosecutors.**

Unused and sensitive material

- 6.7 All prosecutors and caseworkers have received training on the disclosure provisions of the Criminal Procedure and Investigations Act 1996. Training was undertaken jointly with the police.
- 6.8 After the training, a prosecutor in the Branch prepared notes dealing with issues which had arisen in practice following the implementation of the Act. These have been distributed to all prosecutors and caseworkers.
- 6.9 We found that Branch prosecutors generally deal effectively and timeously with unused material. The disclosure schedule was completed correctly in 52 out of 55 relevant cases (94.5%). Timely disclosure was made in the same 52 cases.
- 6.10 We found that unused material was also properly served in cases which were to be tried in the magistrates' courts, and that appropriate records were kept.
- 6.11 We did observe, however, a case being dealt with in the magistrates' court in which disclosure had not been made. In this case, different prosecutors took different views about whether a video tape should be used as evidence in the case; whether it should be disclosed to the defence as unused material; or whether it should be given to the defence at all. In our view, this last approach, taken by the initial reviewing lawyer, was clearly wrong. Eventually, it was decided to use the video tape at trial and, late in the day, it was agreed that the tape should be served as part of the prosecution case on the defence.
- 6.12 In cases that are committed to the Crown Court, the prosecutor serves the unused material disclosure schedule in the magistrates' court, immediately after committal. This is to avoid

uncertainty over the timescale for the service of a defence statement. The prosecutor, at the time of service, is required to record the service of the schedule in the file. We were able to observe this in practice during our observations in the magistrates' courts.

- 6.13 We examined five cases involving sensitive material, and the appropriate procedures were followed in each case. We were told that PTLs deal with sensitive material in all cases in the Branch. To avoid any difficulties with security, all sensitive material is retained by the police, but is made available to prosecutors upon request.

Summary trial preparation

- 6.14 The Branch deals with summary trial preparation well. When a case is listed for trial, the Branch enters an action date, which is approximately two weeks before the trial date, on the file. This date is also listed on the Branch's computer system. On the action date, the file is referred back to the reviewing lawyer who initially prepared the case for trial, to ensure that all necessary steps have been taken to allow the case to proceed. This system is very similar to those used in the Gloucestershire, Wiltshire and Suffolk Branches of the CPS (see inspection reports 8/97, 5/98 and 15/98). Once again, we commend this approach to summary trial preparation and encourage other Branch managers to adopt it, where appropriate.
- 6.15 The police had been told promptly about which witnesses should be warned to attend trial in all 29 relevant cases.
- 6.16 In 17 cases, it was appropriate to serve some witness statements under section 9, Criminal Justice Act 1967, to enable the evidence to be accepted and read, and to avoid the unnecessary

attendance of the witnesses concerned. In all these cases, service was undertaken and dealt with in a timely manner.

- 6.17 We found one case in which the defence had been invited to agree formal admissions of fact under section 10, Criminal Justice Act 1967. We were told that more use could be made of this procedure to save court time, although we did not find any further cases in the sample where this would have been appropriate.
- 6.18 Branch prosecutors are aware of the provisions of section 23, Criminal Justice Act 1988, which enables the statement of a witness to be read if the witness is too ill or too frightened to attend court, or is out of the country. However, we did not see any examples where it would have been appropriate to use these provisions.
- 6.19 Pre-trial reviews (PTRs) are not held as a matter of course in all the local magistrates' courts. We were told that they had not been sufficiently effective to justify their continuance. We were also told that, because of the early and effective provision of advance information, informed decisions about witness requirements and length of trial could be made at a remand hearing, in conjunction with the defence solicitors, thereby weakening further the need for PTRs. In cases that we observed in the magistrates' courts where summary trial dates were being fixed, the prosecutors were able to deal with these matters appropriately.

Committal preparation

- 6.20 The Branch uses the CPS Crown Court Case Preparation Package to prepare cases for committal. This is a pro-forma package, which contains standard paragraphs to be included in the instructions to counsel, with freetext options to incorporate specific instructions relevant to each case.
- 6.21 Committal papers are prepared either by the reviewing prosecutor, or by a caseworker under the prosecutor's supervision. In all cases, the papers should be checked by the reviewing prosecutor before the file is passed to the typists, and checked again, before being served on the defence. Confirmation that the papers have been checked should be recorded on the case papers.
- 6.22 In four out of 29 relevant cases (13.8%), there was no such record.
- 6.23 **We recommend that the BCP should ensure that committal papers are checked by the reviewing prosecutor before committal, and that the prosecutor's check of the papers is endorsed on the file.**
- 6.24 The Branch's records reveal that, in April 1998, committal papers were prepared and served in a timely manner in 17 out of 31 cases (54.8%). We were told that committal papers are sometimes not served on the defence until the day fixed for the committal, and that, occasionally, the prosecutor has to apply for an adjournment to enable the papers to be served. In all cases in the sample, we found that the preparation and service of committal papers was timely.
- 6.25 Although instructions to counsel were generally satisfactory, more information could have been given about the prosecutor's views on the acceptability of pleas to alternative counts, or to only some of the counts in the indictment. We found only one out of 20 relevant cases where the issue had been adequately addressed in the instructions.

6.26 We were also told that the case summary, which usually takes the form of a note of the issues within the instructions, could be more informative, and greater care could be taken to identify the issues accurately.

6.27 An accurate summary, correctly identifying the issues in the case, is always helpful to counsel and caseworkers at the Crown Court. It also assists prosecutors who attend PDHs in the Crown Court, when they are asked to consider the acceptability of mixed pleas. Although we were generally satisfied with the quality of summaries in our file sample, we found instances when a more thorough and detailed summary should have been prepared.

6.28 We recommend that prosecutors and caseworkers should ensure that, in all relevant cases, the instructions to counsel fully address the issues in the case, and the acceptability of any possible mixed pleas.

6.29 In 30 of the 31 relevant cases, the instructions were delivered to counsel within the agreed Bar Standard time guidelines.

Quality of indictments

6.30 Indictments are drafted by the Branch when the committal papers are prepared. In 28 relevant cases, where timeliness could be ascertained, all the indictments were lodged with the Crown Court within 28 days of the committal proceedings. However, in three cases, the date of lodging was not recorded on the file.

6.31 We found that the indictment was amended in six out of 31 cases (19.4%) in the sample. In two cases, the amendment was minor and cosmetic, and in a further two cases, the amendment was

as a result of developments since the indictment was originally drafted. Of the remaining two cases, one indictment had to have further counts added to it, and the other had to be amended to comply with the charging standard on offences involving assaults.

6.32 We were told that the standard of indictments was generally satisfactory, and we did not receive criticism from the judiciary. Nevertheless, the BCP may wish to ensure that the system for checking indictments is working effectively.

The CPS in the Crown Court

6.33 Caseworkers generally cover the Crown Court sitting at Chester on the basis of one caseworker for two courtrooms. Where the Branch's cases are listed at other centres, Branch caseworkers cover complex cases and other cases where their attendance is appropriate; the remaining cases are often covered by caseworkers from the local Branch.

6.34 The majority of the Branch's PDHs are dealt with at Chester.

6.35 Decisions, such as whether mixed pleas are acceptable, often have to be made quickly at the PDH to ensure that the case is dealt with expeditiously. We were told that the judiciary take steps to make the PDH as effective as possible, and expect the prosecution to be able to make any necessary decisions.

6.36 Because of this, both a caseworker and a prosecutor are allocated to deal with PDHs at the Crown Court. The caseworker is always in the courtroom. Some prosecutors sit in the courtroom; others prefer to remain in the CPS office within the Crown Court building, so that

they are available to deal with any queries raised in cases in other courtrooms.

6.37 The files relating to the cases that are to be dealt with at the PDHs are available for the prosecutor before the hearings. Whether the files are looked at seems to depend on the individual prosecutor. Some read every file before the hearing; some read a selection of the files; and some do not read any files at all.

6.38 The purpose of the prosecutor attending the PDHs is to ensure that proper decisions are made as quickly as possible, wherever this is feasible. Unless the prosecutor has some knowledge of the files, we do not accept that such decisions can be properly made, or as expeditiously as they might be. Whilst it would be unrealistic to expect prosecutors to read every file completely, we consider that it would be possible to become familiar with a file, and, particularly, to identify any likely issues beforehand, in order to play a proper role in the decisions which need to be taken.

6.39 We recommend that the BCP should ensure that prosecutors attending the PDHs at the Crown Court should make themselves familiar with the files listed for that day's hearing, so that they are able to take prompt and informed decisions on the acceptability of pleas and other issues.

6.40 We were told that, in most cases, the prosecution is ready to proceed to trial when the PDH takes place. We observed nine cases being dealt with at PDHs in the Crown Court, and in only one case did the prosecution indicate that it was not in a position to proceed to trial at that stage. This was as a result of evidence that had only come to light just before the PDH. We were told, however, that occasionally there are cases where a significant amount of further work has to be undertaken by Branch staff before the case is ready for trial.

6.41 In all 15 relevant cases, we found that orders made at the PDH were properly and timeously dealt with by the Branch.

6.42 Bail applications in chambers in the Crown Court and appeals under the Bail (Amendment) Act 1993 (see paragraphs 5.16 – 5.20) are usually dealt with by Branch prosecutors. We were told that the prosecutors are well prepared, and deal with the applications well.

Custody time limits

6.43 The custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Failure to monitor the time limits, and, where appropriate, to make an application to extend them, may result in a defendant being released on bail who should otherwise remain in custody.

6.44 The Branch has effective systems to monitor custody time limits. It makes use of the Branch computer system's ability to record action dates, to ensure that appropriate review dates are brought to the prosecutors' attention. It also records custody time limits manually, as a fail safe system. This system ensures that any action that is required in relation to custody time limits can be taken at the appropriate stage.

6.45 We examined 15 files that were subject to custody time limits. The correct expiry date was displayed on the file jackets in all 15 cases. Review dates were not endorsed on the jackets, because, we were told, these are recorded in the computer and manual systems.

6.46 There have not been any failures to deal properly with custody time limits in the past 12 months.

File endorsements and file management

- 6.47 We have commented on the quality of review endorsements at paragraphs 5.40 – 5.43. In contrast, we found that court endorsements in magistrates' courts files were good. In all files in the sample, they were clearly and legibly recorded, and showed a comprehensive record of the case's progress.
- 6.48 We also found that 30 of the 31 files in the Crown Court sample complied with the Service Standard on file endorsements.
- 6.59 Files are generally well ordered and well maintained. In particular, in Crown Court files, different types of material are kept in different coloured folders within the jacket. For example, documents relating to unused material are always kept in a pink folder. This enables material to be found quickly, and the progress of the case to be followed easily.
- 6.50 Files are located quickly and efficiently in the office, which enables the Branch to deal effectively with correspondence relating to a particular file.

PRESENTING CASES IN COURT

- 7.1 Representatives of other criminal justice agencies told us that the standard of advocacy of Branch prosecutors is good. The PTLs formally monitor the standard of the advocates in their team at least twice a year, and have the opportunity to observe them when the PTLs prosecute in the magistrates' courts.
- 7.2 We observed 11 CPS advocates in the magistrates' courts and the youth court. We agreed with the views expressed by the other agencies. The prosecutors attended the courts promptly, were well prepared, and generally presented their cases clearly and succinctly.
- 7.3 Concern was expressed about the level of experience of counsel instructed in some cases. We were told that, because of the limited number of counsel in Chester, there were occasions when counsel of sufficient experience or expertise were simply not available. Because of the difficulties, there have been occasions when Branch staff have had to instruct counsel from outside the local circuit.
- 7.4 We observed five prosecuting counsel in the Crown Court. One counsel appeared to have difficulty in explaining the prosecution's position, either because of inexperience or because of a lack of preparation.
- 7.5 We were told that, despite the concerns mentioned in paragraph 7.3, there is no formal system for monitoring counsel's performance. When counsel have to be assessed – for example, when they apply to be regraded – any information about their performance is obtained from informal discussions, usually with Branch caseworkers.
- 7.6 It is important that such assessments are based on accurate information, rather than on possibly anecdotal evidence. The BCP in consultation with the local Bar may wish to consider whether it would be appropriate to introduce a formal method of monitoring counsel's performance, similar to the present system used to monitor the Branch's own prosecutors.
- 7.7 There is a significant proportion of cases where counsel originally instructed is unable to deal with the case, resulting in the instructions being passed to another counsel. Our examination of

Crown Court cases showed that, of those counsel originally instructed, 18 out of 30 (60%) dealt with the PDH, seven out of 19 (36.8%) conducted the trial, and only three out of 16 (18.8%) attended the sentencing hearing. These figures, particularly in relation to counsel's attendance at the trial and the sentencing hearing, are not good.

7.8 We recommend that the BCP should seek to improve the percentage of cases in which counsel originally instructed attends the trial and the sentencing hearing.

THE BRANCH AND OTHER AGENCIES

8.1 The Branch has a good and constructive working relationship with all other agencies in the criminal justice system. Issues of concern can be addressed through informal discussions, or through formal multi-agency meetings.

8.2 The multi-agency meetings, which are held with most agencies on a regular basis, are described as appropriate and effective, and the Branch is represented at the right level. We did note, however, that the Branch does not have any individual representation at user group meetings for the Crown Court sitting at Chester; a representative from the CPS Area office attends these meetings.

KEY STATISTICS

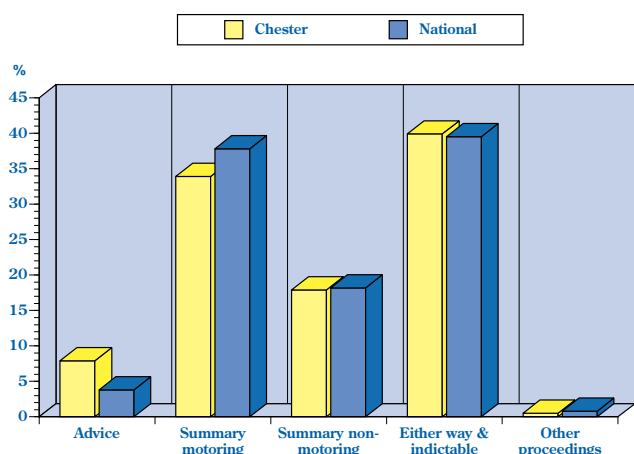
9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 31 March 1998.

EXTERNAL CONSULTATION

10.1 On page 20, there is a list of the local representatives of criminal justice agencies who assisted in our inspection.

MAGISTRATES' COURTS

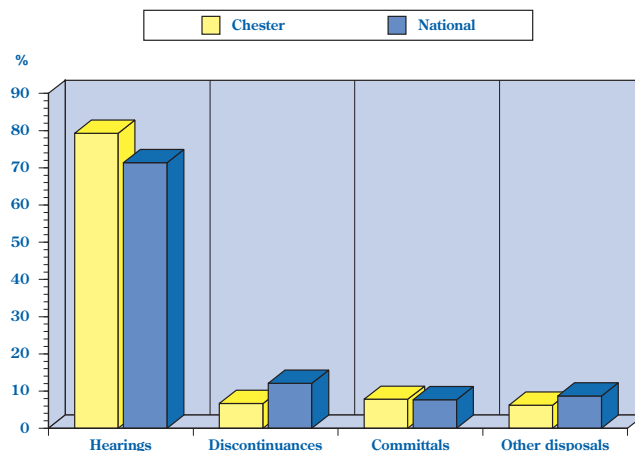
1 - Types of case



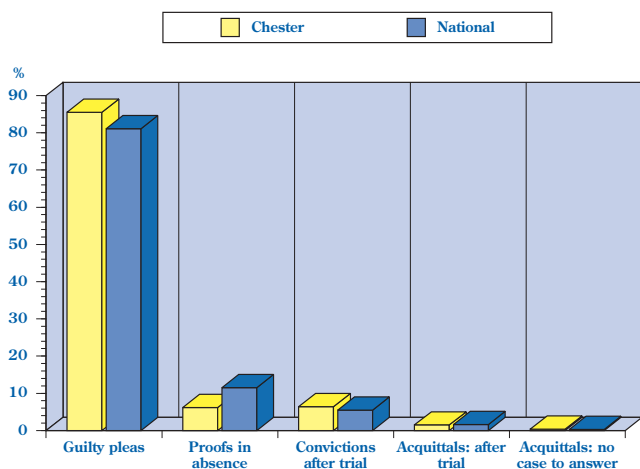
	Chester		National	
	No.	%	No.	%
Advice	998	7.9	53,233	3.8
Summary motoring	4,301	33.9	536,031	37.8
Summary non-motoring	2,275	17.9	258,410	18.2
Either way & indictable	5,066	39.9	559,749	39.5
Other proceedings	61	0.5	11,362	0.8
Total	12,701	100	1,418,785	100

2 - Completed cases

	Chester		National	
	No.	%	No.	%
Hearings	9,237	79.3	967,539	71.4
Discontinuances	784	6.7	164,438	12.1
Committals	903	7.8	104,784	7.7
Other disposals	718	6.2	117,447	8.7
Total	11,642	100	1,354,208	100



3 - Case results

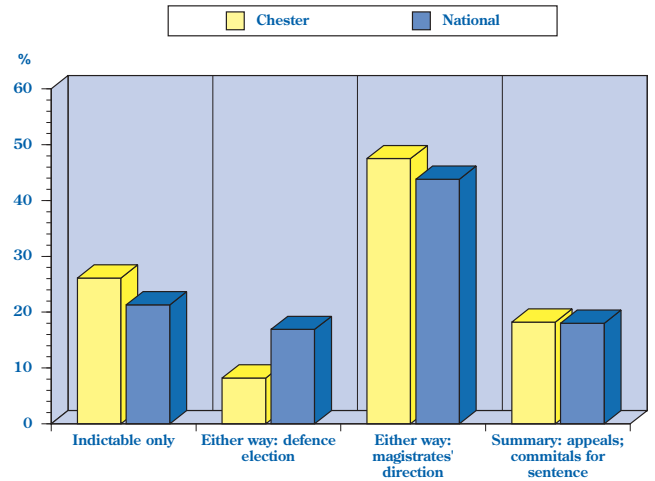


	Chester		National	
	No.	%	No.	%
Guilty pleas	7,924	85.5	788,364	81.1
Proofs in absence	571	6.2	111,687	11.5
Convictions after trial	596	6.4	53,702	5.5
Acquittals: after trial	143	1.5	15,708	1.6
Acquittals: no case to answer	39	0.4	2,699	0.3
Total	9,273	100	972,160	100

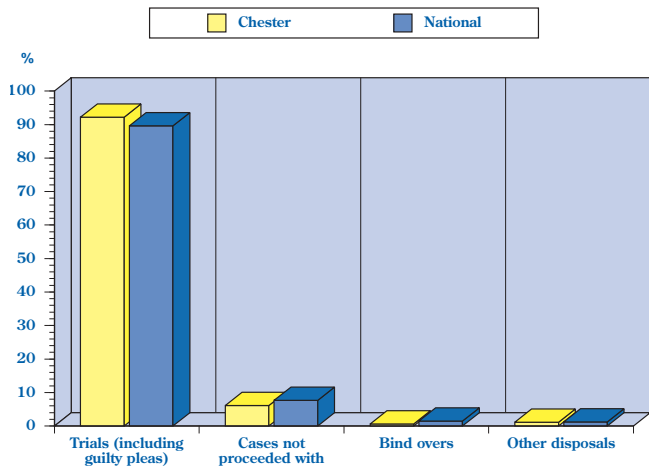
CROWN COURT

4 - Type of case

	Chester		National	
	No.	%	No.	%
Indictable only	258	26.1	27,341	21.3
Either way: defence election	81	8.2	21,653	16.9
Either way: magistrates' direction	470	47.5	56,069	43.8
Summary: appeals; committals for sentence	180	18.2	23,001	18.0
Total	989	100	128,064	100



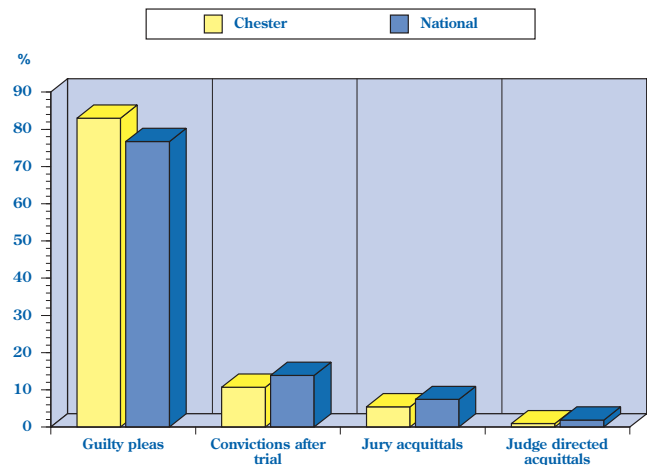
5 - Completed cases



	Chester		National	
	No.	%	No.	%
Trials (including guilty pleas)	746	92.2	94,180	89.6
Cases not proceeded with	49	6.1	8,130	7.7
Bind overs	5	0.6	1,541	1.5
Other disposals	9	1.1	1,232	1.2
Total	809	100	105,083	100

6 - Case Results

	Chester		National	
	No.	%	No.	%
Guilty pleas	634	83.0	73,860	76.7
Convictions after trial	82	10.7	13,413	13.9
Jury acquittals	41	5.4	7,170	7.4
Judge directed acquittals	7	0.9	1,842	1.9
Total	764	100	96,285	100



LIST OF REPRESENTATIVES OF LOCAL CRIMINAL JUSTICE AGENCIES WHO ASSISTED IN OUR INSPECTION

Judge	His Honour Judge Edwards
Police	Assistant Chief Constable I Moody Chief Inspector K Barry
Magistrates' courts	Mr P Dodd, Stipendiary Magistrate Mr C Turner, Justices' Chief Executive
Defence solicitor	Ms H Smart
Counsel	Mr M Lewis-Jones Mr O Edwards
Counsel's clerk	Mr G Reeves
Probation Service	Mr K Ingram, Assistant Chief Probation Officer
Witness Service	Mr D May

CROWN PROSECUTION SERVICE INSPECTORATE

STATEMENT OF PURPOSE

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

AIMS

- 1 To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.
- 2 To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvements in the quality of that casework.
- 3 To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 4 To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service.
- 5 To recommend how to improve the quality of casework in the Crown Prosecution Service.
- 6 To identify and promote good practice.
- 7 To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 8 To promote people's awareness of us throughout the criminal justice system so they can trust our findings.



**Crown Prosecution Service Inspectorate
50 Ludgate Hill, London EC4M 7EX**

**Produced by Publications & Design Unit, CPS Communications Branch,
CPS Headquarters, 50 Ludgate Hill, London EC4M 7EX.**

Tel: 0171 273 8117.