

THE INSPECTORATE'S REPORT
on
THE BOLTON/WIGAN BRANCH
of
CPS NORTH WEST

Bolton/Wigan Branch



BRANCH OFFICE

◆ Bolton

COURTS COVERED

Magistrates' Courts

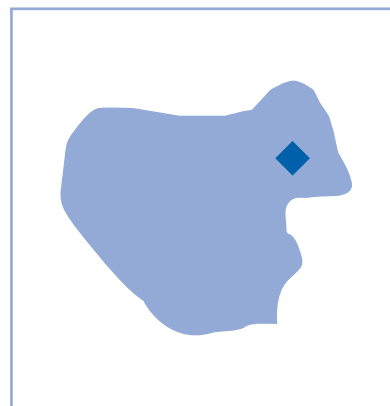
Bolton

Leigh

Wigan

Crown Court

Bolton



REPORT ON THE INSPECTION OF THE CPS BOLTON/WIGAN BRANCH

CONTENTS

| | Paragraph | | Paragraph |
|--|-----------|---|-----------|
| INTRODUCTION | 1.1 | | |
| CONCLUSIONS AND RECOMMENDATIONS | 2.1 | Preparing cases | |
| | | Advance information | 6.1 |
| | | Unused and sensitive material | 6.8 |
| | | Summary trial preparation | 6.18 |
| THE INSPECTION | 3.1 | Committal preparation | 6.23 |
| | | Quality of indictments | 6.37 |
| Providing advice | | The CPS in the Crown Court | 6.45 |
| Appropriateness of requests for advice | 4.1 | Custody time limits | 6.50 |
| Quality of advice | 4.7 | File endorsements and file management | 6.54 |
| Timeliness of advice | 4.10 | | |
| Advice from counsel | 4.11 | Presenting cases in court | 7.1 |
| | | | |
| Reviewing cases | | The Branch and other agencies | 8.1 |
| Quality of review decisions | 5.1 | | |
| Timeliness of review | 5.11 | Performance indicators | 9.1 |
| Selection of the appropriate charge and charging standards | 5.13 | | |
| Mode of trial | 5.19 | KEY STATISTICS | 10.1 |
| Bail | 5.21 | | |
| Discontinuance | 5.23 | EXTERNAL CONSULTATION | 11.1 |
| Judge ordered and judge directed acquittals | 5.28 | | |
| Cases lost on a submission of no case to answer in the magistrates' courts and discharged committals | 5.35 | ANNEX 1: Charts and tables | |
| Review endorsements | 5.39 | ANNEX 2: List of local representatives of criminal justice agencies who assisted in our inspection | |
| Learning from experience | 5.42 | ANNEX 3: CPS Inspectorate's Statement of Purpose and Aims | |

INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Bolton/Wigan 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 Bolton/Wigan Branch is in the CPS North West Area and has its office at Bolton. On 1 June 1998, it employed 50.6 staff (the Branch Crown Prosecutor (BCP) and 22.6 other prosecutors; two senior caseworkers and 21 other caseworkers; and 4 administrative staff).
- 1.5 The Branch comprises two teams. The Bolton team (11 prosecutors, 12 caseworkers and two administrative staff) is responsible for the conduct of prosecutions in the magistrates' court at Bolton. The Wigan team (11.6 prosecutors, 11 caseworkers and two administrative staff) is responsible for the conduct of prosecutions in the magistrates' courts at Leigh and Wigan. 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 1 and 12 June 1998. During this period, we observed 11 CPS advocates in the magistrates' courts at Bolton, Leigh and Wigan and in the Wigan Youth Court. We also observed counsel in the Crown Court sitting at Bolton.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Bolton/Wigan Branch was created in April 1997 by the merger of the Bolton and Wigan Branches. Each of the former Branches became a team, and the two teams followed different procedures. For ten months, one team had an acting Prosecution Team Leader (PTL); a substantive PTL was appointed only six weeks before our visit. The BCP had planned to harmonise the systems on the teams, but postponed taking any action because of the staffing position. At the time of our visit, the new PTL was examining the team's systems, with a view to deciding how best to run his team.
- 2.2 The standard of decision-making and advocacy in the Branch is good, and relations with the other agencies in the criminal justice system are effective. The co-operation between the Branch and the other agencies is highlighted by the assistance that it gives in the training of police officers and newly appointed magistrates, and the high regard in which members of staff are held by the Witness Service and Victim Support.
- 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 4.4);
- ii the BCP should introduce a system to ensure that all telephone and other informal advice is accurately recorded, included in the Branch's Performance Indicators (PIs), and, where appropriate, linked to any subsequent prosecution file (paragraph 4.6);
 - iii prosecutors should review all cases, including traffic offences, in accordance with the Code for Crown Prosecutors (the Code) (paragraph 5.9);
 - iv caseworkers should have access to adverse case reports in completed Crown Court cases, so that they may share fully in the Branch's learning process (paragraph 5.46);
 - v the BCP should ensure that a common approach is adopted by prosecutors in both teams to requests for disclosure of advance information in summary cases (paragraph 6.7);
 - vi the BCP should monitor the Branch's handling of unused material in magistrates' courts cases, to ensure that such material is properly considered and dealt with by prosecutors (paragraph 6.11);
 - vii Branch prosecutors should ensure that the issues raised by sensitive material are fully considered and dealt with at the appropriate level (paragraph 6.14);
 - viii the BCP should discuss the provisions of the Criminal Procedure and Investigations Act 1996 (CPIA) with the police, in order to ensure that details of all unused and sensitive material are made available to prosecutors, at the proper time and in the appropriate form (paragraph 6.17);
 - ix an action-dating system should be created or maintained throughout the Branch, to assist in the timely preparation and service of committal papers (paragraph 6.26);
 - x the BCP should work with the police, through Joint Performance Management (JPM), to seek improvements in the quality and timeliness of police files, so that the preparation of committal papers can take place efficiently, and at the appropriate time (paragraph 6.28);
 - xi the Branch Management Team should ensure that caseworkers undertake increasing amounts of committal preparation (paragraph 6.31);
 - xii the BCP should introduce a system for monitoring the quality of indictments, in order to eradicate minor typing inaccuracies; to ensure that the substantive content of each indictment is correct; and to improve the drafting skills of prosecutors and caseworkers (paragraph 6.43);
 - xiii prosecutors attending the Crown Court to undertake bail applications, or to assist at plea and directions hearings (PDHs), should familiarise themselves with the cases being dealt with at the Crown Court that day, so that they are able to take prompt and informed decisions on the acceptability of pleas and other issues (paragraph 6.47);
 - xiv the BCP should make every effort to ensure that agents and counsel of appropriate experience are instructed in all cases, and that a formal system is implemented to monitor their performance (paragraph 7.7);
 - xv the BCP should discuss listing practices in the magistrates' courts at court user group

meetings, with a view to agreeing practices that are of benefit to all court users (paragraph 8.3);

xvi the BCP should take immediate steps to ensure that all cases are given the correct PI finalisation code (paragraph 9.7).

THE INSPECTION

- 3.1 In the year to 31 March 1998, the Branch dealt with 16,500 defendants in the magistrates' courts and 1,684 defendants in the Crown Court. In a further 528 cases, advice was given to the police before charge.
- 3.2 The inspection team examined a total of 220 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 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, advice cases constituted 3.1% of the Branch's total caseload, compared with 3.8% nationally.
- 4.2 There is no formal agreement with the police about the types of case which should be submitted for pre-charge advice. We were told

that some cases are submitted for advice, when it would be more appropriate for the police to take the decision. We examined a sample of ten pre-charge advice cases: nine had been appropriately submitted.

- 4.3 Although the Branch's figures show that it does not deal currently with a high proportion of advice files, they do not include all advice given to the police (see paragraph 4.5). In the absence of an agreement about the types of case which should be submitted for pre-charge advice, there is a danger that valuable Branch resources could be wasted in giving advice in inappropriate cases, thereby detracting from the prosecutors' ability to deal expeditiously with other work.
- 4.4 **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.**
- 4.5 Prosecutors give informal advice to the police when visiting police stations, and at court. This is not recorded, nor is it entered in the PIs, despite Branch policy that it should be. Each team has a duty prosecutor, and, as part of their responsibilities, they deal with requests for advice by telephone. We were informed that not all such advice is recorded.
- 4.6 **We recommend that the BCP should introduce a system to ensure that all telephone and other informal advice is accurately recorded, included in the Branch's PIs, and, where appropriate, linked to any subsequent prosecution file.**

Quality of advice

- 4.7 We agreed with the advice in all ten cases that we examined. Seven were typed; three were hand written. All were appropriately reasoned.

- 4.8 Advice files are allocated on one team by the PTL, taking into account the expertise or specialisms of the prosecutors. He sees every advice before it is sent to the police, and we are satisfied that the advice is properly monitored.
- 4.9 The PTL on the other team is currently undertaking all advice work himself. Whilst we appreciate that he is doing so in order to ascertain the quality of files submitted by the police, we consider that this system denies opportunities for other prosecutors fully to develop their skills in this area. There are related issues of some advice work being undertaken at an inappropriate level. The PTL will wish to consider adopting a more balanced approach as soon as possible.

Timeliness of advice

- 4.10 The CPS has set a target of providing advice within 14 days of receipt of the file from the police. Branch figures indicate that, in February 1998, it responded to requests for advice within the agreed period in 88.9% of cases. Timely advice was given in eight of the ten cases that we examined.

Advice from counsel

- 4.11 It is rare for counsel to be asked to advise on cases, either before charge, or before committal. All such requests have to be authorised by the PTLs, and we did not see any cases where such advice had been sought. We were told that prosecutors sometimes discuss cases informally with counsel.
- 4.12 Prosecutors decide whether to seek advice after committal. There is no requirement for the agreement of the PTL, nor any system to monitor the requests, before counsel's advice is sought.

We saw only one case in the sample where counsel's advice was sought after committal: the request was appropriate. Nevertheless, because of the financial commitment for the Branch, the BCP will wish to take steps to monitor the appropriateness of requests for counsel's advice.

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. 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 inspected the quality of the review decision in 80 files, covering cases in the magistrates' courts and the Crown Court. We agreed with the decision on the evidential test in 77 cases (96.3%).
- 5.3 One case with which we disagreed concerned a charge of possession of drugs, and two charges of handling stolen property. There was insufficient evidence to prove the offences of dishonesty, and, when the defendant pleaded guilty to possession of drugs, no evidence was offered on them. A decision to proceed only on the charge of possession of drugs should have been made at an early stage, when the case may have been disposed of in the magistrates' court.
- 5.4 Another case involved an allegation of assault. There were two aspects that concerned us. One was that the defendant was committed for trial on a charge alleging wounding with intent to cause grievous bodily harm. The evidence was insufficient to prove the necessary intent. Our second concern related to the level of charge selected. We refer to this in paragraph 5.16.

5.5 In the third case, we agreed with the decision to prosecute a defendant on a charge of dangerous driving, but disagreed with the decision to continue with a charge contrary to section 5, Public Order Act 1986. The defendant was tried in the magistrates' court. He was convicted of careless driving (as an alternative charge to dangerous driving), and acquitted of the Public Order Act offence. A trial was inevitable, as the defendant had pleaded not guilty to both offences. However, it is important to apply the Code tests to all charges which a defendant faces, so that only those which pass both tests are prosecuted.

5.6 We agreed with the public interest decision in all relevant cases.

5.7 We were concerned to hear that traffic cases are not always reviewed properly. We were also told that some traffic cases are stopped, without a proper consideration of the Code tests, simply because they are minor traffic cases.

5.8 All cases should be reviewed in accordance with the Code, in order to ensure consistency and fairness of approach. This applies to the less serious, as well as to the most serious offences.

5.9 We recommend that prosecutors should review all cases, including traffic offences, in accordance with the Code.

5.10 We are satisfied that the quality of review is properly monitored. The PTLs sample files on a monthly basis. They also see all cases that have been adjourned for summary trial or committal, and those which are being discontinued. In addition, 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.

Timeliness of review

5.11 The Branch reviews cases timeously. It aims to review every new file within seven days of its receipt. Branch figures show that, in February 1998, 75% of files were reviewed within the time guidelines. Our examination of the files in the sample showed that most cases were reviewed before the first date of hearing.

5.12 One team's plan has an objective of maintaining and improving the timeliness rate for processing cases. Prosecutors are encouraged to identify deficiencies in cases at first review, and to set a specified time limit for a response, when requesting information from the police. They are also encouraged to keep a diary system, so that they can take any necessary follow up action. The other PTL will no doubt wish to consider introducing this system in his team.

Selection of the appropriate charge and charging standards

5.13 It is important to ensure that a defendant knows at an early stage exactly on what charges he is to be prosecuted. The original police charges required amendment in 19 of the 80 cases (23.8%) that we examined. They were amended at first review in 13 cases.

5.14 All the amendments were made correctly. Three charges which were not amended at first review were finally amended by counsel, after committal, although the amendments required in two of those cases were to correct minor cosmetic errors.

5.15 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging. We

noted four out of 38 relevant cases (10.5%) in which the police had not followed the charging standard on assaults, and one case in which they had not followed the charging standard on public order. The Branch had appropriately amended four charges at initial review; we agreed with the charge proceeded with in 37 out of 38 relevant cases (97.4%).

5.16 The case in which we disagreed involved an allegation of assault. We have already commented upon the review decision (see paragraph 5.4). The injuries were not sufficiently serious to justify an allegation of wounding. The appropriate charge was assault occasioning actual bodily harm, and, in fact, a decision was made after committal to proceed to trial on this charge alone.

5.17 It is important that all agencies in the criminal justice system are aware of the charging standards, so that they may understand the reasoning behind the selection of charges. One magistrate told us that he was not aware of their existence. We understand that the BCP is involved in the training of newly appointed magistrates, but clearly there may be some scope for discussing charging standards with more experienced magistrates.

5.18 The BCP will wish, therefore, to discuss the charging standards with others in the criminal justice system, so that they are better aware of the Branch's charging practice.

Mode of trial

5.19 We were told that prosecutors make appropriate representations on mode of trial. They provide the magistrates with sufficient information to make a decision, and, where appropriate, refer to the Lord Chief Justice's guidelines. We agreed with the prosecutor's assessment of mode of trial in all 45 relevant cases in our sample.

5.20 Nine files (20%), however, did not contain a written record of the reviewing prosecutor's reasoning about the appropriate venue for trial. The absence of any record makes it more difficult for the advocate who subsequently addresses the court on this issue. We comment on the adequacy of review endorsements generally at paragraphs 5.39 - 5.41.

Bail

5.21 We were told that Branch prosecutors make sensible and realistic assessments of whether to oppose bail. We examined 12 cases where the defendant appeared in custody, and an appropriate decision whether to oppose bail was made in all cases.

5.22 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. Branch prosecutors are clearly aware of the provisions of the Act, and they regularly telephone either the BCP or a PTL from court, in order to discuss cases in which an appeal might be appropriate, should the magistrates grant bail. We were told that prosecutors make use of the provisions appropriately.

Discontinuance

5.23 The Branch's discontinuance rate of 8.1%, for the year ending 31 March 1998, is lower than the national average (12.1%). We examined a sample of 85 cases stopped by the prosecution in the magistrates' courts, to look at the reason for the termination.

5.24 Forty-one cases (48.2%) were stopped because there was insufficient evidence, and 32 (37.6%), because it was not in the public interest to prosecute. In eight cases (9.4%), the prosecution

was unable to proceed because, for example, witnesses refused to give evidence, or failed to attend court. Four cases (4.7%) were stopped because defendants produced their driving documents.

- 5.25 Formal discontinuance under section 23, Prosecution of Offences Act 1985 was used in 56.5% of the cases, and 34.1% were withdrawn at court. In the remaining 9.4%, no evidence was offered by the prosecution.
- 5.26 We examined ten terminated files, in order to assess whether the Code tests had been correctly applied. We agreed with the decision about both the sufficiency of the evidence and the public interest in nine.
- 5.27 We disagreed with one decision which involved allegations of possessing a loaded weapon in a public place, and having no firearms certificate. The prosecution was stopped when the defence submitted a letter from an expert, giving his view of the status of the weapon in question. The prosecution evidence and the defence expert's letter should have been submitted to a forensic firearms expert, and the final decision taken in the light of the expert's evidence.

Judge ordered and judge directed acquittals

- 5.28 In the year to 31 March 1998, 104 cases were stopped by the judge at the request of the prosecution before the start of the prosecution case (judge ordered acquittals). This represents 7.5% of the Branch's caseload, which is slightly lower than the national average of 7.7%.
- 5.29 We examined 13 judge ordered acquittals. We agreed with the original decision to prosecute in ten. In six cases, witnesses were unable, or unwilling, to give evidence by the time the case

came to trial, which meant that the prosecution could no longer continue.

- 5.30 We disagreed with the decision to prosecute in three cases. In one, an allegation of causing death by dangerous driving, there was no evidence to justify proceedings against one of the two defendants. Although counsel expressed doubts about the prospects of conviction immediately after committal, the decision to drop the case was not made until four months later. The judge was critical of the delay, and we agree with his concern. Such late decisions mean that unnecessary resources are devoted to continuing with a case, not only by the Branch, but also by other agencies in the criminal justice system. The implications for the defendant are self-evident. We acknowledge that the delay was caused, in part, by the absence through sickness of a senior prosecutor. However, an early decision to drop the case should have been made by another prosecutor.
- 5.31 The second case in which we disagreed with the decision involved an allegation of perverting the course of public justice. In the absence of fingerprint, handwriting or other evidence, it was impossible to prove that the defendant had written the letter complained of.
- 5.32 There was insufficient evidence in the third case to prove that the defendant had made off without payment.
- 5.33 In the same period, there were 24 cases in which the judge directed an acquittal after the trial had started. This represents 1.9% of the Branch's caseload, which is the national average.
- 5.34 We examined three judge directed acquittals, and agreed with the original decision to prosecute in two. The case with which we disagreed

concerned an allegation of affray and criminal damage. Affray was an inappropriate charge in the circumstances. An offence of assaulting a police officer was made out. The evidence relating to the criminal damage charge was confused and, in some respects, contradictory.

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

- 5.35 In the year to 31 March 1998, 16 trials were stopped by the magistrates at the close of the prosecution case. This is 0.1% of the Branch's caseload, which is lower than the national average of 0.3%. In the same period, 11 defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial.
- 5.36 We examined one summary trial where magistrates had found that there was no case to answer. We disagreed with the decision to prosecute. The case involved an allegation of theft of property from premises. A number of people had keys to the premises, and it was essential to call them to give evidence, in order to exclude the possibility that anyone other than the defendant had committed the theft. It was clear from the start that one key holder would not give evidence. Despite this, the case was prosecuted to trial.
- 5.37 There were no discharged committals in the relevant period.
- 5.38 We are satisfied that neither these cases, which ended prematurely in the magistrates' courts, nor the judge ordered and judge directed acquittals in the Crown Court, disclose any adverse trends or wider issues of concern.

Review endorsements

- 5.39 Review decisions were legibly and correctly recorded in 64 out of 80 cases (80%) in the file sample. Some reservations, however, were expressed by Branch staff about the need to put detailed reasoning in review endorsements, particularly if a case is considered to be straightforward. We saw several cases in the sample where there were inadequate records of the reasoning, mainly of public interest considerations, but also those relating to mode of trial (see paragraph 5.20).
- 5.40 Branch managers put great emphasis on the need for good file endorsements. All files have a sticker on the front, to act as a prompt to prosecutors to consider the key issues at review. One PTL raises the issue of file endorsements at each team meeting. He has also included file endorsement improvement as one of the objectives in his team plan.
- 5.41 In our experience, the overall standard of review endorsements is good and we commend the efforts that have been made. The BCP, however, will want to ensure that this standard is maintained, and, where possible, improved upon by both teams.

Learning from experience

- 5.42 We were impressed by the way in which information is disseminated throughout the Branch. A Branch bulletin is prepared regularly and circulated to all members of staff. It contains information relating to case law and legal issues, as well as sections on more general matters. One PTL also prepares a team bulletin on legal and casework issues.
- 5.43 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.

5.44 The reports on magistrates' courts cases are seen by the reviewing prosecutor, the PTLs and the BCP. Crown Court reports are seen by the reviewing prosecutor and the BCP, and discussed by the BCP and PTLs at JPM meetings with the police. Any points of significance are disseminated at team meetings, or by means of a minute.

5.45 We noted, however, that caseworkers who have been involved in the preparation of Crown Court cases do not see the reports prepared on their cases. In paragraph 6.31, we recommend that caseworkers undertake more committal preparation. They would be assisted in doing so, if they were to see the reports prepared in their cases.

5.46 We recommend that caseworkers should have access to adverse case reports in completed Crown Court cases, so that they may share fully in the Branch's learning process.

PREPARING CASES

Advance information

6.1 On one team, the reviewing prosecutor decides which documents should be served as advance information when the file is first reviewed. The documents are then copied by caseworkers, ready for service. On the other team, papers are copied by administrative staff, as soon as the file is registered. Prosecutors then identify what material should be supplied as advance information, at the same time as they carry out their initial review of the case. Both systems appear to work effectively.

6.2 Advance information is served before the first court appearance, if the defence solicitor requests it. Otherwise, it is left on the file to be served at court.

6.3 The Branch monitors the timeliness of its provision of advance information. During February 1998, it was sent within seven days of receipt of the file in 88.9% of cases. It was served promptly in 44 of the 47 relevant cases (93.6%) that we examined. We could not ascertain the date of service in the remaining three cases.

6.4 The two teams deal differently with requests for advance information in cases where the law does not require it. One team's policy is that disclosure should be considered in cases where a defendant has pleaded not guilty; in cases involving multiple defendants charged with public order offences; and in cases where initial review suggests that a legal issue may arise. However, despite this attempt at consistency, there appears to be a presumption against disclosure. In the other team, disclosure is made at the discretion of the individual prosecutor. The PTL is currently considering formulating a policy, and circulating it to local firms of solicitors.

6.5 We were disappointed to hear that there appeared to have been a hardening of attitude by prosecutors in the team which has a policy. We were told that, now, disclosure is often not made in cases where the defendant has pleaded not guilty. A defence solicitor told us that a more flexible approach could lead to more guilty pleas.

6.6 Disclosure should always be made in cases where the interests of justice require it. It is also important that the Branch has a consistent approach, so that defence solicitors can be confident that requests are considered in an objective manner.

6.7 We recommend that the BCP should ensure that a common approach is adopted by prosecutors in both teams to requests for disclosure of advance information in summary cases.

Unused and sensitive material

6.8 All prosecutors and caseworkers have been trained on the disclosure provisions of the CPIA. Some training was undertaken jointly with the police, although, for the most part, this did not include uniformed officers.

6.9 We examined 54 files which contained unused material. We found that the disclosure schedule had been correctly completed in 48 (88.9%). In two of the remaining cases, it appears that failure to complete the form properly did not have an adverse effect on disclosure. Timely disclosure was made in 50 of the 54 cases (92.6%).

6.10 We were concerned to note that every case in which the disclosure schedule had not been correctly completed was a summary trial. In four cases, it was not served. The CPIA applies as much to cases being heard in the magistrates' courts, as it does to those being dealt with in the Crown Court. It is essential that the provisions of the Act are properly applied, in order to ensure that defendants have a fair trial.

6.11 We recommend that the BCP should monitor the Branch's handling of unused material in magistrates' courts cases, to ensure that such material is properly considered and dealt with by prosecutors.

6.12 Although we were told that prosecutors handle sensitive material well, our inspection raised some concerns. We saw five cases involving sensitive material in the sample. The appropriate procedures were not followed in one of those

cases, which was a summary trial. We also observed a case being dealt with at the magistrates' court prior to committal, where, although sensitive material had been considered, the issues had not been fully addressed.

6.13 We were very concerned to learn that the appropriate procedures to withhold sensitive material are not always followed by prosecutors. Neither the BCP nor the PTLs had been notified of any applications to withhold sensitive material, nor had they had any meetings with the police to discuss such issues in recent times. It is important that sensitive material is considered at the appropriate level, and that the appropriate procedures are followed. Only by doing so can prosecutors be satisfied that they are complying with the provisions of the CPIA.

6.14 We recommend that Branch prosecutors should ensure that the issues raised by sensitive material are fully considered and dealt with at the appropriate level.

6.15 We were told that police officers do not fully adhere to the provisions of the CPIA either. Disclosure schedules are not always completed correctly, and details of unused material are not always made available to the prosecutor at the appropriate time. Prosecutors frequently have to write to individual police officers, explaining the provisions of the CPIA.

6.16 It is essential that prosecutors are given full details about unused and sensitive material, at the proper time, and in the appropriate form. If they are not, they cannot discharge their duties of disclosure.

6.17 We recommend that the BCP should discuss the provisions of the CPIA with the police, in order to ensure that details of all unused and sensitive

material are made available to prosecutors, at the proper time and in the appropriate form.

Summary trial preparation

- 6.18 There is no formal system of pre-trial reviews (PTRs) in the magistrates' courts. They are held at the request of the prosecutor or defence solicitor, and, on occasion, are simply to fix a trial date. PTRs are designed for more than that. They provide an opportunity to ensure that trials progress smoothly on their first day. They are only effective if the issues in the case have been identified in advance and are then discussed. Although prosecutors are usually prepared for PTRs, they do not use the opportunity to resolve any problems that might arise during the course of the trial. The BCP will wish to consider discussing PTRs with the magistrates' courts, with a view to improving their effectiveness.
- 6.19 Summary trials are generally well prepared, with prosecutors ready to proceed on the date fixed. In our examination of summary trials, we found that witnesses who were to give evidence had been warned in good time in all 28 cases.
- 6.20 Section 9, Criminal Justice Act 1967 enables evidence to be accepted and read, thereby avoiding the unnecessary attendance of witnesses at court. Service was undertaken and dealt with in a timely manner in all 16 cases where it was appropriate to do so.
- 6.21 Prosecutors are aware of the procedure for agreeing admissions of fact under section 10, Criminal Justice Act 1967. We saw two files in the sample where this was used, and one file where an attempt to use it failed. We were also told that prosecutors tend to use the procedure in cases involving allegations of driving while disqualified, and breaches of bail.

- 6.22 Prosecutors are also familiar with the provisions of section 23, Criminal Justice Act 1988. Subject to certain conditions, these enable a witness' statement to be read to the court if he or she is outside the United Kingdom, or is mentally or physically unfit to attend court, or is too frightened to attend court. We did not see any examples where it would have been appropriate to use these provisions in summary trials in the file sample, but we did see one Crown Court case in which they were properly considered.

Committal preparation

- 6.23 National guidelines require committal papers to be prepared and served by Branch staff within 14 days in cases where the defendant is on bail, and within ten days, if the defendant is in custody, once they have received a complete file from the police.
- 6.24 Late service of committal papers can cause delay, as the defence may need to seek an adjournment in order to consider them. We were told that papers are often served on the defence on the morning of the court hearing. However, during February 1998, Branch statistics indicated that 83.3% of committals were served within the CPS time guidelines. We examined a sample of 30 cases. We found that service was timely in 28 cases (93.3%).
- 6.25 Requests to the police for committal/transfer files are made promptly. However, these requests are not always followed up. One team has an action-dating system for chasing late files; the other does not. Whilst the preparation of full files for committal/transfer is a matter for the police, the Branch does have a responsibility to ensure that the police have received the request, and are acting upon it.
- 6.26 We recommend that an action-dating system should be created or maintained throughout the Branch, to assist in the timely preparation and service of committal papers.**

6.27 The quality and timeliness of police files can have an adverse effect on the timeliness of committal preparation. The Branch and the police monitor the quality and timeliness of police files through JPM. Figures collected for 1 January to 31 March 1998 show that only 14 out of 89 committal/transfer files (15.7%) were received within the agreed timescales and were fully satisfactory. A further 36 files (40.4%) were timely and sufficient to proceed, although more evidence was needed before the cases were ready for trial.

6.28 We recommend that the BCP should work with the police, through JPM, to seek improvements in the quality and timeliness of police files, so that the preparation of committal papers can take place efficiently, and at the appropriate time.

6.29 Prosecutors prepare almost all committals. Caseworkers used to undertake the preparation of some committals, under the supervision of the reviewing prosecutor. This practice has ceased, due to staff shortages. One team was due to reintroduce the involvement of caseworkers in committal preparation the week after our visit. The other team was planning to reintroduce it early in 1999, when its more experienced caseworkers will have completed the casework officer training scheme.

6.30 We are concerned that caseworkers are not being given this opportunity of gaining valuable experience which would assist in their career development. It would also improve the casework process, giving prosecutors the opportunity to deal more expeditiously with their other responsibilities. We acknowledge the plans that the Branch managers have to ensure that caseworkers are given this opportunity, and we trust that these will be given appropriate priority.

6.31 We recommend that the Branch Management Team should ensure that caseworkers undertake increasing amounts of committal preparation.

6.32 Committals are prepared using the CPS Crown Court Case Preparation Package. This produces a

series of standard paragraphs, with free-text options for instructions to counsel. These enable the caseworker and prosecutor to prepare a case summary, and to insert information relevant to the case.

6.33 A well prepared summary, which addresses the issues in the case, will always be a useful aid to counsel, particularly in complex cases. The instructions to counsel contained a summary of the case in 27 out of 30 relevant cases (90%) in our sample, and most summaries analysed the issues properly.

6.34 Consultation with the reviewing prosecutor on the acceptability of any mixed pleas by the defendant can cause delay in the Crown Court. Although not all offers of pleas can be anticipated, careful consideration in the instructions of possible acceptable pleas can reduce the amount of consultation required, and possible delay. Acceptability of pleas was addressed in the instructions in 12 out of 17 relevant cases (70.6%).

6.35 Our experience shows that these figures are comparatively good. The BCP will want to ensure, however, that there is continued improvement, and that the acceptability of pleas is addressed in all appropriate cases.

6.36 In 24 of the 29 relevant cases (82.8%), the instructions were delivered to counsel within the agreed Bar Standard time guidelines.

Quality of indictments

6.37 The quality of indictments is unsatisfactory. We were told that they are poorly drafted, and often need amending. This was borne out by our file examination, where we found that amendments to indictments were made in nine out of 29 cases (31%). All these indictments were drafted by Branch staff.

6.38 In two cases, the amendment was made in order to accommodate acceptable pleas. In another, an alternative count was added in circumstances where we considered the original indictment was correct. The amendments in the remaining six cases could have been avoided. Two were worded wrongly; three required minor cosmetic amendments; and the sixth was amended to comply with the charging standard on offences involving assaults.

6.39 We saw a further six cases (20.7%) where amendments were required, but not made. One indictment contained a minor cosmetic error; another was wrongly worded. The defects in the remaining four indictments were more substantial.

6.40 Overall, this means that more than half of the indictments in our file sample were defective in some way.

6.41 One PTL sees all the indictments drafted by prosecutors on his team, but before they are typed. Prosecutors check them after they have been typed. These checks are clearly not as effective as they should be.

6.42 We were surprised to discover that prosecutors are unaware that amendments are made so frequently. Amendments used to be monitored, but this has stopped. This means that prosecutors and caseworkers do not see cases in which amendments are made, and so are unable to develop their drafting skills.

6.43 We recommend that the BCP should introduce a system for monitoring the quality of indictments, in order to eradicate minor typing inaccuracies; to ensure that the substantive content of each indictment is correct; and to improve the drafting skills of prosecutors and caseworkers.

6.44 Indictments have to be lodged within 28 days of committal or transfer. All but one of the indictments in our file sample were lodged within the time limit.

The CPS in the Crown Court

6.45 Caseworkers generally cover the Crown Court sitting at Bolton on the basis of one caseworker for two courtrooms. The PDH courts have a dedicated caseworker.

6.46 Branch prosecutors conduct the majority of bail applications at Bolton Crown Court. They stay at court at the conclusion of those applications, in order to deal with any queries raised in cases being dealt with that day. However, they do not look at any files relating to those cases in advance. In the absence of some knowledge of the issues in each case, it is difficult to see how prosecutors can deal effectively and swiftly with any problems that may arise.

6.47 We recommend that prosecutors attending the Crown Court to undertake bail applications, or to assist at PDHs, should familiarise themselves with the cases being dealt with at the Crown Court that day, so that they are able to take prompt and informed decisions on the acceptability of pleas and other issues.

6.48 We were told, and observed, that the prosecution is normally well prepared for PDHs, and that the Branch generally takes appropriate steps, in order to comply with the directions issued. We were also told, however, that PDHs are not really effective, as the issues in a case have not been identified at this stage. The Recorder of Manchester has recently devised a new PDH form, and it is hoped that this will ensure that the relevant issues are addressed by all parties at PDH.

6.49 We only saw three cases in our sample where orders had been made at PDH. They were all dealt with properly and expeditiously by Branch staff.

Custody time limits

6.50 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.

6.51 The Branch has effective monitoring systems in place for cases in which custody time limits apply.

6.52 We examined ten such cases. Nine were properly endorsed, with the expiry and review dates correctly calculated. In the tenth case, the time limit was calculated as expiring one day after it was, in fact, due to expire. Consequently, both the expiry and review dates were incorrectly endorsed on the file. Fortunately, the defendant's case was disposed of before the custody time limit expired.

6.53 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. Although there have not been any such failures on the Branch, the BCP will wish to ensure that all relevant dates are correctly calculated, and endorsed on the file.

File endorsements and file management

6.54 We have commented on the good quality of review endorsements at paragraphs 5.39 - 5.41. Court endorsements are also good. All 80 magistrates' courts files had a comprehensive record of case progress in court. In particular, many files had detailed endorsements of bail applications. Twenty-six out of 30 Crown Court cases (86.7%) had a comprehensive record of case progress in court.

6.55 Out-of-court endorsements are very good. All but one case in our sample of 80 (98.8%) had such endorsements clearly and legibly recorded in the appropriate section of the magistrates' court file.

6.56 Review, court and out-of-court endorsements are recorded sequentially on the file jacket. Files are generally well ordered and well maintained. In particular, in Crown Court files, different types of material are kept in different folders within the jacket. Correspondence is also kept separately, in chronological order. This makes reading a file, and understanding what has occurred, easier for an advocate preparing cases for court, or for a prosecutor having to make a decision on an absent colleague's case.

6.57 We have often made recommendations relating to the poor standard of file endorsements in our reports. We are very pleased, therefore, to congratulate the Bolton/Wigan Branch on their standard of performance in this important area.

PRESENTING CASES IN COURT

7.1 The standard of advocacy is high. In particular, we were told that Branch advocates are always fully prepared for bail applications at the Crown Court, and argue them very well. All advocates are experienced, and none is on the CPS advocacy training programme. The standard of advocacy is monitored by the PTLs: twice a year on one team; once a year on the other.

7.2 We observed 11 CPS advocates presenting cases in the magistrates' courts and youth court. They were all well prepared. One prosecutor, who had to attend court at very short notice, assimilated the cases that she took over well. All advocates were competent; some were very good.

7.3 Prosecutors conducted summary trials well. They made clear and accurate opening speeches,

identifying the issues in the case, and referring to any relevant points of law. They handled witnesses well, and asked appropriate questions.

7.4 We were told, however, that some prosecutors occasionally show displeasure at decisions made by the magistrates. We did not see any such behaviour in court, but we did see a file endorsement which suggested that the advocate was displeased with the magistrates' decision to adjourn a case at the request of the defence. It is important that advocates show proper respect for the court, and all prosecutors will wish to maintain the highest standards of etiquette at all times.

7.5 Magistrates expressed concern about the standard of agents instructed to appear before them. Although we did not see any agents prosecuting in the magistrates' courts, the BCP will wish to take steps to investigate this. We were told that Branch staff instruct counsel of appropriate experience in the Crown Court. We observed five counsel in the Crown Court: they all performed satisfactorily.

7.6 Branch managers do not have any formal system for monitoring the performance of agents in the magistrates' courts, or counsel in the Crown Court. Rather, they rely on caseworkers making informal comments about good or bad performance. This means that decisions could be made about whether to instruct counsel, or an agent, or whether to regrade counsel, on information that may be inaccurate, or anecdotal.

7.7 We recommend that the BCP should make every effort to ensure that agents and counsel of appropriate experience are instructed in all cases, and that a formal system is implemented to monitor their performance.

7.8 Counsel originally instructed are unable to attend court in a significant proportion of cases, resulting in the instructions being passed to other counsel. Our examination of Crown Court cases showed that counsel originally instructed dealt with 18 out of 30 PDHs (60%), nine out of 20 trials (45%), and ten out of 20 sentencing hearings (50%).

7.9 The CPS and the Bar Council have agreed that the number of returned briefs should be monitored by chambers on a monthly basis. The BCP will wish to ensure that such monitoring is effective, and that there is a substantial reduction in the proportion of cases in which the brief is returned.

THE BRANCH AND OTHER AGENCIES

8.1 Branch staff have good working relationships with each of the other criminal justice agencies. There are formal multi-agency meetings where issues of importance are discussed, as well as ad hoc meetings, to deal with issues as they arise. Although the Crown Court user group has not met recently, we were pleased to hear that consideration is being given to its reintroduction.

8.2 The BCP and PTL attend the court user group meetings for agencies using the magistrates' courts. Although the meetings are said to be effective, we observed that cases are listed in such a way that it is impossible for the Branch to ensure that advocates appear in court with their own cases. Not only does this mean that cases have to be read by more than one prosecutor, it also reduces the advocate's ability to assist in the smooth running of the court.

8.3 We recommend that the BCP should discuss listing practices in the magistrates' courts at

court user group meetings, with a view to agreeing practices that are of benefit to all court users.

8.4 The Branch works effectively with the Probation Service, and provides information to them timeously. The Branch liaises positively and helpfully with Victim Support and the Witness Service in relation to the care and treatment of victims and witnesses.

PERFORMANCE INDICATORS

9.1 We examined a number of cases finalised in the period 1 December 1997 to 28 February 1998, in which the results had been incorrectly recorded. This distorts the true performance of the Branch, mainly to its detriment.

9.2 One case was incorrectly recorded as a trial stopped by the magistrates at the close of the prosecution case. It was, in fact, a case in which an application for an adjournment had been refused. Two cases were incorrectly recorded as discharged committals. A decision to terminate the proceedings had been made in one case. In the other, the magistrates refused an application for an adjournment.

9.3 The PIs showed that there had been 28 judge ordered acquittals in the relevant period. Thirteen cases had been incorrectly categorised. One case was a judge directed acquittal; two were late guilty pleas; one had some guilty verdicts (which should therefore have been recorded as such); and nine cases had been left to lie on the file.

9.4 Three cases were also incorrectly categorised as judge directed acquittals. Two had some guilty pleas. The third was a mixed jury acquittal and a judge directed acquittal.

9.5 The BCP is aware of the problem, and has taken steps to address it. He has recently circulated a

minute to all members of staff, setting out the differences between judge ordered and judge directed acquittals. In addition, a case cannot be recorded as a trial stopped by the magistrates at the close of the prosecution case, without the authority of a PTL.

9.6 The BCP is the chairman of the CPS North West Area training committee, which has recently devised a training package on PIs, to be used by all Branches in the Area. Accurate PI information is essential, if the Branch is to evaluate its performance accurately. Although we acknowledge the steps that the BCP has already taken, it is essential that he ensures that incorrect finalisations no longer occur.

9.7 We recommend that the BCP should take immediate steps to ensure that all cases are given the correct PI finalisation code.

KEY STATISTICS

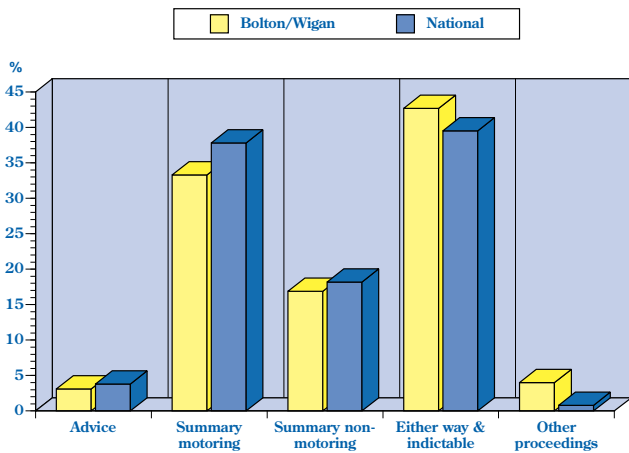
10.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 31 March 1998.

EXTERNAL CONSULTATION

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

MAGISTRATES' COURTS

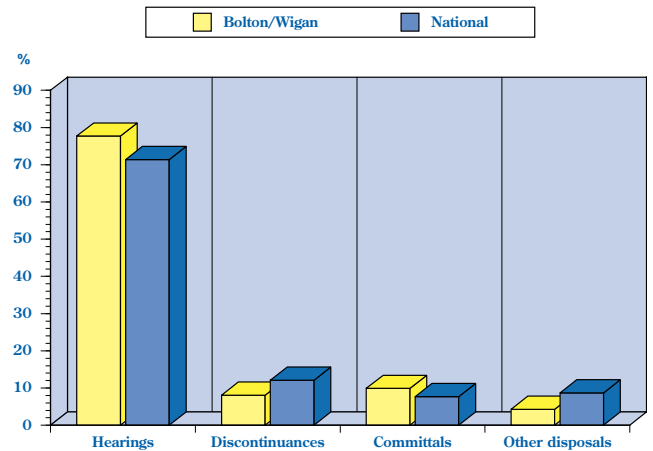
1 - Types of case



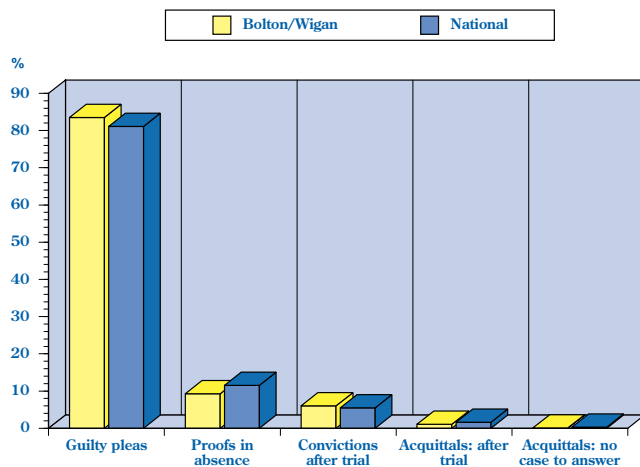
| | Bolton/Wigan | | National | |
|-------------------------|---------------|------------|------------------|------------|
| | No. | % | No. | % |
| Advice | 528 | 3.1 | 53,233 | 3.8 |
| Summary motoring | 5,672 | 33.3 | 536,031 | 37.8 |
| Summary non-motoring | 2,880 | 16.9 | 258,410 | 18.2 |
| Either way & indictable | 7,271 | 42.7 | 559,749 | 39.5 |
| Other proceedings | 677 | 4.0 | 11,362 | 0.8 |
| Total | 17,028 | 100 | 1,418,785 | 100 |

2 - Completed cases

| | Bolton/Wigan | | National | |
|-----------------|---------------|------------|------------------|------------|
| | No. | % | No. | % |
| Hearings | 12,297 | 77.7 | 967,539 | 71.4 |
| Discontinuances | 1,285 | 8.1 | 164,438 | 12.1 |
| Committals | 1,561 | 9.9 | 104,784 | 7.7 |
| Other disposals | 680 | 4.3 | 117,447 | 8.7 |
| Total | 15,823 | 100 | 1,354,208 | 100 |



3 - Case results

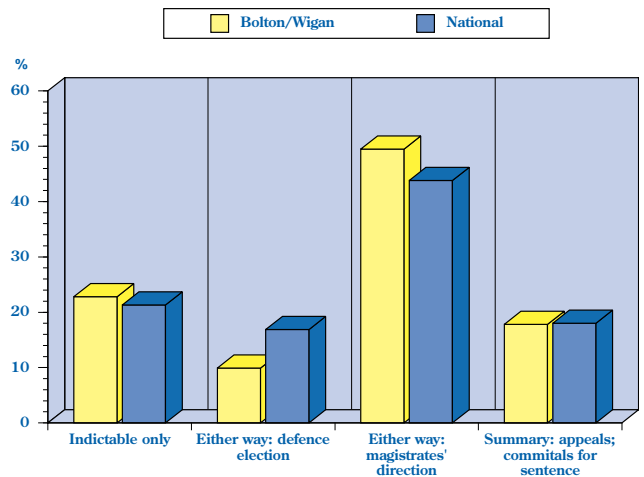


| | Bolton/Wigan | | National | |
|-------------------------------|---------------|------------|----------------|------------|
| | No. | % | No. | % |
| Guilty pleas | 10,284 | 83.5 | 788,364 | 81.1 |
| Proofs in absence | 1,146 | 9.3 | 111,687 | 11.5 |
| Convictions after trial | 737 | 6.0 | 53,702 | 5.5 |
| Acquittals: after trial | 138 | 1.1 | 15,708 | 1.6 |
| Acquittals: no case to answer | 16 | 0.1 | 2,699 | 0.3 |
| Total | 12,321 | 100 | 972,160 | 100 |

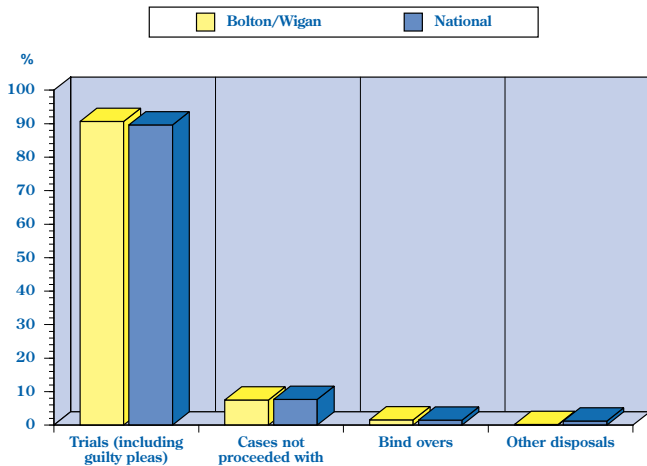
CROWN COURT

4 - Type of case

| | Bolton/Wigan | | National | |
|---|--------------|------------|----------------|------------|
| | No. | % | No. | % |
| Indictable only | 384 | 22.8 | 27,341 | 21.3 |
| Either way: defence election | 167 | 9.9 | 21,653 | 16.9 |
| Either way: magistrates' direction | 833 | 49.5 | 56,069 | 43.8 |
| Summary: appeals; committals for sentence | 300 | 17.8 | 23,001 | 18.0 |
| Total | 1,684 | 100 | 128,064 | 100 |



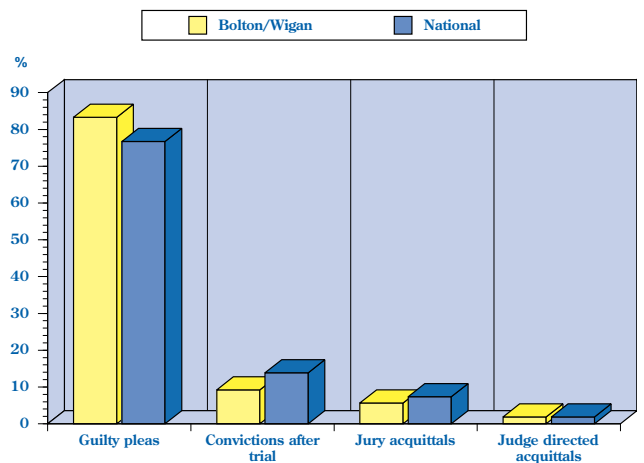
5 - Completed cases



| | Bolton/Wigan | | National | |
|---------------------------------|--------------|------------|----------------|------------|
| | No. | % | No. | % |
| Trials (including guilty pleas) | 1,255 | 90.7 | 94,180 | 89.6 |
| Cases not proceeded with | 104 | 7.5 | 8,130 | 7.7 |
| Bind overs | 22 | 1.6 | 1,541 | 1.5 |
| Other disposals | 3 | 0.2 | 1,232 | 1.2 |
| Total | 1,384 | 100 | 105,083 | 100 |

6 - Case Results

| | Bolton/Wigan | | National | |
|---------------------------|--------------|------------|---------------|------------|
| | No. | % | No. | % |
| Guilty pleas | 1,073 | 83.3 | 73,860 | 76.7 |
| Convictions after trial | 118 | 9.2 | 13,413 | 13.9 |
| Jury acquittals | 73 | 5.7 | 7,170 | 7.4 |
| Judge directed acquittals | 24 | 1.9 | 1,842 | 1.9 |
| Total | 1,288 | 100 | 96,285 | 100 |



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

| | |
|----------------------------|--|
| Judge | His Honour Judge Roberts |
| Magistrates' courts | <p>Mrs I Walmsley, Justice of the Peace and Chair of the Leigh Magistrates' Courts Committee</p> <p>Mr K Foster, Justice of the Peace and Chair of the Wigan Justices</p> <p>Mr F Woods, Justice of the Peace and Chair of the Bolton Justices</p> <p>Mr J Bragg, Justice of the Peace and Chair of the Wigan Youth Court Panel</p> <p>Mr T Gregory, Justice of the Peace and Chair of the Leigh Youth Court Panel</p> <p>Mr F Walsh, Justice of the Peace and Chair of the Leigh Licensing Panel</p> <p>Mr D Dunn, Justice of the Peace and Deputy Chair of the Leigh Justices</p> <p>Mr J Haydock, Clerk to the Leigh and Wigan Justices</p> <p>Mrs K Mitchell, Acting Deputy Clerk to the Bolton Justices</p> |
| Police | <p>Chief Superintendent M Pelham</p> <p>Superintendent M Gorrill</p> <p>Superintendent I Seabridge</p> <p>Inspector E Gaskill</p> <p>Inspector C Grafham</p> |
| Defence solicitors | <p>Mr M Ryan</p> <p>Mr A Stock</p> |
| Counsel | Miss B Lunt |
| Probation Service | <p>Mrs L Kierc, Senior Probation Officer</p> <p>Mr J Long, Senior Probation Officer</p> |
| Victim Support | Mrs L Winstanley |
| Witness Service | Mr R White |

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.



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