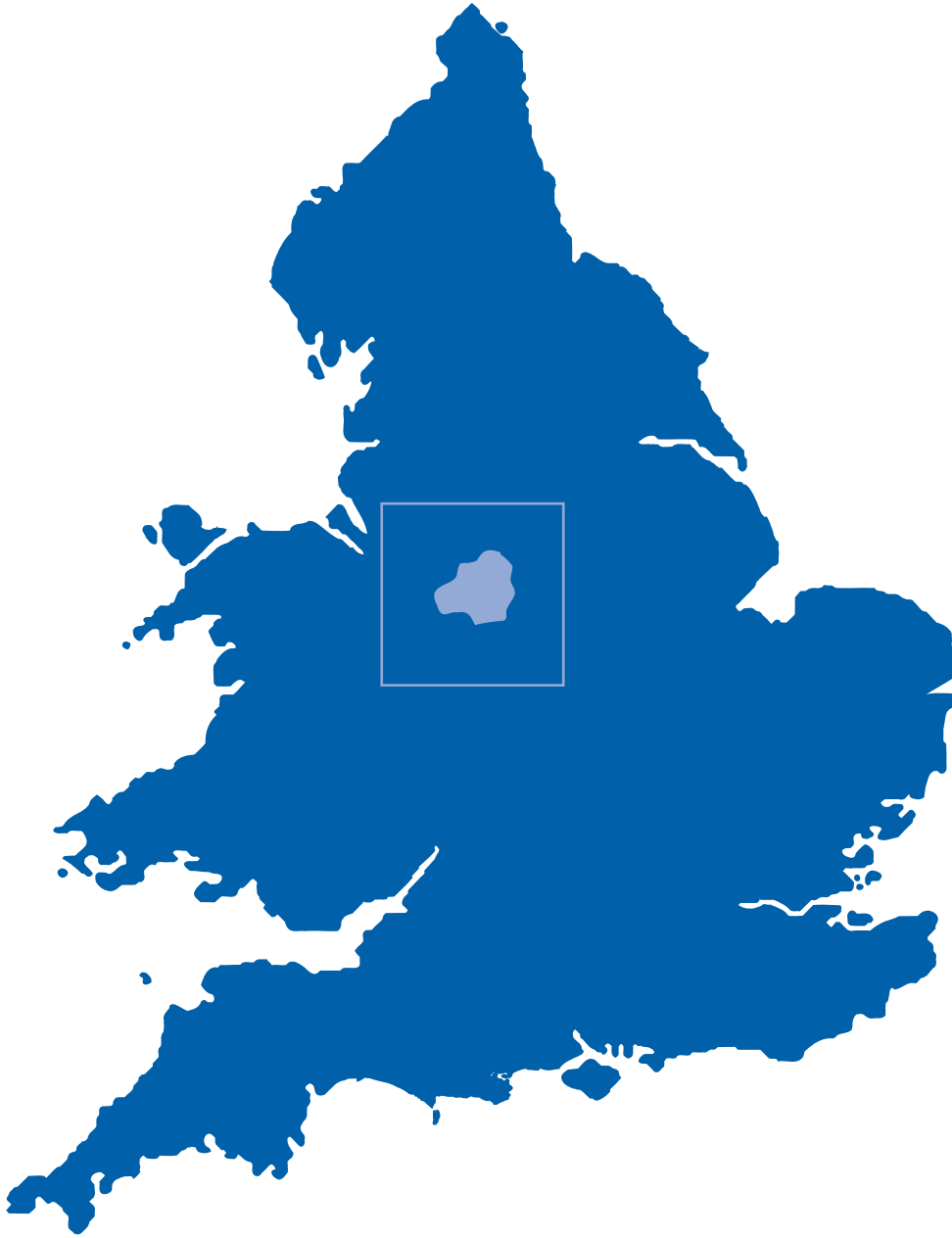


THE INSPECTORATE'S REPORT  
*on*  
THE NORTH STAFFORDSHIRE  
BRANCH  
*of*  
CPS MIDLANDS

# North Staffordshire Branch



## BRANCH OFFICE

◆ Newcastle-under-Lyme

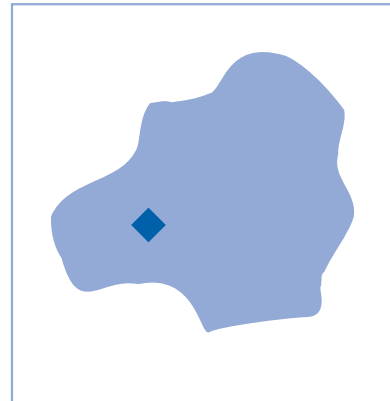
## COURTS COVERED

### Magistrates' Courts

Newcastle-under-Lyme and  
Pirehill North  
Staffordshire Moorlands (Leek)  
Fenton

### Crown Court

Stoke-on-Trent



REPORT ON THE INSPECTION OF THE CPS NORTH STAFFORDSHIRE BRANCH

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## INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the North Staffordshire Branch of CPS Midlands.
- 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 CPS: providing advice; reviewing cases; preparing cases; and presenting cases in court.
- 1.4 The North Staffordshire Branch is in the CPS Midlands Area and has its offices at Newcastle-under-Lyme. On 15 June 1998, it employed 48 staff (the Branch Crown Prosecutor (BCP), 16 other lawyers and one legal trainee; two caseworker managers and 22.8 other caseworkers, including an office manager; and 5.2 administrative staff).
- 1.5 The Branch comprises two teams. Team A (5.6 prosecutors and 6.8 caseworkers) is responsible for prosecutions in the magistrates' courts at Newcastle-under-Lyme and Leek. The Fenton team (10.4 prosecutors, the legal trainee and 17 caseworkers) is responsible for prosecutions at Fenton Magistrates' Court.

- 1.6 The team of four inspectors visited the Branch between 15 and 24 June 1998. During this period, we observed seven CPS advocates in the magistrates' courts at Fenton, Newcastle-under-Lyme and Leek and in the youth court at Newcastle-under-Lyme. We also observed counsel in the Crown Court at Stoke-on-Trent.

## CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch has a very high proportion of experienced staff. They clearly work well together, supporting each other conscientiously. They are willing to learn from mistakes and have earned the respect of other criminal justice agencies locally.
- 2.2 The great majority of casework decisions are correct. Staff at all levels contribute to the thorough preparation of cases. Advocacy is good, and some is excellent, keeping issues as simple and straightforward as possible.
- 2.3 To assist the Branch in improving its casework still further, we recommend that:
  - i the BCP should monitor the timeliness of advice and ensure that it is provided within the CPS target of 14 days (paragraph 4.9);
  - ii prosecutors should ensure that charges preferred after advice has been provided are carefully checked when the file is reviewed, to ensure that the advice has been correctly followed (paragraph 4.11);
  - iii the BCP should continue to consider with the police ways of reducing the number of cases discontinued through lack of sufficient identification evidence (paragraph 5.10);

- iv the BCP should consider with the police ways of reducing the number of cases discontinued because driving documents are produced (paragraph 5.14);
- v the BCP should ensure that Joint Performance Management (JPM) data on Crown Court acquittals is reconciled with the Branch's performance indicators (PIs), and that it is fully analysed to identify any trends (paragraph 5.42);
- vi the BCP should ensure that custody time limit procedures are properly followed, particularly in relation to the calculation of expiry dates (paragraph 6.10);
- vii the BCP should ensure that the Area system for the security of sensitive material, and records relating to it, is enforced (paragraph 6.15);
- viii prosecutors should ensure that instructions to counsel contain a summary of the issues in the case, and comment on the acceptability of potential pleas, where this is relevant (paragraph 6.30);
- ix the BCP should monitor the reasons for amendments to indictments, with a view to reducing the number of amendments required (paragraph 6.35);
- x the BCP, together with representatives of Area headquarters, should seek to reduce the number of returned briefs (paragraph 7.11).

## THE INSPECTION

3.1 In the 12 months to 30 June 1998, the Branch dealt with 14,508 defendants in the magistrates' courts and 1,259 defendants in the Crown Court.

In a further 668 cases, advice was given to the police before charge.

3.2 The inspection team examined a total of 249 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 local 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 to 30 June 1998, the Branch's proportion of pre-charge advice (4.4%) was slightly higher than the national average (4.1%).
- 4.2 The Branch figure includes advice given to the police on the telephone. Prosecutors record this advice. Any advice to prosecute is linked to the prosecution file, which the police submit later.
- 4.3 Nine of the ten cases that we examined were appropriately submitted for advice. In the remaining case, which involved a road traffic accident, the evidence against the proposed defendant was so unsatisfactory that the decision not to proceed could have been made without reference to the Branch.
- 4.4 For some time, Prosecution Team Leaders (PTLs) have discussed with supervising police officers, the types of case which should be submitted for pre-charge advice. A formal agreement was reached on 4 June 1998 between

the Staffordshire Police and the two Branches in the county. Under this agreement, the police will normally seek advice in cases involving:

- defendants who are under 14 years old and who do not have any previous convictions;
- fatal road traffic accidents;
- allegations against police officers;
- child abuse, where the police have doubts about the complainant's evidence; and
- borderline decisions whether to charge attempting to pervert the course of justice or obstructing a police officer.

4.5 The Branch developed plans for prosecutors to attend police stations to give advice. The plans have been postponed because the Branch has been chosen as one of six sites which will pilot the recommendations made by Martin Narey in his Review of Delay in the Criminal Justice System. These recommendations include arrangements for prosecutors to undertake some work in criminal justice support units, with a view to expediting decisions. The pilot starts on 1 October 1998.

#### Quality and timeliness of advice

- 4.6 We agreed with the advice given in nine of the ten cases that we examined. In the remaining case, marked not to proceed, the reviewing prosecutor had not given enough weight to the surrounding circumstances of the case, which might have undermined the defendant's explanation for his actions.
- 4.7 All the advice was typed and fully reasoned. The Branch has a number of precedents for advice cases. They contain standard paragraphs, which help prosecutors to present advice clearly and logically.

4.8 The Branch's Corporate Performance Measures (CPMs) show that, in the quarter to 31 December 1997, advice was provided within the CPS target of 14 days in all cases; whereas in the quarter to 31 March 1998, it was provided within the target in only 60% of cases. It was provided promptly in only five of the ten cases that we examined. The advice was provided between eight and 15 days late in the other cases. When an advice file is received, an action date is entered on the computerised case tracking system. This enables administrative staff to remind the prosecutor to provide the advice, if it has not already been given. We were told, however, that this system was activated only on the fourteenth day after receipt of the file. As a result, even if they were reminded, prosecutors could not give the advice in time. The trigger date has since been changed to the twelfth day after receipt of the file.

**4.9 We recommend that the BCP should monitor the timeliness of advice and ensure that it is provided within the CPS target of 14 days.**

4.10 In one advice case that we examined, the prosecutor recommended that an offence of driving without reasonable consideration for other road users should be charged. The police mistakenly charged driving without due care and attention, instead. This was not corrected at initial review, although the advice file had been linked with the prosecution file. Indeed, an application to substitute the correct charge was not made until after the prosecution evidence was given at the trial. The application was refused and the case was dismissed. In another case that we saw during our visits to courts, the police had not followed the Branch's advice; they had specified the wrong Act of

Parliament in the charge. The mistake was compounded by the prosecutor making a further error when he tried to put things right. The prosecution was declared a nullity in the Crown Court and had to be started again.

**4.11 We recommend that prosecutors should ensure that charges preferred after advice has been provided are carefully checked when the file is reviewed, to ensure that the advice has been correctly followed.**

4.12 Pre-charge advice from counsel is given only in the most complex cases and only with the authority of the BCP. We did not see any examples.

## 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 examined the quality of the review decision in 80 files covering cases in the magistrates' courts and the Crown Court. We agreed with the assessment of the evidence in 78 (97.5%). We agreed with the public interest decision in all relevant cases.

5.3 One case where we disagreed with the assessment of the evidence involved the theft of a video recorder. The defendant had a key to the house in which the recorder was kept, but others also had the opportunity to enter the premises. A prosecutor in court endorsed his doubts about the case on the file, but the reviewing prosecutor,

nevertheless, decided that the case should proceed. In the second case, there was insufficient evidence to prove an aggravated burglary. The defendant was convicted of simple burglary and possession of an offensive weapon, after counsel amended the indictment.

5.4 We were told by representatives of other criminal justice agencies that prosecutors generally make good decisions when faced with only circumstantial evidence. We were also told that they often continue to prosecute offences of domestic violence when the complainant refuses to come to court, in cases where there remains some evidence on which they can rely.

5.5 Cases are dealt with at the correct level and by appropriate specialists. Each team has sufficient specialists to deal with youth defendants and cases involving child abuse, to whom such cases are allocated.

### Timeliness of review

5.6 The basis for the allocation of files is clearly set out in the teams' plans. This enables most files to be given to prosecutors immediately after they have been registered, without passing through the PTLs. The Branch's CPMs show that, in the quarter to 31 March 1998, 59.8% of the cases received were reviewed promptly. We carried out a spot check of 19 files, which showed an even more encouraging picture. All were registered within 24 hours of receipt. They were reviewed, on average, within eight days of receipt, and almost nine days before the first hearing. This is a very good performance and it enables any remedial action to be taken before the first hearing.



5.7 The Branch is greatly assisted in its good performance by the timely provision of good quality files by the police. This is measured by JPM, which is a management system by which the CPS and the police jointly collect information about aspects of their activities. Although performance varies from police division to police division, the figures for the quarter to 31 December 1997 show that between 74% and 92% of files were delivered within agreed timescales. Overall, file quality was fully satisfactory in between 55% and 80% of all cases; only 2.5% of files were insufficient to enable the case to proceed to the next stage. The value of these figures depends on the Branch returning a form (known as the TQ1) to the police. In our experience, the Branch return rate of around 90% is exceptionally high.

### Discontinuance

5.8 We examined 112 cases which were stopped by the prosecution in the magistrates' courts during April 1998, to discover the reasons for discontinuance and to determine whether the police were consulted about, and agreed with, the decision. Formal discontinuance under section 23, Prosecution of Offences Act 1985 was used in 25 cases (22.3%). Sixty-eight cases (60.7%) were withdrawn at court, and in the remaining 19 (17%), the prosecution offered no evidence at court.

5.9 Twenty-eight (25%) were terminated because there was insufficient evidence. Twenty of these were stopped due to deficiencies in identification evidence. Fourteen of the 20 concerned drivers who gave false details to the police, or defendants whom the officer was not able to identify at court. The BCP has already discussed this problem with senior police officers, but it persists.

**5.10 We recommend that the BCP should continue to consider with the police ways of reducing the number of cases discontinued through lack of sufficient identification evidence.**

5.11 Thirty-one cases (27.7%) were terminated because it was not in the public interest to proceed. Of these, 22 were stopped due to the likelihood of a nominal penalty being imposed. In all these cases, the defendant had been sentenced to a term of imprisonment for more serious offences. In another three cases, the prosecution recommended that the defendant should be cautioned.

5.12 The prosecution was unable to proceed in 18 cases (16.1%). In 15 of these, the prosecution was stopped because witnesses refused to give evidence. In the other three cases, witnesses failed to attend court.

5.13 Thirty-two cases (28.6%) were terminated because the defendant produced the necessary driving documents. This is a very high proportion of the total stopped. We were told that many motoring defendants are from out of the county, and that there may be difficulties in checking whether they have produced their documents at their local police station. Further, the police do not charge the alternative offences of failing to produce documents within the prescribed period. These terminations lead to much wasted work for the police, the Branch staff and the courts.

**5.14 We recommend that the BCP should consider with the police ways of reducing the number of cases discontinued because driving documents are produced.**



- 5.15 In the remaining three cases, it was not possible to tell from the file endorsements why they had been terminated.
- 5.16 We were told that prosecutors usually consult the police when they intend to discontinue a case. They also, usually, give an explanation after the case has been terminated, where it has not been possible to consult the police beforehand. We found that the police were consulted in advance about termination in 66 out of 112 cases (58.9%). The Branch has an agreement with the police that they do not need to be consulted in minor traffic matters. Fifteen cases in which the police were not consulted came within this agreement. In a further 24, the reason for termination became apparent only at the court hearing. We could not tell whether the Branch consulted the police in the remaining seven cases. Details of consultation should always be recorded on the file.
- 5.17 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 the evidence in all of them, and with the application of the public interest test in the six cases where it was appropriate to go on to consider it.

### **Selection of the appropriate charge and charging standards**

- 5.18 In 11 of the 80 cases (13.8%) that we examined, the original police charges needed amendment. The charges were amended correctly in all cases. In seven, the amendments were made at first review. Prosecutors told us that sometimes there was insufficient evidence to decide on the correct charge at this stage, particularly in assault cases where the medical evidence was not available.
- 5.19 In seven cases, amendment was needed at a later stage, although the charges had been accepted at first review. In only one of these was the need apparent at first review. The defendant was committed for trial on a charge of indecent assault. Counsel drafted a new indictment, which alleged indecency with a child, and covered the full circumstances of the offence better.
- 5.20 Representatives of other criminal justice agencies told us that some cases of aggravated burglary and attempting to pervert the course of justice were over-charged. We saw some examples of this, including one in which there was a charge of aggravated burglary, rather than a simple burglary and possession of an offensive weapon (see paragraph 5.3).
- 5.21 The police frequently charge the offence of perverting the course of justice where the defendant gives a false name, when a charge of obstructing a police officer in the execution of his duty would have been more appropriate. We found, however, that reviewing prosecutors often correct this at first review. Branch prosecutors told us that they change the charge, if no one else has been affected by the deception. We agree with this approach. Furthermore, we note, with approval, that borderline cases for this offence have been included in the list of cases which should be submitted by the police for pre-charge advice.
- 5.22 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. The standards were applied well. We agreed with their application in all 25 relevant cases that we examined.

5.23 Prosecutors regularly discuss the level of charges in public order cases, both on an individual case basis, and generally, in meetings with the police.

#### **Cases lost on a submission of no case to answer in the magistrates' courts**

5.24 In the year to 30 June 1998, 21 trials were stopped by the magistrates at the close of the prosecution case. This is 0.2% of the Branch's caseload, which is lower than the national average of 0.3%. In the same period, four defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial.

5.25 We asked to see the cases in these categories for the months of February, March and April 1998. There were no cases in which the defendant was discharged at committal. Five cases were stopped by the magistrates at the close of the prosecution case. We agreed with the decision to proceed in all of them, although in one, which we have mentioned in paragraph 4.10, the wrong charge was prosecuted.

5.26 In the other four cases, the witnesses did not give evidence in accordance with their statements, or doubts about their evidence were raised in cross-examination.

#### **Judge ordered and judge directed acquittals**

5.27 In the 12 months to 30 June 1998, 64 cases were not proceeded with in the Crown Court. This represents 6.6% of the Branch's caseload, compared with the national average of 7.7%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).

5.28 We examined eight of these cases. We agreed with the initial decision to proceed in six. In one of the remaining two, the defendant was charged with threats to kill. The threats were alleged to have been made on the telephone. The case was seriously weakened when the prosecution evidence included a statement from a witness who heard the call and said that no such threats were made. In the second case, a car was stolen. Five youths were seen nearby and one drove off in the car. The only evidence against the defendant, who did not get into the car, was his presence at the scene: there was insufficient evidence to show his involvement in the offence.

5.29 One of the six cases in which we agreed with the initial decision to proceed should have been terminated earlier, however. A boy's bicycle had been stolen; but the boy's father had indicated that he was not prepared to allow his son to give evidence. The case was committed for trial, without the prosecutor following up a request to the police to check whether the father had changed his mind.

5.30 In the same period, there were six cases in which the judge directed the jury to acquit after the trial had begun. This is 0.7% of the Branch's caseload, which is significantly lower than the national average of 2.0%. We examined two cases. In both, the reviewing lawyer had noted that the issue was identification, and at the trial the identification evidence turned out to be unreliable. We agreed with the decision to proceed in both, however.

5.31 We note elsewhere (paragraphs 6.17-6.20) that the Branch and the police take considerable care of witnesses. The number of cases that are lost in the Crown Court because witnesses fail to attend court is low.

### Mode of trial

5.32 Representatives of other criminal justice agencies told us that prosecutors follow the Lord Chief Justice's guidelines when making representations whether a case should be heard in the magistrates' courts, or in the Crown Court. They normally set out the correct factors and are realistic in their assessments. We agreed with the reviewing prosecutor's assessment in 44 of the 45 relevant cases that we examined.

### Bail

5.33 Prosecutors deal with bail applications both in the magistrates' courts and the Crown Court. We were told that they make correct decisions whether to oppose bail, and that their representations are generally full and balanced. Prosecutors made the correct decision in all 13 relevant cases that we examined. They are prepared to oppose bail, even when the police have bailed the defendant, in the rare circumstances where this is appropriate. This demonstrates that proper, independent consideration of the issues is applied to this important aspect of legal work.

### Review endorsements

5.34 When prosecutors review a case, they complete an "initial review/trial instructions" form. They indicate whether the file is accepted as sufficient to proceed, and also note whether the case is suitable to be dealt with in the magistrates' court. The witnesses are listed so that prosecutors can indicate which statements should be served as advance information. Prosecutors also indicate which witnesses should attend to give evidence and which will not be required, if there is a trial. They also record details of which witness

statements should be served under section 9, Criminal Justice Act 1967.

5.35 In most cases, where there is no police summary of the evidence, the prosecutors prepare a summary. In many cases, this is full and very helpful. Any action to be carried out is noted on a separate form at the back of the file.

5.36 It was clear from this evidence that cases are fully reviewed. We found, however, that the evidential factors taken into account in reaching a decision were not fully recorded in 41 out of 80 cases (51.3%). In 26 cases (32.5%), there was no record of any evaluation of relevant public interest factors. Shortly before our inspection, the BCP issued instructions to prosecutors reminding them of the standards that are expected. We conducted a spot check of the most recent files, and found that the review endorsements were satisfactory on all of them. The BCP will, no doubt, wish to monitor the quality of endorsements to ensure that this standard is maintained.

### Learning from experience

5.37 When a case is lost in the Crown Court, the caseworker completes a form giving the reasons for the outcome. Prosecutors complete a similar form when a case is lost in the magistrates' court. The reviewing prosecutor, the PTL and the BCP add their comments. Any lessons to be learned are discussed with the individual concerned. More general lessons are discussed at team meetings. Lawyers also feel free to discuss or comment on decisions made on cases, even when prosecuting cases prepared by the other team.

5.38 Branch-wide meetings are not held, but each team meets regularly, at least once a month. All staff have the opportunity to raise matters at the meetings, which are fully minuted. The minutes

are circulated to other managers in the Branch. If one team adjusts its systems, the other team conducts an assessment to see whether the changes are appropriate for them.

- 5.39 Consistency between the teams is achieved through these meetings, and by the occasional circulation of a bulletin named 'Learning Experience'. This is prepared by the BCP, with contributions from all staff. It covers legal, procedural and administrative issues that have arisen from recent cases, or Branch practices. It is a useful document which could be used more by caseworkers and administrative staff.
- 5.40 In many of our previous reports, we have expressed concerns about the extent to which Branch staff are able to learn from experience. We are pleased to note that, in North Staffordshire Branch, members of staff value the exchange of information and bear in mind the lessons from both successful and unsuccessful cases.
- 5.41 The police told us that the JPM system was effective in identifying matters which need to be discussed with Branch staff. We found, however, that issues tended to be dealt with on an individual case basis. We also noted that the Branch's PIs and those in the JPM data gave different figures for the number of cases lost in the Crown Court. Branch managers and the police need accurate data on the reasons why cases fail in the Crown Court, so that they may identify any trends.
- 5.42 We recommend that the BCP should ensure that JPM data on Crown Court acquittals is reconciled with the Branch's PIs, and that it is fully analysed to identify any trends.**

## PREPARING CASES

### Advance information

- 6.1 Advance information is prepared from the instructions given by prosecutors on the initial review form (see paragraph 5.34). Representatives of other criminal justice agencies told us that it is generally provided before, or at, the first hearing, but that, sometimes, it contains insufficient information to be useful.
- 6.2 It should be provided within seven days of receiving a file from the police, or learning the identity of the defence solicitors. The Branch's CPMs show that, in the quarter to 31 December 1997, it was sent within the target timescale in 73.9% of relevant cases, rising to 80.4% in the quarter to 31 March 1998. It was provided promptly in all except one of the 59 relevant cases that we examined.
- 6.3 Frequently, the information is requested by the defence well before the first hearing. We saw many examples when it was provided immediately. The Branch is assisted in this respect by the timely receipt of files from the police (see paragraph 5.7).
- 6.4 We were told that there had been delays in the provision of advance information (and in responding to correspondence) at the beginning of 1998. The BCP and senior Branch managers investigated the reasons for this, and they took prompt action to resolve the problem. We did not find any evidence that the problem still existed.
- 6.5 The BCP has recently re-issued guidance about the provision of advance information when the law does not require it. Prosecutors have a wide discretion in deciding whether to provide it, which they generally apply

appropriately. We were told that it is usually provided if it will expedite the proceedings, especially in youth cases.

### Custody time limits

6.6 Custody time limit provisions regulate the length of time during which an accused may be remanded in custody in the preliminary stages of a case. The Branch system to track custody time limit expiry dates appeared to be satisfactory. The courts have not had to release any defendants on bail for at least the last two years because the Branch's system failed. We were concerned, however, to find some mistakes in the operation of the system.

6.7 We examined ten files in which custody time limits applied. The expiry dates, which were clearly marked on the front of the file in each case, had been correctly calculated in eight. One file showed the expiry date as being a day late. The other concerned a defendant who had several cases before the court. Details of a crucial hearing at which the defendant had been remanded back into custody after a period on bail had not been properly recorded. This led to a miscalculation of the expiry date. The mistake was noticed and rectified, however, before the correct expiry date was reached.

6.8 Accurate and detailed file endorsements are essential if custody time limits are to be properly monitored. In respect of those defendants who have more than one file, it is essential that all relevant files are endorsed with details of all court appearances. Branch managers make only spot checks on the system and on the accuracy of the expiry dates. More frequent and comprehensive checks should ensure the accuracy of expiry dates and identify the source of misunderstandings by staff.

6.9 The custody time limit regulations provide that, in cases where the expiry date would otherwise fall on a weekend or Bank Holiday, the custody time limit will expire on the preceding working day. Branch staff calculate the expiry date by using the national ready reckoner. Although this takes account of weekends and Bank holidays, Branch staff accept that expiry dates are sometimes recorded which do not fall on working days. We found one example in the file sample of an expiry date that was recorded as falling on a Saturday. Other problems noted in the file sample included a case in which the custody time limit was recorded when the defendant was remanded in custody after he had pleaded guilty. Custody time limits do not apply at this stage of the proceedings.

**6.10 We recommend that the BCP should ensure that custody time limit procedures are properly followed, particularly in relation to the calculation of expiry dates.**

### Unused and sensitive material

6.11 Unused material is generally dealt with well in both the Crown Court and the magistrates' courts. Prosecutors completed the schedule of material to be disclosed in 53 of the 58 relevant cases (91.4%) that we examined. In two further cases, however, the schedule was sent to the defence solicitor, without it apparently having been checked. It was provided promptly in all 55 cases.

6.12 The police usually provide a schedule of sensitive material when required. Some prosecutors are concerned, however, that they are not always made fully aware of the position. Some occasionally have to ask the police to provide a schedule where it is obvious that one should have been prepared.



6.13 Branch staff told us that they receive only a few cases which contain sensitive material. We saw seven. In five, the schedule was completed correctly and the reviewing prosecutor dealt with the issues correctly. In the other two cases, there was no evidence that the schedule had been considered, before the defendant pleaded guilty.

6.14 Despite the fact that CPS Midlands has a system for the secure storage of sensitive material, the Branch does not have any clear arrangement for this. The material itself is kept by the police. Sometimes, however, notes about the material, or records of conferences about it, will themselves be sensitive. These notes sometimes remain on the files in envelopes. They should be removed from the file and stored securely.

**6.15 We recommend that the BCP should ensure that the Area system for the security of sensitive material, and records relating to it, is enforced.**

### Summary trial preparation

6.16 Most summary trials are prepared well. At first review, prosecutors consider which witnesses should be called to give evidence and which evidence is likely to be accepted by the defence. They serve some statements under section 9, Criminal Justice Act 1967 when they provide advance disclosure, so that these statements may be read at the trial. They also usually note any further action that will be required, if there is a trial.

6.17 On many files, we found that reviewing prosecutors carefully considered which witnesses needed to be called, often at initial review. They also chased the defence to agree statements, so that the witnesses need not attend court, and reassessed the position at later stages, in order to reduce still further the number of witnesses needed at trial.

6.18 We saw four cases where prosecutors used section 10, Criminal Justice Act 1967. Under this provision, the prosecution and the defence formally agree certain facts without calling evidence. For example, in one case, extensive evidence was agreed about the circumstances of an offence of deception, so that the court could concentrate on the issue of dishonesty. In another case, the evidence of an identification parade was greatly simplified by using formal admissions.

6.19 We were very pleased to note the effective way in which this often under-used provision was applied by Branch prosecutors. In appropriate cases, it assists the courts to concentrate on the real issues between the prosecution and the defence and avoids wasting time. We encourage all CPS Branches to follow the example of North Staffordshire and consider carefully all the available means to ensure that cases are presented concisely, yet fully, at trial.

6.20 The police also attach great importance to witness care. They have dedicated witness care units in each division. Only seven of the 75 cases that failed in the Crown Court in the twelve months to 31 March 1998 were lost because a witness failed to attend. The picture appears less encouraging in the magistrates' courts, however (see paragraph 5.12).

6.21 We did not find any evidence that prosecutors used section 23, Criminal Justice Act 1988, nor any case in which it would have been appropriate. This provision allows the prosecution, subject to certain conditions, to read the statement of a witness who is too frightened to attend court. It is possible that the police's witness care programme has reduced the need to try to use this procedure.

6.22 All the magistrates' and youth courts covered by the Branch, except Fenton Youth Court, hold pre-trial reviews. These hearings are designed to ensure that the prosecution and the defence are ready to proceed on the trial date. The prosecutors are well prepared for them. They are able to deal with issues raised and are willing to make decisions on cases, even when they are not the reviewing prosecutor. They are often assisted in this by comments noted on the file by the reviewing prosecutor.

## Committal preparation

6.23 Prosecutors prepare the committal bundle and the instructions to counsel in most cases. They indicate, at first review, whether the case is suitable for a caseworker to prepare, and the number of cases prepared by caseworkers is gradually increasing. Caseworkers on team A currently prepare about 40% of the team's committals. Some prosecutors are reluctant to re-allocate files to caseworkers, because they are responsible for their cases and consider that the system generates unnecessary duplication of work.

6.24 The police generally provide good quality committal papers in time. In the quarter to 31 December 1997, over 85% were provided on time, and only five out of 159 were insufficient for the case to proceed to committal.

6.25 This high standard helps the Branch to provide good committal bundles. The bundles were properly prepared in all 30 cases that we examined. They were served in time in 26 out of 30 cases (86.7%), although the Branch's CPM figures for March 1998 show that only 52.2% were served in time.

6.26 Section 49, Criminal Procedure and Investigations Act 1996 introduced a new procedure by which defendants can indicate their plea at an early stage in the magistrates' courts proceedings. If they indicate a guilty plea, they can be committed to the Crown Court for sentence. This has led to an increase in the number of cases that are committed to the Crown Court quickly. We were told that the Branch has responded well to discussions about the quality of the papers that are provided to the Crown Court for these hearings, although in some cases, the papers are sent late.

6.27 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.

6.28 Briefs were delivered to counsel promptly in 25 of the 26 cases where this could be ascertained. Instructions were satisfactory, however, in only 19 out of 28 cases (67.9%). Whilst 21 instructions contained a summary of the facts of the case, and many addressed the issues, the acceptability of potential pleas was not addressed in seven of the 15 cases where this was relevant. Prosecutors and caseworkers told us that this information was usually noted on the file. Counsel do not always have access to the file, and the view of the reviewing prosecutor should be given in the instructions. This is particularly important because briefs are often transferred at short notice to another counsel, who may take a different view of the case. Much time can be saved, especially at plea and direction hearings (PDHs), if the view of the reviewing prosecutor is clearly stated in the instructions.



6.29 We were pleased to note that CPS Midlands has developed a system of quality assurance, designed to improve the performance of all its Branches in preparing instructions to counsel. There is clearly room for further improvement in North Staffordshire's performance.

**6.30 We recommend that prosecutors should ensure that instructions to counsel contain a summary of the issues in the case, and comment on the acceptability of potential pleas, where this is relevant.**

### Quality of indictments

6.31 Branch prosecutors prepare nearly all the indictments. Representatives of other criminal justice agencies told us that they were generally well prepared and that few amendments were necessary. One representative told us that the counts were not always chronologically arranged. In some cases, this may be because the prosecutor followed the police charges; indeed, we saw an example of this.

6.32 We were also told that prosecutors occasionally did not include enough counts on the indictment to reflect the gravity of a case and to give the court sufficient sentencing powers. We saw two examples of this. In each, the prosecutor had drafted the indictment with one count of rape. After counsel's advice, further counts of rape were added to reflect a course of conduct rather than a single offence.

6.33 Branch prosecutors need to ensure that the indictment is drafted in a way which allows those in the Crown Court to understand the defendant's course of conduct, both chronologically and in terms of its gravity. Otherwise, there is scope for unnecessary confusion and delay. We have sufficient evidence to suggest that the BCP needs

to monitor the position; identify those cases in which the indictment does not adequately and logically reflect the defendant's course of conduct; and take appropriate steps to advise those who draft indictments about how to improve.

6.34 Despite the views of representatives of other criminal justice agencies, the number of indictments that we saw which needed to be amended gave us some concern. Amendments were made in 13 out of 30 cases (43.3%). In two cases, already mentioned, there were too few counts. In one case, alternative offences contrary to sections 18 and 20, Offences Against the Person Act 1861, were amended to allege wounding, rather than causing or inflicting grievous bodily harm. In five cases, alternative or different offences would have reflected the facts better than the offence originally charged. In one case, an offence of supplying heroin was added to an indictment which alleged possession with intent to supply. In a further three cases, there were minor cosmetic errors. In the thirteenth case, we could not ascertain what amendment had been made.

**6.35 We recommend that the BCP should monitor the reasons for amendments to indictments, with a view to reducing the number of amendments required.**

6.36 Indictments must be lodged with the Crown Court within 28 days of committal. We could see that they were lodged in time in 11 out of 30 cases (36.7%) that we examined. The date of lodging was not recorded in any of the other cases. If there is a dispute, it is important that the Branch is able to show when the indictment was lodged. The BCP has made arrangements to ensure that the file is correctly marked: he will wish to check that his instructions are carried out.

### The CPS in the Crown Court

- 6.37 Caseworkers always attend counsel at PDHs in the Crown Court at Stoke-on-Trent. They also cover sensitive or complex cases, and are normally in court for other trials until the end of the prosecution case. The Branch's more serious cases are dealt with at Stafford Crown Court. Some of these cases are covered by caseworkers from another Branch, but the Branch's own caseworkers attend when possible, if a case for which they are responsible is heard there.
- 6.38 Instructions from prosecutors are sometimes required when the circumstances of a case change at court. For example, a guilty plea may be offered to part of an indictment, or a witness may fail to attend court to give evidence. Prosecutors usually attend PDHs at Stoke-on-Trent Crown Court, when the Branch's cases are listed. We were told that there is normally a prosecutor available, either at court or in the office, who is familiar with the case.
- 6.39 Prosecutors attending the Crown Court are experienced lawyers. They make good, pragmatic decisions. Many caseworkers are also very experienced and are prepared to make some decisions without reference to a prosecutor, if the reviewing prosecutor's views are clear.
- 6.40 Prosecutors check cases before the PDH to try to ensure that outstanding work has been dealt with. Most cases are, therefore, ready for PDH.
- 6.41 A number of representatives from other criminal justice agencies told us that compliance with the directions made at PDH was generally good. Caseworkers at court deal immediately with straightforward actions. They return the case to the allocated caseworker, to carry out any more complex directions that need further

consideration. Caseworkers keep a note of action dates in their own diaries, and chase outstanding responses.

- 6.42 We examined 14 cases in which directions had been made. The directions were complied with promptly in 11 of them (78.6%). None of the failures to comply were the fault of the Branch. Caseworkers had taken appropriate steps to ensure compliance in all cases.

### File endorsements and file contents

- 6.43 The standard of file endorsements in court is good. In magistrates' courts cases, 48 out of 50 files that we examined were clearly and legibly endorsed with a comprehensive record of progress in court. In Crown Court files, endorsements of court hearings were equally good in 29 out of 30 cases.
- 6.44 In spite of this, administrative staff told us that the quality of endorsement on magistrates' courts files sometimes causes difficulty. Some handwriting is poor, and adjournment dates and performance indicator codes are occasionally omitted. A few prosecutors must become more aware of the difficulties that can be caused by poor endorsements, and take steps to improve their performance in this area.
- 6.45 Where there is an application for a remand in custody, prosecutors endorse the back flap of the file jacket with very full notes about the grounds for the application, and the defence arguments for bail. This is very helpful to the prosecutor at any later application.
- 6.46 Nearly all the files were tidy and in good order. This is particularly important in larger files, to enable documents to be located easily. We found all but one file easy to follow, even when there had been a trial, when papers are often removed and replaced.

6.47 Some important documents that are frequently needed are colour coded, so that they are easy to find. These include a blue sheet for the case summary, a yellow sheet for the initial review form and a pink sheet for instructions to counsel. We found this practice extremely helpful.

6.48 We encourage all Branches to consider the most effective way of ensuring that the key documents in a file can be identified readily. The simple use of colour coded paper, as in North Staffordshire, is one such way.

## PRESENTING CASES IN COURT

7.1 We observed seven prosecutors in the magistrates' courts and the youth court and when opposing an application for bail to a judge in chambers. The overall standard of advocacy is good; some is excellent.

7.2 The character of the courts covered by the Branch differs considerably. The lists at Fenton Magistrates' Court can be extremely heavy. Prosecutors are careful to adjust their style of advocacy, to ensure that their presentation suits the requirements of the magistrates whom they are addressing. We were impressed by the professional manner in which court hearings were conducted. Branch advocates contributed to this by their style of dress, their manner of presentation, their knowledge of etiquette, and by their relationship with defence solicitors.

7.3 All the prosecutors that we saw were well prepared and able to deal with any issues that arose in court. We were told that it was very rare for a case to be adjourned for consideration by the reviewing prosecutor: advocates were willing to make immediate decisions in court.

7.4 We were told that, generally, trials were dealt with satisfactorily. We saw two. In each, the prosecutor was well prepared and had carefully considered the clearest way to present the case, including the use of formal admissions. The prosecution witnesses were dealt with well and cross-examination was controlled and effective.

7.5 Branch prosecutors also deal with judge in chambers bail applications. We were told that they are well prepared and competent. Most representations are appropriate, and sensible decisions are made whether to oppose the applications.

7.6 Counsel from chambers in Birmingham represent the Branch in the Crown Court. Most cases are committed to the Crown Court at Stoke-on-Trent, which is on the edge of the Midland and Oxford circuit. This sometimes leads to difficulty in obtaining counsel of sufficient experience for the middle range of cases.

7.7 Counsel originally instructed did not attend court in a very high number of cases that we examined. Counsel returned the brief in 21 out of 30 PDHs (70%); 15 out of 21 trials (71.4%); and 19 out of 23 sentencing hearings (82.6%). Some of these returns occurred at the last minute. We accept that, in straightforward cases, where the defendant pleads guilty, counsel can deal with the case at short notice. There are, however, other cases, particularly those that are sensitive, where it is important that counsel who has been specifically selected conducts the case.

7.8 We saw five counsel at PDHs. None was originally instructed to attend. Three of the cases were straightforward adjournments. In the remaining two, counsel did not appear to be familiar with the facts and issues in the case.

They did not deal with procedural problems drawn to their attention by the judge, and could not respond fully to the judge's questions.

7.9 There is a CPS/Bar standard, which has been agreed nationally, by which returns are monitored by chambers as well as the Branch. The figures are collated at Area headquarters. These figures have not yet produced reliable results; the Branch figures differ from those provided by chambers. As a result, the BCP has not yet held any meetings with the heads of chambers.

7.10 Area headquarters also influences the range of chambers from which the Branch selects counsel. This may limit the ability of the BCP to secure improvements separately.

**7.11 We recommend that the BCP, together with representatives of Area headquarters, should seek to reduce the number of returned briefs.**

## THE BRANCH AND OTHER AGENCIES

8.1 The Branch has good working relationships with all the other criminal justice agencies. Representatives of the Branch regularly attend meetings with their counterparts in other agencies. We were told that they are helpful and constructive in their approach. The Branch has received public praise from the senior stipendiary magistrate at Fenton Magistrates' Court.

8.2 The relationships have helped to improve the performance of the local criminal justice system. For example, the commitment of Branch staff and the police to JPM principles has improved the quality and timeliness of the work of both agencies. In addition, Branch staff were involved in local youth justice planning with the Probation Service. They are

also very efficient in providing pre-sentence report packages which are required by the Probation Service, to assist its staff in writing pre-sentence reports on defendants. The packages were provided in all 56 relevant cases that we examined. Monitoring of delivery is no longer necessary because of the good quality of service by Branch staff.

## KEY STATISTICS

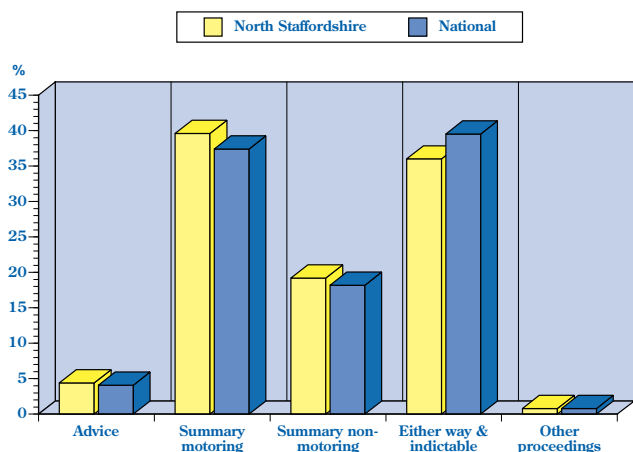
9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 30 June 1998.

## 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

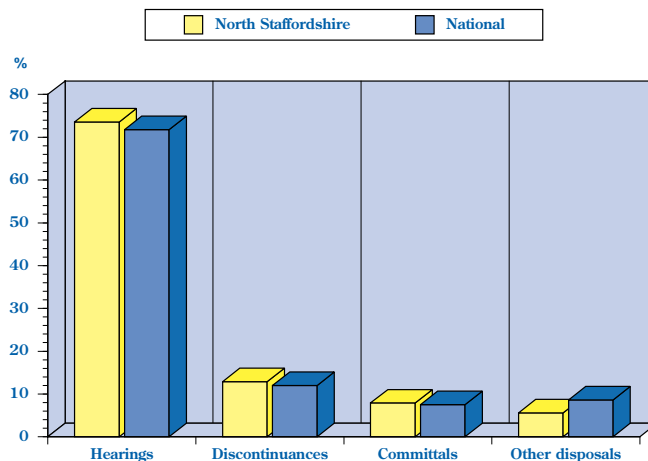
### 1 - Types of case



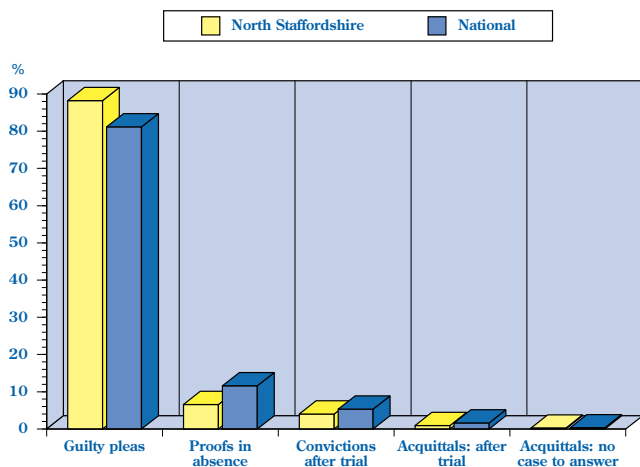
	North Staffordshire		National	
	No.	%	No.	%
Advice	668	4.4	57,687	4.1
Summary motoring	6,004	39.6	532,242	37.4
Summary non-motoring	2,914	19.2	259,538	18.2
Either way & indictable	5,470	36.0	562,574	39.5
Other proceedings	120	0.8	11,378	0.8
<b>Total</b>	<b>15,176</b>	<b>100</b>	<b>1,423,419</b>	<b>100</b>

### 2 - Completed cases

	North Staffordshire		National	
	No.	%	No.	%
Hearings	10,584	73.6	972,907	71.8
Discontinuances	1,856	12.9	163,059	12.0
Committals	1,139	7.9	101,373	7.5
Other disposals	809	5.6	117,033	8.6
<b>Total</b>	<b>14,388</b>	<b>100</b>	<b>1,354,372</b>	<b>100</b>



### 3 - Case results

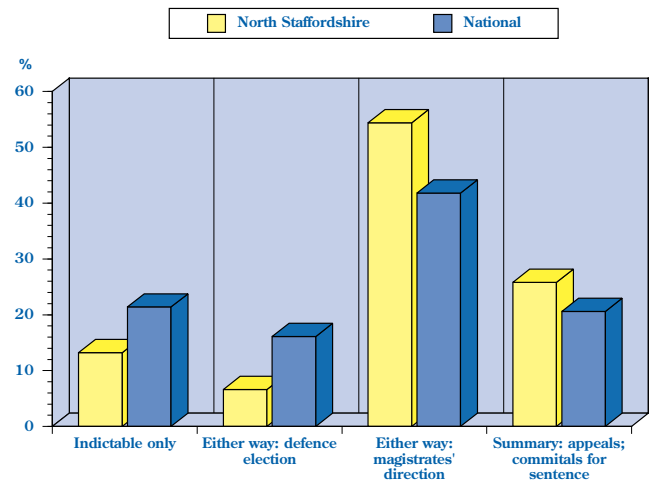


	North Staffordshire		National	
	No.	%	No.	%
Guilty pleas	9,355	88.2	793,895	81.2
Proofs in absence	703	6.6	113,299	11.6
Convictions after trial	425	4.0	52,025	5.3
Acquittals: after trial	98	0.9	15,595	1.6
Acquittals: no case to answer	21	0.2	2,557	0.3
<b>Total</b>	<b>10,602</b>	<b>100</b>	<b>977,371</b>	<b>100</b>

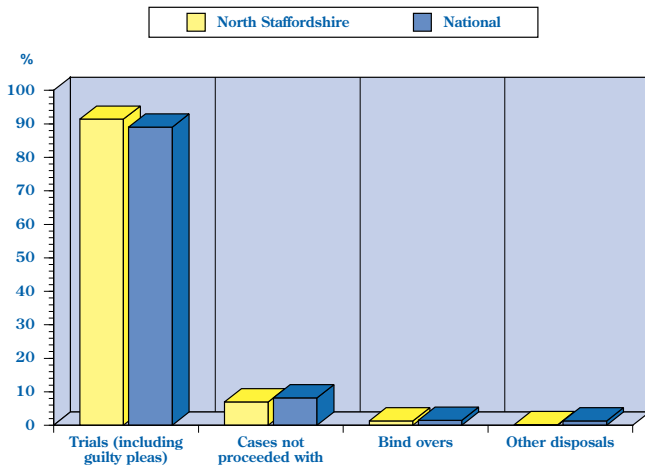
CROWN COURT

4 - Type of case

	North Staffordshire		National	
	No.	%	No.	%
Indictable only	160	13.2	27,450	21.4
Either way: defence election	80	6.6	20,677	16.1
Either way: magistrates' direction	659	54.4	53,634	41.8
Summary: appeals; committals for sentence	313	25.8	26,437	20.6
<b>Total</b>	<b>1,212</b>	<b>100</b>	<b>128,198</b>	<b>100</b>



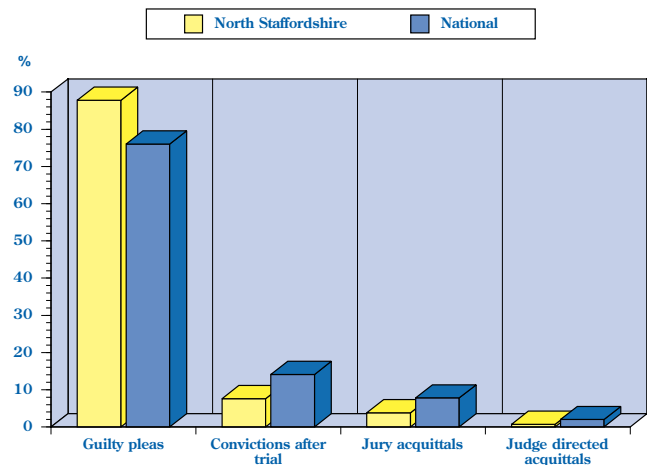
5 - Completed cases



	North Staffordshire		National	
	No.	%	No.	%
Trials (including guilty pleas)	822	91.4	90,596	89.0
Cases not proceeded with	63	7.0	8,359	8.2
Bind overs	12	1.3	1,519	1.5
Other disposals	2	0.2	1,307	1.3
<b>Total</b>	<b>899</b>	<b>100</b>	<b>101,781</b>	<b>100</b>

6 - Case Results

	North Staffordshire		National	
	No.	%	No.	%
Guilty pleas	735	87.8	70,380	76.0
Convictions after trial	64	7.6	13,094	14.1
Jury acquittals	32	3.8	7,184	7.8
Judge directed acquittals	6	0.7	1,891	2.0
<b>Total</b>	<b>837</b>	<b>100</b>	<b>92,549</b>	<b>100</b>



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

<b>Judge</b>	His Honour Judge Styler
<b>Magistrates' courts</b>	Mr P Richards, Senior Stipendiary Magistrate Mr J Finnemore, Justice of the Peace and Deputy Chair of Magistrates' Courts Committee, Staffordshire Mr P Wooliscroft, Justices' Chief Executive Mr M Benson, Clerk to the Justices, Newcastle-under-Lyme and Pirehill North, and Staffordshire Moorlands Divisions
<b>Police</b>	Superintendent G Thompson
<b>Defence solicitor</b>	Mr D Fletcher
<b>Counsel</b>	Mr E Coke
<b>Probation Service</b>	Mrs A Lawrence, Assistant Chief Probation Officer



## 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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