

THE INSPECTORATE'S REPORT
on
NORTH WALES BRANCH
of
CPS WALES

North Wales Branch



BRANCH OFFICE

◆ Colwyn Bay

SUB-BRANCH OFFICES

Bangor
Wrexham

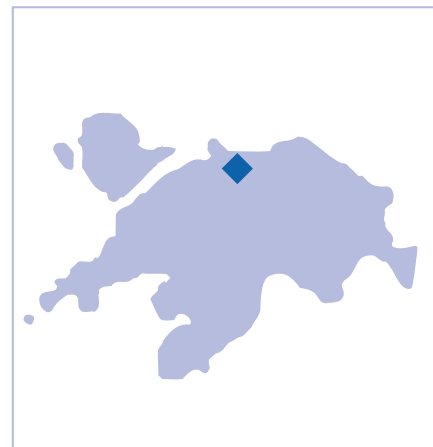
COURTS COVERED

Magistrates' Courts

Aberconwy (Llandudno)
Bangor
Berwyn (Corwen)
Caernarfon and Gwyrfai (Caernarfon)
Colwyn (Abergele)
Dyffryn Clwyd (Denbigh)
Eifionydd and Pwllheli (Pwllheli)
Flintshire (Flint and Mold)
Meirionnydd (Dolgellau)
Rhuddlan (Prestatyn)
Wrexham Maelor (Wrexham)
Ynys Môn/Anglesey (Holyhead and Llangefni)

Crown Court

Caernarfon
Mold



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REPORT ON THE INSPECTION OF THE CPS NORTH WALES 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 Wales Branch of CPS Wales.
- 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 North Wales Branch is in the CPS Wales Area and has its offices at Colwyn Bay, with sub-Branched at Bangor and Wrexham. On 20 July 1998, it employed 63.6 staff (the Branch Crown Prosecutor (BCP) and 28.1 other prosecutors; 1.6 caseworker managers and 23.2 other caseworkers; a Branch Office Manager; and 8.7 typists and other support staff).
- 1.5 The Branch comprises four teams. The Colwyn team (8.5 prosecutors and 8 caseworkers) is responsible for prosecutions in the magistrates' courts at Abergele, Denbigh, Llandudno and Prestatyn. The Bangor team (6.8 prosecutors and 5.6 caseworkers) is responsible for prosecutions in the magistrates' courts at Bangor, Caernarfon, Dolgellau, Pwllheli, Holyhead and Llangefni. The Flintshire team, which is based in Wrexham (5.6 prosecutors and 4.6 caseworkers), is responsible for prosecutions in the magistrates' courts at Flint and Mold. The Wrexham team (7.2 prosecutors and 5 caseworkers) is

responsible for prosecutions in the magistrates' courts at Corwen and Wrexham. 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 20 July and 31 July 1998. During this period, we observed 11 CPS advocates in the magistrates' courts at Abergele, Bangor, Llandudno, Mold, Prestatyn and Wrexham, and we saw a Branch prosecutor opposing applications for bail in the Crown Court at Mold. We also observed CPS caseworkers and prosecuting counsel in the Crown Court at Mold.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch was formed in April 1998 by the amalgamation of the former Eryri Branch with the Wrexham office of the former Marches Branch. There are three offices. The Bangor and Colwyn Bay offices each house one team; the Wrexham office houses two teams. The BCP manages the Branch from the Colwyn Bay and Wrexham offices.
- 2.2 Although Bangor is about 70 miles from Wrexham, communications by road are good and prosecutors at each location assist their colleagues at other offices from time to time. The Branch and individual offices are well managed. Prosecution Team Leaders (PTLs) are closely involved in local liaison with other criminal justice agencies.
- 2.3 Staff in each office are experienced. They have a professional attitude towards their work and enjoy the respect of local representatives of other criminal justice agencies. Effective communication between prosecutors and caseworkers ensures that cases are well managed. Most files that we examined contained

evidence of thorough review and consideration of the issues at all stages. Branch prosecutors present cases competently at court.

- 2.4 There are some aspects of performance, however, in which improvements can be made. To assist the Branch, we recommend that:
- i the BCP should introduce a system to ensure that a record of informal advice given to the police is attached to any subsequent prosecution file (paragraph 4.4);
 - ii the BCP should ensure that prosecutors identify as quickly as possible those cases which should be terminated, and that action is taken to discontinue them at the earliest opportunity (paragraph 5.17);
 - iii the BCP should ensure that prosecutors demonstrate independence of judgment in all casework decisions (paragraph 5.20);
 - iv the BCP should ensure that the evidential and public interest tests in the Code for Crown Prosecutors (the Code) are applied consistently by prosecutors when reviewing allegations of sexual offences (paragraph 5.30);
 - v the BCP should ensure that casework information is recorded accurately in the Performance Indicators (PIs), so that Branch managers have correct information to enable them to address casework issues (paragraph 5.40);
 - vi the BCP should ensure that prosecutors endorse all files with details of the evidential and public interest factors taken into account in the review decision and, in appropriate cases, considerations affecting mode of trial (paragraph 5.47);
 - vii the BCP should make available to all prosecutors and caseworkers the monthly analysis of Crown Court failed cases, so that appropriate casework lessons may be learned (paragraph 5.51);

- viii the BCP should take urgent steps to address concerns regarding the police obligation to reveal all relevant unused material, by discussing operational issues with the police and, where appropriate, by undertaking joint training initiatives (paragraph 6.9);
- ix the BCP should ensure that all staff are fully aware of their responsibilities regarding the custody time limits regulations and Branch custody time limits procedures, by providing appropriate training, which should also reinforce the national standard on related file endorsements (paragraph 6.19);
- x the BCP should take steps, in conjunction with other court users, to ensure that pre-trial reviews (PTRs) are effective, by establishing a consistent approach in which the issues at trial are fully explored by all parties (paragraph 6.28);
- xi the BCP should take steps to improve the quality of instructions to counsel, by:
 - ensuring that they contain an adequate summary of the allegations and issues in the case, including the acceptability of pleas; and
 - ensuring that they are checked before delivery to counsel (paragraph 6.36);
- xii the BCP should seek to improve the percentage of cases in which counsel originally instructed attends the PDH and trial (paragraph 7.3).

THE INSPECTION

- 3.1 In the year to 30 June 1998, the Branch dealt with 16,647 defendants in the magistrates' courts and 1,157 defendants in the Crown Court. In a further 1,026 cases, advice was given to the police before charge.

3.2 The inspection team examined a total of 221 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated the 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

Volume of requests for advice and telephone advice

- 4.1 In the year ending 30 June 1998, advice cases represented 5.8% of the Branch's caseload, compared with 4.1% nationally. The Branch's PIs show a sharp increase in the number of advice cases since the beginning of 1998, with the figures for the quarter ending 30 June 1998 being two thirds higher than the corresponding figures for the same quarter in 1997.
- 4.2 The most likely explanation for the increase is the recent adoption of a more accurate system for recording advice given by telephone. Prosecutors are now required to set out details of each telephone advice on a form which is filed in a register. Each month, a team caseworker counts the forms completed in that month and enters the figure in the PIs. The individual forms remain in the register.
- 4.3 The Branch relies upon the police to refer to the advice and name the prosecutor who provided it, when submitting any related prosecution file. It is then allocated to the same prosecutor. No use is made of the Branch copy of the advice. There are, however, occasions when the police do not refer to the prosecutor, and the file is allocated to a different prosecutor. We were told of at least

one instance where one prosecutor proposed discontinuing a case in which another had advised proceedings.

4.4 We recommend that the BCP should introduce a system to ensure that a record of informal advice given to the police is attached to any subsequent prosecution file.

Appropriateness of requests for advice

- 4.5 A service level agreement, setting out the types of case to be submitted for advice, was agreed between the North Wales Police and the Branch some time ago. The categories include:
- fatal road accidents;
 - cases of conspiracy or attempts to pervert the course of justice;
 - child abuse cases; and
 - cases involving other complex issues.
- 4.6 The police and Branch prosecutors feel that the guidelines have generally been effective in ensuring that only appropriate cases are submitted for advice, although we were told that some cases were forwarded in which the police could have taken the decision. We examined ten advice cases and felt that each one was appropriate for advice.

Quality and timeliness of advice

- 4.7 We agreed with the advice provided in each of the ten cases that we examined. The advice was typed, well set out and addressed the relevant points.
- 4.8 PTLs allocate advice cases to individual prosecutors who deal with the court area in which the alleged offences occurred. Allocation always takes account of the experience, any special expertise and the workload of the prosecutor concerned. Files involving fatal road accidents are submitted to

the BCP, who deals with some, but allocates others to prosecutors in the relevant team. The advice is returned through the BCP, who monitors its quality.

- 4.9 PTLs also monitor the quality of advice. Some check a sample of each prosecutor's cases. Others ensure that they see each advice file before it is returned to the police.
- 4.10 The police value the advice (including informal advice) given by Branch prosecutors. There is a procedure for resolving differences of opinion between the police and the Branch, but this is rarely, if ever, required.
- 4.11 Advice was provided within the CPS target timescale of 14 days in seven of the ten cases that we examined; indeed, in one case, it was provided the day after the file was submitted. Of the three remaining cases, advice was given two days late in one. In another, the two week delay was the result of the Branch awaiting further information from a third party, before a final decision could be made. In the third case, there was no apparent reason for the delay of one week.
- 4.12 PTLs set a target date for the return of the file to them by the allocated prosecutor, to ensure that the file is returned on time. One team also makes use of reports generated by SCOPE, the Branch's case tracking system.

Advice from counsel

- 4.13 It is rare for counsel to be asked for pre-charge advice. One recent example concerned an evidentially complex case in which a child died in a fire. In a few cases, counsel is asked for advice after a case has been committed for trial, although the PTL must authorise any request. We saw one example of counsel giving unsolicited advice which, in fact, resulted in further evidence being obtained. The PTL checks such advice and decides if it merits payment.

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 Cases are generally well managed and files contain evidence that issues are considered in some detail, both at initial review and at later stages. We inspected the quality of the review decision in 81 files, covering cases in the magistrates' courts and the Crown Court. We disagreed with the decision on the evidential test in the Code in four of them. Three cases involved sexual offences and are discussed later at paragraphs 5.25 – 5.30. The fourth case concerned an allegation of assault, in which the only independent evidence related to the end of the incident and supported the defendant's version of events. At the Crown Court, the jury took 20 minutes to acquit the defendant.
- 5.3 We agreed with the application of the public interest test in all 81 cases that we examined.

Timeliness of review

- 5.4 The police and Branch managers monitor the quality and timely submission of files through Joint Performance Management (JPM). In the quarter ending 31 March 1998, 63.7% of files, which were at least sufficient to proceed, were submitted by the police within agreed guidelines. There were, however, marked divisional differences.
- 5.5 Branch figures for the three months ending 30 June 1998 show that 77.2% of files were reviewed within seven days of receipt from the police. If the file is not reviewed before court, the prosecutor reviews it as part of court

preparation and prepares advance information for service in court. If a file is particularly complex, it may be adjourned for review, especially if the advocate is not the allocated prosecutor.

- 5.6 In recent months, schemes have been introduced in the Wrexham, Flint, Llangefni and Holyhead Magistrates' Courts, which are designed to ensure the early disposal of straightforward cases in which the defendant is likely to plead guilty. The police bail defendants who are charged with certain summary or either way offences to appear in court within five working days. The police provide the Branch with an abbreviated file, with a further copy of relevant papers to serve on the defence as advance information. The schemes are being monitored, and it is intended to introduce them in all courts in North Wales in due course. Early indications show some success. Seventy per cent of defendants in the Llangefni and Holyhead schemes pleaded guilty at the first hearing.

Discontinuance

- 5.7 The discontinuance rate for the year ending 30 June 1998 is slightly lower than the national average (11% against 12%), and has dropped steadily from 13% at the end of June 1997. We refer at paragraph 5.36 to apparent errors in the recording of PIs, which lead us to conclude that the rate is, in fact, even lower.
- 5.8 We examined 82 cases stopped by the prosecution in the magistrates' courts, to ascertain the reasons for termination, and to find out whether the police were consulted about, and agreed with, the decision. Thirty-two cases (39%) were formally discontinued; 27 (32.9%) were withdrawn at court; and no evidence was offered in 23 cases (28%). We were told that prosecutors give an explanation when proceedings are dropped in court.
- 5.9 Twenty-six cases were terminated because of insufficient evidence (31.7%). Twenty-five cases (30.5%) were dropped on public interest grounds. The prosecution was unable to proceed in 20 cases (24.4%); and seven (8.5%) were terminated because the relevant driving documents were produced. The reason for termination was unclear in the remaining four cases (4.9%).
- 5.10 In respect of the 26 cases terminated because of insufficient evidence, the deficiency related to identification evidence in five, and other evidence in 17. An essential legal element was missing in four cases.
- 5.11 Of the 25 cases terminated on public interest grounds, a nominal penalty was likely in nine, usually because the defendant was already serving a sentence of imprisonment. A caution was more appropriate in ten cases, and the defendant had been sentenced on other matters in two. The remaining cases related to the health of the defendant, or the fact that the loss or harm had been put right.
- 5.12 Sixteen of the 20 cases in which the prosecution was unable to proceed were dropped because witnesses refused or failed to give evidence. The majority of these were complaints of assault in domestic violence cases.
- 5.13 The police were consulted in 64 cases, so far as we could ascertain, and agreed with the decision to terminate in all of them. Initial objections to proposals to discontinue three cases were resolved after further discussions. Proceedings were dropped as a result of events at court in the remaining 18 cases. Although this does not allow any time for prior consultation, the prosecutor tries to consult the police by telephone, whenever possible.
- 5.14 We examined ten cases in more detail, to determine whether the Code tests had been correctly applied, and we agreed with the decision in nine. We were concerned with the decision in one case. A youth was charged with attempting to rape a very young girl. The defendant denied the allegation. The prosecutor

advised proceedings for attempted rape, but indicated that a plea of guilty to indecent assault would be acceptable, to avoid the necessity of the complainant having to give evidence in the Crown Court. The case was eventually discontinued, however, after the defendant had been cautioned - a procedure which requires an acknowledgment of guilt. The only record of events was contained in three small notes attached loosely within the file.

5.15 Although the situation is not clear, we have grave concerns about the defendant being cautioned for such a serious offence, and in the light of his original denial.

5.16 Five cases that we examined could have been terminated earlier. In the most extreme example, the case was discontinued when the defendant was cautioned four months after the initial proposal from the defence was made, and rejected. The prosecutor's view changed at some stage after the defendant had pleaded not guilty and a trial had been arranged. Two other cases were discontinued after the defendants had pleaded not guilty, although the reasons for termination were noted when the files were first submitted. In another case, the prosecutor proposed discontinuance at an early stage, but agreed to proceed after representations from the police. When the defendant elected to be tried in the Crown Court, a firmer line was taken, and the case was discontinued three months after the file was first reviewed.

5.17 We recommend that the BCP should ensure that prosecutors identify as quickly as possible those cases which should be terminated, and that action is taken to discontinue them at the earliest opportunity.

5.18 From our examination of all these terminated files, we have some concerns that prosecutors' decisions are not always independently made. In addition to the examples already given, we examined one case (outside the sample of

terminated cases) in which the prosecutor proposed discontinuance. The file contained a note which referred to the proposal and read: "If the police take a particularly strong view that we should continue then we will give it a run". In another case within the terminated sample, the police response to the proposed discontinuance led the prosecutor to wait to see if the defendant would plead guilty. After a not guilty plea, the police were consulted again by a more senior prosecutor, and the case was discontinued. A difficult response was clearly anticipated in another case. A note on the file indicated that a senior prosecutor would speak to the police, if they objected to the proposed action.

5.19 It is important that the police should be given an opportunity to comment on proposals to discontinue cases. It is equally important that prosecutors should exercise independence of judgment in carrying out their responsibilities under the Prosecution of Offences Act 1985. The examples referred to in the preceding paragraph are not typical of the general standard of decision-making represented by the files that we examined. They do, however, raise a concern that must be addressed.

5.20 We recommend that the BCP should ensure that prosecutors demonstrate independence of judgment in all casework decisions.

Selection of the appropriate charge and charging standards

5.21 The original police charges required amendment in 23 of the 81 cases (28.4%) that we examined. Six amendments were required to comply with a charging standard; five were amended because of minor cosmetic errors; the charges did not reflect the offending in a further five cases; and amendments in the remainder related to the

number or level of charges. Amendments were made at initial review in 17 cases.

- 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. Prosecutors applied the appropriate charging standard correctly in 30 out of 32 relevant cases (93.8%) that we examined. One of the two exceptions related to a charge of assault occasioning actual bodily harm, when common assault was the appropriate charge. In the other case, the prosecutor substituted a charge of wounding for the original charge of wounding with intent to cause grievous bodily harm. In our view, there was sufficient evidence to show intent to cause serious injury.
- 5.23 Representatives of other criminal justice agencies considered that some serious assaults were not appropriately charged. They felt that there was too great an adherence to the nature of the injury, and that possible aggravating factors, such as kicking someone on the ground, were often ignored. Courts, nevertheless, felt able to reflect the circumstances of the offending when sentencing.
- 5.24 We were also told of some apparent inconsistencies in charging, and of confusion caused by a practice of proceeding on both assaults and Public Order Act offences arising out of the same circumstances. We saw an example of this in court. The prosecutor withdrew a charge of affray which covered the same facts as two charges of assault, to which the defendant pleaded guilty. Such cases, however, do not now occur in significant numbers.

Cases involving sexual offences

- 5.25 Representatives of other criminal justice agencies expressed concern that some sexual offences were prosecuted when the evidence was

insufficient. Three of the cases in which we disagreed with the decision on evidential grounds (paragraph 5.2) related to allegations of sexual offences and raised similar issues.

- 5.26 In each case, the evidence against the accused was weak, either because witnesses gave conflicting accounts of what had occurred, or because the complainant gave contradictory versions of events. In one case, the police acknowledged, from the outset, that there was insufficient evidence to proceed. In two cases, counsel advised that there was not a realistic prospect of conviction, and, indeed, in one, the Branch prosecutor agreed, stating that although “this (was) not the strongest of cases and the jury might well acquit...the matter should be allowed to go to the jury”.
- 5.27 Despite these views, in each case a Branch prosecutor decided that the case should continue to trial.
- 5.28 We recognise the sensitivity of cases of this nature. They often present difficult and complex evidential issues. We also recognise the public interest in the prosecution of defendants for such offences. However, the public interest must be considered only after the prosecutor has decided that there is sufficient evidence to offer a realistic prospect of conviction. Otherwise the expectations of victims are inappropriately raised and the defendant is subjected to months of uncertainty. Such cases also delay other cases.
- 5.29 In each of the cases that we have discussed, there was insufficient evidence to proceed; and in each case, the jury acquitted the defendant. These cases should not have been allowed to go to trial. Whilst recognising the sensitivity of sexual cases, Branch prosecutors should nonetheless always apply the tests set out in the Code in their right order.

5.30 We recommend that the BCP should ensure that the evidential and public interest tests in the Code for Crown Prosecutors are applied consistently by prosecutors when reviewing allegations of sexual offences.

Judge ordered and judge directed acquittals

5.31 In the 12 months to 30 June 1998, 37 cases were not proceeded with in the Crown Court. This represents 4% of the Branch's caseload, which is less than half the national average of 8.2%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).

5.32 We examined five such cases. We disagreed with the decision to proceed in one. The defendant was one of two charged with burglary. The only evidence against the defendant came from an accomplice, whose account was not corroborated.

5.33 During the same 12 month period, there were 11 cases in which the judge directed an acquittal after the trial had started. This represents 1.2% of the Branch's caseload, just over half the national average of 2%. We examined two judge directed acquittals. The decision to proceed in each was correct, and the circumstances leading to the acquittal were unforeseeable.

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

5.34 In the year ending 30 June 1998, the Branch recorded 23 trials dismissed at the end of the prosecution case in the magistrates' courts. This is less than the national average (0.2% compared with 0.3%). We asked to examine six cases which had been concluded within the period of our file examination. Branch staff could not locate the files, however. Indeed, there was some uncertainty about the identity of the relevant

files. It is not clear whether this was due to an error in recording case results in the PIs, (which we deal with at paragraphs 5.36 – 5.40), or some other reason. It is, nevertheless, a matter which the BCP will want to investigate.

5.35 In the same year, six committals were discharged at the end of the prosecution case, although none of these occurred within the period of our file examination.

Performance indicators

5.36 The sample of files which we received from the Branch indicated some errors in the way in which PIs were recorded. The Branch PIs showed that proceedings against 113 defendants had been dropped in the magistrates' courts in May 1998. We requested all the cases and received 96 files representing 100 defendants. Fourteen files had been incorrectly categorised. The defendant had agreed to be bound over to keep the peace in five cases; he could not be found in six; and in two, he had pleaded guilty, although some minor alternative offences had been withdrawn.

5.37 The PIs for the relevant months from which our sample was drawn showed four judge ordered acquittals. We received five files, two of which were incorrectly categorised. One was a judge directed acquittal. In the other case, the prosecution was dropped when the defendant agreed to be bound over to keep the peace.

5.38 In the same months, the Branch's PIs showed that the judge directed the acquittal of three defendants. Five files were forwarded, of which three were judge ordered acquittals and one had resulted in the defendant being bound over.

5.39 Branch managers rely on PIs to provide information which enables them to address casework issues internally, and for discussion with other criminal justice agencies, particularly as part of JPM. It is essential, therefore, that the PIs are accurate.

5.40 We recommend that the BCP should ensure that casework information is recorded accurately in the PIs, so that Branch managers have correct information to enable them to address casework issues.

Mode of trial

5.41 We agreed with the prosecutor's recommendation about whether the case should be dealt with in the magistrates' court or at the Crown Court in 43 out of 44 relevant cases that we examined. The exception related to a case of dangerous driving, in which the prosecutor described the decision on mode of trial as "borderline". Prosecutors need always to indicate their view on mode of trial, even when the decision is likely to be finely balanced.

Bail

5.42 Representatives of other criminal justice agencies told us that prosecutors usually make appropriate decisions whether to seek to remand a defendant in custody or on bail, although some applications were less robust than the circumstances justified.

5.43 We were told that decisions were made independently and did not always accord with police representations. If the prosecutor takes a different view from the police about the appropriate application to be made, attempts are made to discuss the case with the investigating officer before a final decision is made.

5.44 The appropriate decision whether to oppose bail was taken in all 13 relevant cases that we examined.

Review endorsements

5.45 Details of initial review are recorded on a correspondence folder which is attached to the inside of the file jacket. The form allows the prosecutor reviewing the file to set out the factors taken into account in the review decision; to

indicate the relevant considerations which determine mode of trial; and to discuss any case issues in greater detail, although this latter aspect may be left to a later trial review. The folder also contains spaces for instructions for advance information and the pre-sentence report package for the Probation Service. Although this is not a nationally approved form, it is easy to follow and enables key information to be found quickly.

5.46 Most files that we examined contained an endorsement which showed that the case had been considered. Some examples were unhelpful, however, indicating simply that the evidence was sufficient and that a prosecution was in the public interest. The prosecutor had endorsed the evidential issues in 66 of the 81 cases that we examined (81.5%). Public interest factors were noted in 67 cases (82.7%). Although mode of trial decisions were generally correct, we were concerned that the relevant considerations were noted in only 31 of the 44 relevant cases (70.5%). This was despite being told by prosecutors that they valued this indication of the reviewer's thoughts on where the case should be tried.

5.47 We recommend that the BCP should ensure that prosecutors endorse all files with details of the evidential and public interest factors taken into account in the review decision and, in appropriate cases, considerations affecting mode of trial.

Learning from experience

5.48 Prosecutors prepare reports for all failed cases in the magistrates' courts. Caseworkers prepare similar reports in respect of Crown Court cases. The reports, which contain details of the factors which contributed to the failure, are seen first by the reviewing prosecutor, and then by the PTL. Both add any relevant comments about the way in which the case was handled.

5.49 Any issues of particular significance, including those from successful cases, are discussed in team meetings and in Branch Management Team meetings. Prosecutors and caseworkers were content that they were informed of appropriate casework lessons. They also told us that most cases are discussed informally within the relevant office.

5.50 Crown Court case reports are forwarded to the BCP. Each month, the BCP or designated PTL prepares an analysis of Crown Court failed cases. This is distributed to all PTLs and sent to the police for discussion at JPM meetings. The document is not more generally circulated within the Branch, however, although one PTL makes a copy available to members of the team. The monthly analysis provides a useful means of learning appropriate casework lessons and should be more widely distributed.

5.51 We recommend that the BCP should make available to all prosecutors and caseworkers the monthly analysis of Crown Court failed cases, so that appropriate casework lessons may be learned.

PREPARING CASES

Advance information

- 6.1 Advance information was provided promptly in 53 out of 56 relevant cases.
- 6.2 Instructions for the preparation of advance information are recorded on the correspondence folder at initial review. Caseworkers prepare the disclosure package, which is served on the defence, if a request has been received. Otherwise, it remains on the file until requested, or until the first court appearance.
- 6.3 The Branch has recently revised its policy towards providing advance information in summary cases, where the law does not require disclosure, to ensure a more consistent approach.

Disclosure should be provided if:

- the offence is imprisonable;
- there are complex issues of fact or law;
- the defendant is vulnerable; or
- disclosure will assist in trial preparation, by clarifying issues, or may result in a change of plea.

6.4 There is a perception in the Branch and amongst some other criminal justice agencies that voluntary disclosure will be provided less frequently. The policy, however, allows prosecutors the discretion to disclose, and we were told that some form of disclosure will continue to be provided, in order to assist the progress of individual cases.

Unused and sensitive material

- 6.5 All prosecutors and caseworkers are aware of their responsibilities to disclose unused material in accordance with the provisions of the Criminal Procedure and Investigations Act 1996. Initial training, undertaken jointly with the police, has been supplemented for Branch staff by recent seminars, informed by experience of the practical application of the Act.
- 6.6 We found that prosecutors complied with their obligations to disclose unused material promptly in 55 out of 56 relevant cases. The one exception related to a trial in a magistrates' court, but, generally we do not have any concerns in this area.
- 6.7 We examined five cases which involved sensitive material. The correct procedures were followed in four. In the fifth case, the schedule of sensitive material was not completed by the prosecutor, and there was no other indication that it had been considered. In all other respects, however, we were satisfied that sensitive material was dealt with properly; any material retained within the office is kept securely.

6.8 However, Branch prosecutors and representatives of other criminal justice agencies told us that they were not confident that all relevant material was revealed by the police in every case. We were told of cases in which further enquiry had to be made of the police, because the circumstances suggested that specific material had not been revealed. The police themselves expressed the same concerns and referred to problems with internal procedures and the training of officers. Branch managers and the police have discussed this matter in the past, but the concerns persist. They recognise the issue as an important one which needs to be resolved as soon as possible.

6.9 We recommend that the BCP should take urgent steps to address concerns regarding the police obligation to reveal all relevant unused material, by discussing operational issues with the police and, where appropriate, by undertaking joint training initiatives.

Custody time limits

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

6.11 Custody time limits are monitored manually. Two offices use a diary system and the third uses a log sheet. There were differences in the means used to calculate expiry dates. Two offices used a nationally issued ready reckoner, while the other used a calendar.

6.12 Although the expiry dates were correctly calculated and clearly displayed on the front of the file in all ten cases that we examined, there

were errors in the application of the monitoring system. The review date was noted on the file in only one magistrates' court and two Crown Court cases. In addition, the details of one case were not recorded in the monitoring system and, in three further cases, where an extension to the custody time limit had been granted, we did not find any record of the new date there. In a fourth case, the prosecutor had not endorsed the new expiry date on the file. We also noted an error in a case outside our sample. The custody time limit had been wrongly recalculated, after the defendant had spent some time on bail.

6.13 We examined two cases in which a new charge had been put to the defendant. Each charge attracts a separate custody time limit. In one case, the new charge had not been given a separate expiry date. In the other case, although a separate time limit had been recorded for the new charge, Branch staff had allowed the custody time limit to expire on the earlier charge, apparently relying on the time limit on the later charge to keep the defendant in custody. The practice has inherent risks.

6.14 The custody time limit for either way and indictable offences in the magistrates' courts is 70 days. If the defendant consents to summary trial in respect of an either way offence and pleads not guilty before 56 days has expired, the appropriate time limit is 56 days. An extension must be sought for an adjournment beyond that time. If, however, 56 days has already elapsed before mode of trial is determined, the custody time limit remains at 70 days.

6.15 In two cases that we examined, applications were made to extend the custody time limit to 70 days before mode of trial was decided. The question of venue was not addressed until after the 56 days had passed. Notices of application to extend a custody time limit are drafted and served automatically by the caseworker responsible for monitoring review dates. The prosecutor should

consider, however, whether it is necessary to make an application in individual cases. One application was, in fact, initiated by the prosecutor in court.

- 6.16 In one Crown Court case, an application had been made to extend a custody time limit to a date which was six weeks before the actual expiry date. There was no explanation on the file why the application had been made.
- 6.17 We saw three files in which the prosecutor had applied to extend the expiry date to the day after the following court appearance. Although this is not incorrect, we are concerned that this was done because there was uncertainty about whether the custody time limit expired at the beginning or end of the expiry day.
- 6.18 In the 12 months to 30 June 1998, the courts have had to release only one defendant because a custody time limit expired, without the prosecution applying for an extension. The necessary notice of intention to apply had been served in time, but the prosecutor at court simply omitted to make the application. This may have been an isolated error, but we remain concerned about the lack of understanding of custody time limit rules and procedures described in the preceding paragraphs. These aspects require urgent consideration.
- 6.19 We recommend that the BCP should ensure that all staff are fully aware of their responsibilities regarding the custody time limits regulations and Branch custody time limits procedures, by providing appropriate training, which should also reinforce the national standard on related file endorsements.**

Summary trial preparation

- 6.20 Trials in the magistrates' courts are prepared well. Prompt action was taken to warn witnesses in all 30 cases that we examined.
- 6.21 Section 9, Criminal Justice Act 1967 allows statements of witnesses to be read in court without their attendance, if a copy of the statement is served on the defence in advance, and if the evidence is not challenged. The appropriate statements were served promptly in all 25 relevant trials.
- 6.22 We were told that prosecutors could make greater use of section 10, Criminal Justice Act 1967, which allows the prosecution and defence to agree certain facts without calling evidence. Although the provisions were sometimes used, the issue usually occurred on the day of trial, when the initiative could have been taken earlier. We did not observe any obvious examples of failure to use the provisions, but Branch managers will want to ensure that their use is considered in all appropriate cases.
- 6.23 Prosecutors are aware of the provisions of section 23, Criminal Justice Act 1988 which, subject to certain conditions, allows the prosecution to read the statement of a witness who is too frightened or too ill to attend court. Prosecutors told us, however, that there were few opportunities to use the provisions.
- 6.24 Prosecutors prepare trials using a "Trial Instructions Form". It contains details of the witnesses to be warned to attend court and those whose statements can be served in accordance with section 9. There is also a section for instructions on unused material and space for discussion of the issues in the case. The examples that we saw provided evidence of thorough review. Most were accompanied by a letter to the police dealing with any outstanding matters.
- 6.25 PTRs are invariably held for summary trials. Some PTLs deal with PTRs themselves as a means of monitoring the quality of review and trial preparation. The format of the PTRs differs and there were concerns that some were not

effective. Some amount simply to an opportunity to fix a trial date, whereas others explore the case issues in detail.

6.26 The North Wales Magistrates' Courts Committee has recently conducted a survey into the reasons for collapsed trials, because of its concern that the rate of such cases in North Wales was higher than the national average. The survey cast doubt on the effectiveness of some PTRs. It confirmed, however, as we had been told, that the more successful ones are those in which the proceedings take the form of an inquiry by the clerk into the issues at trial. We observed some examples of these. They were dealt with efficiently, each party contributing to the discussion of the issues. We were impressed by the depth of the survey, which has resulted in a drop from 59% to 50% of all trials that collapsed.

6.27 The survey also recognised the key role of the CPS in the conduct of PTRs and suggested discussions between the courts and the Branch to improve matters. This is clearly desirable, but we suggest that any discussions must involve all court users.

6.28 We recommend that the BCP should take steps, in conjunction with other court users, to ensure that PTRs are effective, by establishing a consistent approach in which the issues at trial are fully explored by all parties.

Committal preparation

6.29 The majority of committals are prepared by caseworkers. The Branch has set a target of 100% caseworker committal preparation, but urgent committals may be dealt with by a prosecutor, if the assigned caseworker is in court. The committal preparation form is checked by the prosecutor, who may, in some instances, draft the case summary and indictment.

6.30 We examined 31 committals. The witnesses and exhibits had been correctly identified in each case.

6.31 Although papers are usually served some days in advance of the committal hearing, some are served late, even on the day of the hearing, causing the case to be adjourned. Branch figures for the three months ending 30 June 1998 show that papers were served within the CPS target timescales in 57.1% of cases. They were served promptly in 25 of the 31 cases (80.6%) that we examined.

6.32 The timely service of committal papers can be affected by the timeliness and quality of police files. JPM figures for January to March 1998 show that only 41.1% of committal files were received from the police within agreed timescales, and were also fully satisfactory or sufficient to proceed.

6.33 Committals are prepared using the CPS Crown Court Case Preparation Package. This produces a series of standard paragraphs, with freetext options for instructions to counsel. We were told that Branch staff made little use of freetext to provide information about the circumstances in individual cases.

6.34 The quality of instructions to counsel could be improved, although we observed some good examples, with well prepared case summaries which included a full discussion of the issues. Nevertheless, we considered that the standard of instructions in 13 of the 31 cases that we examined was less than acceptable. Only 21 contained a case summary and some of those were unhelpful. Appropriate instructions about the acceptability of pleas were given in only four of the ten relevant cases. We were told that prosecutors often set out their thoughts on acceptable pleas when reviewing cases. These were not always transferred to counsel's instructions.

6.35 Prosecutors are responsible for checking instructions, once they have been typed. In addition, a sample of instructions prepared by each prosecutor and caseworker is monitored formally for quality by the BCP, PTLs and senior caseworker. We noted some examples, however, of instructions which contained many obvious typing errors which checking should have corrected. One set of instructions referred to admissions made by a defendant who had, in fact, remained silent when interviewed.

6.36 We recommend that the BCP should take steps to improve the quality of instructions to counsel, by:

- **ensuring that they contain an adequate summary of the allegations and issues in the case, including the acceptability of pleas; and**
- **ensuring that they are checked before delivery to counsel.**

Quality of indictments

6.37 Indictments are drafted by the caseworker or prosecutor who prepares the committal. In complex cases, caseworkers ask the prosecutors to draft the indictments. Representatives of other criminal justice agencies did not have any serious concerns about the quality of indictments, although some required amendment to correct minor errors.

6.38 The indictment was amended in seven of the 31 cases that we examined. In only one instance was this the result of poor case preparation. A count of rape was amended to allege an attempt, because evidence that penetration had occurred was inconclusive. The prosecutor had commented upon this at initial review, but no action had been taken.

6.39 Although no one expressed any concerns about the timeliness of lodging indictments with the Crown Court, we were unable to tell in 17 of the

cases that we examined when the indictment had been lodged. The file jacket usually noted the last date for lodging the indictment, but rarely recorded when it was, in fact, lodged with the court. The BCP will want to remind his staff that a record should always be kept on the file, identifying when the indictment was lodged.

The CPS in the Crown Court

6.40 Branch cases are committed to the Crown Court sitting at Caernarfon or at Mold. One caseworker covers the two courtrooms at Mold. Only one court sits at Caernarfon. Some cases are transferred for hearing at Chester. In these circumstances, a Branch caseworker may attend, if the case is especially serious or complex. Otherwise, cases will be covered by caseworkers from the local Branch.

6.41 Plea and Directions Hearings (PDHs) are dealt with at Caernarfon and at Mold. They are attended by a senior Branch prosecutor as well as a caseworker. The prosecutor deals with issues which arise in individual cases, including making decisions on offers of pleas. This practice was commented upon favourably by representatives of other criminal justice agencies, because it enables cases to progress more expeditiously. Branch Prosecutors welcomed the increased contact with counsel and judges.

6.42 We were told that cases were usually trial ready at the PDH. Each file has a checklist attached. The reviewing prosecutor is responsible for checking the file seven days before PDH, to ensure that all necessary work has been completed.

6.43 We were told that directions given at PDHs were usually complied with promptly. If there were any delays, there was usually good reason and the court was notified in good time. We examined 15 cases in which specific directions were given at PDH. They were complied with promptly in all cases.

6.44 Prosecutors continue to be involved with their cases after committal. Caseworkers deal with day-to-day case management, but prosecutors deal with correspondence and make decisions on further evidence. Whenever commitments allow, arrangements are made for prosecutors to attend the Crown Court at significant stages of their more serious cases, if their attendance will assist case progress. Although the geography of the Branch means that prosecutors in some offices are more easily able to attend the Crown Court in these circumstances (and to attend PDHs), efforts are being made to ensure that the opportunity is available to all prosecutors.

6.45 We support the BCP's efforts in his attempts to involve his prosecutors more in Crown Court work. Better awareness of what happens in the Crown Court should have a beneficial effect on the quality of decision-making in all cases.

File endorsements

6.46 Court endorsements in magistrates' courts files were clearly and legibly recorded and showed a comprehensive record of case progress in 74 of the 81 cases that we examined. All 31 Crown Court files complied with the CPS standard on file endorsements.

6.47 In our experience, these figures are very good. Good quality endorsements allow subsequent readers of the file to find out exactly what has happened in a case, in order to follow its progress.

6.48 Most files were generally maintained in proper order, although we had some difficulty in locating documents in some of the more complex cases. Correspondence in magistrates' courts cases was conveniently located within the correspondence folder. A similar system was adopted in respect of Crown Court correspondence.

PRESENTING CASES IN COURT

7.1 Representatives of other criminal justice agencies agreed that the overall standard of advocacy was good. Cases were generally presented competently and professionally by advocates who had a good knowledge of the facts. We were told that advocates were confident and showed commitment. Advocates were described as good but fair in cross-examination. Our observations in court confirmed this view. Branch advocates also dealt with bail applications at the Crown Court professionally and were well prepared. The standard of advocacy of all prosecutors is monitored formally twice a year.

7.2 There were some concerns expressed within the Branch and by representatives of other criminal justice agencies that it was not always possible to instruct counsel of sufficient experience in certain cases. The Branch instructs counsel from chambers in Chester. Recent judicial appointments and appointments of senior barristers as Queen's Counsel have restricted the numbers of experienced counsel for the more serious cases. We were also told that many counsel were not prepared to travel from Chester to Caernarfon to deal, for example, with one PDH. This increased the incidence of late changes of counsel in some cases. Counsel originally instructed attended the PDH in only 11 of the 28 Crown Court cases (39.3%) that we examined. Original counsel attended the trial in nine out of 19 appropriate cases (47.4%). None of the six PDHs that we saw at the Crown Court at Mold was dealt with by counsel originally instructed in the case. We acknowledge the restraints imposed by the availability of local counsel, but this is an issue which requires attention.

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

7.4 The Branch does not have any formal system for monitoring counsel. Caseworkers and prosecutors attending the Crown Court monitor counsel informally and discuss performance within the office.

8.4 Although the Branch has no formal liaison with the Crown Court Witness Service, outside wider criminal justice agency groups, procedures have recently been implemented to improve the supply of witness information to local volunteers.

THE BRANCH AND OTHER AGENCIES

8.1 Relationships with other agencies in the criminal justice system are professional, constructive and friendly. The BCP attends a number of formal liaison groups, comprising senior representatives of other agencies, which discuss a range of issues. PTLs attend magistrates' courts user group meetings and are involved in liaison with the police at divisional level. They also attend other liaison groups dealing with specific issues, such as child abuse.

8.2 A measure of the effectiveness of liaison is the number of service level agreements concluded with other criminal justice agencies to address aspects of joint performance. Reference has already been made, at paragraph 4.5, to the agreement with the police on advice cases and, at paragraph 5.6, to the expedited file schemes at Wrexham, Flint, Llangefni and Holyhead, which are also managed in accordance with a service level agreement. The Branch is also in the process of concluding an agreement with the North Wales Probation Service which will address the provision of information for pre-sentence reports and the supply of reports to the CPS, as well as joint responsibilities in respect of proceedings for breaches of probation orders.

8.3 We are pleased to note the extent to which the Branch managers play a full and active role in the development of more efficient procedures with the relevant agencies. These should allow cases to progress more smoothly and more quickly to the benefit of all.

KEY STATISTICS

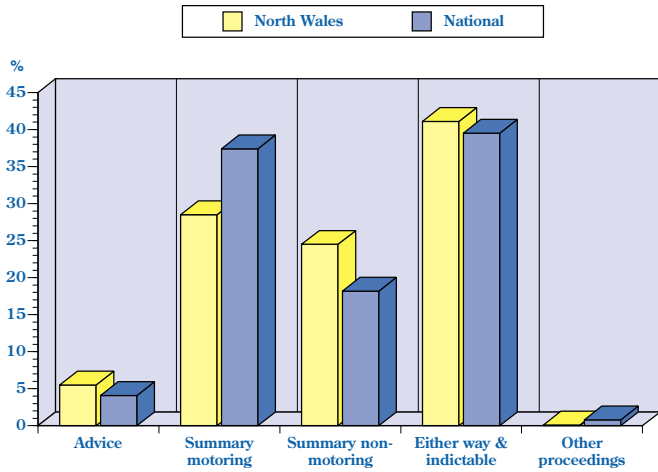
9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 30 June 1998.

EXTERNAL CONSULTATION

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

MAGISTRATES' COURTS

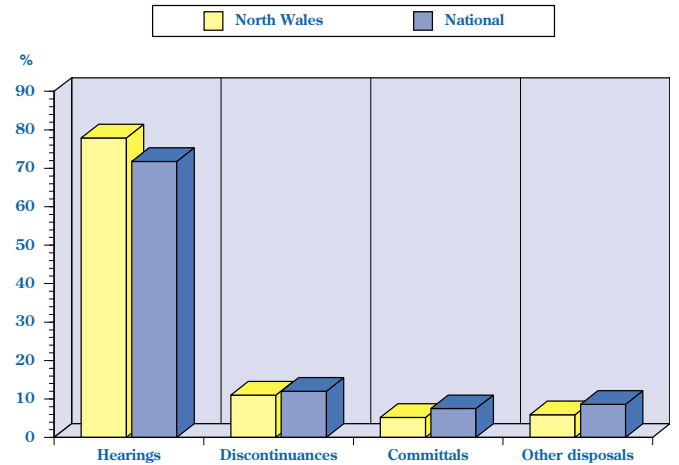
1 - Types of case



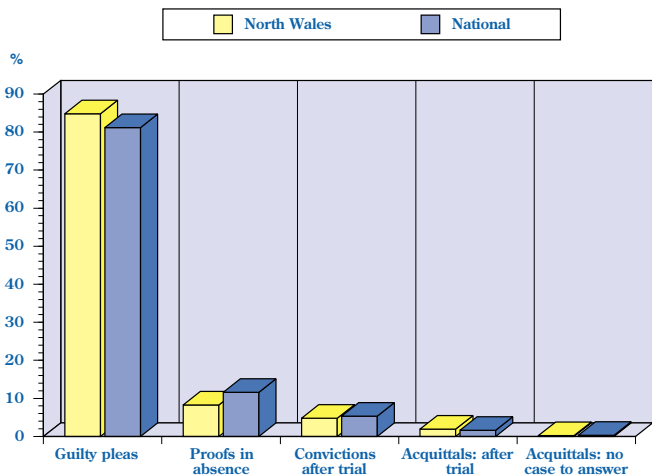
	North Wales		National	
	No.	%	No.	%
Advice	1,026	5.5	57,687	4.1
Summary motoring	5,035	28.5	532,242	37.4
Summary non-motoring	4,331	24.5	259,538	18.2
Either way & indictable	7,272	41.1	562,574	39.5
Other proceedings	9	0.1	11,378	0.8
Total	17,673	100	1,423,419	100

2 - Completed cases

	North Wales		National	
	No.	%	No.	%
Hearings	12,968	77.9	972,907	71.8
Discontinuances	1,822	11.0	163,059	12.0
Committals	864	5.2	101,373	7.5
Other disposals	984	5.9	117,033	8.6
Total	16,638	100	1,354,372	100



3 - Case results

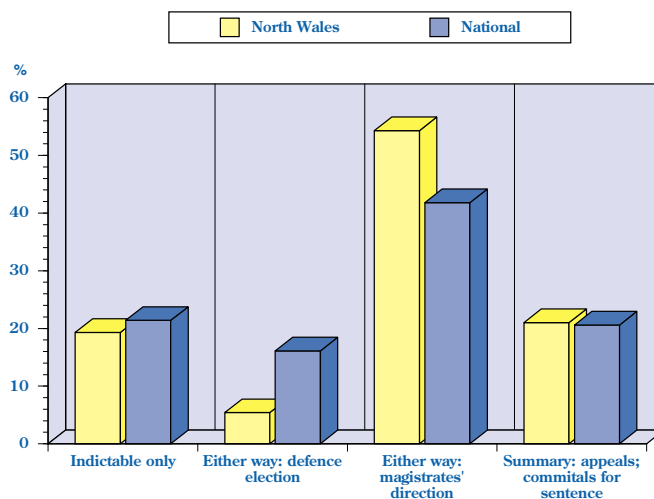


	North Wales		National	
	No.	%	No.	%
Guilty pleas	11,034	84.8	793,895	81.2
Proofs in absence	1,074	8.3	113,299	11.6
Convictions after trial	628	4.8	52,025	5.3
Acquittals: after trial	249	1.9	15,595	1.6
Acquittals: no case to answer	23	0.2	2,557	0.3
Total	13,008	100	977,371	100

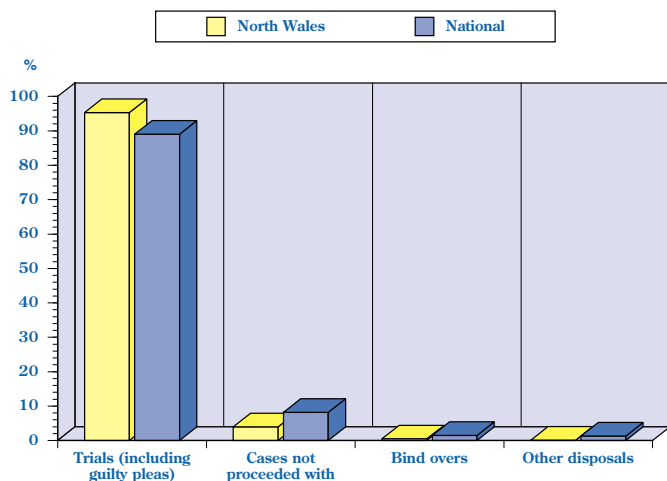
CROWN COURT

4 - Types of case

	North Wales		National	
	No.	%	No.	%
Indictable only	223	19.3	27,450	21.4
Either way: defence election	63	5.4	20,677	16.1
Either way: magistrates' direction	628	54.3	53,634	41.8
Summary: appeals; committals for sentence	243	21.0	26,437	20.6
Total	1,157	100	128,198	100



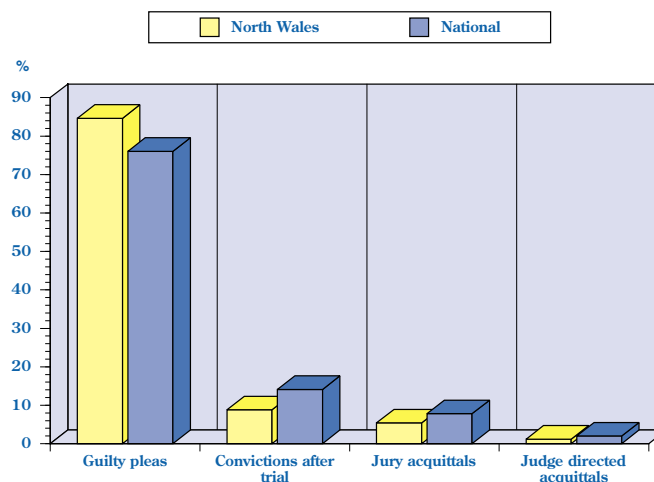
5 - Completed cases



	North Wales		National	
	No.	%	No.	%
Trials (including guilty pleas)	872	95.3	90,596	89.0
Cases not proceeded with	37	4.0	8,359	8.2
Bind overs	5	0.5	1,519	1.5
Other disposals	1	0.1	1,307	1.3
Total	915	100	101,781	100

6 - Case results

	North Wales		National	
	No.	%	No.	%
Guilty pleas	750	84.6	70,380	76.0
Convictions after trial	78	8.8	13,094	14.1
Jury acquittals	48	5.4	7,184	7.8
Judge directed acquittals	11	1.2	1,891	2.0
Total	887	100	92,549	100



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

Judge	His Honour Judge Edwards
Magistrates' courts	Mr J Anderson, OBE, Justice of the Peace and Chair of the North Wales Magistrates' Courts Committee Mr J Humphries, Justice of the Peace and Chair of the Flintshire Justices Mr I Jones, Justice of the Peace and Chair of the Aberconwy Justices Mr D Williams, Justice of the Peace and Chair of the Rhuddlan Justices Mr J Jones, Justices' Chief Executive Mr I Thomas, Clerk to the North Wales Justices, Western Clerkship Miss S Jones, Deputy Clerk to the North Wales Justices, Eastern Clerkship
Police	Deputy Chief Constable J Owen Superintendent J Williams Inspector T Bell
Defence solicitor	Mr S Alis
Counsel	Mr M Lewis-Jones Mr P Moss
Probation Service	Mrs C Moore, Chief Probation Officer
Witness Service	Mrs G Lewis, Co-ordinator, Caernarfon Court Witness Service

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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