

THE INSPECTORATE'S REPORT  
*on*  
THE CAMBERWELL BRANCH  
*of*  
CPS LONDON

# Camberwell Branch



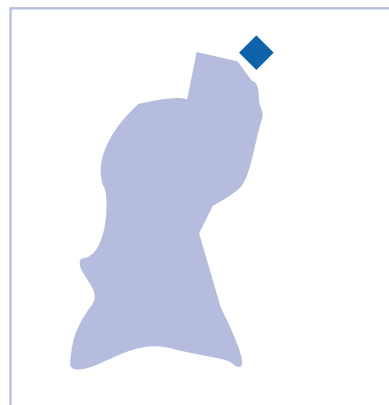
**BRANCH OFFICE**

◆ Bermondsey

**COURTS COVERED**

Magistrates' Courts  
Camberwell Green

Crown Court  
Inner London



REPORT ON THE INSPECTION OF THE CPS CAMBERWELL BRANCH

CONTENTS

	Paragraph		Paragraph
<b>INTRODUCTION</b>	1.1	<b>Preparing cases</b>	
		Advance information	6.1
<b>CONCLUSIONS AND RECOMMENDATIONS</b>	2.1	Custody time limits	6.7
		Unused and sensitive material	6.11
<b>THE INSPECTION</b>	3.1	Summary trials	6.16
		Committal preparation	6.20
<b>Providing advice</b>		Quality of indictments	6.28
Appropriateness of requests for advice	4.1	The CPS in the Crown Court	6.30
Quality and timeliness of advice	4.6	Office systems	6.38
Advice from counsel	4.8	File endorsements	6.41
<b>Reviewing cases</b>		<b>Presenting cases in court</b>	7.1
Caseweight	5.1	<b>The Branch and other agencies</b>	8.1
Quality of review decisions	5.2	Providing information for pre-sentence reports	8.4
Timeliness of review	5.5	<b>KEY STATISTICS</b>	9.1
Selection of the appropriate charge and charging standards	5.10	<b>EXTERNAL CONSULTATION</b>	10.1
Judge ordered and judge directed acquittals	5.13	<b>ANNEX 1:</b> Charts and tables	
Cases lost on submission of no case to answer in the magistrates' court and discharged committals	5.20	<b>ANNEX 2:</b> List of local representatives of criminal justice agencies who assisted in our inspection	
Discontinuance	5.25	<b>ANNEX 3:</b> CPS Inspectorate's Statement of Purpose and Aims	
Mode of trial	5.29		
Bail	5.30		
Review endorsements	5.32		
Learning from review	5.34		

## INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Camberwell Branch of CPS London.
- 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 Camberwell Branch is in the CPS London Area and has its offices in Bermondsey. On 24 August 1998, it employed 45.4 staff (the Branch Crown Prosecutor (BCP) and 13 other prosecutors; two senior caseworkers and 27.4 other caseworkers; and two administrative staff). It shares typing resources and other common services with three other Branches in the same building.
- 1.5 The Branch comprises two teams. The Brixton team (6 prosecutors and 13.4 caseworkers) is responsible for cases originating from Brixton police division and for some cases from Streatham police division. The Walworth team (7 prosecutors and 14 caseworkers) is responsible for cases originating from Walworth police division and the other Streatham cases. The allocation of Streatham cases between the teams is adjusted to take account of changing workloads. Both teams' cases are dealt with at Camberwell Green Magistrates' Court. Each team is also responsible for

Crown Court cases originating from its magistrates' court cases.

- 1.6 The team of three inspectors visited the Branch between 24 August and 3 September 1998. During this period, we observed six CPS advocates in the magistrates' court at Camberwell Green. We also observed CPS caseworkers and prosecuting counsel in the Crown Court sitting at Inner London.
- 1.7 A team of inspectors previously visited the Branch in 1997, as part of an inspection of CPS London. A report on CPS London, containing 14 recommendations, was published in December 1997. We refer to the report as "the CPS London report" at various points in the sections that follow. Although it contained a profile of each Branch, including Camberwell Branch, the conclusions and recommendations were addressed to CPS London as a whole.

## CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch handles a high proportion of serious cases in a demanding environment. Court lists tend to be heavy with a large number of overnight charges. The quality of legal work is very good. The great majority of casework decisions are correct and the standard of advocacy is satisfactory. Prosecutors are generally well prepared for their courts. The Branch also enjoys excellent relationships with other criminal justice agencies.
- 2.2 Branch staff rightly concentrate their efforts on the most serious cases. However, more careful assessment of the evidence is required in some less serious contested cases and committals for trial. Whilst the Branch does have systems for supporting the quality of casework, they do not always work satisfactorily and

some aspects of case preparation need improvement, to ensure that routine work does not unnecessarily take up time which should be devoted to legal work. This has led us to make a large number of individual recommendations designed to monitor aspects of case preparation. The BCP will wish to consider whether many of these could be addressed through a Branch quality assurance programme.

2.3 The CPS London report made several recommendations designed to assist the Area and its Branches to improve the quality of their decisions and case preparation. The Branch has responded well to these recommendations, incorporating all of them in its Branch Management Plan (BMP). Some recommendations have already been implemented. We were particularly pleased to note that the Branch has improved the recording of case results in its performance indicators (PIs), producing better quality information about cases. Some recommendations in the CPS London report have been repeated in this report where implementation has not yet been fully effective.

2.4 To assist the Branch in improving its casework, we recommend that:

- i the BCP should ensure that cases are reviewed promptly, and that requests for further evidence and instructions for the warning of witnesses are made at the earliest opportunity (paragraph 5.6);
- ii the BCP should introduce a system of quality assurance to ensure that the steps taken to improve the completion and return of forms TQ1 are effective (paragraph 5.9);
- iii the BCP should ensure that all cases which are contested or are awaiting committal to the Crown Court are further reviewed when the full file is received from the police, to assess whether a prosecution remains appropriate (paragraph 5.24);

- iv the BCP should ensure that prosecutors make detailed endorsements about bail applications; (paragraph 5.31);
- v the BCP should ensure that all Branch staff are able to learn from adverse and failed case reports (paragraph 5.36);
- vi the BCP should:
  - ensure that, wherever possible, advance information is served before the first hearing; and
  - introduce a system of quality assurance to ensure that the pro-forma letters accompanying advance information are properly completed (including details of what is being served and the identity of the recipient), signed and dated (paragraph 6.4);
- vii the BCP should ensure a consistent approach amongst prosecutors to the provision of advance information where the law does not require it (paragraph 6.6);
- viii the BCP should ensure that custody time limit review dates are displayed on file jackets in all relevant cases, and that details of initial remand hearings are transcribed onto the file jackets (paragraph 6.10);
- ix the BCP should ensure that the provisions of the Criminal Procedure and Investigations Act 1996 relating to the disclosure of unused material are applied in the magistrates' court, even where the material is clearly irrelevant (paragraph 6.15);
- x the BCP should ensure that witnesses are not called to give evidence unnecessarily; and that, wherever appropriate, witness statements are served under section 9, Criminal Justice Act 1967 (paragraph 6.17);
- xi the BCP should ensure that instructions to counsel contain:

- case summaries;
  - instructions on the acceptance of pleas in appropriate cases; and
  - any other relevant issues that should be brought to counsel's attention (paragraph 6.25);
- xii the BCP should ensure that instructions to counsel are delivered promptly, and that the timeliness of delivery continues to be monitored (paragraph 6.27);
- xiii the BCP should ensure that indictments are properly checked for errors before they are lodged (paragraph 6.29);
- xiv the BCP should introduce a system for monitoring compliance with directions given at plea and directions hearings (PDHs) (paragraph 6.34);
- xv the BCP should make arrangements so that Branch prosecutors may attend the Crown Court to conduct bail applications and to assist at PDHs (paragraph 6.37);
- xvi the BCP should clarify the tasks which caseworkers are expected to undertake in preparing magistrates' court lists, and should carry out regular checks to ensure that these are being completed (paragraph 6.39);
- xvii the BCP should monitor the performance of counsel more formally and discuss the results with heads of chambers, under existing liaison arrangements (paragraph 7.7);
- xviii the BCP should take steps to reduce the proportion of cases in which counsel originally instructed do not attend court (paragraph 7.9);
- xix the BCP should ensure that pre-sentence report packages are served on the Probation Service, and that service of the package is recorded (paragraph 8.5).

## THE INSPECTION

- 3.1 In the year ending 30 June 1998, the Branch dealt with 9,584 defendants in the magistrates' court and 1,422 in the Crown Court. In a further 550 cases, advice was given to the police before charge.
- 3.2 The inspection team examined a total of 229 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 at 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 the representatives from whom we received comments is at the end of this report.

## PROVIDING ADVICE

### Appropriateness of requests for advice

- 4.1 The number of cases in which the Branch gives advice to the police before charge (5.4% of the Branch's caseload) has increased sharply in the last year, and is now above the national average (4.1%). This is partly attributable to the introduction of a system for recording telephone advice. In addition, the BCP has been appointed to deal with cases involving complaints of criminal offences against police officers in another part of London. Between February 1997 and 31 August 1998, the Branch received 133 such cases.
- 4.2 As a result of a recommendation in the CPS London report, Area headquarters issued guidelines, setting out the circumstances in which it would be appropriate to give advice to the police. It

was intended that these guidelines should form the basis of local agreements, or protocols, with the police. The Branch has not reached a formal agreement with the police on the types of case to be submitted for advice.

- 4.3 We examined ten cases in which advice had been given and did not find that any case had been inappropriately submitted, although we were told that some requests for advice are unnecessary. The Branch and the police have gradually reached an informal understanding about the types of case that require submission. The BCP may wish to consider, however, whether a formal agreement would help to ensure that pre-charge advice is sought only in appropriate cases.
- 4.4 The Branch provides advice to the police over the telephone. The prosecutor records the advice on a form, which is placed in a folder. The senior caseworker checks the folder and makes a manual adjustment to the Branch's monthly PI figures. We were told that this system was not fully utilised, however. The BCP will wish to remind staff about the importance of formally recording telephone advice.
- 4.5 If the advice results in a prosecution, a copy of the form is linked to the papers when they are received from the police.

#### Quality and timeliness of advice

- 4.6 The quality of advice is satisfactory. Most is carefully reasoned, but some is handwritten. We agreed with the advice given in nine of the ten cases that we examined. In the tenth case, the prosecutor should have asked the police to make further enquiries before reaching a conclusion. He also failed to advise on the appropriate charges.
- 4.7 Advice is often provided late, however. It was provided within the CPS target of 14 days in only three of the ten cases. Frequently, the police have to remind the CPS about

outstanding requests for advice; and defendants, who have been bailed to return to the police station pending the receipt of the advice, have to be re-bailed. Branch managers realise that this is unacceptable and have recently introduced initiatives to monitor timeliness. The Prosecution Team Leaders (PTLs) allocate all advice files, and use their advice registers and reports produced by the Branch's computerised case tracking system, SCOPE, to monitor timeliness. The BCP and the PTLs must continue to manage these initiatives, to ensure that pre-charge advice is given to the police within 14 days.

#### Advice from counsel

- 4.8 Advice from counsel is rarely sought before charge. Any such request has to be authorised by the BCP. We did not see any case where counsel's advice had been sought pre-charge, nor any where it would have been appropriate.

## REVIEWING CASES

#### Caseweight

- 5.1 The Branch has a very high proportion of serious cases. The police's policy of targeting serious crime, particularly drugs offences, results in the Branch dealing with many very difficult and time consuming cases. For example, in 1997, the Branch handled 58 cases involving very sensitive material. A further 34 such cases have been received in the first eight months of 1998. One recent drugs case involved 35 defendants. The proportion of cases committed for trial to the Crown Court (11.3%) is substantially above the national average (7.5%), as is the proportion of indictable only cases (26%, against an average of 21.4%). The contest rate at the Crown Court (50%) is more than double the national average (24%).

### Quality of review decisions

- 5.2 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 proceed.
- 5.3 The quality of decision-making is good. We looked at the review decision in 78 files, covering cases in the magistrates' court and the Crown Court. We agreed with the assessment of the evidence and with the application of the public interest test in 76 (97.4%). We were unable to reach a conclusion in the other two cases, because there was insufficient information on the files.
- 5.4 Serious cases are particularly well reviewed and well prepared. In some other cases, however, there was less attention to detail. In particular, we found that some cases in which the magistrates ruled that there was no case to answer, or in which the judge ordered or directed an acquittal, would have benefited from more considered review (see paragraphs 5.16 - 5.24).

### Timeliness of review

- 5.5 Branch managers measure the timeliness of review decisions in accordance with the CPS' Corporate Performance Measures (CPMs). For the quarter ending 30 June 1998, the CPM figures show that 63% of all new case papers were reviewed within seven days of receipt from the police. We were told, however, that Branch prosecutors often made late requests for further evidence and gave late instructions for the warning of witnesses. In court, we saw a case which had not been reviewed before the first hearing, and another in which a late review was followed by a late request to the police for further evidence. Both files appeared to have been in the

Branch for two to three weeks before the first hearing.

- 5.6 We recommend that the BCP should ensure that cases are reviewed promptly, and that requests for further evidence and instructions for the warning of witnesses are made at the earliest opportunity.**
- 5.7 The timeliness and quality of files submitted by the police affect the ability of Branch prosecutors to review cases promptly and properly. Branch and police managers monitor the quality and timely submission of files through Joint Performance Management (JPM). The reviewing prosecutor should complete a form, referred to as TQ1, showing the date when the file was received and the prosecutor's assessment of its quality. The form is returned to the police so that the results can be collated. The JPM figures for the period ending 31 March 1998 suggest that between 63% and 77% of all files submitted by the police were fully satisfactory and were submitted within the agreed time guidelines.
- 5.8 The value of these figures, however, depends on Branch staff completing and returning a high proportion of TQ1s to the police. We were told that the monthly return rates varied from 11% to 60%. This means that the JPM system cannot operate effectively, and that the Branch is unable to make proper use of an important means of measuring joint CPS and police performance. Branch managers appreciate the importance of accurate JPM figures and have taken steps to address the matter. The accurate completion and prompt return of TQ1 forms has been included as a Branch objective in the BMP, and as a personal objective for each prosecutor and caseworker.
- 5.9 We recommend that the BCP should introduce a system of quality assurance to ensure that the steps taken to improve the completion and return of forms TQ1 are effective.**



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

- 5.10 The police charges required amendment in 22 of the 78 cases (28.2%) that we examined. The majority were amended at the first reasonable opportunity. Most amendments (13) related to minor errors. Of the rest, two charges were wrongly worded; one was charged too high; one did not comply with the charging standards; and two charged the wrong offence.
- 5.11 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. Branch prosecutors apply the standards well and use their common sense when dealing with serious attacks which result in comparatively minor injuries. We agreed with the application of the standards in 37 of the 39 relevant cases (94.9%).
- 5.12 In one of the two remaining cases, the prosecutor failed to advise the police on the level of charge in an assault case. In the second case, a charge of aggravated burglary was based on the fact that the injuries amounted to grievous bodily harm, when they amounted only to actual bodily harm.

**Judge ordered and judge directed acquittals**

- 5.13 In the 12 months to 30 June 1998, 168 cases were not proceeded with in the Crown Court. This represents 13.7% of the Branch's caseload, compared with 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).
- 5.14 The Branch's PIs for the 12 months to 30 June 1998 show that the failure of prosecution witnesses to attend court accounted for 52 of the 168 cases (31%). We examined 31 judge ordered acquittals from April, May and June 1998. Prosecution

witnesses failed to attend or refused to give evidence in ten of them. In four, it was clear from an early stage that important witnesses might not attend. Two cases could have been terminated earlier.

- 5.15 We recommended in the CPS London report that Branches should ask the police to check before committal that key witnesses were still prepared to attend court, especially in cases involving violence. We are pleased to note that Branch managers have incorporated this recommendation in the Branch's BMP. Prosecutors and caseworkers endeavour to ensure that the police keep in touch with witnesses. This also enables Branch staff to keep the judge informed of the steps taken to secure their attendance.
- 5.16 We disagreed with the decision to prosecute in six (19.4%) of the judge ordered acquittals that we examined. Most concerned less serious offences in which the prosecutor had not given enough thought to the issues (including possible defences), or, having considered the problem, failed to take appropriate action. For example, two cases involved charges of possessing a bladed article in which the prosecutor had not given sufficient consideration to proving that the article belonged to the defendant. Another case involved possession of an offensive weapon and was committed for trial before the question of whether the defendant had been in a public place was clarified. The case was not considered further until after the PDH.
- 5.17 We also noted the same lack of detailed consideration of the evidence and potential problems in some cases where we agreed with the initial decision to prosecute. In one, separate charges of possessing a bladed article were preferred for each of two knives that had been found. The reviewing lawyer decided to proceed in respect of only one of the knives, but did not make clear in the indictment or counsel's instructions which knife was the subject of the charge. In a case alleging robbery, witness statements were

not taken until a year after the event, by which time three potential witnesses and two important exhibits were not available. These problems were apparent from an early stage, but were never addressed, and counsel's instructions did not refer to them.

5.18 In the same period, there were 42 cases in the Crown Court which resulted in judge directed acquittals. This represents 4.0% of the Branch's caseload, double the national average of 2.0%. We examined seven cases and disagreed with the decision to prosecute in three. Again, we found that there was a failure on the part of the prosecutor to consider the issues or take appropriate action. One case concerned a burglary, in which the defendant's fingerprints were found at the point of entry. He claimed legitimate access to the premises, but other obvious lines of enquiry were not pursued. The second case was one of handling stolen property, where the defendant had recovered the stolen property and returned it to the complainant. There was no evidence that the defendant acted dishonestly or assisted others in retaining or disposing of the property.

5.19 The third case concerned the possession of a flick knife. The defendant admitted that the knife belonged to him. He was asked some questions about it before he was cautioned, but he was not interviewed after his arrest. Although the prosecutor sought to establish the admissibility of the defendant's answers to questions before caution, the situation was not resolved until the trial, when the judge excluded this evidence.

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

5.20 In the year ending 30 June 1998, 40 trials were stopped by the magistrates at the close of the prosecution case. This is 0.8% of the Branch's caseload, more than double the national average of 0.3%. We examined three such cases and agreed with the initial

decision to proceed in each. We found, however, that each case would have benefited from more considered review.

5.21 In one, identification was in issue, but the file had been reviewed before the statement dealing with identification was received. There was no further review and the issue was never considered. The second case concerned a charge of assaulting a police officer in the execution of his duty. The defendant had been arrested for breach of the peace. The legality of the arrest was in issue. There was a brief review which did not address this point. The final case involved a charge of common assault. A witness disappeared. The Branch was made aware of this, but the file was not re-reviewed.

5.22 In the same period, 22 defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial. We examined two such cases. We were unable to form an opinion on the decision to prosecute in either case because of a lack of papers and file endorsements.

5.23 We have already reported on the lack of attention which appears to be given to some less serious cases. Most deficiencies that we have commented on should have been addressed earlier, and either the problems rectified or other appropriate action taken.

**5.24 We recommend that the BCP should ensure that all cases which are contested or are awaiting committal to the Crown Court are further reviewed when the full file is received from the police, to assess whether a prosecution remains appropriate.**

#### **Discontinuance**

5.25 The Branch's discontinuance rate (11.5%) is slightly below the national average (12.0%).

We examined 60 cases that were stopped by the prosecution in the magistrates' court during June 1998. Eighteen cases (30%) were discontinued by notice under section 23, Prosecution of Offences Act 1985. Fifteen (25%) were withdrawn at court, and 27 (45%) resulted in the prosecution offering no evidence.

- 5.26 Seventeen cases (28.3%) were terminated on evidential grounds and only seven (11.7%) on public interest grounds. The defendant produced the necessary documents in five (8.3%) and the prosecution was unable to proceed in a further 27 (45%). In 16 of those cases, civilian witnesses either refused to give evidence, or failed to attend court. In another six cases, police witnesses failed to attend. The prosecution was not ready to proceed in five for a variety of reasons, including the absence of papers and incomplete police enquiries. We could not establish why the remaining four cases were stopped.
- 5.27 Branch staff usually consult the police about proposed discontinuances. The police were consulted about the decision to terminate in 34 cases (56.7%) that we examined, and objected in none. Of the remaining cases, 12 were clearly dropped at court. We were unable to tell if the police had been consulted in the remainder.
- 5.28 We examined ten terminated cases, in order to assess whether the Code tests had been correctly applied. We agreed with the decision in all of them.

#### Mode of trial

- 5.29 Branch prosecutors make appropriate representations on whether a case should be heard in the magistrates' court or in the Crown Court. The Lord Chief Justice's guidelines were followed in 42 of the 43 relevant cases that we examined. The relevant considerations were recorded on the file in 35 cases.

#### Bail

- 5.30 Prosecutors also make appropriate decisions whether to apply for remands in custody. In 11 of the 12 relevant cases that we examined, there was sufficient information on the file for a decision about custody to be made. The prosecutor made the appropriate decision in ten cases, but we were unable to ascertain the position in two. The quality of file endorsements concerning custody applications was poor, however. The grounds and reasons given by the prosecution for opposing bail were endorsed on the file in only three cases, and the court's grounds and reasons for refusing bail in only two.
- 5.31 We recommend that the BCP should ensure that prosecutors make detailed endorsements about bail applications.**

#### Review endorsements

- 5.32 Generally, review endorsements were good. The evidential factors were fully recorded in 57 of the 78 cases (73.1%) that we examined. The public interest factors were recorded in 55 (70.5%). We also found that there were further reviews in some cases, either on receipt of further evidence, or on receipt of committal papers. Branch managers are aware of the importance of clear, comprehensive review endorsements, and have taken steps to improve the quality of file endorsements, including review endorsements. The improvement of file endorsements has been included as a Branch objective in the BMP, and as a personal objective for prosecutors and caseworkers.
- 5.33 The BCP will wish to monitor the effectiveness of these arrangements.

#### Learning from review

- 5.34 Adverse case reports are completed in all cases resulting in an acquittal in the Crown Court. The caseworker at court completes

the form which is passed to the reviewing prosecutor, the PTL and the BCP for comments. A copy is also sent to the police when the case does not reach the jury. We found adverse and failed case reports in all the relevant Crown Court cases that we examined. We were told that adverse and failed case reports should be completed in all not guilty cases in the magistrates' court, but we did not see any reports in our file sample.

5.35 Feedback on failed cases is given to prosecutors individually, but there does not appear to be any general discussion of failed cases at team meetings, and information on failed cases is not circulated. Although the information is discussed at JPM meetings with the police and any trends identified, Branch prosecutors and caseworkers do not have the same opportunity to learn from failed cases.

**5.36 We recommend that the BCP should ensure that all Branch staff are able to learn from adverse and failed case reports.**

5.37 The CPS London report highlighted unreliable identification evidence as a substantial reason for failed cases. The report included a recommendation that the national casework guidelines on identification should be re-issued and that there should be training for all prosecutors on assessing identification evidence. The Branch has not only arranged for the training of its own staff, but both PTLs have also had meetings with their police divisions and have assisted in the training of police officers on identification. This has led to substantial improvement in this often difficult area: inadequate identification evidence is no longer a major cause of failed cases.

5.38 The Branch takes a positive approach to training. The more junior prosecutors deal with cases under the supervision of the PTLs or other senior prosecutors, so that they may gain practical experience in more difficult cases. There is team and Branch training,

and every four to six weeks all four Branches in the building hold a joint training day. Topics covered include cases involving police complaints, domestic violence, and charging standards.

## PREPARING CASES

### Advance information

6.1 Caseworkers prepare advance information in accordance with instructions given by prosecutors. The latter should check the papers before they are served. The advance information is accompanied by a pro-forma letter, which, amongst other things, enables the caseworker to list what is being served.

6.2 The prosecution is obliged to serve as advance information the evidence on which it proposes to rely. Evidence favourable to the defence, or on which the prosecution does not propose to rely, should not be served in this way. If it is, the prosecution may have to use such evidence as part of its case. In a number of cases, we found that the pro-forma letters did not indicate what had been served, nor on whom. They were also unsigned and undated. The lack of an accurate record of what has been served by way of advance information can cause difficulties for the prosecution at a later stage.

6.3 Advance information should be served within seven days of the defence solicitor being identified, but it is rarely served before the first hearing, even if it has been requested. Despite that, however, the service of advance information was timely in 29 out of 39 relevant cases (74.4%). In two cases, we could not tell when it had been served.

### 6.4 We recommend that the BCP should:

- **ensure that, wherever possible, advance information is served before the first hearing; and**
- **introduce a system of quality assurance to ensure that the**

**pro-forma letters accompanying advance information are properly completed (including details of what is being served and the identity of the recipient), signed and dated.**

6.5 Branch staff receive requests for advance information in cases in which the law does not require the prosecution to provide it. Branch managers have not issued guidance on the voluntary provision of advance information in such cases; the decision whether to supply it is left to the individual prosecutor's discretion. We were told that the prosecutors' approach to the service of informal advance information varies, but that it is usually provided, if it will expedite the case.

**6.6 We recommend that the BCP should ensure a consistent approach amongst prosecutors to the provision of advance information where the law does not require it.**

#### Custody time limits

6.7 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. Caseworkers rely on a manual diary and the SCOPE computer tracking system for monitoring custody time limit expiry dates. The system is monitored and weekly reports are produced for senior Branch managers to confirm that the necessary action has been taken in relation to all custody time limit cases.

6.8 We examined 20 cases in which custody time limits applied. The expiry dates were correctly calculated and clearly displayed on the front of each file. The review date was displayed, however, on only two magistrates' court files and was not shown on any Crown Court file. Displaying the review date on the front of the file provides prosecutors and caseworkers handling the

case with a reminder of when action should be taken.

6.9 We were concerned about the file endorsements on some files. In two cases, details of the initial remand hearing had not been recorded on the file jacket so that, at first glance, it appeared that the time limit expiry dates were incorrect. However, details of the first hearing were found on the police file and confirmed that the expiry dates were correctly calculated. In another case, the defendant was committed to the Crown Court in custody, but at the PDH he appeared on bail. The file did not show when he had been released on bail.

**6.10 We recommend that the BCP should ensure that custody time limit review dates are displayed on file jackets in all relevant cases, and that details of initial remand hearings are transcribed onto the file jackets.**

#### Unused and sensitive material

6.11 Unused material is dealt with satisfactorily in the Crown Court. Although the reviewing prosecutor had completed the schedule of unused material in only 20 of the 30 relevant cases, it had been served in 26 cases. It was served promptly in 24 cases.

6.12 Unused material was not dealt with so well in magistrates' court trials. The schedules were completed and served in 17 of the 25 relevant cases and served in time in only 11.

6.13 The PTLs usually deal with sensitive material. They take most of the decisions on sensitivity and materiality: only the most serious cases are referred to the BCP. We examined eight cases involving sensitive material. The schedules were correctly completed in only two. The other six cases concerned trials in the magistrates' court. It was clear that the material was not relevant to the proceedings, but the schedule had not been endorsed by the prosecutor.

6.14 The BCP keeps a register of files that contain sensitive material. We also examined some files listed in the register. The sensitive material had been dealt with properly.

**6.15 We recommend that the BCP should ensure that the provisions of the Criminal Procedure and Investigations Act 1996 relating to the disclosure of unused material are applied in the magistrates court, even where the material is clearly irrelevant.**

### Summary trials

6.16 The standard of preparation of summary trials is generally satisfactory. The police were told promptly to warn witnesses in 27 out of 29 relevant cases, although we were told that notification was occasionally late. However, the statements of witnesses whose evidence was likely to be agreed were correctly identified and served under section 9, Criminal Justice Act 1967 in only 11 out of 16 relevant cases. Our findings were confirmed by those whom we interviewed, who told us that section 9 could be used more effectively.

**6.17 We recommend that the BCP should ensure that witnesses are not called to give evidence unnecessarily; and that wherever appropriate, witness statements are served under section 9, Criminal Justice Act 1967.**

6.18 Prosecutors are familiar with the procedure for agreeing admissions of fact under section 10, Criminal Justice Act 1967. Although we were told that it was rarely used, we saw two examples amongst the cases that we examined. In one case, the defendant admitted that he was disqualified from driving; and in the other, the defence accepted a scientific report concerning the presence of drugs in the defendant's body. In both cases, the use of section 10 saved valuable court time and prevented witnesses being called unnecessarily.

6.19 Prosecutors are also familiar with the provisions of section 23, Criminal Justice Act 1988. Subject to certain conditions, these enable a witness' statement to be read if the witness is outside the United Kingdom, or is mentally or physically unfit to attend court, or is too frightened to attend court. We were pleased to see two cases where its use was considered. One involved charges of rape and false imprisonment. The injured party decided not to give evidence, and prosecution counsel made a successful application under section 23 to read her statement. The other case involved a charge of common assault. The victim decided not to give evidence and the prosecutor considered making an application under section 23. (Eventually, the defendant was bound over to be of good behaviour.)

### Committal preparation

6.20 The majority of committals are prepared by caseworkers using the Crown Court Case Preparation Package (CCCPP). This is a pro-forma package which contains standard paragraphs to be included in instructions to counsel, with free text options to incorporate specific instructions relevant to each case. Prosecutors are expected to check the contents of the committal bundle, and this had been done in 28 of the 30 cases (93.3%) that we examined. We also found that all except two sets of committal papers consisted only of relevant statements and documents. The remaining two cases contained statements helpful to the defence, and one also contained irrelevant material.

6.21 The timeliness of service of committal papers was less than satisfactory, however. Papers were served in time in ten cases and served late in seven. We were unable to ascertain the position in 13 cases, because there was nothing on the file to indicate when the papers were received from the police. The BCP will want to ensure that the receipt of committal papers from the police is recorded on the file, so that he can keep

under review the timeliness with which the Branch prepares and serves papers. Although they were usually served at court on the day of committal, this did not necessarily lead to delay.

6.22 On one team, when the committal papers are received from the police, the CCCPP and the committal papers are passed to the reviewing prosecutor, who gives instructions to the caseworker on the contents of the indictment and instructions to counsel, including any issues which need to be drawn to counsel's attention and the acceptability of pleas. The caseworker prepares the papers, and the package is returned to the prosecutor for checking and signature. On the other team, the CCCPP and committal papers are allocated to a caseworker who prepares the papers for a prosecutor to review, give instructions on any issues and acceptability of pleas, and sign the package. Although the prosecutors give instructions on the acceptability of pleas and any issues for inclusion in counsel's instructions, the caseworkers are expected to draft the case summary.

6.23 In spite of this, the instructions were satisfactory in only eight of the 30 relevant cases (26.7%). In most, the instructions to counsel consisted only of the standard paragraphs. Only 11 contained a CPS prepared case summary, and only one out of eight appropriate cases contained instructions on the acceptability of pleas.

6.24 In view of the fact that a high proportion of briefs are returned by counsel originally instructed (often at a late stage), it is essential that instructions are of a high standard.

**6.25 We recommend that the BCP should ensure that instructions to counsel contain:**

- case summaries;
- instructions on the acceptance of pleas in appropriate cases; and

- **any other relevant issues that should be brought to counsel's attention.**

6.26 The Branch's CPM figures for the quarter ending 30 June 1998 show that 64% of counsel's instructions were delivered within the timescale agreed between the CPS nationally and the Bar. We found, however, that only nine of the 30 cases (30%) that we examined were delivered in time. Although some instructions were only a few days late, we found others, including some in serious cases, that were delivered between five and six weeks after committal. Branch managers are aware that timeliness of the delivery of instructions is a problem and the senior caseworkers are monitoring the situation.

**6.27 We recommend that the BCP should ensure that instructions to counsel are delivered promptly, and that the timeliness of delivery continues to be monitored.**

#### Quality of indictments

6.28 Indictments are drafted by caseworkers. On one team, prosecutors give instructions on the contents of the indictment and then check them when the package has been prepared. On the other team, prosecutors check the package, including the indictment, after it has been prepared. The senior caseworkers also check the indictments for obvious typing errors. We were told that, although substantive amendments were rare, some indictments required minor amendments. The indictment required amending at court in nine of the 30 cases (30%) that we examined. In four, the amendment was minor; and in two others, the amendments were to accommodate acceptable pleas. One was amended because the charge was wrongly worded, and another because there were too many counts on the indictment. We could not tell why the ninth indictment had been amended, because there were no relevant file endorsements.

**6.29 We recommend that the BCP should ensure that indictments are properly checked for errors before they are lodged.**

## The CPS in the Crown Court

- 6.30 Most of the Branch's cases are committed to Inner London Crown Court. Some serious cases are committed to the Central Criminal Court. Caseworkers cover the Inner London Crown Court every day, together with caseworkers from other Branches. Each caseworker generally covers more than one courtroom, although they try to cover all PDHs individually. This is not always possible, as the court sometimes lists the PDHs in different courtrooms.
- 6.31 Branch staff notify the police of PDH directions by facsimile from the Crown Court. This is followed up by the caseworker at the Branch. There is no system, however, for monitoring compliance with PDH directions. In seven out of 19 relevant cases (36.8%), the PDH directions were not complied with on time. Indeed, in two, they were not complied with until the cases were listed for mention a month later.
- 6.32 We were unable to tell whether the directions had been complied with in a further four, one of which concerned the service of primary disclosure.
- 6.33 This performance is unacceptable. It is essential that all Branch staff recognise and accept the need to comply with all orders made by the court at PDHs.
- 6.34 We recommend that the BCP should introduce a system for monitoring compliance with directions given at PDHs.**
- 6.35 Although we were told that there is a delay in notifying the police of witness requirements after the PDH, our examination of files showed that this information was generally supplied promptly. As Inner London Crown Court lists cases for trial within a short period after PDH, it is important that the necessary information is given to the police as soon as possible.
- 6.36 The BCP attends the Crown Court regularly to conduct bail applications, but other

prosecutors rarely visit the Crown Court. Representatives of other criminal justice agencies told us that they would appreciate more input from prosecutors at the Crown Court. If pleas are offered at court, the caseworker has to contact the reviewing prosecutor, or, if he is not available, the PTL or BCP. Although clear instructions to counsel on the acceptability of pleas would go some way to deal with this problem (see paragraphs 6.23 - 6.25), the presence of a prosecutor would be of considerable benefit. The listing practices at Camberwell Green Magistrates' Court were due to change in October 1998, and this may enable prosecutors to attend the Crown Court, to conduct bail applications and attend PDHs. The presence of prosecutors at the Crown Court might also assist the monitoring of counsel's performance (see paragraph 7.6)

**6.37 We recommend that the BCP should make arrangements so that Branch prosecutors may attend the Crown Court to conduct bail applications and assist at PDHs.**

## Office systems

- 6.38 Caseworkers prepare the lists for the magistrates' court. They need to locate all the files, and check them to make sure that all outstanding work has been completed. We were told, however, that, after they had read the files, prosecutors often had to ask the caseworkers to complete further work. There are no clear, detailed expectations of the caseworkers' role when preparing court lists.
- 6.39 We recommend that the BCP should clarify the tasks which the caseworkers are expected to undertake in preparing court lists, and should carry out regular checks to ensure that these are being completed.**
- 6.40 We were told that Branch staff did not always reply to correspondence and that, when they



did, it was often handwritten. We saw examples of this in some files that we examined. We also found evidence of delays in receiving papers from the police, and in linking papers and correspondence with files. When papers and correspondence are received in the building, they are distributed to the relevant Branch by common services, which is managed by one of the other Branches. The BCP will want to address, with the other BCPs in the building, the efficient distribution to their respective Branches of incoming papers and correspondence. Within the Camberwell Branch, the BCP will want to ensure that all such papers and correspondence are linked promptly to relevant files.

#### File endorsements

- 6.41 The standard of file endorsements needs improvement. In the magistrates' court, endorsements about events in court were satisfactory in 63 out of 78 cases (80.8%). The endorsements generally gave a satisfactory history of case progress, but some lacked detail. For example, we found that the identity of the defence solicitor was not always recorded on the file. This might explain why, when papers for advance information and committal are ready in advance of the court date, they are rarely served before the hearing. We have already commented at paragraph 5.30 that endorsements relating to bail applications often do not deal in detail with the points made by the prosecution and by the defence, nor the basis on which the court reaches its decision. Overall, the file endorsements in 47 of the 78 cases (60.3%) complied with the CPS Service Standard.
- 6.42 In the Crown Court, endorsements were better. Court endorsements was satisfactory or better in 24 of the 30 cases (80%) that we examined.
- 6.43 We have already commented on the steps being taken by the Branch, and those still required, to improve the quality of file endorsements (see paragraph 5.32).

#### PRESENTING CASES IN COURT

- 7.1 We observed six Branch prosecutors presenting cases in the Camberwell Green Magistrates' Court. The overall standard of advocacy was satisfactory; some was very good.
- 7.2 The lists in the courts that we observed were very heavy. It is not unusual for a prosecutor to have 40 or 50 cases in a remand court and up to a further 20 overnight charges. The court also transfers cases between courtrooms without warning. On one occasion, we saw all the overnight cases in one courtroom being transferred to another as the courts were about to sit. This is a demanding environment in which to work. The Branch prosecutors arrive at court early to read overnight cases, and to discuss cases with the defence. There was a constant stream of defence solicitors and barristers discussing cases with the Branch's advocates in the hour before the courts sat. Prosecutors must usually deal with this work without the benefit of administrative support at court.
- 7.3 In spite of this, prosecutors generally prepared thoroughly for their courts. They maintained an appropriate degree of eye contact with the magistrates, although there was a tendency to read from the files in some cases, particularly if cases were transferred between courts. We also saw a few cases in which the magistrates had to ask for more information before deciding where a case should be heard, or whether to remand a defendant in custody.
- 7.4 We saw one trial in which the prosecutor had to deal with arguments about the admissibility of evidence and submissions of no case to answer on behalf of both defendants at the close of the prosecution case. The prosecutor dealt concisely with all the submissions.
- 7.5 The PTLs formally monitor the performance of their prosecutors three times a year for performance appraisal purposes. They also monitor them on an ad hoc basis.

7.6 We were told that the quality of prosecuting counsel in the Crown Court had declined. We saw six counsel in the Crown Court, dealing with PDHs. Although some performed competently, the performance of others was less than satisfactory, revealing a poor grasp of the cases. We were also told that they often failed to read the prosecution's copy of the Probation Service's pre-sentence reports. This contributes to delay when counsel is asked to comment on part of the report by the judge. The monitoring of counsel in the Crown Court is undertaken informally by caseworkers, although the Branch also has procedures to deal with counsel who are clearly not satisfactory.

**7.7 We recommend that the BCP should monitor the performance of counsel more formally and discuss the results with heads of chambers, under existing liaison arrangements.**

7.8 A significant proportion of briefs to counsel are returned. Counsel who were originally instructed attended PDHs in only ten of the 30 Crown Court cases (33.3%); the trial in only five out of 20 contested cases (25%); and the sentencing hearing in six out of 20 cases (30%). It is important that counsel originally instructed attends key hearings, particularly in sensitive or difficult cases.

**7.9 We recommend that the BCP take steps to reduce the proportion of cases in which counsel originally instructed do not attend court.**

## THE BRANCH AND OTHER AGENCIES

8.1 Branch relations with other criminal justice agencies are excellent and have led to a gradual improvement in the local criminal justice system. For example, discussions between the Clerk to the Justices, the BCP

and the police have resulted in revised listing arrangements at Camberwell Green Magistrates' Court, which should benefit all court users.

8.2 The BCP attends the court user group meetings at the Crown Court and the magistrates' court, and has bi-annual meetings with police divisional commanders. The PTLs attend quarterly JPM meetings with their criminal justice unit Chief Inspectors. We were told that Branch managers were receptive to issues raised at these meetings, and that many matters were resolved informally.

8.3 The BCP has also been to Inner London Crown Court to assist in the training of court staff, and to explain new legislation, such as the arrangements for plea before venue. The PTLs and other prosecutors have been involved in the training of police officers.

### Providing information for pre-sentence reports

8.4 The Branch is required to provide the Probation Service with information about a defendant's offences, so that probation officers are able to assess their seriousness when they prepare pre-sentence reports. These reports assist the courts in deciding how to sentence defendants. Although we found evidence that these reports were requested in 42 cases, we could be satisfied that the disclosure package was served in only 16 (38.1%). We were also told that, in the magistrates' court, the Probation Service's report was often completed without the writer seeing this information. In the Crown Court, the disclosure package was prepared with the committal papers and handed over at committal; details of service, however, were not necessarily endorsed on the file.

**8.5 We recommend that the BCP ensures that the pre-sentence report packages**

are served on the Probation Service, and that service of the package is recorded.

## KEY STATISTICS

---

9.1 The charts which follow this page set out the key statistics about the Branch's casework in the magistrates' court and the Crown Court.

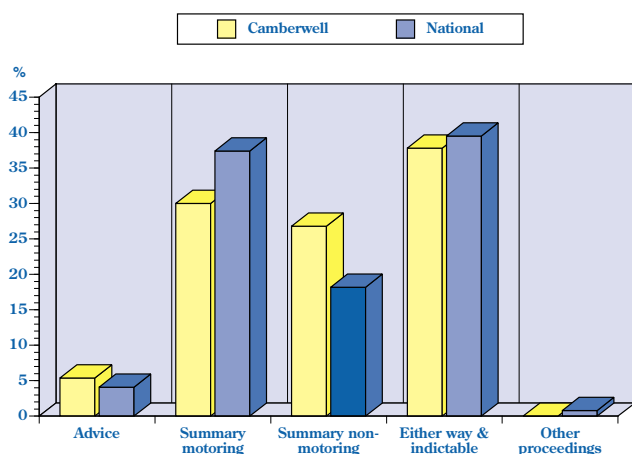
## EXTERNAL CONSULTATION

---

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

## MAGISTRATES' COURTS

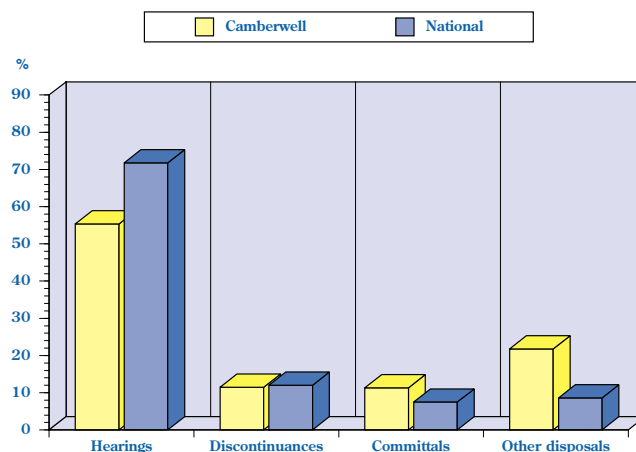
### 1 - Types of case



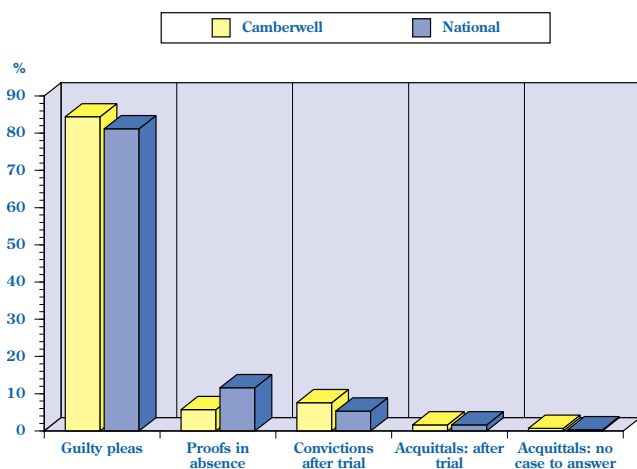
	Camberwell		National	
	No.	%	No.	%
Advice	550	5.4	57,687	4.1
Summary motoring	3,037	30.0	532,242	37.4
Summary non-motoring	2,714	26.8	259,538	18.2
Either way & indictable	3,833	37.8	562,574	39.5
Other proceedings	0	0.0	11,378	0.8
<b>Total</b>	<b>10,134</b>	<b>100</b>	<b>1,423,419</b>	<b>100</b>

### 2 - Completed cases

	Camberwell		National	
	No.	%	No.	%
Hearings	5,311	55.4	972,907	71.8
Discontinuances	1,105	11.5	163,059	12.0
Committals	1,081	11.3	101,373	7.5
Other disposals	2,087	21.8	117,033	8.6
<b>Total</b>	<b>9,584</b>	<b>100</b>	<b>1,354,372</b>	<b>100</b>



### 3 - Case results

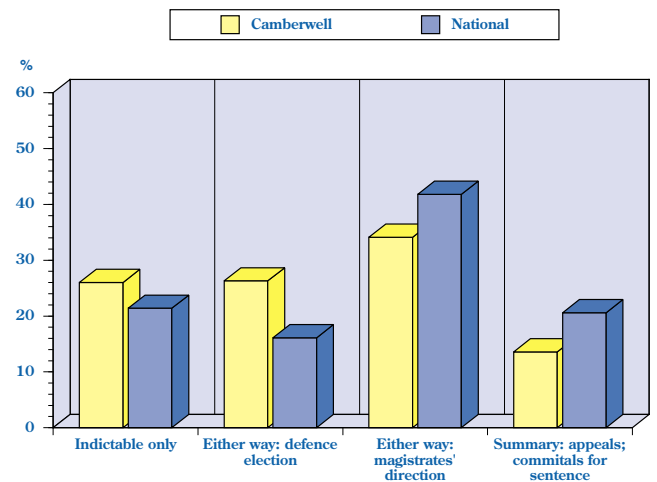


	Camberwell		National	
	No.	%	No.	%
Guilty pleas	4,548	84.4	793,895	81.2
Proofs in absence	305	5.7	113,299	11.6
Convictions after trial	408	7.6	52,025	5.3
Acquittals: after trial	85	1.6	15,595	1.6
Acquittals: no case to answer	40	0.7	2,557	0.3
<b>Total</b>	<b>5,386</b>	<b>100</b>	<b>977,371</b>	<b>100</b>

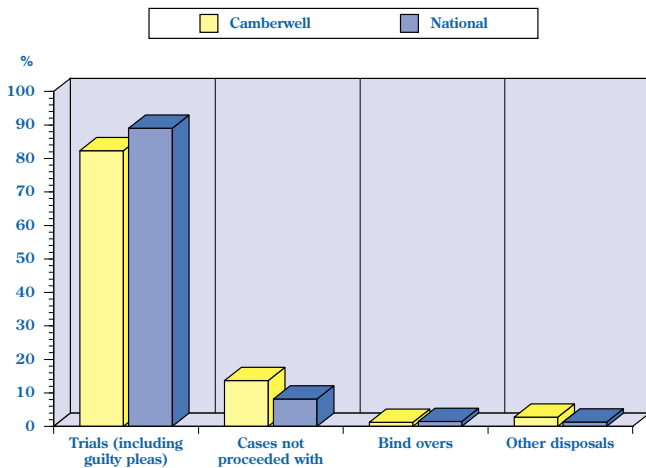
CROWN COURT

4 - Types of case

	Camberwell		National	
	No.	%	No.	%
Indictable only	370	26.0	27,450	21.4
Either way: defence election	374	26.3	20,677	16.1
Either way: magistrates' direction	485	34.1	53,634	41.8
Summary: appeals; committals for sentence	193	13.6	26,437	20.6
<b>Total</b>	<b>1,422</b>	<b>100</b>	<b>128,198</b>	<b>100</b>



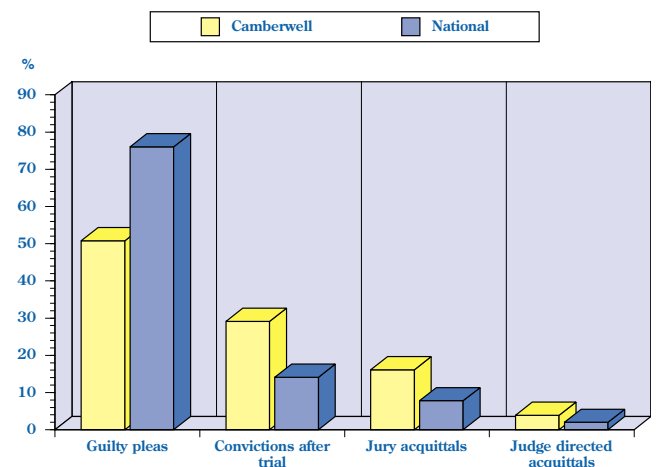
5 - Completed cases



	Camberwell		National	
	No.	%	No.	%
Trials (including guilty pleas)	1,011	82.3	90,596	89.0
Cases not proceeded with	168	13.7	8,359	8.2
Bind overs	15	1.2	1,519	1.5
Other disposals	35	2.8	1,307	1.3
<b>Total</b>	<b>1,229</b>	<b>100</b>	<b>101,781</b>	<b>100</b>

6 - Case results

	Camberwell		National	
	No.	%	No.	%
Guilty pleas	542	50.8	70,380	76.0
Convictions after trial	311	29.1	13,094	14.1
Jury acquittals	172	16.1	7,184	7.8
Judge directed acquittals	42	3.9	1,891	2.0
<b>Total</b>	<b>1,067</b>	<b>100</b>	<b>92,549</b>	<b>100</b>



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

<b>Judge</b>	His Honour Judge Van Der Werff
<b>Crown Court</b>	Mrs P Hochfelder, Chief Clerk
<b>Magistrates' courts</b>	Mr C Davidson, Metropolitan Stipendiary Magistrate Mrs V Carlisle, Justice of the Peace, Chair, South Central Division Bench Miss B Morse, Clerk to the Justices Mr R Goodwin, Deputy Chief Clerk Miss C Thompson, Deputy Chief Clerk
<b>Police</b>	Deputy Assistant Commissioner A Trotter Chief Superintendent J Godsave Chief Inspector R Kelly Chief Inspector M Wood Sergeant D Coles
<b>Defence solicitor</b>	Mr A Keenan
<b>Counsel</b>	Mr N Hilliard Ms K Holt Mr P McGrail
<b>Probation Service</b>	Mr A Wallgrove, Senior Probation Officer Mr E Brennan, Senior Probation Officer
<b>Witness Service</b>	Mr R McCafferty

## CROWN PROSECUTION SERVICE INSPECTORATE

### STATEMENT OF PURPOSE

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

### AIMS

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



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

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

**Tel: 0171 273 8117.**