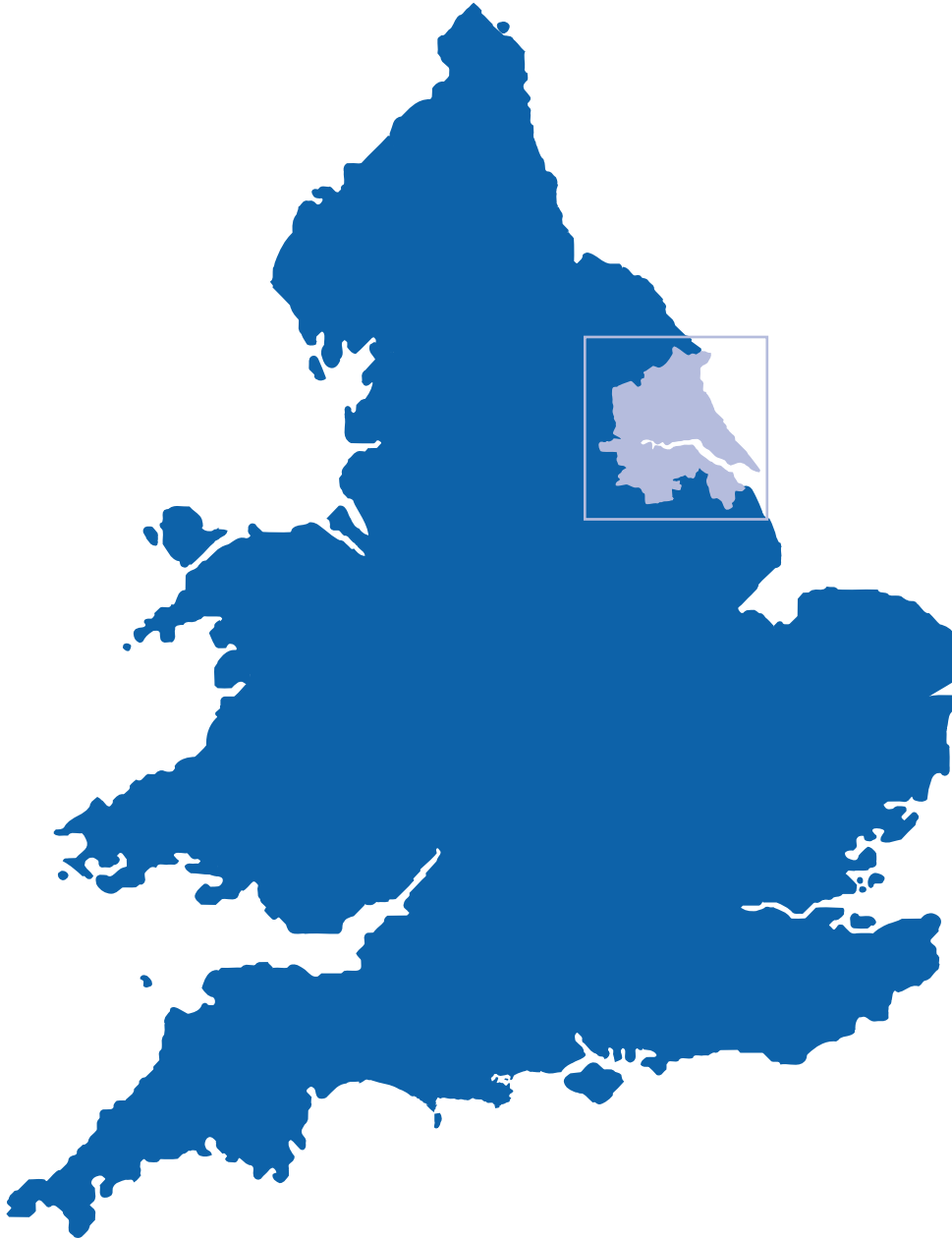


THE INSPECTORATE'S REPORT
on
THE HUMBERSIDE BRANCH
of
CPS HUMBER

Humberside Branch



BRANCH OFFICE

◆ Hull

SUB-BRANCH OFFICE

Grimsby

COURTS COVERED

Magistrates' Courts

Beverley
Bridlington
Brough
Driffield
Goole
Grimsby and Cleethorpes
Kingston-upon-Hull
Pocklington
Scunthorpe
Withernsea

Crown Court

Grimsby
Hull
Lincoln
Sheffield



REPORT ON THE INSPECTION OF THE CPS HUMBERSIDE BRANCH

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INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Humberside Branch of CPS Humber.
- 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 Humberside Branch is in the CPS Humber Area and has its offices at Hull and at Grimsby. On 26 October 1998, it employed 78.8 staff (the Branch Crown Prosecutor (BCP), a Special Casework Lawyer (SCL) and 26.2 other prosecutors; a senior caseworker and 37.6 other caseworkers; three caseworkers allocated to general Branch work; and nine administrative staff).
- 1.5 The Branch comprises three teams, two of which are based at Hull. One Hull team (8.4 prosecutors and 10.5 caseworkers) is responsible for prosecutions from the C and D divisions of Humberside police dealt with in the magistrates' courts at Beverley, Bridlington, Driffield, Pocklington, Withernsea and Kingston-upon-Hull. The other Hull team (8 prosecutors and 11 caseworkers) is responsible for prosecutions from the E and F divisions of Humberside police dealt with in the magistrates' courts at Brough and Kingston-upon-Hull. Prosecutors from both teams appear in all of these courts. The South

Bank team (9.8 prosecutors and 16.1 caseworkers) is responsible for prosecutions in the magistrates' courts at Goole, Grimsby and Scunthorpe. Each team is also responsible for Crown Court cases originating from its magistrates' courts.

- 1.6 The team of four inspectors visited the Branch between 26 October and 6 November 1998. During this period, we observed ten CPS advocates prosecuting cases in the magistrates' courts at Brough, Goole, Grimsby, Hull, Pocklington and Scunthorpe. We also observed CPS caseworkers and prosecuting counsel in the Crown Court sitting at Grimsby and at Hull.
- 1.7 A team of inspectors previously visited the Branch in October 1997. Its report on the Branch contained 18 recommendations and was published in January 1998 (Branch report 2/98). We refer to the report as "the first Branch report".
- 2.1 The Branch was formed three years ago by

CONCLUSIONS AND RECOMMENDATIONS

amalgamating two smaller Branches, both of which had a strong sense of local identity. This has made the achievement of a single entity a difficult task, and a large proportion of the Branch managers' time is spent travelling between the two offices, in an effort to achieve a consistent approach to casework.

- 2.2 The first Branch report drew attention to a number of specific weaknesses, particularly in relation to case handling, and observed that the systems to support casework varied significantly between the two offices. Following the publication of the report, the Branch, assisted by CPS Humber Area staff, undertook self-assessment exercises in April and September 1998, to identify areas that needed improvement.

- 2.3 We are pleased to report that we found evidence of distinct improvements in a number of aspects of the Branch’s casework and systems, and that the majority of local representatives of the criminal justice system told us that the Branch’s performance as a whole has improved.
- 2.4 The standard of decision-making throughout the Branch is high, and the great majority of casework decisions are correct. We disagreed with the analysis of either the evidence or the public interest considerations in very few of our sample of 137 cases.
- 2.5 We found, however, that some initiatives had been introduced only shortly before the current inspection took place, and that some issues identified in the first Branch report had not yet been effectively addressed.
- 2.6 To assist the Branch to improve its performance still further, we recommend that:
- i Branch managers should ensure that a copy of any telephone advice is sent to the police, with a request that it is attached to any subsequent prosecution file (paragraph 4.7):
 - ii Branch managers should ensure that effective systems to monitor the progress of advice files are in place, with a view to assisting the timely provision of advice to the police (paragraph 4.21);
 - iii the BCP, in conjunction with the police, should continue to use information obtained from Joint Performance Management (JPM), to secure the timely receipt of good quality files from the police, and to ensure timely action by Branch staff (paragraph 5.8);
 - iv Branch prosecutors should take decisions, select appropriate charges and deal with issues in cases, at the earliest opportunity (paragraph 5.16);
 - v the BCP should arrange comprehensive training, as soon as possible, to ensure that staff maintain accurate records of performance information (paragraph 5.35);
 - vi the BCP and Prosecution Team Leaders (PTLs) should continue to take steps to improve the quality of review endorsements (paragraph 5.48);
 - vii the BCP should ensure that advance information is served as soon as possible after receipt of the police file, particularly in cases which have been adjourned for this purpose (paragraph 6.10);
 - viii the BCP should ensure that training in dealing with unused material, particularly sensitive material, is completed, and that Branch prosecutors deal with unused material appropriately (paragraph 6.19);
 - ix Branch managers should implement systems to ensure that written communications to the police are forwarded expeditiously (paragraph 6.24);
 - x the BCP should introduce an action-dating system to check the progress of summary trial preparation, and to ensure that all appropriate actions are taken and that all outstanding work is completed before the date of trial (paragraph 6.28);
 - xi the BCP should take whatever steps are necessary to ensure that prosecutors include in their instructions to counsel:
 - a properly prepared summary of the case;
 - an analysis of the issues in the case; and
 - instructions on the acceptability of alternative pleas (paragraph 6.37);
 - xii the BCP should ensure that counsel’s instructions are delivered within the guidelines agreed by the CPS and the Bar (paragraph 6.39);
 - xiii the BCP should ensure that all custody time limits are monitored as soon as defendants are placed in custody, and that consistent practices are introduced throughout the Branch (paragraph 6.56);

- xiv Branch managers should ensure that any out-of-date desk instructions relating to custody time limits are destroyed immediately, and that up-to-date replacements are provided as soon as possible (paragraph 6.58);
- xv Branch managers should ensure that appropriate and effective liaison with other criminal justice agencies is achieved and maintained (paragraph 8.8).

3.1 In the 12 months to 30 September 1998, the

THE INSPECTION

Branch dealt with 21,724 defendants in the magistrates' courts and 2,178 defendants in the Crown Court. In a further 949 cases, advice was given to the police before charge.

3.2 The inspection team examined a total of 137 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Branch and local representatives of the criminal justice agencies that directly affect, or are directly affected by, the quality of casework decisions taken in the Branch. A list of those representatives from whom we received comments is at the end of this report.

PROVIDING ADVICE

Appropriateness of requests for advice

- 4.1 In the 12 months to 30 September 1998, advice cases constituted 4.2% of the Branch's total caseload, which is the same as the national figure.
- 4.2 We examined ten advice cases, all of which had been appropriately submitted by the police.

- 4.3 In addition to formal requests from the police, Branch prosecutors also deal with telephone requests for advice. Each PTL allocates a prosecutor, on a daily basis, to deal with such requests.
- 4.4 In the first Branch report, we recommended that Branch prosecutors should fully apply the system in place for recording telephone advice. Such advice is now recorded and included in the Branch's statistics, although a written copy of the advice is not forwarded to the police.
- 4.5 Branch managers are aware that the thematic review by the CPS Inspectorate on advice cases, which was published in September 1998 (Thematic report 3/98), recommended that the police should be provided with a copy. They are shortly to introduce a self-carbonating form, to confirm informal advice in writing to the police. In the meantime, however, it would be possible to provide confirmation by sending a photocopy of the appropriate form.
- 4.6 Branch staff also rely on the police to identify which cases have been the subject of advice. A request to include a copy of the advice on any subsequent prosecution file should also be made.
- 4.7 We recommend that Branch managers should ensure that a copy of any telephone advice is sent to the police, with a request that it is attached to any subsequent prosecution file.**
- 4.8 There is no agreement between the Branch and the police about the types of case or the quality of file that should be submitted for advice, although we were told that the BCP and the police are considering the introduction of such an agreement. In other Branches, in order to ensure that only appropriate requests are made, we have often made a recommendation that such an agreement should be reached.
- 4.9 However, since our first Branch report, the number of requests for advice from the police

has reduced to the national level, and we were told that, in general, the police do not send inappropriate files for advice.

- 4.10 In these circumstances, we do not propose to make a recommendation. However, the BCP will wish to consider the option of a formal agreement with the police, if the situation changes.
- 4.11 Prosecutors do not attend local police stations to give advice. At present, neither the BCP nor the police feel that there is a sufficient need to justify the commitment of the necessary resources.

Quality of advice

- 4.12 Advice files are allocated by the PTLs to prosecutors, subject to their experience and expertise.
- 4.13 We agreed with the advice given in nine of the ten cases that we examined. In the tenth case, advice was given at the same time as a request for further information. That information might have materially affected the advice proffered. The quality of advice is no longer formally monitored by the PTLs.
- 4.14 The advice was well reasoned and properly detailed in the other cases. Five advice letters were typed, and the remainder were neatly and legibly hand-written.
- 4.15 At present, the police use a single file system when submitting advice requests. This means that there is only one file in existence, and it is returned to the police when the advice is given. A copy of the advice letter, but not the case papers, is retained on the Branch.
- 4.16 As a result, Branch staff rely on the police to send a copy of the advice with any subsequent prosecution file. This is the only way in which prosecution files, that have been the subject of pre-charge advice, are identified. The BCP may wish to adopt the practice in other Branches, whereby a copy of the file jackets and letters which advise prosecutions to be initiated are retained, so that the necessary link may be made.

Timeliness of advice

- 4.17 The CPS has set a target of providing advice within 14 days of receipt of the file from the police. Six of the ten cases in our sample did not meet this target, varying from two to 14 days late. The first Branch report commented upon the poor timeliness of advice files and made a recommendation.
- 4.18 The timeliness of advice is not a cause for concern to police at present. They told us that all advices were received before the next significant date, which was often the date when a suspected person had been bailed to return to the police station.
- 4.19 The provision of late advice has given rise to recommendations in other reports. Given that the police are satisfied with current arrangements, we do not propose to make a formal recommendation in this report. However, the BCP will wish to pay very close regard to the timeliness of advice, to ensure that the position certainly does not deteriorate. Preferably, it should improve.
- 4.20 The formal recording of timeliness of advice files has stopped within the CPS nationally, but Branch staff continue to check the timeliness of advice files. Hull office staff check advice files at seven and 14 days, and Grimsby office staff at seven and 13 days, to monitor progress. We are concerned that, in neither office, do the systems appear to ensure that advice files are dealt with timeously.
- 4.21 We recommend that Branch managers should ensure that effective systems to monitor the progress of advice files are in place, with a view to assisting the timely provision of advice to the police.**

Advice from counsel

- 4.22 In a sample of 30 Crown Court files, we did not see any cases where counsel's advice was requested. We found one case where counsel

had given advice, without being requested to do so. The advice was correct, and related to matters which should have been resolved by the Branch prosecutor at an earlier stage (this is an aspect of Branch casework which leads to recommendation iv, at paragraph 5.16).

- 4.23 We were told that it is very rare for counsel's advice to be sought in cases either before or after charge or committal, and any such request has to be approved by the appropriate PTL.

REVIEWING CASES

Quality of review decisions

- 5.1 Under the Prosecution of Offences Act 1985, the CPS is required to review every case it deals with in accordance with the Code for Crown Prosecutors (the Code). It must establish whether there is sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to prosecute the matter.
- 5.2 We inspected the quality of the review decision in 79 files, covering cases in the magistrates' courts and in the Crown Court. We agreed with the review decision on the evidential test and the public interest test in each.
- 5.3 The PTLs monitor the quality of review by sampling files on a monthly basis. Additionally, the BCP and PTLs regularly prosecute in the magistrates' courts, and see files that have been reviewed and prepared by prosecutors from their teams.
- 5.4 Most local representatives of criminal justice agencies supported our view of the high quality of judgment exercised by Branch prosecutors and caseworkers. There were concerns, however, about the timeliness of review.

Timeliness of review

- 5.5 Prosecutors should review every file within seven days of receipt and, in any event, before the defendant's first appearance in court. Prosecutors had reviewed 29 out of 30 files (96.7%) in our sample, before the first hearing.

This is in contrast to the position in the first Branch report, where there was concern that files were often not reviewed in time, due in part to the late receipt of police files.

- 5.6 Then, there was no agreed mechanism to monitor the timeliness or quality of police files. We are pleased to note that Joint Performance Management (JPM) was introduced in April 1998. JPM is a management system by which the CPS and the police jointly collect information about aspects of their activities, with a view to taking remedial action, where appropriate.
- 5.7 It is essential that for effective and timely review to take place, the Branch is in receipt of good quality files from the police, delivered in a timely manner.
- 5.8 We recommend that the BCP, in conjunction with the police, should continue to use information obtained from JPM, to secure the timely receipt of good quality files from the police, and to ensure timely action by Branch staff.**
- 5.9 JPM depends, to a large extent, upon the exchange of information about CPS and police assessment of files. The Branch returns the required information in 73% of cases. In our experience, this is good, but, nevertheless, prosecutors will want to ensure that this percentage continues to rise.
- 5.10 Some local representatives of criminal justice agencies expressed concern that, in some cases, it is not the late receipt of files which delays effective review, but the fact that review is only triggered by some external action, such as a not guilty plea.
- 5.11 Late review can be evidenced by charges being dropped, or new charges being added to, or substituted for, the original charge, at a late stage - sometimes even on the day of trial. Magistrates' courts staff keep records of the number of trials that do not proceed, and the reasons why.

- 5.12 In the year ending 30 April 1998, a total of 2,359 trials were fixed in the magistrates' courts, but only 817 (34.6%) proceeded. Three-hundred-and-seven (13%) did not proceed, because the prosecution terminated the proceedings. In a further 138 cases (5.8%), the prosecution accepted a plea to an alternative charge.
- 5.13 There can be a number of reasons for trials not proceeding, other than late review. These include, for example, evidence becoming available after a not guilty plea has been entered, or witnesses changing their evidence or expressing reluctance to attend court. Nevertheless, it is perceived that many ineffective trials are caused by late review. More positively, we were told that the position has improved over the past six months.
- 5.14 We examined cases which support the view that review is late in some instances. For example, we observed a case at court in which the defendant was charged with theft and handling stolen goods, in the alternative. The file had not been reviewed, but the advocate was prepared to deal with mode of trial, and for the defendant to enter a plea. Proper review of the file would have shown that there was insufficient evidence to proceed on the theft charge, and that the handling charge required a minor amendment.
- 5.15 We were further concerned by a small number of cases which were dropped at the Crown Court, which, with earlier effective review, would have been stopped sooner: see paragraphs 5.39 and 5.43 - 5.44.

5.16 We recommend that Branch prosecutors should take decisions, select appropriate charges and deal with issues in cases, at the earliest opportunity.

Selection of the appropriate charge and charging standards

- 5.17 Police charges required amendment in ten of the 79 cases (12.7%) that we examined. Eight were amended at first review.

- 5.18 Of the two cases that were not amended, one should have specified that the charge was a joint charge. The file was reviewed before the first date of hearing, but it was not until the case was prepared for summary trial that the defect was noted. The charge was amended on the day of trial. This is one case which supports the perception of some outside agencies referred to in paragraph 5.10.
- 5.19 In the second case, defendants were charged with burglary with intent to steal, whereas the evidence supported a charge of burglary in which property was actually stolen. This was referred to by the police on the file, but the reviewing prosecutor did not take any action, and there was no evidence on the file that this issue was ever considered: see recommendation iv.
- 5.20 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. In three of the ten cases in which the police charges required amending, the appropriate charging standard had not been correctly applied – in each case, the police had charged a more serious offence than was appropriate in cases of assault. The BCP will wish to take steps with the police, to ensure that the charging standard relating to assaults is correctly applied in the first instance.
- 5.21 Branch prosecutors correctly applied the appropriate charging standard at initial review in all 28 relevant cases.

Mode of trial

- 5.22 We agreed with the prosecutor's decision whether the case should be tried in the Crown Court or the magistrates' courts in all 48 relevant cases in our sample. Our finding that prosecutors deal appropriately with cases in this regard was supported by local representatives of other criminal justice agencies.
- 5.23 The reviewing prosecutor made a written record of the relevant considerations in 31 cases (64.6%).

It is important for prosecutors to do this, in order to ensure consistency of decision-making, and to assist colleagues who later deal with the case in court. The percentage needs to rise.

Bail

- 5.24 We were told that prosecutors opposed bail in appropriate cases. We examined 17 cases where the defendant appeared in custody, and an appropriate decision whether to oppose bail was made in each. The prosecutor's grounds for opposing bail were endorsed on the file in 14 cases (82.4%), but the magistrates' reasons for refusing bail were recorded in only eight (47.1%)
- 5.25 The first Branch report expressed concern about the standard of endorsements relating to bail applications. Then, the reasons and grounds for opposing bail had been recorded in 80% of the cases examined, but the magistrates' reasons for refusing bail were recorded in only 5.3%.
- 5.26 Branch managers told us that this was an issue which had been drawn to the attention of prosecutors, and that there had been a significant improvement in the standard of endorsements, particularly in the recording of magistrates' reasons for withholding bail. Branch managers will want to ensure that the standard continues to improve.

Discontinuance

- 5.27 The Branch's discontinuance rate of 9.4% for the 12 months ending 30 September 1998 is lower than the national average (12%).
- 5.28 We agreed with the decision to stop the proceedings in each of the ten cases that we examined. In one, however, prompt review would have enabled the case to have been discontinued at an earlier stage.

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

- 5.29 In the year to 30 September 1998, 36 trials were recorded as being stopped by the magistrates at the close of the prosecution case. This is 0.2% of the Branch's caseload, which is the same as

the national average. We examined ten such cases, and found that seven had been wrongly categorised. In six cases, the defendant was acquitted after a full trial, and in one case, the prosecution offered no evidence before the trial started.

- 5.30 Of the three cases that were correctly categorised, two were stopped because witnesses failed to give evidence in accordance with statements that they had given to the police.
- 5.31 In the remaining case, the magistrates dismissed a case of attempted burglary against two defendants at the close of the prosecution case. This was on the basis that there was insufficient evidence of participation by one defendant, and insufficient evidence to identify the other defendant as the person who tried the handle of a door. These were issues which should have been recognised and tackled well in advance of the trial date. There was no evidence of effective review on the file at all.
- 5.32 Nevertheless, magistrates told us that they rarely stopped cases, and that when they did, it was usually as a result of unforeseen developments in the case, rather than as a criticism of the judgment of Branch prosecutors.
- 5.33 In the same period, two cases were recorded as being discharged at committal after the magistrates decided that there was insufficient evidence to commit the defendants to the Crown Court for trial. We examined both files, and found that both had been wrongly categorised. The cases had been stopped by the prosecution before committal proceedings.
- 5.34 Miscategorisation of case results was a cause for concern in the first Branch report, and it led to a recommendation that training should be arranged to ensure that staff applied the correct performance indicator codes to completed cases. We were told that comprehensive training has not been given, although written advice has been issued to caseworkers. It is clear that wrong case results are still being recorded.

5.35 We recommend that the BCP should arrange comprehensive training, as soon as possible, to ensure that staff maintain accurate records of performance information.

Judge ordered acquittals

- 5.36 In the 12 months to 30 September 1998, 86 cases were not proceeded with in the Crown Court. This represents 5.4% of the Branch's Crown Court caseload, which is below the national average of 8.8%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).
- 5.37 We examined 28 cases in this category and found that three were incorrectly categorised. We agreed with the decision to proceed in 23 of the remaining 25 cases (92%).
- 5.38 One case with which we disagreed involved an allegation of theft of property. The evidence to identify the stolen property was poor, and there was no evidence to rebut an explanation given by the defendant. In any event, the case was dropped because the defendant received a substantial prison sentence on other matters.
- 5.39 In the other case, the defendant was charged with the serious offence of escape from lawful custody, although the incident itself was of a minor nature. There was, quite rightly, a note on the file that an offence of obstructing a police officer might be more appropriate. However, there was no evidence that this was considered further, and the case was committed to the Crown Court. Again, the case was dropped because the defendant received a substantial prison sentence on other matters.
- 5.40 This latter case is a further example of relevant and significant issues not being tackled by Branch prosecutors at the right time, resulting in resources being unnecessarily devoted to the case: see recommendation iv.

Judge directed acquittals

- 5.41 In the same 12 month period, there were 30 cases in which the judge directed an acquittal in the Crown Court after the trial had started. This represents 2% of the Branch's caseload, which is lower than the national average of 2.2%.
- 5.42 We examined six cases, and found that one was wrongly categorised. It should have been marked as a judge ordered acquittal.
- 5.43 We agreed with the decision to prosecute in four of the remaining five cases. Three were stopped because of discrepancies in the evidence given by prosecution witnesses, which could not have been foreseen by the reviewing prosecutor. In the fourth case, the judge excluded certain evidence in a drugs case, without which there was insufficient to prove the case. Whilst this was always a possible outcome, we agreed with the initial decision to prosecute. However, a more careful consideration of the indictment would have resulted in other counts being preferred, which may have resulted in a conviction.
- 5.44 In the case where we disagreed with the decision to proceed, an allegation of assault occasioning actual bodily harm was based on psychological, rather than physical, injury. This was an unusual case in which the reviewing prosecutor should have assessed more critically the possible factors which may have caused the harm alleged.

Review endorsements

- 5.45 Effective review must be supported by good review endorsements. Such endorsements ensure that other prosecutors and caseworkers who deal with the file are aware of the relevant factors taken into consideration by the reviewing prosecutor.
- 5.46 The evidential factors were fully evaluated and recorded in 58 out of 79 cases (73.4%), and the public interest factors in 63 (79.7%). These figures are a distinct improvement on those in the first Branch report (37% and 61% respectively), where the standard of review endorsements was identified as a cause for concern.

5.47 However, we found that the standard of review endorsements was still variable. In some straightforward cases, such as speeding offences, we found full and comprehensive notes, whereas in more complex cases, including cases involving child abuse or attempted murder, there was no record of review. There is still scope for improvement.

5.48 We recommend that the BCP and PTLs should continue to take steps to improve the quality of review endorsements.

Learning from experience

5.49 Branch policy requires prosecutors in magistrates' courts cases and caseworkers in Crown Court cases, to prepare reports in respect of all failed cases. These are considered by the PTLs and BCP. Issues that need to be brought to the attention of the Branch as a whole are raised at team meetings.

5.50 In general, failed case reports were appropriately and realistically completed, and they drew attention to points from which lessons could be learned.

5.51 The first Branch report was concerned to ensure that Branch staff learned from their casework. To deal with this, Branch managers planned to issue a bulletin containing information about casework issues, arising from both successful and unsuccessful cases, as well as more general information and news. The first issue was circulated in September 1998. It is an impressive document, and we commend its quality.

5.52 In addition, the SCL holds regular meetings at each office to discuss casework issues, although attendance is variable due to other commitments by prosecutors and caseworkers. Branch managers will want to ensure that every effort is made to re-arrange work schedules, to facilitate a high rate of attendance.

5.53 Whilst we are satisfied that there are appropriate systems available to enable prosecutors to be aware of the results of failed cases in the Crown Court, we are concerned that prosecutors are

not appropriately aware of the results of successful cases. Despite results of all Crown Court cases being displayed in the Branch offices, prosecutors seem unaware of the progress of their cases. This reinforced our view that prosecutors are insufficiently involved with their Crown Court cases (see paragraph 6.47). We encourage all prosecutors actively to keep abreast of developments in these cases. This involves more than simply relying upon a caseworker advising them of the outcome of a small proportion of their cases, on an informal basis.

PREPARING CASES

Advance information

6.1 National guidelines provide that advance information should be served within seven days of the receipt of the file from the police, and of the identity of the defence solicitor being known. The most recent Branch records show that, in May 1998, advance information was served within these guidelines in 58.1% of cases. We found that advance information had been served promptly in 40 out of 48 relevant cases (83.3%) in our sample.

6.2 Branch staff aim to serve advance information before the first hearing, if there is a specific request from the defence, and there is sufficient time before the hearing date.

6.3 On first review, the prosecutor indicates which material should be prepared as advance information. This note also acts as a record of what is served.

6.4 We were told that, in practice, Branch staff usually serve advance information on the first hearing date, but that, on occasion, service can be later. This usually results in the case being adjourned, to enable the defence solicitor to consider the material.

6.5 This is a concern in all the magistrates' courts, in particular at Grimsby, where there is a system of early administrative hearings (EAHs). Court staff

notify the prosecution of the result of the EAH, and identify the defence solicitor, if any. This enables Branch staff to serve advance information in the eight weeks before the next scheduled hearing. However, in practice, advance information is often handed over on the next hearing date, resulting in the case being adjourned yet again.

- 6.6 Court staff monitor such cases and their records indicate that the biggest single cause for cases being further adjourned is the late service of advance information, and that the position may be deteriorating.
- 6.7 In 1996 and 1997, 31.2% and 31.3% respectively of the adjournments were because of the late service of advance information. In the first ten months of 1998, this figure has risen to 35.4%.
- 6.8 We were told that late service of advance information is often as a result of the late arrival of the police file. The introduction of JPM will assist in addressing this issue. However, we observed cases which had been in the office for more than a week before the first hearing date, but which had not been reviewed and in respect of which advance information had not been prepared.
- 6.9 The late service of advance information resulted in a recommendation in the first Branch report, and this is an issue which must be addressed more positively.

6.10 We recommend that the BCP should ensure that advance information is served as soon as possible after receipt of the police file, particularly in cases which have been adjourned for this purpose.

- 6.11 The Branch receives requests for advance information in cases where the law does not require the prosecution to provide it. It had become the accepted practice to provide the information in these circumstances, even to the extent that the courts would grant adjournments to enable the prosecution to supply it, or for the defence to consider it.

- 6.12 Branch managers have become concerned at the practice, particularly in view of the criticism of the Branch for not providing advance information which is required by law in a timeous manner. As a result, Branch prosecutors have been urged to consider supplying such material only in those cases where it will assist in the progress of the case. This has recently given rise to variations between prosecutors about whether advance information will be provided in these cases. This variation has been criticised by other court users.
- 6.13 The BCP will wish to ensure that a consistent approach to the provision of advance information in cases where the law does not require it is adopted by all Branch prosecutors.

Unused and sensitive material

- 6.14 All prosecutors and caseworkers have received training on the disclosure provisions of the Criminal Procedure and Investigations Act 1996.
- 6.15 In general, unused material is dealt with properly, both in the Crown Court and in the magistrates' courts, although we were told of instances in the Crown Court where cases had to be adjourned because of the prosecution's failure to make appropriate disclosure.
- 6.16 In the magistrates' courts, the appropriate schedules relating to unused material were completed in 51 out of 57 cases (89.5%), and were served in a timely manner in 50 (87.7%). In our experience, these are good figures, but prosecutors will no doubt wish to raise the standard even higher.
- 6.17 Branch prosecutors do not always deal appropriately, however, with the issues of sensitive unused material. We saw 11 cases involving such material. The appropriate schedules were completed properly in only six (54.5%), and there appears to be uncertainty about which level of prosecutor is responsible for dealing with sensitive material.

6.18 While the inspection was taking place, a number of prosecutors received training in dealing with sensitive material arising from the use of informers. We were told that other training in dealing with unused material is being undertaken.

6.19 We recommend that the BCP should ensure that training in dealing with unused material, particularly sensitive material, is completed, and that Branch prosecutors deal with unused material appropriately.

Requesting further information from the police

6.20 As cases progress, Branch staff need to communicate with the police to request further information or other material, for example, upgraded files for summary trial or committal. Branch managers have set a target of requesting details of witness availability, or requesting upgraded files, within three days. They have also set a target of eight days for staff to notify the police of the witnesses needed for trial.

6.21 These targets were implemented because of concerns about the timeliness of such requests, and Branch managers have agreed to use JPM to monitor performance. The target for requesting witness availability is currently met in 29.7% of cases, and for requesting upgraded files in 25.8% of cases. The target for notifying the police of witness' requirements is currently met in 77.1% of cases. Branch managers are aware that these figures, particularly the first two, need to be improved.

6.22 Delay in notifying the police of the need for the information or material reduces the limited time available to them to comply with the prosecutor's request.

6.23 There are a number of ways in which the Branch's performance can be improved in this respect. One possible solution, particularly when the courts are some distance from the Branch office, is for prosecutors to complete appropriate requests and leave them with the local police after court.

6.24 We recommend that Branch managers should implement systems to ensure that written communications to the police are forwarded expeditiously.

Summary trial preparation

6.25 When a defendant enters a not guilty plea in the magistrates' court, the case is adjourned to a pre-trial review (PTR) between two and four weeks later. At the PTR, issues relating to the case are dealt with, and a trial date fixed. Following a recommendation in the first Branch report, Branch managers have introduced an action-dating system, to check that appropriate action is completed before the PTR.

6.26 This system ensures that most aspects of summary trial preparation up to the PTR are undertaken appropriately. Thereafter, however, there is no system to check that any remaining work, or any work arising out of the PTR, is completed before trial.

6.27 Court records show that 221 of the 2,359 summary trials (9.4%) fixed in the year ending 30 April 1998 did not proceed, because the prosecution requested an adjournment on the day of trial. Not all of these would have been because of the lack of timely preparation, but the issue must be addressed.

6.28 We recommend that the BCP should introduce an action-dating system to check the progress of summary trial preparation, and to ensure that all appropriate actions are taken and that all outstanding work is completed before the date of trial.

6.29 Section 9, Criminal Justice Act 1967 enables evidence to be accepted and read, thereby avoiding the unnecessary attendance of witnesses. This procedure was used and dealt with in a timely manner in all 27 cases in our sample where it was appropriate to do so.

6.30 Prosecutors are aware of the procedure for agreeing admissions of fact under section 10, Criminal Justice Act 1967, although we were told that this provision is rarely used.

6.31 Prosecutors are also familiar with section 23, Criminal Justice Act 1988, which, subject to certain conditions, enables a witness' statement to be read to the court if he or she is outside the United Kingdom, or is mentally or physically unfit to attend court, or is too frightened to attend court. We did not see any examples where it would have been appropriate to use this section.

Committal preparation

6.32 Most committals are now prepared by caseworkers, under the supervision of a prosecutor. There was evidence that the preparation had been checked by a prosecutor in 29 out of 30 cases. However, the preparation of cases in the Crown Court by caseworkers and prosecutors acting in partnership has not yet achieved the required improvement in quality.

6.33 When a case is to be committed to the Crown Court, the magistrates usually allow the prosecution six weeks to prepare the committal papers (four weeks, if the defendant is in custody). We found that, where timeliness could be ascertained, the committal papers were prepared and served in a timely manner in 21 out of 24 cases (87.5%). The committal papers are usually served at court on the adjourned date.

6.34 Magistrates' courts staff monitor cases fixed for committal. We were told that the proportion of cases which were listed for committal, and which could not proceed because of lack of service of committal papers, has steadily fallen, from 25% in January 1987 to 12.8% in July 1998. We commend the Branch on this improvement.

6.35 The first Branch report raised concerns about the standard of instructions to counsel, and noted that there were rarely any instructions on the acceptance of pleas, or comment on the issues in the case.

6.36 We were told that Branch managers had drawn this issue to the attention of prosecutors and caseworkers. Nevertheless, we found that the standard of instructions to counsel remained poor. A summary of the case dealing with the issues was prepared in only ten out of 27 cases (37%), and the acceptability of possible alternative pleas was addressed in only two out of 16 relevant cases (12.5%).

6.37 We recommend that the BCP should take whatever steps are necessary to ensure that prosecutors include in their instructions to counsel:

- a properly prepared summary of the case;
- an analysis of the issues in the case; and
- instructions on the acceptability of alternative pleas.

6.38 We found that counsel's instructions were delivered within the time guidelines agreed between the CPS and the Bar in 12 out of 20 cases (60%). We were unable to ascertain the timeliness of delivery in ten further cases. In the three months ending 30 June 1998, Branch records show that instructions were delivered timeously in 66.3% of cases. Caseworkers will want to ensure that the date of delivery of instructions is accurately recorded in all cases.

6.39 We recommend that the BCP should ensure that counsel's instructions are delivered within the guidelines agreed by the CPS and the Bar.

Quality of indictments

6.40 Branch staff draft indictments when the committal papers are prepared. In all 30 relevant cases, the indictments were lodged with the Crown Court within 28 days of the committal proceedings.

6.41 We were pleased to find a substantial reduction in the proportion of indictments requiring amendment. We found that the indictment needed to be amended in seven of the 30 cases (23.3%), and of these, four (13.3%) were amended because of acceptable pleas by defendants.

6.42 The first Branch report raised concerns about the quality of indictments and recommended they should be checked after typing and before they were lodged with the Crown Court. We were told that the present standard of indictments is generally good, and we noted that all amendments to indictments are now checked and monitored.

The CPS in the Crown Court

6.43 The majority of the Branch's Crown Court cases are dealt with at Grimsby and at Hull.

Caseworkers cover these on the basis of one caseworker for two courtrooms, or occasionally two caseworkers for three courtrooms. Courts dealing with plea and directions hearings (PDHs) have a dedicated caseworker. The most serious cases are committed to the Crown Court sitting at Lincoln or Sheffield, and a caseworker will usually cover the entire case.

6.44 Prosecutors attend the Crown Court at both Grimsby and Hull on Fridays, when the Branch's PDHs are held, primarily to deal with issues that arise in the PDHs. They are also available, however, to deal with any other queries relating to cases at court.

6.45 On other days, the prosecutor in the office who deals with requests from the police for advice by telephone (see paragraph 4.3) is expected to deal with Crown Court issues. Branch managers will wish to consider putting this rôle on a more formal basis, with clear duties and expectations, in order to make the best use of this resource.

6.46 One prosecutor from the Hull office is now exercising rights of audience in the Crown Court; otherwise, prosecutors do not usually attend the Crown Court. Bail applications in the Crown Court are usually dealt with by counsel, and it is unusual for prosecutors to attend trials involving their cases.

6.47 In general, we found that Branch prosecutors are not involved to any significant degree in the Crown Court. Prosecutors in all Branches have heavy commitments in the magistrates' courts, and rely upon caseworkers to deal with a large proportion of the work in the Crown Court.

It is essential, nevertheless, that prosecutors are effectively involved in the Crown Court, dealing with the Branch's more serious cases.

6.48 Branch managers will wish to consider whether it is possible to adjust work commitments, to enable prosecutors to attend the Crown Court on a more regular basis.

6.49 We found that directions made at PDHs were complied with in all seven relevant cases. The Crown Court provides the Branch with written confirmation of all directions made at the conclusion of the hearings, and Branch staff use an action-dating, diary-based system, to ensure that all outstanding work is completed.

6.50 We were told that the number of trials fixed at the Crown Court sitting at Hull which have to be adjourned is only 6%. This is significantly lower than the proportion of such cases in other nearby Crown Court centres.

6.51 The achievement of such a low figure depends on the commitment and actions of all agencies in the criminal justice system, and we commend the Branch for its part in this. Furthermore, we were told that no cases were adjourned because the prosecution was not ready to proceed, or because the original time-estimate for the trial had been altered.

Custody time limits

6.52 Custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case.

6.53 Failure to monitor the expiry date, and to make any application to extend the time limits, would, in normal circumstances, result in the immediate release of the defendant from custody. We were told that there have been no such failures in the 12 months to 30 September 1998.

6.54 Expiry dates had been correctly calculated and recorded in each of the ten files that we examined. They are recorded on the office computer, which is checked daily by a caseworker

and prosecutor. Files in the Grimsby office record the expiry dates, whereas files in the Hull office record both the review and the expiry dates.

6.55 Grimsby office staff do not start to monitor the custody time limits until the defendant has appeared in custody at court on two or three occasions. We were not given any reason for the variation in practice.

6.56 We recommend that the BCP should ensure that all custody time limits are monitored as soon as defendants are placed in custody, and that consistent practices are introduced throughout the Branch.

6.57 Desk instructions are provided to caseworkers to assist in the monitoring and calculation of custody time limits. However, these are out-of-date and can provide misleading information. Fortunately, all caseworkers involved in dealing with custody time limits are aware of the current requirements relating to custody time limits.

6.58 We recommend that Branch managers should ensure that any out-of-date desk instructions relating to custody time limits are destroyed immediately, and that up-to-date replacements are provided as soon as possible.

File endorsements

6.59 We found that court and out-of-court endorsements have much improved since our previous visit. Seventy-six out of 79 magistrates' courts files (96.2%) and 28 of the 30 Crown Court files (93.3%) were satisfactory in both respects.

6.60 In the magistrates' courts, prosecutors often use abbreviations that are not in general use throughout the CPS. This is a matter for Branch managers, but they will want to be assured that all prosecutors and caseworkers, including new or transferred staff, are fully conversant with such abbreviations.

6.61 There is a propensity for Branch staff to use pieces of paper - for example, sheets from telephone message pads - to record out-of-court work, rather than to make a record of such work on the file cover. In particular, Crown Court files would benefit from the use of minute sheets to record progress.

PRESENTING CASES IN COURT

7.1 We observed ten CPS advocates presenting cases in the magistrates' courts, and all appeared to be good. Representatives from the magistrates' courts told us that the standard of CPS advocates is good: some are very good.

7.2 We were told that some prosecutors are reluctant to make decisions about cases that they are dealing with in court, where they were not the reviewing prosecutor. This was particularly so if the prosecutor was not a member of the team dealing with the case. This was a concern raised in the first Branch report.

7.3 The situation arises frequently in the magistrates' court at Kingston-upon-Hull, because both teams from the Branch office at Hull deal with cases at that court. The courtrooms are not aligned to specific police divisions.

7.4 The situation occurs in other courts because of the Branch practice of sending Hull-based prosecutors to all courts covered by that office, even if the prosecutor's team does not have responsibility for cases at the court in question.

7.5 We were told that the system provides a greater range of advocacy experience for individuals, and provides greater flexibility within the Branch. However, it can undermine both individual and team responsibility. We were told that Branch managers are considering the issue, with a view to re-organising the teams.

7.6 We were told that the timing of prosecutors attending the magistrates' courts was, in some locations, a cause for concern. Magistrates found that they were having to adjourn for a proportion of the first half hour of the court's sitting time, to

allow prosecution and defence advocates to discuss cases in the list. We agree with the magistrates' view that discussions should take place before the court starts.

- 7.7 Branch managers told us, however, that prosecutors dealing with remand courts at Hull are unable to prepare their cases, because the final list is often not issued until half an hour before the court starts. In such a situation, prosecutors find themselves in courtrooms without knowledge of the cases in the list.
- 7.8 The BCP will wish to resolve this issue with the Clerk to the Justices, so that the advocates have time to prepare the cases in their particular courtrooms. This, in turn, will require prosecutors to attend court sufficiently early to discuss issues with defence advocates, before the magistrates sit.
- 7.9 Many Branch prosecutors are very experienced, and two prosecutors have achieved rights of audience in the Crown Court. Three newer prosecutors are about to start advocacy training.
- 7.10 PTLs monitor the advocacy of prosecutors twice a year, and see prosecutors at court on an informal basis. The BCP expects this monitoring to continue.
- 7.11 There are a significant number of cases in the Crown Court in which counsel originally instructed are not available, and substitute counsel appear instead. These are known as 'returned briefs'. Our examination of Crown Court cases showed that counsel originally instructed dealt with 13 out of 30 PDHs (43.3%); seven out of 21 trials (33.3%); and seven out of 20 sentencing hearings (35%).
- 7.12 Branch managers are, in general, satisfied with the standard of counsel, and in particular, with the standard of counsel provided where briefs are returned. Nevertheless, because of the relatively high rate of returns, the BCP will want to monitor the situation, to ensure that there is no decline in the current standard.

- 7.13 Counsel whom we observed in the Crown Court at Grimsby and at Hull appeared competent and appropriately experienced.

THE BRANCH AND OTHER AGENCIES

- 8.1 We were told that Branch staff enjoy good working relationships with representatives of other criminal justice agencies; and in general, there appears to be good and effective liaison between them and Branch managers.
- 8.2 We were also told by the majority of the local representatives that the performance of the Branch has improved over the last year, particularly in the past three to six months, and that it is continuing to improve.
- 8.3 There are still concerns about timeliness, and we have discussed these earlier at paragraphs 5.5 - 5.16.
- 8.4 The fast-tracking of prosecution cases has been introduced throughout the area covered by the Humberside Branch. This procedure relates to certain categories of offence, where the defendant is likely to plead guilty and is bailed to a court date soon after the date of arrest.
- 8.5 To enable this system to work, all parties to the system have to adopt a co-ordinated response. For example, the police have to be able to send a file to the Branch in a very short space of time; the courts have to list cases at very short notice; and Branch staff have to be prepared to proceed with an abbreviated file, which is usually received on the morning of the court hearing.
- 8.6 A fast-tracking system has also been recently introduced for youth offenders, and there are a number of liaison groups monitoring its introduction. Branch managers are expected to represent the CPS on these groups.
- 8.7 We were told that, in one instance in particular, the Branch had only been represented at one of six meetings of a fast-tracking liaison group,

dealing with youth offenders. There are always conflicting demands on the time of Branch staff, including the Branch managers. Nevertheless, it is important that Branch managers carry out their rôle in relation to the criminal justice system generally, particularly where it involves such an area of concern as youth offenders.

8.8 We recommend that Branch managers should ensure that appropriate and effective liaison with other criminal justice agencies is achieved and maintained.

9.1 The charts which follow this page set out the key

KEY STATISTICS

statistics about the Branch's casework in the magistrates' courts and the Crown Court for the year ending 30 September 1998.

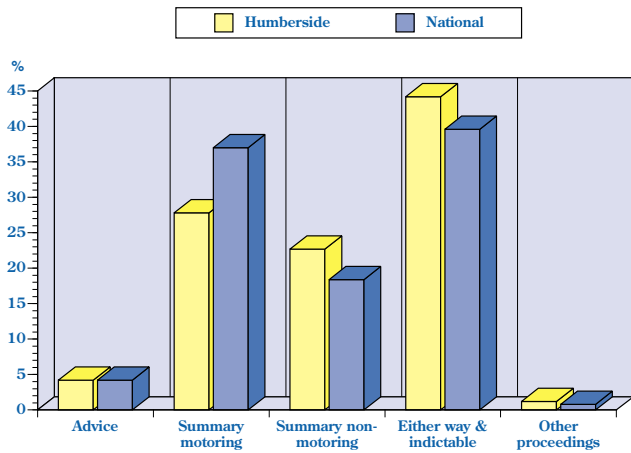
10.1 On page 20, there is a list of the local representatives of criminal justice agencies who

EXTERNAL CONSULTATION

assisted in our inspection.

MAGISTRATES' COURTS

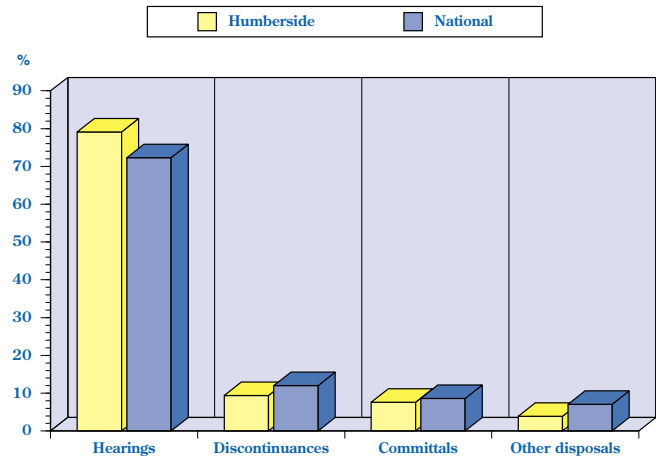
1 - Types of case



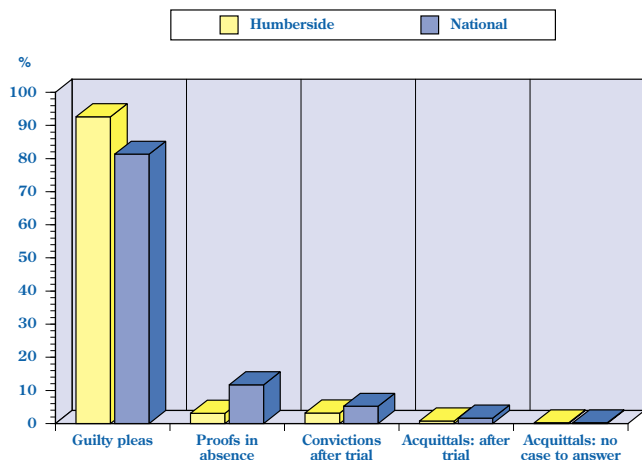
	Humberside		National	
	No.	%	No.	%
Advice	949	4.2	60,220	4.2
Summary motoring	6,294	27.8	530,379	37.0
Summary non-motoring	5,136	22.7	263,469	18.4
Either way & indictable	10,014	44.2	567,549	39.6
Other proceedings	280	1.2	11,512	0.8
Total	22,673	100	1,433,129	100

2 - Completed cases

	Humberside		National	
	No.	%	No.	%
Hearings	16,959	79.1	983,826	72.3
Discontinuances	2,011	9.4	163,707	12.0
Committals	1,633	7.6	116,529	8.6
Other disposals	841	3.9	97,335	7.1
Total	21,444	100	1,361,397	100



3 - Case results

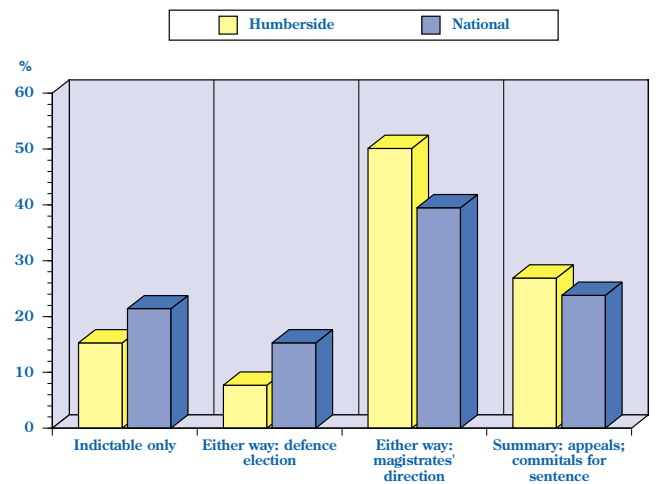


	Humberside		National	
	No.	%	No.	%
Guilty pleas	15,706	92.6	799,819	81.3
Proofs in absence	528	3.1	115,102	11.7
Convictions after trial	548	3.2	50,910	5.2
Acquittals: after trial	141	0.8	15,609	1.6
Acquittals: no case to answer	36	0.2	2,386	0.2
Total	16,959	100	983,826	100

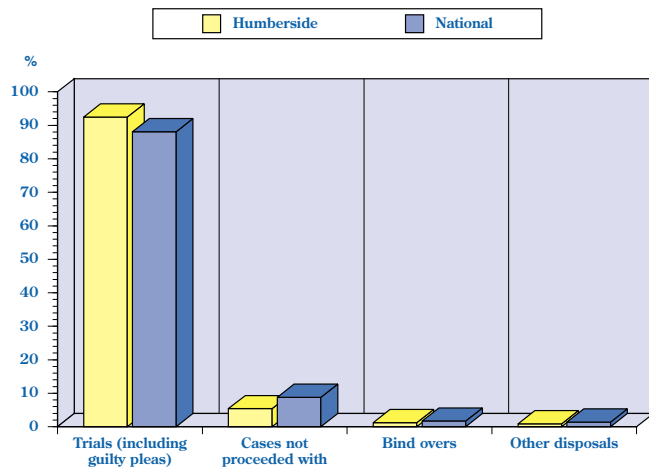
CROWN COURT

4 - Types of case

	Humberside		National	
	No.	%	No.	%
Indictable only	333	15.3	27,122	21.4
Either way: defence election	168	7.7	19,354	15.3
Either way: magistrates' direction	1,092	50.1	50,075	39.5
Summary: appeals; committals for sentence	585	26.9	30,203	23.8
Total	2,178	100	126,754	100



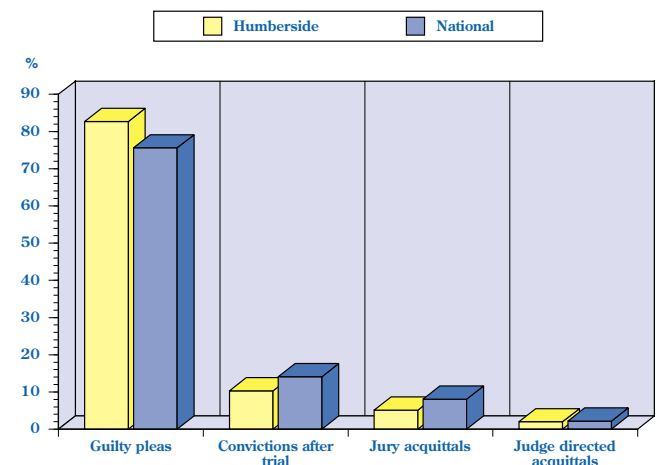
5 - Completed cases



	Humberside		National	
	No.	%	No.	%
Trials (including guilty pleas)	1,474	92.5	85,158	88.1
Cases not proceeded with	86	5.4	8,526	8.8
Bind overs	19	1.2	1,596	1.7
Other disposals	14	0.9	1,351	1.4
Total	1,593	100	96,631	100

6 - Case results

	Humberside		National	
	No.	%	No.	%
Guilty pleas	1,242	82.7	65,701	75.6
Convictions after trial	154	10.3	12,226	14.1
Jury acquittals	76	5.1	7,083	8.1
Judge directed acquittals	30	2.0	1,924	2.2
Total	1,502	100	86,934	100



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

Judges	His Honour Judge Mettyear His Honour Judge Pollard
Magistrates' courts	Mr N White, Stipendiary Magistrate Mr C Fenwick JP, Chair of the Magistrates' Courts Committee Mrs M Barker JP, Chair of the South Hunsley Beacon Bench Mrs M Clayton JP, Chair of the Scunthorpe, Brigg and Barton Bench Mr C Learie JP, Chair of the Beverley Bench Mrs D Major JP, Chair of the Grimsby and Cleethorpes Bench Lt Col D Quirke JP, Chair of the Bainton, Holme and Wilton Beacon Bench Mrs E Rymer JP, Chair of the Kingston-upon-Hull Bench Mr R Sampson JP, Chair of the Epworth and Goole Bench Mr P Watkin JP, Chair of the Dicker and North Holderness Bench Mr M Astbury, Justices' Chief Executive Mr D Foulkes, Clerk to the Justices, Kingston-upon-Hull Mr A Moore, Clerk to the Justices, Scunthorpe Mr I Shepherd, Clerk to the Justices, East Yorkshire Mr P Bond, Principal Assistant, Grimsby Mrs T Brown, Principal Assistant, East Yorkshire Ms K Clark, Principal Assistant, Kingston-upon-Hull Mr M Prudom, Principal Assistant, Scunthorpe
Police	Mr D Leonard, Chief Constable Mr A Westwood, Deputy Chief Constable Superintendent G Baggs Chief Inspector M Lumley
Defence solicitor	Mr E Lidster
Counsel	Mr B Gateshill

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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