

# THE INSPECTORATE'S REPORT ON CPS CLEVELAND

REPORT 9/01

APRIL 2001

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## **PREFACE**

Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) was established by the Crown Prosecution Service Inspectorate Act 2000, which came into effect on 1 October 2000, as an independent statutory body. Previously, the Inspectorate had been a unit within the Crown Prosecution Service (CPS) Headquarters. The Chief Inspector is appointed by and reports to the Attorney General.

HMCPPI's role is to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice. It achieves this primarily through an Area inspection programme operating a two-year cycle during which it visits and publishes reports on each of the 42 CPS Areas and the Casework and Policy Directorates at CPS Headquarters. It also maintains a programme of thematic reviews and each year conducts a number of inspections jointly with other criminal justice inspectorates.

Although the inspection process focuses mainly on the quality of casework decision making and casework handling, the Inspectorate also looks at matters that go to support the casework process. Business management inspectors are specialists in the fields of management, human and financial resources, and corporate planning; they examine aspects of the Areas' performance based on themes relating to management and operations; these are in addition to the more casework-orientated themes that are examined by legal inspectors.

HMCPPI also invites suitably informed members of the public nominated by national organisations to join the inspection process as lay inspectors. These inspectors are unpaid volunteers who examine the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its applications of the public interest test contained in the Code for Crown Prosecutors.

HMCPPI employs 37 members of staff and has offices in London and York. The London office has two groups which undertake Area inspections in the Midlands and Wales, and in Southern England. The group based in York undertakes Area inspections of Northern England. Both offices undertake thematic reviews and joint inspections with other criminal justice inspectorates. At any given time, HMCPPI is likely to be conducting six Area inspections and two thematic reviews, as well as joint inspections with the other criminal justice inspectorates.

The Inspectorate's reports commend high quality work, identify good practice and make suggestions and recommendations where CPS performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that HMCPPI considers should be attached to the proposals, with those matters meriting highest priority forming the basis of recommendations.

## INTRODUCTION

- 1.1 CPS Cleveland serves the area covered by the Cleveland Constabulary. CPS Cleveland was established when the Service was reorganised in April 1999, having previously been the Teesside Branch of CPS North. It is based at Crown House, Middlesbrough.
- 1.2 The Area was previously organised into two teams, based on geographical areas and police districts, but is currently in the process of internal reorganisation, resulting from the implementation of the recommendations of the Glidewell report.
- 1.3 On 30 October 2000 the Area reorganised into a Criminal Justice Unit (CJU), which concentrates principally on magistrates' court and youth court cases and a Trial Unit (TU), which concentrates on Crown Court matters.
- 1.4 The CJU, which has been established in the CPS area office, consists of the Stockton pilot and Not Guilty team, the Narey team and the Youth team. The Stockton pilot is made up of CPS lawyers and administrative staff who are co-located with police personnel from the Stockton district Administrative Support Unit (ASU). The Not Guilty team review cases heading for summary trial. The Narey team review fast-track cases prior to first appearance. The Youth team is responsible for the prosecution of all youth cases including cases destined for the Crown Court.
- 1.5 The TU consists of CPS lawyers and caseworkers. TU lawyers concentrate on Crown Court matters and prosecute no more than two sessions per week in the magistrates' court.

### Staffing and structure

- 1.6 On 30 September 2000, the Area employed the equivalent of 69.5 full-time staff: the Chief Crown Prosecutor (CCP) and 21.8 other prosecutors; the Area Business Manager (ABM); 16.4 caseworkers and 29.4 administrative staff.
- 1.7 The Area deals with cases at the Teesside, Hartlepool and Langbaugh East Magistrates' Courts and at the Crown Court sitting at Teesside. Langbaugh East Magistrates' Court sits at Guisborough.

### Caseload

- 1.8 In the year ending 30 September 2000, the Area handled 20,656 cases in the magistrates' court and 1,896 in the Crown Court. In a further 759 cases, advice was given to the police before charge. Overall, the caseload is weighted to more serious offences when compared to the national average.

|                                | <b>Cleveland</b> | <b>National Average</b> |
|--------------------------------|------------------|-------------------------|
| Summary motoring               | 33%              | 37.1%                   |
| Other summary                  | 17.5%            | 18.2%                   |
| Either way and indictable only | 46%              | 40.2%                   |

- 1.9 A higher percentage of defendants in both the magistrates' court and Crown Court plead guilty.

|                           | <b>Cleveland</b> | <b>National Average</b> |
|---------------------------|------------------|-------------------------|
| Magistrates' guilty pleas | 88.6%            | 82.1%                   |
| Crown Court guilty pleas  | 83.6%            | 73.5%                   |

## **The inspection process**

- 1.10 Our inspection team examined 214 cases finalised from June to September 2000. This was the period immediately prior to the establishment of the CJU and TU and our findings are qualified to that extent. Details of the file sample are at Annex 1. The team interviewed members of Area staff at all levels, criminal law practitioners and local representatives of the criminal justice agencies. A list of individuals from whom we received comments is at Annex 3. The team also observed advocates in the magistrates' and youth courts and in the Crown Court.
- 1.11 The CPSI inspected the former Teesside Branch in 1997 during the previous branch-based inspection programme. We refer to the previous report as the 1997 report.
- 1.12 The core team of five inspectors carried out its on-site work between 11th and 14th December 2000 and between 15th and 18th January 2001. Another inspector assisted with file examination.

## **The lay inspector**

- 1.13 In accordance with arrangements adopted at the request of the Attorney General, a lay inspector assisted with the inspection. The lay inspector for this inspection was Jackie Lowthian who was nominated by the National Association for the Care and Resettlement of Offenders.
- 1.14 The role of the lay inspector is described in the preface. She scrutinised the public interest decisions in a number of cases and reviewed files that had been the subject of complaints from members of the public. She visited the Crown Court and had the opportunity to speak to a witness after he had given evidence. She also took part in interviews with the Witness Service at both the magistrates' court and the Crown Court.
- 1.15 The lay inspector provided a valuable contribution to the inspection process. The views and findings of the lay inspector have been incorporated into the report as a whole, rather than separately reported. She gave her time on a purely voluntary basis, and the Chief Inspector is grateful for her effort and assistance.

## **Overview**

- 1.16 The Area, together with the whole of the CPS, is going through a period of major change. It had to adjust to being an Area in its own right with new leadership, as well as implement the Narey system and plan for the implementation of the Glidewell Report. For the financial year 2000-2001, the Area's budget allocation represented 95.1% of the activity-based costing assessment made nationally, which in itself represented a reduction in resources allocated to the Area for running costs from that of the previous year. In common with most other CPS Areas, Cleveland will benefit in the financial year 2001-2002 from the substantial increase in the CPS national budget.
- 1.17 The ongoing reorganisation into the CJU and the TU presented the Area with considerable challenges. The Area has recognised the need to think strategically in its planning for the reorganisation. It developed, together with the police, an innovative plan to implement the Glidewell Report which included the establishment of the Stockton pilot and the possible siting of the TU at the Crown Court.
- 1.18 The Area recognised the need, and has taken action, to improve performance against national targets and improve communication with staff. We are concerned, however, that insufficient attention has been paid to operational and quality assurance issues in the planning for the

reorganisation. As a result, previously good performance in some key areas has started to deteriorate and should be addressed.

- 1.19 The Area has a settled and experienced staff. The quality of decision-making is good but the quality of review endorsements has deteriorated since reorganisation. We are also concerned about the timeliness of initial and continuing review, particularly in relation to summary trials.
- 1.20 The establishment of a Committals Unit has resulted in a significant improvement in the timeliness of service of committal papers to the defence. Improvements in the timeliness of delivery of briefs to counsel have, however, been secured at the expense of quality.
- 1.21 Some progress has been made since the 1997 report, but some key issues have yet to be addressed, including the accuracy of the Area's performance indicators and the handling of sensitive unused material.
- 1.22 Although the Area has a lower rate of judge ordered acquittals than the national average, we found that the proportion of cases where the acquittal was foreseeable and yet no action had been taken to avoid the acquittal was higher than other inspections conducted during the inspection cycle 2000-2002. The Area currently lacks any formal systems to ensure that lawyers and caseworkers learn lessons from adverse cases.
- 1.23 The Cleveland criminal justice system area performance in relation to persistent young offenders deteriorated during the second and third quarters of 2000. The Area has made considerable efforts to target cases involving persistent young offenders since the publication of the worsening figures and performance improved in the final quarter of 2000.
- 1.24 Under the Narey system, defendants are bailed to a court within a few days. Some are now prosecuted by designated caseworkers (DCWs). We discuss the new arrangements throughout our report, where we refer to 'the Narey initiative' and 'Narey' files.
- 1.25 We comment on individual aspects of the Area's performance at relevant sections of the report. The tables overleaf draw together key statistical information about the Area's performance, particularly in relation to targets that have been set nationally in support of the Service's objectives, and in relation to Government targets.

### **Structure of the report**

- 1.26 Our scrutiny of casework focuses on all main themes: provision of pre-charge advice; the review of evidence and application of the Code for Crown Prosecutors; case preparation; and case presentation. Chapters 2 to 5 examine each of these issues. We set out in relation to each theme what we are looking for and our findings. Chapter 6 looks at management and operational issues.

| <b>CPS PERFORMANCE MEASURES</b>  | <b>National target</b> | <b>National outcome</b>                      | <b>Area target</b> | <b>Area outcome</b>                |
|--|------------------------|--|--------------------|------------------------------------|
| <b>Objective: To deal with prosecution cases in a timely and efficient manner in partnership with other agencies</b><br>Committal papers sent to the defence within agreed time guidelines<br>Briefs delivered to counsel within agreed time guidelines  | <b>2000-2001</b>       | <b>Apr-Sep 2000</b>                          | <b>2000-2001</b>   | <b>Apr-Sep 2000</b>                |
|  | 66%                    | 70.9%  | 62%                | 55.6%                              |
|  | 73%                    | 77.2%  | 85%                | 85.6%                              |
| <b>Objective: To ensure that the charges proceeded with are appropriate to the evidence and to the seriousness of the offending by the consistent, fair and independent review in accordance with the Code for Crown Prosecutors</b><br>Cases dismissed on a submission of no case to answer in the magistrates' courts which are attributable to failures in the review process (self assessment by CPS)<br>Non-jury acquittals in the Crown Court which are attributable to failures in the review process (self assessment by CPS)<br><br>Prosecution decisions examined during inspection by HMCPSI complying with the evidential test set out in the Code for Crown Prosecutors (random sample)<br>Prosecution decisions examined during inspection by HMCPSI complying with the public interest test set out in the Code for Crown Prosecutors (random sample)<br>Advices given to police and examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors<br>Decisions to discontinue examined during inspection by HMCPSI complying with the tests set out in the Code for Crown Prosecutors<br>Cases in the adverse sample examined during inspection by HMCPSI, where the outcome was foreseeable, but no remedial action was taken | <b>2000-2001</b>       | <b>Apr-Sep 2000</b>                          | <b>2000-2001</b>   | <b>Apr-Sep 2000</b>                |
|  | 0.009%                 | 0.007%                                       |                    | Nil return                         |
|  | 0.7%                   | 0.6%   | 0.6%               | Nil return                         |
|  | AA                     | <b>Inspection cycle 2000-2002</b><br>98.2%** |                    | <b>This inspection</b><br>98.3%*** |
|  | AA                     | 99.8%**                                      |                    | 100%***                            |
|  | AA                     | 95.2%**                                      |                    | 90%***                             |
|  | AA                     | 93.2%**                                      |                    | 96%***                             |
|  | BB                     | 13.5%**                                      |                    | 23.1%***                           |
| <b>Objective: To enable the court to reach just decisions by fairly, thoroughly and firmly presenting prosecution cases, rigorously testing defence cases and scrupulously complying with the duties of disclosure</b><br>Advocates who fail to meet the CPS standards of advocacy, as assessed by HMCPSI<br><br>Cases where the prosecution has properly discharged its statutory duties regarding primary disclosure<br>Cases where the prosecution has properly discharged its statutory duties regarding secondary disclosure  |                        | <b>Inspection cycle 2000-2002</b>            |                    | <b>This inspection</b>             |
|  | Below 2.5%             | 0.6%**                                       |                    | 7.7%+                              |
|  | <b>National target</b> | <b>National outcome</b>                      | <b>Area target</b> | <b>Area outcome</b>                |
|  | AA                     | 76.2%**                                      |                    | 87%***                             |
|  | AA                     | 71.8%**                                      |                    | 81.8%***                           |
| <b>Objective: To meet the needs of victims and witnesses in the CJS, in co-operation with other agencies</b><br>Witness expenses paid within 10 days<br>Complaints replied to within 10 days   | <b>2000-2001</b>       | <b>Apr-Sep 2000</b>                          | <b>2000-2001</b>   | <b>Apr-Sep 2000</b>                |
|  | 98%                    | 97.4%*                                       | 100%*              | 99.4%*                             |
|  | 89%                    | 92%  | 87%                | 71.4%                              |
| <b>Improving productivity:</b><br>Undisputed invoices paid within terms or 30 days<br><br>Reduce sickness absence rate per member of staff   | 100%                   | 97.1%*                                       | 100%*              | 96.2%*                             |
|  | 8.5 days by 31/03/01   |  | 10 days            | 12.7 days                          |
| <b>Citizens' Charter Commitment</b><br>MPs' correspondence replied to within 15 days   | 100%                   | 97.2%  | 100%               | No complaints received             |



- \* Denotes performance of Service Centre and is not specific to Area.
- \*\* Average performance of Areas inspected in inspection cycle 2000-2002 based on samples of cases examined and observations at court.
- \*\*\* Area performance based on sample of cases examined and observations at court in this inspection.
- + This figure relates to one CPS advocate
- AA The CPS constantly seeks to improve its performance and to increase the percentage of these cases, but has set no targets.
- BB The CPS undertakes self assessment (see above) of such cases which are attributable to failures in the review process.

| <b>CJS PERFORMANCE MEASURES<br/>(shared between Home Office, Lord Chancellor's Dept<br/>and CPS)</b>                                      | <b>National<br/>target</b> | <b>National<br/>outcome</b>                           | <b>Area<br/>target</b> | <b>Area<br/>outcome</b>                                |
|---|----------------------------|---|------------------------|--|
| Youth Justice<br>To halve the time from arrest to sentence for persistent<br>young offenders from 142 days to 71 days by 31 March<br>2002 | 71 days                    | <b>Quarter<br/>ending<br/>Sep 2000</b><br><br>93 days | 71 days                | <b>Quarter<br/>ending<br/>Sep 2000</b><br><br>109 days |

## **PROVIDING ADVICE**

### **General**

- 2.1 Our inspection was concerned primarily with the quality and timeliness of the advice provided. We also examined the arrangements between the CPS and the police for ensuring that the right cases are being submitted for advice and that advice informally given is properly recorded.
- 2.2 We found that the Area generally provides accurate advice to the police in appropriate cases. Advice was not always delivered promptly, however, and we were concerned that the new organisational structure may adversely impact on timeliness unless addressed.
- 2.3 The current arrangements for allocating and monitoring advice need attention to ensure that cases are handled by prosecutors of the right skill, ability and experience, and Area managers are able to assess performance in terms of both quality and timeliness.

### **Quality of advice**

- 2.4 We examined ten advice files. In nine we considered that the advice given accorded with the principles set out in the Code for Crown Prosecutors. The advice given was detailed, well-reasoned and typed.
- 2.5 We were pleased to see that the reviewers' decisions and reasoning were also endorsed on the advice file jacket, as recommended in the Inspectorate's report on the Review of Advice Cases (Thematic Report 3/1998).
- 2.6 We disagreed with the decision to proceed in one case, which was a public order incident involving an attack by three youths on another youth. The reviewer advised that there was insufficient evidence to proceed against one youth on the basis that he may have been acting in self-defence or in defence of others. The witness statements did not support this conclusion.
- 2.7 There are currently no formal systems within the Area for monitoring the quality of advices. The new Heads of CJU and TU plan to examine two files every month but have yet to do so. Although quality is not a significant problem, such monitoring should ensure it is maintained.
- 2.8 The police were generally satisfied with the quality of advice given, particularly in relation to major enquiries. Timeliness was the principal source of police concern.

### **Timeliness of advice**

- 2.9 In June 1997 the Teesside Branch entered into a Service Level Agreement (SLA) on advices with the police. A time guideline was agreed for dealing with requests for advice of no more than two weeks from receipt of an adequate file. This reflects a national agreement between the CPS and the police service.
- 2.10 The priority given to advice work by the Area has been a source of disappointment to all four police districts. However, of the ten advices we examined eight were returned on time. This compares favourably to the average performance (66.7%) of Areas inspected in the inspection cycle 2000-2002.

- 2.11 There are administrative systems in place to monitor timeliness but there was little evidence of Area managers making use of this information to improve performance. Administrative staff chase lawyers to provide advice but often in response to reminders from the police.
- 2.12 Indictable-only and child abuse advices are now dealt with exclusively by lawyers in the TU. Lawyers in the CJU provide advice in the remaining cases. All advice requests are received and registered in the CJU with appropriate cases being transmitted to the TU.
- 2.13 We were concerned to learn of delays of up to five days from receipt in the CJU to transmission and allocation in the TU. We accept that operational arrangements within the new units need time to become established but it is important that performance is not allowed to deteriorate.

### **Allocation**

- 2.14 Advice cases raise some of the more difficult issues that prosecutors are required to consider. It is important for all lawyers to be given the opportunity to develop their skills, provided that cases are allocated to lawyers of the right skill, ability and experience.
- 2.15 The current system for allocation in both units is unsatisfactory and needs addressing. Advice files are allocated on a numerical basis by administrative staff. No account is taken of lawyers' skills, ability, experience, workload or absence from the office. The system also fails to take account of individual lawyers' personal and career development needs.

### **Appropriateness of requests for advice**

- 2.16 The proportion of Area advices recorded in the year ending 30 September 2000 is the same as the national average (3.5% of caseload), although informal advice is currently under-recorded.
- 2.17 The SLA set out the circumstances in which advice should be sought. In general we found that the police abide by the agreement and that most advice requests are appropriate.
- 2.18 The request for advice was inappropriate in one out of the ten cases examined. This also happened to be the case where we disagreed with the reviewing lawyer's decision on the evidence. The incident was confusing but not evidentially difficult.
- 2.19 We recommend that the Heads of Unit ensure that effective systems are in place to:**
- **allocate advices according to skill, ability and experience;**
  - **monitor the quality of advice given to the police; and**
  - **monitor the timeliness of advice given to the police.**

### **Informal advice**

- 2.20 The SLA also established a procedure for the provision and recording of informal advice. Police officers are required to consult their own supervisors prior to seeking advice. CPS lawyers are required to complete a specially designed advice form and forward a copy to the officer in the case.
- 2.21 Proper recording of informal advice is essential if the Area is to receive its just share of resources. Linking the written record to any subsequent prosecution file enables checks to be made to ensure that advice has been followed. The case can also be allocated to the advising lawyer to avoid duplication of work and ensure consistency.

### *Telephone*

2.22 There is a system for recording informal advice given over the telephone but it relies on Area lawyers to complete the advice forms. The Area acknowledges that the recording of telephone advice continues to be 'hit and miss' even though guidance on the subject was repeated to lawyers as recently as July 2000.

**2.23 We recommend that the Heads of Unit ensure that all informal advice is recorded and confirmed in writing to the police.**

### *At police stations*

2.24 The Area places CPS lawyers at police stations (LAPS) for the purpose of providing informal advice before charge. Under LAPS the advice form is completed at the time of advising.

2.25 The Area has reduced the number of LAPS sessions to take account of the impact of Narey fast-track procedures and the re-organisation into the CJU and TU. Lawyers from the CJU continue to attend weekly half-day LAPS sessions at Middlesbrough, Langbaugh and Stockton police stations. Lawyers are rostered to attend Hartlepool police station every afternoon, primarily to review Narey fast track files but are also available to give informal advice.

2.26 Although popular with the police, the Area may need to consider whether the continuing LAPS arrangements are sustainable, at least in the short term.

### **Advice from counsel**

2.27 Advice from counsel before charge is rarely sought and Heads of Unit are consulted prior to counsel being instructed. The CCP has provided advice in a number of sensitive cases. The Area now shares a Special Casework Lawyer to whom such advices can be directed in the future.

## REVIEWING CASES

### Introduction

- 3.1 We examined the quality and timeliness of the decision-making at the various stages in the progress of the cases within our file sample and some that featured in our court observations and on-site work. Prosecutors are required to take all such decisions in accordance with the principles set out in the Code for Crown Prosecutors (the Code) promulgated by the DPP under Section 10, Prosecution of Offences Act 1985. The most fundamental aspect of the Code is the twin criteria for the institution or continuation of proceedings: first, there must be sufficient evidence to afford a realistic prospect of conviction; secondly, the circumstances must be such that a prosecution would be in the public interest. Apart from the Code there is also specific guidance relating to other issues such as mode of trial.
- 3.2 The decision whether to institute criminal proceedings rests, other than in exceptional circumstances, with the police albeit they may seek advice from the CPS before taking the decision. Following the institution of proceedings, the police submit a file to the CPS, which should be subject to an initial review to see whether it should be accepted for prosecution. In some cases this may lead to a decision to terminate the proceedings at the outset. Where a case proceeds, it must be subject to continuous review. The initial assessment may have an element of provisionality about it, especially if it occurs before the police have concluded and submitted the report of an investigation; the evidential position or surrounding circumstances may change during the life of any case and the CPS must respond quickly and positively to review the case again and reassess it.
- 3.3 Our file sample covered the full range of cases but focused especially on certain categories of case which consistently attract a high degree of public interest (e.g. discontinued cases) or those which have proved problematic and may therefore hold important information about the quality of decision-making. We usually refer to the latter as ‘adverse cases’. They fall into four broad categories namely cases:
  - (i) discharged by magistrates following consideration of evidence and a ruling that it is insufficient to justify committal to the Crown Court;
  - (ii) where all charges are dismissed on the basis that there is no case to answer at the conclusion of the prosecution case in a summary trial;
  - (iii) where a trial judge at the Crown Court orders that an acquittal should be entered following a decision by the prosecution prior to the calling of evidence or the empanelling of a jury that the case should not proceed (judge ordered acquittals); and
  - (iv) where a trial judge in Crown Court proceedings rules, following the commencement of the evidence, that it is insufficient for the Crown to proceed and directs the jury to acquit (judge directed acquittals).
- 3.4 We try to assess whether the outcome of adverse cases reflects a deficiency in the initial decision to prosecute or whether it is attributable to a change in the evidential position or other circumstances. We also consider at what point the likelihood of an adverse outcome became foreseeable and whether CPS staff identified and responded in a timely fashion to those changed circumstances so that any necessary termination took place at the earliest appropriate moment. Although the public interest requires that offenders be prosecuted fairly and firmly, it is also important to avoid continued unnecessary public expenditure on prosecutions which have ceased to be viable.

- 3.5 Our inspection process examines not only the substantive decision whether to prosecute but also a number of ancillary decisions e.g. whether or not to oppose bail. Other issues considered are the extent to which the police succeed in identifying the correct charge at the outset and, if not, how effective prosecutors are in making timely rectification; the handling of particularly sensitive categories of offence; how effective the Area is in ensuring that lessons from cases with adverse outcomes are shared with all lawyers; and the soundness of its systems for recording (or endorsing) decisions on files and the reasons.
- 3.6 Assessing the quality of legal decision-making is difficult. Decisions frequently turn on legal or evidential issues, which are essentially matters of professional judgement. It frequently occurs that different lawyers do, for perfectly proper reasons, take different views in relation to the same case. Our assessments in relation to quality of decision-making therefore consider whether the decision taken was one which was properly open to a reasonable prosecutor having regard to the principles set out in the Code and other relevant guidance. A statement that we disagree with a decision therefore means that we consider it was wrong in principle; we do not ‘disagree’ merely because inspectors might have come to a different conclusion.
- 3.7 Against this background, we set out our findings.

### **Quality and timeliness of review decisions**

- 3.8 The standard of decision-making is generally good. Inspectors examined the quality of the review decision in a random sample of 58 files, including cases that proceeded in the magistrates’ courts, youth courts and in the Crown Court.
- 3.9 We considered that the evidential test was properly applied in all but one case (98.3%). In that case, the defendant was charged with assisting in the retention of stolen goods but there was no evidence to establish that she knew the goods were stolen. The reviewing lawyer set out the evidential difficulties in a memorandum to the police but, after the police objected to the proposed discontinuance, allowed the case to proceed to trial in the magistrates’ court. The magistrates acceded to a submission of no case to answer at the close of the prosecution case. The decision to proceed appears to have been unduly influenced by the police.
- 3.10 We considered that the public interest test was properly applied in all 58 cases in the random sample.
- 3.11 We have concerns about the timeliness of initial review. In the files we examined, initial reviews had often been conducted after first hearing, even in Narey cases. Some cases had been adjourned at first appearance for review, even though the initial police file contained sufficient detail to make a decision.
- 3.12 A quality review is also a timely one. If anything, the new organisational structure has resulted in a deterioration of performance in the timeliness of review in Narey cases and should be addressed as a matter of urgency. We deal with our concerns in relation to the review of Narey files at paragraphs 3.15 to 3.19.

### **Fast-track and short bail date cases**

- 3.13 The Narey initiative was introduced in order to reduce significantly delay and cost in criminal cases.
- 3.14 Narey courts are listed at Teesside and Langbaugh East Magistrates' Courts in the afternoon and at Hartlepool Magistrates' Court in the morning. Files for Teesside and Langbaugh East are delivered to the CPS office the day before court. Lawyers from the Narey team review cases suitable for listing in early administrative hearings (EAH). These include cases likely to result in a not guilty plea. The DCWs review traffic and likely guilty pleas suitable for listing in early first hearings (EFH). We have concerns about other court work DCWs are undertaking which we deal with at paragraph 5.15.
- 3.15 A DCW and a lawyer are rostered to attend Hartlepool police station the afternoon before the first hearing. Lawyers' attendance is patchy, however, which can mean that EAH files are unreviewed before the first hearing, particularly if an agent has been booked to cover the EAH court. We saw one agent being given ten unreviewed EAH files five minutes before the court was due to sit. His performance suffered as a consequence. We have been told that, since the inspection and with the return of staff from sick leave, a lawyer and a caseworker now attend Hartlepool police station each afternoon.
- 3.16 Narey Team files are re-allocated to either the Not Guilty team after a not guilty plea is entered or to the Trials Unit once mode of trial is determined. Whilst there may appear to be some logic to this arrangement, we found that lack of file ownership and the expectation that files will be almost immediately re-allocated is acting as a disincentive to proper initial review. If there is a review, the conclusions are not always endorsed on the file.
- 3.17 The practical outcome of this arrangement is that a significant number of triable either way files are arriving in the TU, after Crown Court trial has been determined, with no review endorsement and therefore apparently unreviewed by the Narey team.
- 3.18 Given that decisions will have been made on mode of trial and bail by the advocate in court, it is unlikely that files have not been read but the lack of review endorsement is a worrying deterioration of previously good performance.
- 3.19 The use of agents to prosecute EAH courts, whilst undesirable, is also occasionally inevitable. Without proper review endorsements and in the event that alternative pleas are offered by the defence, the agent has no option but take instructions which disrupts court proceedings and may result in unnecessary adjournments.

### **Continuing review**

- 3.20 We were impressed by the quality and thoroughness of continuing review but once again had concerns about timeliness.
- 3.21 There had been a further review (other than summary trial or committal review) in the 16 cases where inspectors considered there to be a need for such a review.
- 3.22 Representatives of other criminal justice agencies generally confirmed our opinion of the quality of review but shared our concern over timeliness of continuing review. The general perception was that full reviews were often carried out late in proceedings, sometimes the day before trial. The practical consequence was that cases could have been discontinued sooner or

alternative pleas accepted earlier. We comment further on the timeliness of discontinuances at paragraph 3.33 and the preparedness for trial and pre-trial reviews in chapter 4.

**3.23 We recommend to the Area Management Team (AMT) that systems are put in place to ensure that:**

- **all files are reviewed prior to first appearance in the magistrates' court by the right prosecutor;**
- **prosecutors endorse their review decision in every case regardless of whether it is destined for the TU; and**
- **the use of agents in Narey courts is kept to a minimum and, where they are used, their files are checked to ensure initial reviews have been carried out.**

**Selection of the appropriate charges**

3.24 The initial police charge was correct in 51 (87.9%) out of 58 cases in our random sample. The CPS correctly amended the charge in the remaining seven cases.

3.25 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences. They were correctly applied in every relevant case examined.

3.26 Representatives of the other criminal justice agencies confirmed our findings in relation to the appropriateness of charges.

**Discontinuance**

3.27 In the year ending September 2000, the Area's discontinuance rate was 10% of its caseload. This is lower than the National average of 12.5%.

3.28 The Area provided us with 105 files relating to prosecutions dropped against 110 defendants. Fifteen (16.6%) of these cases were incorrectly recorded in the discontinued category. One was a plea of guilty, another an acquittal after trial and in the third case the defendant had died. The endorsements in each case were quite clear. The other 12 cases were summary matters where the summons had not been served and a decision was made to withdraw. These should have been recorded for performance indicator purposes in the written off category. The discontinuance rates for the Area would be substantially lowered if the above trends applied to the rest of the year's figures. We comment further on the accuracy of the Area performance indicators in chapter 6.

3.29 We examined 90 cases that were stopped by the prosecution in the magistrates' courts in August 2000, to ascertain the reasons for discontinuance, timeliness and to find out if the police were consulted about and agreed with the decision.

3.30 The reasons for discontinuance are set out in the table below:



| <b>EVIDENTIAL REASONS</b>                                |           |       |
|--|-----------|-------|
| Conflict of evidence                                     | 2         | 2.2%  |
| Essential legal element missing                          | 20        | 22.2% |
| Unreliable witness                                       | 4         | 4.4%  |
| Identification unreliable                                | 17        | 18.9% |
| Sub-Total  | 43        | 47.8% |
| <b>PUBLIC INTEREST REASONS</b>                           |           |       |
| Genuine mistake/misunderstanding                         | 1         | 1.1%  |
| Defendant elderly/suffering ill health                   | 1         | 1.1%  |
| Loss/harm put right                                      | 1         | 1.1%  |
| Long delay between offence & date of charge/trial        | 2         | 2.2%  |
| Very small or nominal penalty                            | 17        | 18.9% |
| Caution more suitable                                    | 0         | 0     |
| Youth of offender  | 1         | 1.1%  |
| Sub-Total  | 23        | 25.5% |
| <b>PROSECUTION UNABLE TO PROCEED</b>                     |           |       |
| Case not ready/adjournment refused                       | 4         | 4.4%  |
| Victim refuses to give evidence/retracts statement       | 10        | 11.1% |
| Other civilian witness refuses to give evidence/retracts | 2         | 2.2%  |
| Victim fails to turn up unexpectedly                     | 3         | 3.3%  |
| Other civilian witness fails to turn up unexpectedly     | 1         | 1.1%  |
| Documents produced at court                              | 3         | 3.3%  |
| Sub-Total  | 23        | 25.5% |
| <b>REASONS NOT SHOWN</b>                                 |           |       |
| Endorsement/file does not show reason                    | 1         | 1.1%  |
| Sub-Total  | 1         | 1.1%  |
| <b>TOTALS</b>  | <b>90</b> |       |

3.31 The reasons for discontinuance were recorded correctly and clearly on the majority of files. In one case it was not possible to ascertain the reason for discontinuance because of the poor endorsements.

3.32 The high number of cases discontinued because of identification issues in motoring cases is a cause for concern. There is also room for improvement in identifying potential cases where a witness may not attend court.

3.33 Only 39 cases in the sample were terminated by formal notice under Section 23 of the Prosecution of Offences Act 1985. Even where notices are sent it is not unknown for notices to arrive at magistrates' courts the day before a trial is due to take place. Timely continuing review would improve this figure.

| <b>Method of termination</b>           |    |       |
|--|----|-------|
| Section 23 notice before court hearing | 39 | 43.3% |
| Withdrawn at court                     | 26 | 28.9% |
| No evidence offered at court           | 25 | 27.8% |
| Total                                  | 90 | 100%  |

3.34 The police were consulted about discontinuation where appropriate. They disagreed with the decisions in only three cases. An agreement was reached in each of these cases when an officer of a higher rank was consulted.

| Police consulted by CPS |    |       | Police response to CPS |    |       |
|-------------------------|----|-------|------------------------|----|-------|
| Yes                     | 69 | 76.7% | Agreed                 | 58 | 64.4% |
| No                      | 3  | 3.3%  | Objected               | 3  | 3.3%  |
| Not Known               | 15 | 16.7% | Not Known              | 23 | 25.6% |
| Not Applicable          | 3  | 3.35% | Not Applicable         | 6  | 6.7%  |
| Total                   | 90 | 100%  | Total                  | 90 | 100%  |

3.35 Stockton pilot lawyers are in the position to discuss proposed discontinuances with co-located police file builders. This arrangement appears to work well and should have a positive impact on timeliness. Files builders have taken over responsibility for informing case officers of proposed discontinuances in an effort to reduce delay and relieve the administrative burden from the Area.

3.36 We examined 25 cases in greater detail to see whether the Code tests had been applied correctly. We agreed with the final decision in 24 cases.

3.37 We disagreed with the application of the public interest test in one case. This case involved shoplifting of a low value item by a youth who had no previous convictions, cautions or reprimands. The initial reviewer had questioned whether it was in the public interest to proceed in light of the boy's good character but had not taken the issue any further.

### **Custody and bail**

3.38 Magistrates and local practitioners expressed concerns that some lawyers are insufficiently robust and independent on the question of bail. To a large extent this impression stems from the inappropriate use by some CPS lawyers of the phrase 'I am instructed to object to bail'. Lawyers should take care to ensure that they are not only independent from the police but seen to be so.

3.39 We examined 19 custody cases as part of the random sample and considered there to have been an appropriate decision whether to oppose bail in every case. Appropriate decisions were taken in relation to conditional bail in 21 out of 22 cases.

3.40 However, some prosecutors appear to only give proper consideration to the appropriateness of bail conditions imposed by the police prior to the first hearing when prompted to do so by either the defence or the court.

### **Mode of trial**

3.41 Prosecutors adopted the correct approach in deciding whether a case should be dealt with in the magistrates' courts or the Crown Court in all but one of the 39 relevant cases that we examined.

3.42 Representations were generally appropriate although there was a tendency to sit on the fence in borderline cases.

### **Adverse cases: foreseeability**

3.43 Our report on the Review of Adverse Cases (Thematic Report 1/1999) found that in 31.8% of cases examined, the adverse finding was foreseeable. In CPS Cleveland, we considered that the adverse finding was foreseeable in eleven out of the 26 cases (42.3%) that we examined. No remedial action was taken to overcome the difficulties or drop the case sooner in six of those cases (23.1%).

3.44 CPS Areas are required to assess, for performance measurement purposes, whether adverse cases are attributable to failures in the review process (we refer to the CPS targets in the table at paragraph 1.25). There is no guidance and this is usually interpreted as being a similar test to that carried out in paragraph 3.6 so only a decision to proceed that was clearly wrong should be captured. Our test of foreseeability is based upon what a suitably experienced prosecutor ought to have foreseen and taken some remedial action or if necessary dropped the case sooner. This narrow interpretation of a review failure may explain why the Area's nil assessment in the quarter to 30 September 2000 is in contrast to our finding of eleven cases over the same period.

### **Magistrates' court: no case to answer in summary trials and discharged committals**

3.45 In the year ending 30 September 2000, the Area recording of the number of cases where magistrates found no case to answer was double (0.4%) that of the national average (0.2%).

3.46 We examined 16 cases recorded in the Area's performance indicators for the months of July, August and September 2000. Of the 16 cases examined we found that 13 had been recorded in the wrong category. On the other hand, the alleged handling case to which we referred in paragraph 3.9 was not recorded, although it should have been.

3.47 We agreed with the decision to proceed in the three cases correctly recorded. The reason for the acquittal was reasonably foreseeable in one case. More could have been done to avoid the acquittal in two cases.

3.48 The Area identified one case attributable to a failure in the review process in the year to 30 September 2000. The failure to correct the recording mistakes in the performance indicators for the quarter ending September 2000 leads us to question the accuracy of the Area's selfassessment. Reducing the number of dismissals attributable to failures in review is a national performance target and it is therefore of vital importance that an accurate assessment is carried out by the Area.

3.49 Area lawyers are encouraged to complete dismissed case reports for consideration by the Head of the CJU in every magistrates' court case resulting in an acquittal, including findings of no case to answer.

3.50 In the year ending 30 September 2000, 14 defendants were shown in the Area's performance indicators as discharged in committal proceedings after the prosecution had begun to present its evidence. We disagreed with the decision to proceed on the evidence in the one case in our three-month sample. The case involved an allegation of arson with intent to endanger life. The case proceeded to committal even though the Fire Officer's report could not rule out the fire having been started accidentally.

### **Adverse outcomes in the Crown Court**

3.51 The Area has a lower rate of judge ordered acquittals than the national average: 8.2% compared to 11.6%. If anything the Area may be slightly over-recording the number of judge ordered acquittals. The Area's judge directed acquittals are also low: 1% compared to 2.4%.

- 3.52 We examined 20 judge ordered acquittals and disagreed with the decision to proceed in one case. This was another example of a case where the reviewing lawyer considered the evidence against one defendant to be thin but was persuaded to continue by the officer in the case. This review failure was not captured by the Area's self-assessment.
- 3.53 The reasons for the acquittal were reasonably foreseeable in eight cases. Action was taken to avoid the acquittal in five cases and more could have been done in two cases.
- 3.54 The Area performance indicators incorrectly included 5 defendants who had pleaded guilty, hence our comment at paragraph 3.51.
- 3.55 We examined two recent judge directed acquittals and agreed with the original decision to prosecute in both but considered that the adverse result was foreseeable.
- 3.56 Adverse case reports had been compiled in every case examined but we were concerned about the extent to which lessons are learnt by lawyers and caseworkers, particularly as more could have been done to avoid the acquittal in the two cases to which we have referred at paragraph 3.53.
- 3.57 We looked at the reasons why cases had failed in magistrates' courts and the Crown Court to see if any trends were emerging. Nine out of the 26 cases examined failed because the victim or other witness failed to attend, refused to give evidence or did not come up to proof.
- 3.58 The Area is working with the police to identify witness problems sooner. We saw cases where police should have provided more information about a witness's credibility or willingness to attend court. It is hoped that closer working with the police will enable the Area to identify cases sooner where witnesses may need support or their credibility is in issue.

### **Learning from experience**

- 3.59 The 1997 report recommended that there should be a more systematic approach to the communication of learning points to lawyers and caseworkers. We thought more could have been done to progress this.
- 3.60 There are currently no formal systems for ensuring lawyers and caseworkers learn from experience. Feedback on adverse cases is informal, ad hoc and within teams. Adverse cases are often only discussed with the individual lawyer concerned. Legal briefings are not held and the recently introduced Communicator newsletter, whilst welcome, does not address legal issues.
- 3.61 Efforts are being made by the Head of CJU and her Stockton ASU counter-part to learn lessons from dismissed cases in the magistrates' court but it is unclear to what extent the team is involved, if at all.
- 3.62 There is a danger under the new operational structure that lawyers and caseworkers within units will become isolated from their colleagues and not be kept up-to-date on developments in other teams.
- 3.63 In order to maintain and improve performance, we recommend that the CCP should ensure that systems are established to enable prosecutors and caseworkers to learn lessons from the Area's adverse cases.**

## **Review endorsements**

- 3.64 The standard of review endorsements in the file sample was impressive but their value is diminished if the reviews are not carried out in a timely fashion.
- 3.65 The 1997 Branch report found that review endorsements provided a full analysis of the evidential factors in 79% of cases and public interest factors in 61%.
- 3.66 The relevant evidential and public interest considerations at review were fully recorded in 55 out of 58 cases (94.8%) in the random sample. Further reviews and consideration of unused material were also fully endorsed in the majority of cases. This represents a commendable improvement and compares favourably with other inspections undertaken thus far.
- 3.67 The files we examined were drawn from the period immediately prior to the establishment of the CJU and TU. It was against this background that we expressed our concerns about the deteriorating performance in the endorsement of initial review since the re-organisation into the CJU and TU at paragraph 3.17.

## **Youth Justice and persistent young offenders**

- 3.68 Youth justice has a high priority within the criminal justice system (CJS). Particular importance is attached to preventing delays, with targets being set to improve performance which can only be achieved through close inter-agency co-operation. The Government target is to halve the time between arrest and sentence of persistent young offenders (PYOs) from 142 days to 71 days.
- 3.69 The early figures for Cleveland CJS area were encouraging, dropping to 79 days in the first quarter of 2000. Improving performance may have given rise to some complacency. Since then the area figures rose dramatically to 96 days and 109 days, in the second and third quarters of 2000 respectively.
- 3.70 The Area planned for the establishment of a youth team as part of the CJU but it is clear that there was little specific focus on PYOs prior to publication of the worsening figures.
- 3.71 The Area has since taken steps to improve its contribution to the reduction in delay. It has appointed an experienced lawyer in the youth team to oversee the identification and progression of cases involving PYOs. He produces a comprehensive monthly report to lawyers and caseworkers in the youth section on CJS area progress. A PYO case tracking system has been installed and is analysed in the monthly report. A reduction in the deadline for submission of forensic results with the Forensic Science Service has also been secured.
- 3.72 The Area has benefited from two tranches of PYO performance improvement money. The funding has been used to reduce the number of court sessions prosecuted by youth team lawyers, in order to free them up for review work. It has also enabled the Area to appoint a Case Progression Officer with administrative support, albeit on a temporary basis.
- 3.73 The figures for the final quarter of 2000 show a promising reduction to 91 days. These figures reflect the performance of the CJS area and not simply the CPS.
- 3.74 It is important that the Area is able to assess its own contribution to the reduction in delay. The Joint Inspection of the Progress Made in Reducing Delay in the Youth Justice System produced a synopsis of action points and good practice, which was distributed to all CJS

agencies. Key factors identified in reducing delay in PYO cases includes the positive monitoring of the progress of PYO cases by each agency.

3.75 All of the Area's lawyers cover youth remand and Narey courts. Agents are booked to cover youth trials. The listing of youths jointly charged with adults in EAH courts can mean that agents prosecute youth cases at an early stage. It is vital therefore that lawyers and agents are aware of area initiatives to reduce delay not only in cases involving PYOs but also other youths.

3.76 A considerable proportion of delay in PYO cases nationally occurs in the Crown Court. The Youth team prepares its own committals and has conduct of all Crown Court cases involving youths. We examined recent examples of Area briefs to counsel in PYO cases. They were notable for the paucity of instructions, in common with other briefs examined. Other than 'PYO' written on the back sheet, counsel was given no indication as to the degree of priority attaching to the case. It is important that prosecution counsel are aware of the Area's objectives and take an active part in efforts to reduce delay in the Crown Court.

**3.77 In order to consolidate the work done so far, and continue to improve, we recommend that the CCP ensures that:**

- **all lawyers and caseworkers are aware of the need to reduce delay in all youth cases and particularly PYO cases, are kept informed about Area PYO initiatives and given regular feedback on Area performance; and**
- **counsel in the Crown Court and agents in the magistrates' court are instructed to take proactive steps to reduce delay in all youth cases and particularly PYO cases.**

3.78 We also suggest that the Area consider ways to monitor its own contribution to the reduction in delay in relation to PYOs to improve its own performance and that of the CJS area.

### **Sensitive and aggravated offences**

3.79 The CPS nationally recognises that certain types of offences require particular care and attention because of their sensitive nature. These include cases involving child abuse, domestic violence and offences with a racial motive.

3.80 All child abuse cases (pre-and post-charge) are dealt with in the TU. They are dealt with well in the main, although recent judicial criticism in two Crown Court cases followed a breakdown in the arrangements introduced to ensure that child witnesses are handled sensitively. This criticism prompted a review of all child abuse cases in the TU, which has been now extended to all cases in the unit. Systems are being refined to ensure that similar mistakes are not made in the future.

3.81 The Area appointed a domestic violence co-ordinator in September 2000, as a result of concern over the number of cases discontinued after complainants retracted allegations against their partners. The co-ordinator's remit includes liaison with the police domestic violence teams and externals in the field. Although all CPS lawyers must be proficient in the handling of domestic violence cases, it is hoped that the new co-ordinator will become the Area specialist.

3.82 The Area deals with comparatively few racially motivated offences and appears to do so well. Racially aggravated offences are charged where appropriate and inappropriate pleas are not accepted. However, we examined three racially motivated cases and whilst satisfied with the end result, perceived an uncharacteristic lack of confidence by the reviewing lawyers.

3.83 The Area's Equality and Diversity Plan included immediate action to appoint and train designated prosecutors to take the lead in cases with a racist element. This has yet to be done. We recommend at paragraph 6.49 that the Equality and Diversity Plan is regularly monitored to ensure that planned actions are carried out.

### **The Special Casework Lawyer**

3.84 The Area shares its Special Casework Lawyer (SCL) with CPS Durham. He was appointed in July 2000.

3.85 The SCL will advise on and carry a personal caseload of the Area's most serious cases. Whilst mindful of the SCL's commitments to CPS Durham, the Area may wish to involve the SCL in efforts to learn lessons from adverse cases.

3.86 Some Area lawyers appear unclear on the types of cases suitable to be dealt with by the SCL. The CCP should ensure that all Area lawyers are aware of the criteria for referral of cases to the SCL.

## **PREPARING CASES**

### **General**

- 4.1 Good quality decision-making is of limited value if the handling of cases is not thorough and efficient. In this section we consider the performance of the Area in relation to specific stages in the progress of cases, from the institution of proceedings through to their conclusion. Some aspects of case handling relate only to cases in the Crown Court, whilst some relate to both. They range from the provision of advance information through to compliance with prosecution obligations in relation to disclosure, committal preparation, quality of indictments, instructions to counsel, arrangements for plea and directions hearings and the presence of the CPS in the Crown Court.

### **Advance information**

- 4.2 It is a legal requirement that advance information is provided in either way cases, but in practice this usually also occurs in summary cases. Cleveland Police currently prepare copies of the relevant material in every Narey case.
- 4.3 The CPS guideline for service of advance information is within seven days of receipt of the file and notification of the defence solicitor, although Narey cases are invariably listed less than seven days after charge. We found that advance information had been served in a timely manner in 22 out of 43 relevant cases but were unable to tell when it had been served in 13 cases.
- 4.4 Local practitioners consider that advance information packages generally contain adequate information for them to advise their clients on mode of trial and plea before venue. By contrast, we were able to ascertain that appropriate material was served in only 19 cases. It is important that a proper record is kept of when advance information is served, and what it consists of, to ensure that cases proceed without delay, and to provide assurance that the prosecution has complied with its statutory duties.

### **Disclosure of unused material: overview**

- 4.5 Although there were some deficiencies in relation to both primary and secondary disclosure, Cleveland's performance is better than the average of other Areas inspected. We have already commented on the good performance in relation to file endorsements of disclosure decisions and reasoning. However, as the majority of files that we examined presented fairly straightforward disclosure issues, the Area should not be lulled into a false sense of security. Getting disclosure right requires constant and sustained effort.
- 4.6 We found that Area lawyers were aware of their disclosure obligations, considered unused material in appropriate cases and were familiar with the recently published Attorney-General's guidelines on disclosure.
- 4.7 The Area has taken steps to implement the recommendations of the Inspectorate's report on the Review of the Disclosure of Unused Material (Thematic Report 2/2000). The substantive achievement needs to be matched by improvement in the management of disclosure documents. Action should be taken to ensure that disclosure documents are filed separately and are easily accessible.



## **Primary disclosure**

- 4.8 The police provided unused material schedules in all 48 relevant cases in magistrates' court trials and Crown Court file sample. Service of the disclosure letter and schedule of nonsensitive material was timely in 35 cases (87.5%), although we were unable to tell in seven cases.
- 4.9 Primary disclosure was dealt with appropriately in 40 cases (87%) which compares favourably to average performance (76.2%) of Areas inspected in the inspection cycle 2000 - 2002.
- 4.10 Disclosure officers are based within the ASUs and have clearly had an impact on the standard of schedules being produced, although 11 schedules required some amendment.
- 4.11 Copies of unused material is supplied to prosecutors in many cases heading for trial and Cleveland Police hope to provide copies of unused material with every full file. Lawyers were concerned that this practice might have the effect of absolving the police of their responsibilities under the Code of Practice governing the retention and recording of material, issued pursuant to the Criminal Procedure and Investigations Act 1996 (CPIA). Schedules confirming whether or not there was, in the opinion of the disclosure officer, any undermining material (MG6E) were provided in 38 out of the 48 cases (84.4%). The onus is on Area lawyers and managers to ensure that disclosure officers play an active part in primary disclosure.

## **Secondary disclosure**

- 4.12 Secondary disclosure was dealt with appropriately in nine out of relevant 11 cases (81.8%) which again compares favourably to average performance (71.8%) of Areas inspected in the inspection cycle 2000 - 2002.
- 4.13 It is difficult to draw any firm conclusions from such a small sample, however. The service of defence statements is relatively rare in Cleveland. Frequent applications for disclosure outside the CPIA regime are made at the Crown Court and are often granted. The publication of the Attorney General's Guidelines should help to clarify the relative responsibilities of the prosecution and defence and assist prosecution counsel when opposing applications for disclosure outside the regime.

## **Sensitive material**

- 4.14 We retain some concerns about the handling of sensitive material. There was insufficient evidence of proper consideration whether items were sensitive in two out of the nine relevant cases examined. Where the material was of such sensitivity that it should be considered by a senior prosecutor, this was done in only one out of three cases.
- 4.15 The 1997 report noted a lack of confidence on the part of lawyers in relation to proper handling of sensitive material. Whilst performance does appear to have improved, there is still some way to go. The establishment of the CJU and TU provides an opportunity for all lawyers gain both confidence and expertise in this area.
- 4.16 We were also concerned about the storage of sensitive material. Notes of Public Interest Immunity (PII) hearings and conferences with counsel at which sensitive material is discussed are often kept on Crown Court files and not locked in a secure place. We were particularly concerned to find a note in a file we examined which contained information which could have

lead to the identification of an informant. The Area does have a secure cabinet for the safekeeping of sensitive material and it is clearly used but not as consistently as it should be.

**4.17 We recommend that the CCP ensures that lawyers and caseworkers store all notes relating to sensitive material in the secure cabinet kept for that purpose.**

#### **Summary trial preparation and pre-trial review**

4.18 Summary trials are generally well prepared. Our principal concerns related to timeliness of summary trial review, particularly in relation to the preparation for pre-trial reviews (PTRs), and the impact this has on the effectiveness of PTRs. We commented on the impact of late review on timeliness of discontinuance in chapter 3.

4.19 Of the 20 relevant files examined, there was evidence of further review in 16 (80%). The correct witnesses were warned to attend court in every case. Prosecutors made appropriate use of the provisions of section 9, Criminal Justice Act 1967 enabling a witness's statement to be read rather than requiring them to attend court.

#### **Pre-trial reviews**

4.20 When conducted properly, PTRs enable the parties to focus on the issues in a case, reduce the unnecessary attendance of witnesses and, on occasion, result in changes of plea. The CPS has a vital role to play in ensuring PTRs are effective but to do so must ensure that it has carried out all appropriate actions sufficiently in advance of the PTR.

4.21 A PTR was held in 18 cases examined. This accorded with the local practice of holding PTRs in all but the most straightforward summary trials. PTRs are usually listed four or five weeks after a plea of not guilty is entered.

4.22 We found that appropriate actions had been carried out by the Area prior to the PTR in only 11 cases (61.1%). We saw examples of cases where several PTRs had been held because of delays by the prosecution. There are undoubtedly instances where delays are caused by the defence, but this makes it even more important for prosecutors to be driving these cases forward.

4.23 The current arrangements between the Area and the police for the delivery of summary trial files do not support timely summary trial review. The Area currently gives the police a target date of seven days prior to the date of PTR for delivery of trial files. This is insufficient for lawyers to review the trial file further and complete primary disclosure; and for caseworkers to copy and serve section 9 statements and unused material on the defence prior to the PTR. PTR packages are invariably served at court and an adjournment almost inevitably results.

**4.24 In order to improve the effectiveness of PTRs we recommend that the CCP:**

- **seek to agree realistic timescales (possibly for a trial period) with the police and the Clerk to the Justices for the receipt of full files and the listing of PTRs to ensure that the Area has sufficient time to properly review files and carry out the necessary actions; and**
- **monitor CPS readiness for PTRs.**

## **Committal preparation**

- 4.25 The CPS nationally has set a target of serving the committal papers on the defence within 14 days of receiving a full file from the police when the defendant is on bail and within 10 days in custody cases.
- 4.26 In the year ending 31st March 2000, the Area performance against target figures was poor: 37.2% against the national target of 60%.
- 4.27 The AMT took steps to address this by setting up a dedicated Committals Unit at the beginning of September 2000. The Committals Unit is now part of the TU.
- 4.28 TU lawyers review committal files on receipt of upgraded files from the police. Detailed instructions on committal preparation are given to B1 caseworkers which include the proposed Indictment, further evidence to be sought from the police, primary disclosure of unused material and acceptable pleas. The Committals Unit arrange the typing, copying and service of committal papers on the defence.
- 4.29 Committals Unit staff are given performance targets and receive regular feedback on the performance of the unit. The early indications are promising: 85.3% of committals were served within national target in the unit's first month of operation. Provided the unit maintains this level of performance, the Area should meet its current target of timely service in 62% of cases for the year to 31st March 2001.
- 4.30 We are concerned, however, that the current failure of some CJU lawyers to review either way files under the new organisational arrangements may result in delays in requesting remedial work from the police and have an adverse impact on the timeliness of service of committal papers.
- 4.31 In order to maintain and continue to improve timely service of committal papers to the defence, we suggest that the Head of TU monitors the numbers and source of files received from the CJU without a review endorsement.

## **Instructions to counsel**

- 4.32 The CPS has agreed with the Bar that briefs will be delivered to counsel within 14 days of committal or 21 days in more serious cases.
- 4.33 Area performance in year ending 31 March 2000 was 82.7% against a national target of 80%. In the six months to 30 September 2000, the Area delivered 85.6% of briefs to counsel against a reduced national target of 73%.
- 4.34 Whilst it is clear the Area has been successful in improving compliance with the Bar Standard, these improvements have been secured at the expense of quality. The standard of instructions to counsel is poor and requires immediate attention.
- 4.35 Of the 28 briefs we examined 11 were unacceptable. Only one brief was better than average but dated back to 1999. Counsel was instructed on acceptability of pleas in only one out of 17 relevant cases.

- 4.36 In order to deal with backlogs in delivering briefs, caseworkers began using what is referred to as a ‘fast-track’ brief. Whilst originally only intended to be a temporary measure, it has endured ever since and has clearly affected the quality of instructions to counsel.
- 4.37 The ‘fast-track’ brief consisted of a standard document, with defendants’ details, date of hearing and bail status added in manuscript on a photocopied pro-forma. Although there was space for additional instructions, these were seldom given. Instead, counsel received a copy of a summary of facts routinely sent to the Crown Court to enable the court to make listing decisions. The blanket use of ‘fast-track’ briefs continued when the backlog was cleared and continued in spite of the establishment of the TU.
- 4.38 We have already commented on the comprehensive instructions given by lawyers to caseworkers when committals are reviewed at paragraph 4.28. None of these instructions have hitherto found their way into briefs, even in the most serious cases. We found examples of counsel writing to the Area asking for instructions on the acceptability of alternative pleas.
- 4.39 We are also concerned about the ad hoc nature and poor quality of further instructions to counsel. Counsel are often instructed verbally immediately prior to hearings. We discuss the impact this can have on counsel’s performance at paragraph 4.51.
- 4.40 Failure to instruct counsel properly could easily undermine the success of the TU, which was established in order to improve the quality of Crown Court casework. It is also important that counsel are briefed on national policy in relation to sensitive cases, including racially 4.41 The TU caseworkers have considerable experience. The continued use of the ‘fast-track’ brief and the haphazard nature of further instructions to counsel carries the risk of de-skilling caseworkers unless addressed.
- 4.42 We understand that the Area is starting to use the most recent version of the CPS Crown Court case preparation package, which allows instructions to contain more free text and to be more relevant to the case. The introduction of the new package will only improve quality if the substance of briefs are monitored as well as timeliness.
- 4.43 In order to improve the quality of briefs to counsel we recommend that the Head of the TU ensures that:**
- **caseworkers desist from the current practice of using ‘fast-track’ briefs to counsel;**
  - **all briefs to counsel are monitored to ensure that appropriate instructions are given; and**
  - **counsel are further instructed in writing in advance of court hearings.**

### **Quality of indictments**

- 4.44 Lawyers in the TU draft the majority of indictments. The gravity of the offending was reflected in 27 out of 28 indictments examined.
- 4.45 There was judicial concern about the frequency with which it proves necessary to amend indictments. Indictments required amendment in six out of 28 cases (22.2%), which compares favourably to average performance (25.1%) of Areas inspected in the inspection cycle 2000-2002. In only one did we consider that the reason for amendment was due to the wrong selection of charge. Three were amended to correct minor cosmetic errors. Care should be taken to check all indictments prior to lodging at court.

## **The CPS in the Crown Court**

- 4.46 The Area has two prosecutors, known as Higher Courts Advocates (HCAs), who have attained rights of audience in the Crown Court. It is in the process of, or about to start, training another four. HCAs currently prosecute committals for sentence but the Area intends extending their work to include PDHs and appeals from the magistrates' court against conviction and sentence.
- 4.47 There is currently no duty lawyer scheme for the Crown Court but counsel can and usually discuss developments with an experienced lawyer over the telephone. CPS lawyers had been consulted in the majority of judge ordered acquittals examined.
- 4.48 Caseworkers are well regarded by other court users. Their sensitive treatment of child witnesses was singled out for particular praise. We were impressed by their enthusiasm and commitment. The Area tries to provide a B1 caseworker for each courtroom but this is not always possible. We comment on the staffing of the TU at B1 level in chapter 6.

## **Plea and directions hearings**

- 4.49 Directions were made at plea and directions hearings (PDHs) in four cases we examined. The directions were complied with in a timely manner in three cases. Proper records were kept of the outcome of PDHs but the recording of compliance with the directions was less impressive.

## **The selection and quality of advocates in the Crown Court**

- 4.50 The Area is served by chambers in Middlesbrough, York and Leeds. Counsel are graded into four categories ranging from the least experienced to those who can deal with the most serious, sensitive and complex cases.
- 4.51 We observed six counsel dealing with a mixture of trials, PDHs and mentions, and found that counsel of the right calibre were instructed, although counsel struggled in PDHs on occasions due, in our view, to inadequate instructions (we commented on the adequacy of instructions at paragraphs 4.34 - 4.43).
- 4.52 However, there is a perception amongst other CJS partners that the prosecution was occasionally 'out-gunned'. This may be partly explained by the disparity in the fees paid to prosecution and defence counsel, that is at present being addressed through a national initiative which will take effect during 2001. We share the concern of Area staff that sufficient consideration is not always given to the needs of the case or quality of counsel required when allocating briefs.
- 4.53 The incidence of briefs returned to other counsel is high. From our file sample, we found that 15 out of the 26 originally instructed counsel (57.7%) appeared at the PDH, and only five out of 18 (27.8%) appeared at the Crown Court trial. Many factors influence the level of returned briefs including a number which are beyond the control of the Bar or CPS. A particular local factor is the current Area practice of allocating counsel prior to committal when availability of counsel cannot really be known.
- 4.54 The CCP shares our concern about returned briefs and is considering widening the pool of chambers from which the Area draws. Administrative systems also need to be reviewed, in particular, the desirability of allocating counsel prior to committal and fees logs kept. Further work is needed to monitor both the quality and appropriateness of counsel. The really

important factor is that substitute counsel should be of equal calibre. We recommend the monitoring of counsel in chapter 5.

### **Custody Time Limits**

- 4.55 Custody time limit (CTL) provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Failure to monitor the time limits, and, where appropriate, to make an application to extend them may result in a defendant being released on bail who should otherwise remain in custody.
- 4.56 We examined a total of ten such cases: five magistrates' court files and five Crown Court files. We also observed the CTL systems on each unit.
- 4.57 Level A caseworkers identify defendants who are subject to custody time limits and calculate the expiry and action dates. The file is marked and details entered on the SCOPE computer tracking system. The defendants are identified from the endorsements made when the defendant is remanded in custody. In the main, these endorsements were adequate but could be clearer when alerting administrative staff to the need for CTL action.
- 4.58 A number of CTL diaries are in use, one for each team within the CJU and one for the TU. The B1 line managers on each unit check the CTL diaries on a weekly basis to ascertain forthcoming expiry or review dates. Diaries appeared to be kept up-to-date and noted with status changes. The SCOPE computer system was rarely updated, however, and as a result there is no secondary back up to the diary system.
- 4.59 There are currently no other management checks to provide an assurance to the AMT as to the effectiveness of the CTL system.
- 4.60 We found that all five magistrates' cases and four out of the five Crown Court cases that we examined had the correct expiry date calculated. The one Crown Court case with the incorrect date was miscalculated by five days beyond the correct date. We would not wish to over-emphasize one error but this is the aspect of CPS work where risk is least acceptable.
- 4.61 We examined two cases where applications to extend CTLs had been made, one in the magistrates' court and one in the Crown Court. Both applications had been prepared by the reviewing lawyers and were accompanied by detailed chronologies of the case. The applications were served within the statutory guidelines. However, the new expiry dates had not been endorsed on the files when the CTL status had changed.
- 4.62 The Service Centre carried out a review of the Area CTL systems in May 2000 and made eleven recommendations, the majority of which have been implemented.
- 4.63 In October 1999 CPS Management Audit Services (MAS) produced guidelines which set out good practice in relation to custody time limits. The area systems reflect some of the good practices set out but the Area should implement management assurance checks, a secondary back up system, uniformity in the identification of files and ongoing training for all staff.

## **File endorsements and case management**

- 4.64 Magistrates' court file endorsements were clear and accurate but otherwise good performance was spoiled by the failure to endorse bail conditions in 14 out of 21 cases, and to note the service of advance information in the 13 out of 43 cases to which we have already referred in paragraph 4.3. Crown Court file endorsements were clear and comprehensive in the majority of cases.
- 4.65 Poor file management let the Area down, particularly in relation to Crown Court files. The contents of Crown Court files were in a logical sequence in only 15 out of 28. Good file management enables other caseworkers and lawyers to locate documents and cut down unnecessary duplication of effort. We commented on the failure to keep disclosure documents separately at paragraph 4.7.

## **Casework systems**

- 4.66 Since the reorganisation, administrative staff in the CJU have experienced considerable difficulties in locating magistrates' files for court. The problem relates to adjourned files.
- 4.67 Under the new structure, files in the CJU can be with Narey lawyers after court, the Not Guilty team or when the case includes a youth, with the Youth team. It was rare to observe a court where at least one file wasn't missing. The breakdown in arrangements for locating files causes delay at court and is having a detrimental effect on the perception of the Area by other agencies. It is also a considerable source of frustration for administrative staff, wastes valuable time and should be addressed as part of the review of working practices we recommend at paragraph 6.27.

## **Provision of information for pre-sentence reports**

- 4.68 The CPS has agreed nationally to promptly provide details of its case and the criminal record of the defendant to the Probation Service when magistrates order a pre-sentence report (PSR) or the defendant is committed to the Crown Court. The information assists the Probation Service in preparing a balanced report for the court when sentencing the defendant.
- 4.69 The most recent Probation Service figures showed that 90% of packages were received on or before time. The Probation Service employs a courier who delivers requests for PSR packages and collects packages from the Area office on a daily basis. The two agencies held joint training events which were regarded as having improved both the quality and timeliness of PSR packages.

## **PRESENTING CASES**

### **Advocacy standards**

- 5.1 The Inspectorate uses the CPS National Standards of Advocacy to assess all advocates observed during inspections. The standards identify several key areas of advocacy in respect of which performance is to be assessed. They are professional ethics; planning and preparation; courtroom etiquette; rules of evidence; rules of court procedure; presentational skills; and case presentation. Wherever possible, every advocate observed by the inspection team was assessed against each of the seven categories.
- 5.2 We have introduced five assessment levels in order to measure performance against CPS National Standards of Advocacy. The middle level (box 3) indicates that an advocate meets the normal requirement of the grade in the key areas that we set out in paragraph 5.1. Experience shows that the vast majority of CPS advocates fall into this category and we therefore subdivided it in order to give a better indication of the range of performance. Inspectors assess advocates as being in the lower end of the middle level (box 3-) if they are lacking in presence or their performance is lack-lustre.
- 5.3 We observed a total of 22 advocates including CPS lawyers, DCWs, agents and counsel prosecuting in the magistrates' courts, youth courts and the Crown Court.

### **The quality of advocacy in the magistrates' courts**

#### *Crown Prosecutors*

- 5.4 We visited the three magistrates' courts that are served by the Area and observed 11 CPS lawyer advocates.
- 5.5 The Area lawyers are generally regarded as competent and our observations confirmed this view. We considered ten lawyers to be entirely competent. One lawyer fell below the national standards and was a cause for concern.
- 5.6 Several lawyers were better than average but none sparkled. Two lawyers were best described as lack-lustre. These findings were surprising given the level of experience of the majority of Area lawyers.
- 5.7 We are concerned that Area lawyers' performance is being adversely affected by inadequate time for preparation due to current listing practices at Teesside Magistrates' Court, exacerbated by the late arrival at court of some lawyers.
- 5.8 Teesside Magistrates' Court is busy and bustling. Delays are minimised by listing cases by reference to the defence solicitors representing particular defendants. There is considerable merit in this approach, provided the needs of the prosecution are also taken into consideration.
- 5.9 Too often, however, we saw unallocated cases being moved into courts shortly before the commencement of the morning sitting. We also saw frequent transfers between courts during the course of the day. Whilst some transfers are unavoidable, these arrangements adversely impact on prosecutors' ability to present cases properly and to an acceptable standard.



- 5.10 Some prosecutors do not help themselves, or other court users, by arriving within minutes of the commencement of court sittings. Prosecutors often tell us there is little point arriving at court early because defence representatives rarely discuss cases with them until immediately prior to the commencement of the hearing.
- 5.11 This approach fails to take into account the fact that many defence practitioners need to see their clients in the cells and might benefit from a discussion with the prosecutor before they do so. At Teesside Magistrates' Court it also means that prosecutors deny themselves the opportunity of reading the additional files which have been allocated before they go into court.
- 5.12 In order to improve performance, we recommend that the CCP liaises with the Clerk to the Justices to ensure that accurate court lists are available sufficiently far enough in advance of hearings and to reduce the number of avoidable transfers between courts to enable prosecutors to effectively present cases.**

### **Designated caseworkers**

- 5.13 Under the Narey initiative, DCWs are empowered to deal with a range of cases including simple guilty pleas, some pre-sentence report hearings and proving minor motoring cases in the absence of the defendant. There should be a consequent reduction in the number of courts prosecuted by lawyers who can therefore concentrate on more serious cases.
- 5.14 The Area has four DCWs. They are well regarded locally. We observed two DCWs, both of whom were competent advocates 5.15 We noted, however, that all of the Area DCWs are operating on occasion outside the scheme laid down nationally. In particular, we found that DCWs are proving in absence summary offences such as begging, although they are only permitted to prove motoring cases. We also found that DCWs present the facts in specified traffic offences which proceed on the basis of written pleas. This should be undertaken by court clerks.
- 5.16 Magistrates and defence practitioners were concerned about the unwillingness of some DCWs to comment on ancillary applications, particularly variation of bail conditions. This reluctance may stem from a belief by DCWs that the scope of their authority is narrower than it is. The scheme within which they operate does enable them to deal with such matters, although they are required to consult a Crown prosecutor in relation to applications to vary bail conditions which are substantial or contested. It is important that magistrates should receive the maximum possible assistance from advocates and those responsible for supervising DCWs will wish to ensure that each has a full understanding of this aspect of their duties.
- 5.17 The DCWs appear isolated from lawyers in the CJU and it is clear that there are insufficient monitoring arrangements in relation to both the office and court work of DCWs.
- 5.18 We recommend that the CCP ensures that all DCWs are fully aware of the criteria under which they should operate and that their work is effectively monitored in the office and at court.**
- 5.19 Courts are encouraged to build lists for DCWs. The Area has negotiated appropriate court sessions at both Teesside and Hartlepool Magistrates' Courts and arrangements at Langbaugh East are in the process of being finalised.

5.20 The listing practices we referred to at paragraphs 5.8-5.9 have resulted in files being inappropriately listed in the DCW court. This results in duplication of preparation by CPS advocates and should be included in the discussions we have recommended at paragraph 5.12.

### **Agents**

5.21 The Area uses a high proportion of agents and we comment further on the Area's heavy reliance on agents in chapter 6. The Area used to draw its agents from a small group of experienced solicitors but now relies principally on junior counsel.

5.22 Agents are generally used to conduct trials in both the adult court and the youth court. We commented on the desirability of the use of agents to prosecute Narey courts at paragraph 3.19.

5.23 We gained the impression that agents are capable but somewhat put upon by the Area. We observed three agents, all of whom were competent. We have already commented on the agent who received his (unreviewed) files five minutes before the court was due to start. Another agent was called upon to cover a remand court at a moment's notice when a CPS lawyer inexplicably failed to arrive at court. She performed well but we felt her ability to effectively prosecute was seriously compromised.

5.24 The performance of agents reflects on the Area so it is vital that agents are properly instructed and given adequate time to prepare their cases. We recommend that agents' files be checked at paragraph 3.23.

### **Higher Court Advocates**

5.25 We understand that the HCAs have been generally well received but were unable to observe any in court. Once trained, five of the Area's HCAs will be situated in the TU. There is a danger that this concentration may influence the rotation of lawyers between the Units. The operational requirements of the Area will need to be balanced against the development needs of other lawyers.

### **Monitoring of advocacy standards**

#### *Magistrates' courts*

5.26 Regular and effective monitoring of prosecutors is essential. Effective monitoring reinforces good performance and identifies training needs in areas where performance can be improved.

5.27 Monitoring is rarely carried out by Area managers. Junior lawyers are monitored prior to re-grading but no monitoring is carried out as part of the performance appraisal process. The prevailing view appears to be that, as most CPS lawyers have been monitored at some stage in their career, further monitoring is unnecessary. This fails to take into account the possibility of a fall-off in performance and the acquisition of bad habits. Systems for assessing agents are ad hoc and unreliable.

5.28 The sort of concerns that we have relating to late arrival at court, inadequate preparation time due to court listing practices, any anxieties about an individual's performance, the treatment of agents and the types of work being erroneously undertaken by the DCWs could be addressed by proper monitoring. Our Thematic Review of Advocacy and Case Preparation (Thematic Report 1/2000) suggested how this could be achieved without disproportionate resource implications.

5.29 The Clerk to the Justices has been asked for feedback in relation to advocates but this is no substitute for monitoring by CPS managers.

*Crown Court*

5.30 We commented on the quality of counsel briefed by the Area at paragraphs 4.50-4.54. Monitoring of counsel is informal and rarely carried out at a senior level.

**5.31 We recommend that the CCP ensures that the performance of CPS lawyers, DCWs, agents in the magistrates' court and counsel in the Crown Court is regularly monitored.**

## MANAGEMENT ISSUES

### Management of the Area

#### *Strategy and Planning*

- 6.1 The Area's activity this year has focussed on the implementation of the plans, drawn up with the police, to develop the co-located Criminal Justice and Trial Units.
- 6.2 Under the plans, it was intended that the co-located CJU would be established at the Area's office in Middlesbrough, with ASU staff from four police divisions moving into the building in stages during the year. A separate TU was to be located at the Crown Court. The plan envisaged that the initial setting up of the units would take place in October 2000 with completion by September 2001.
- 6.3 The CJU was set up as planned. Staff from Stockton ASU are located in the CPS offices, piloting the new co-working arrangements, and staff from a second district were expected shortly after the end of our inspection.
- 6.4 However, difficulties have arisen over the location of the TU and its future location in the Crown Court is uncertain. The TU was established as planned but remains at Crown House, and consists solely of CPS staff. The possible establishment of the TU within the Crown Court was an innovative approach which raises wider implications. These have to be considered at a national level before final confirmation can be expected. Timescales for the achievement of re-location were also very optimistic.
- 6.5 Little consideration has been given to other options, despite the fact that the expansion of the CJU to include staff from all police divisions is seen by the Area as dependent on the removal of TU staff into other accommodation.
- 6.6 There is a now the need, therefore, for the Area to review its accommodation strategy and develop medium and long term plans to enable the implementation of the Glidewell recommendations to take place. Even if the proposal to accommodate the TU in the Crown Court is approved, it will take some time. Consideration will still need to be given to where the TU is to be located, the accommodation of the further ASUs, the timescales for their arrival and better use of existing space.
- 6.7 **We recommend that the AMT review its accommodation strategy and develop medium and long term plans to meet its needs. The review of accommodation strategy should be completed within timescales set by the AMT.**
- 6.8 Other priorities for the Area have been the improvement of performance against some national targets, particularly the delivery of committals to the defence, following poor performance in 1999-2000 and the improvement of communication within the Area. Paragraphs 4.27 and 6.50 deal with these issues in detail. Whilst improvements have been made in some areas, there is a need for the Area to refine its planning processes to ensure that initiatives are carried through to completion, within agreed time limits.

## **The Area Business Plan**

- 6.9 The Area's Business Plan for 2000-2001 was drawn up largely by the ABM and the CCP, on receipt of the national CPS plan. It follows the national model. Whilst it seeks to address some national objectives and priorities, and sets targets for performance in the Core Performance Measures, few local objectives and targets have been set which are specifically relevant to the way the Area operates or should operate. Timescales and responsibilities for action were not allocated.
- 6.10 The Area Business Plan has not been monitored by the AMT and planned actions have not been carried out, for example, the establishment of systems to assess advocacy, monitor the performance of agents and counsel, and minimise cracked and ineffective trials.
- 6.11 The Area has recognised the weakness in the way the Plan was drawn up and intends to involve staff in the planning process for the forthcoming year. We endorse this intention. Similarly all members of the management team should be involved in agreeing final priorities and objectives.
- 6.12 To assist with the delivery of the objectives in the Plan, Area management should ensure that Unit and team objectives, which support organisational objectives, are set. It will be important for staff to continue to be part of the improvement process and to understand the part they play in the achievement of the Area's objectives. In drawing up the Plan, the AMT should ensure that timescales for action and responsibilities are identified and that the plan is regularly monitored.
- 6.13 We recommend that, in drawing up the Area Business Plan, timescales for action and responsibilities are identified and that the Plan is regularly monitored.**
- 6.14 Some senior staff have discussed how the Business Excellence model should be applied to the Area, and are considering first applying the model to the work of the AMT. If the Area intends to proceed with the use of the model, expectations for implementation and progress should be included in the Area Business Plan.

## **Management Structure**

- 6.15 The AMT consists of the CCP, the ABM, the Heads of the CJU and TU and a casework manager from the TU. The AMT meets monthly; regular items on the agenda include performance against national targets, the budget and training and development. During planning for the organisational change, the AMT, with the exception of the casework manager, met as a strategic team to consider arrangements for change. At the time of inspection, the Area had only four members of staff at level D and above, including its parttime Special Casework Lawyer.
- 6.16 Whilst the current structure has allowed the Area to address some strategic issues, it has been less effective at ensuring the continued efficient operation of the Area and insufficient attention has been paid to a number of operational issues. No clear arrangements are in place within existing management structures to ensure that operational inefficiencies or poor performance are addressed.
- 6.17 The Area has recognised the need to look again at arrangements for the management team and at the time of inspection it was considering dividing the meetings between management and casework issues. We have concerns that this arrangement will not allow sufficient consideration of administrative and operational performance. In reviewing arrangements for

the management team, the Area should consider carefully how operational matters are to be overseen and operational performance monitored. Clear terms of reference should be established to govern the work of the management teams.

**6.18 We recommend that the operation of the AMT be reviewed to ensure that day-to-day operational matters are effectively overseen. Clear terms of reference should be established.**

**Organisational Structures**

6.19 Organisational structures within the TU appear satisfactory. The Committals Unit is generally seen as having contributed to improved performance. The timeliness of briefs to counsel continues to improve, albeit at the expense of quality highlighted in paragraph 4.37.

6.20 We are satisfied that the establishment of the TU should allow effort to be focussed on the quality of Crown Court work. However, attention needs to be paid to standards of performance in a number of areas already outlined and we have concerns about the balance of staff and managerial expertise between the two units which we discuss in paragraph 6.33.

6.21 Within the CJU, managerial efforts, both in setting up the Unit and subsequently, appear to have been concentrated on establishing and developing working arrangements for the pilot collocation with the police. Regular meetings take place between the police and the Head of the CJU to discuss and evaluate performance, and good working relationships have been established.

6.22 Although the police intended to review the operation of the pilot as part of a Best Value review in April 2001, at the time of our inspection no firm plans were in place for any assessment of the pilot from the CPS perspective. Since the inspection, plans have changed and a review is now to be carried out in early summer of all aspects of the pilot by the Glidewell Working Group.

6.23 The emphasis placed on ensuring the pilot scheme works properly, and achieves improvements, is understandable and necessary to enable implementation of later stages of the plan.

6.24 However, within the wider CJU, staff were struggling to manage operational processes efficiently. We commented earlier in the report on the failures in systems for locating files for court, delays in the transmission of advice files, allocation arrangements for files to lawyers and arranging and supervising the work of DCWs. We are concerned that, in addition to the difficulties directly caused, the fall-off in performance in some of these systems is adversely affecting staff perceptions about the organisation; and having a detrimental effect on the standing of the CPS with other agencies.

6.25 We consider that managerial and supervisory structures within the CJU are insufficient to ensure efficient working or the resolution of problems. Further attention needs to be given immediately to working practices and organisational and managerial arrangements to ensure that day-to-day operational tasks can be carried out efficiently during this period of change and subsequently. Action is particularly necessary in readiness for the arrival of the second police ASU.

6.26 Paragraphs 6.32-6.33 indicate how staffing levels and the deployment of staff were determined and our concerns about the balance of supervisory staff between the two units. The Area has undergone and will continue to undergo a substantial amount of change. Area

management should develop plans to review the new organisational structure, including staffing levels and the deployment of staff across the CJU and TU.

**6.27 We recommend that the AMT ensure that appropriate plans are in place to review the effectiveness of organisational change and in particular:**

- **in readiness for the arrival of a second ASU, review working practices and organisational and management arrangements in the wider CJU to ensure that day-to-day operational tasks can be carried out effectively during the period of change and subsequently;**
- **ensure that appropriate plans are in place to review the success of the Stockton pilot; and**
- **review staffing levels and the deployment of staff across the CJU and TU.**

6.28 In addition, there is a need to ensure appropriate liaison between units, in particular over the timeliness of file transfers, the standard of review endorsements, learning from experience and PYO initiatives and performance. The AMT will need to ensure that an unnecessary sense of separation does not develop between the two units. The recommended review of the operation of the management team at paragraph 6.18 should ensure that new arrangements are put in place which enable operational activity and performance to be monitored across the organisation.

### **Performance objectives and targets**

6.29 Currently few internal performance objectives and targets have been set, other than those which are reported on nationally. We have already commented on the absence of formal quality assurance systems in place to assess advices, the quality of briefs to counsel, advocacy or the performance of agents or counsel.

6.30 There is a need, in the light of poor performance in some operational areas, to develop performance objectives for key processes and to monitor and evaluate performance in order to inform management decisions, enable management to be satisfied that the Area is operating effectively and improve performance. The setting of performance objectives and targets should flow from an analysis of performance in key areas and from objectives in the Area Business Plan.

**6.31 We recommend that the Area establish monitoring and quality assurance systems for key processes in order to make informed management decisions and improve performance.**

### **The Management of Human Resources**

#### *Staff numbers and deployment*

6.32 Staffing levels within the CJU and TU were based on an analysis of workload at the time of reorganisation. The final allocation of staff to the units was made following a preference exercise. Particular emphasis was placed on ensuring that the TU was properly staffed so that the new unit could successfully carry out its role and ensure a high quality of casework in the Crown Court.

6.33 As a result there has been a concentration of B1 grade staff within the TU. More thought needs to be given to the needs of the CJU, both during the current transitional phase of development and subsequently. In particular, further consideration needs to be given to the managerial and supervisory requirements necessary to enable the unit to operate effectively, and to the staffing levels and deployment of staff needed to carry out basic tasks.

- 6.34 During the year, staffing levels have been affected by the number of staff on long term sick leave and by some turnover in experienced administrative staff. Because of constraints on the budget, some staff have been replaced by staff of a lower grade and some staff on temporary promotion have not been replaced.
- 6.35 Reference has already been made to the need to review staffing levels and deployment across the CJU and TU in order to ensure the operational efficiency of the Area, and a recommendation is made at paragraph 6.27. Area management should ensure that staffing levels are thereafter reviewed regularly. Any review should include a review of lawyer establishment and deployment.
- 6.36 There has been a heavy reliance on agents to cover a substantial number of court sessions at substantial cost. In any month in the current financial year, between 30%-40% of magistrates' courts sessions were covered by agents.
- 6.37 We were pleased to find that the Area had recently determined to continuously monitor the number of court sessions covered by individual lawyers. This information should be used to assist with the appropriate deployment of lawyers and decisions about future needs. The Area should consider its current heavy reliance on agents when reviewing its staff profile. The Area should also consider the impact the use of agents to prosecute the majority of lengthy, difficult summary trials has on the advocacy skills of CPS lawyers.

#### *Training*

- 6.38 Appraisals for 1999-2000 were completed late, with the Area having the worst performance of any CPS Area for the timeliness of returns. The current training plan was therefore drawn up without the benefit of Personal Development Plans. We are satisfied that the training plan identified some relevant training needs, including training on the recording of performance indicators and custody time limits. However, no training needs analysis was carried out prior to organisational change and a formal assessment of training needs should now be carried out.
- 6.39 We suggest that a formal assessment of training needs is carried out in the light of continuing organisational change.

#### *Employment practice*

- 6.40 The lateness of last year's appraisal process and structural change has meant that insufficient attention has been given to the setting of objectives. We found that staff generally had little interest or faith in the appraisal system. A number of staff reported that they did not have current job objectives and, of those that did, not all had an objective relating to equality and diversity.
- 6.41 We recommend that the AMT take steps to ensure that appraisals are carried out on time, and that appropriate job objectives, including those relating to equality and diversity are set for the coming year.**
- 6.42 The Area has had a number of staff on long term sick leave during 2000-2001 and generally sickness levels are above the national and Area target. We were pleased to learn that action was planned to help managers address difficult issues with staff following return to work.



6.43 The Area has twice failed to achieve Investors in People (IiP) accreditation. Some fundamental issues highlighted in this report, including communication and the attention paid to appraisals, will need to be addressed if the Area is to achieve the award. The Area is seeking assistance in drawing up an action plan and hopes to achieve the award by April 2001, but we have concerns about this timescale. A number of issues need to be addressed, and it will be important for the Area to consolidate all plans for improvement and think carefully about priorities.

#### *Equality and Diversity*

6.44 The AMT recognises and has taken action to try to meet the commitment to equality and diversity. It has taken steps to try to develop links with the community. Some training has been delivered to staff, although not all staff are yet sure how what they have learnt relates to their day-to-day work. All staff will shortly be attending the national training programme.

6.45 However, the Area has yet to introduce the systems outlined in the Area Equality and Diversity Action Plan to monitor whether discrimination exists in the review process and appoint and train designated prosecutors to handle racist incident cases. The latter needs to be pursued expeditiously. The establishment of a reliable scheme for monitoring may involve disproportionate resources for a moderately small Area. The CPS nationally is developing a scheme with the help of consultants. It may assist the Area to adopt that scheme.

6.46 The challenge for management is to ensure that it develops and maintains a high profile for equality and diversity issues. More could be done to highlight equality issues in the Area Communicator newsletter, through staff meetings and on notice boards.

6.47 At the time of the inspection, the Cleveland Area had one member of staff from a minority ethnic background against a benchmark figure of 2.43 fulltime equivalent members of staff, on current staffing figures. Since that time, another member of staff from a minority ethnic background has been employed.

6.48 Area Management has not monitored the achievement of objectives within the Equality and Diversity Action Plan regularly and this should be remedied. We make a recommendation concerning job objectives at paragraph 6.41.

**6.49 We recommend that the Equality and Diversity Plan is regularly monitored.**

#### *Communication*

6.50 The AMT has recognised that communication is a key issue for the Area and has taken steps to improve the arrangements for communication, with Area initiatives such as the Sounding Board and the development of the Communicator newsletter which contains information about job vacancies, training, performance and social events. However, in practice the quality of communication and staff involvement in decision-making varies across the organisation and communication across the Area is in danger of being adversely affected by the absence of effective management arrangements to address operational issues.

6.51 Area management should ensure that communication is further improved through the establishment of a regular cycle of staff meetings within Units, to enable staff to receive information, consider performance and discuss and provide feedback to management on operational issues.

**6.52 We recommend that a regular cycle of staff meetings is established within the units.**

## **The Management of Financial Resources**

- 6.53 The Area's budget allocation, following the second tranche of funding, represented 95.1% of the activity-based costing (ABC) assessment made nationally. This represented a fall, in actual terms, in the resources allocated for the Area's running costs, (excluding prosecution and capital costs), of approximately £49,440. This is not unusual, as many Areas are either above or below their notional ABC figures following CPS reorganisation. It is perhaps inevitable, given the scale of change brought about by the reorganisation, as well as the further changes to budgets and staffing which would be required to bring the Areas into line with their notional allocation. Historical factors also play a significant role. There is a consensus that Area budgets need to be varied, both upwards and downwards, to come in line. Although the CPS has not yet been able to find a way of achieving this so far, the significant increase in its resources for 2001-2002 means that it will be able to move much closer to ABC apportionment across the whole service.
- 6.54 In the year to 31 March 2000, the Area had a small overspend (caused by late submission of an invoice) and during the current year has found it difficult to manage its expenditure within agreed allocations in the light of its overall level of funding. Allocations made under certain heads of expenditure were overspent part way through the year, in particular those relating to travel and subsistence, some stationery budgets and the agents' budget. At the end of September the area had spent slightly more than half its budget (a figure higher than the national average). During the course of the year, the Area received performance improvement and PYO funding and the latest forecast suggests the area will remain within budget.
- 6.55 The AMT receives regular budget monitoring reports, although these are against a straight-line profile of expenditure and do not record committed expenditure. They therefore are of limited value in showing the Area's true position at any given time.
- 6.56 The Area should consider developing budget monitoring reports which show both actual and committed expenditure, against the anticipated pattern of expenditure for the year. Patterns of expenditure will vary from time to time. For some budget lines, spending can be expected to be approximately the same each month, for others it may be incurred only once a year or quarterly; expenditure on some items, for example the use of agents, may expect to have seasonal variations.
- 6.57 The current changes in the organisational structure provide an opportunity for the Area to reassess its allocations to certain budget heads, for example, to take account of expected changes brought about by co-location with the police. Careful thought should be given to initial allocations and to the arrangements for profiling and monitoring of the budget.
- 6.58 The Area's financial position, together with the need to account for additional funding allocated for the improvement of PYO performance, has meant that greater controls are now in place over the use of agents. The Area should ensure that in the next financial year clear authority and procedures exist for the authorisation of expenditure on agents and that this item of expenditure is carefully monitored.
- 6.59 Current systems for the allocation of work to counsel need to be reviewed to ensure that the Area receives, and can demonstrate that it receives, value for money. We set out our concerns in relation to the selection and quality of counsel in the Crown Court at paragraphs 4.51-4.54.

## Performance indicators

- 6.60 Inaccurate recording of performance indicators (PIs) was identified in the 1997 report. It is therefore disappointing to see that the problem still exists.
- 6.61 Accurate casework information is vital, not only in presenting a proper record of Area performance, but in assessing and securing the funding required to deal with Area casework.
- 6.62 The file sample requested by the Inspectorate included files that had been incorrectly categorised and cases recorded in the PIs that the Area could not trace. The following table shows the cases we were able to identify as having been recorded in the incorrect category:

| <b>PI case outcome as recorded by area</b> | <b>Number incorrectly recorded</b> | <b>Correct Case Outcome</b>   |
|--|------------------------------------|---|
| No Case to Answer (MC)                     | 13                                 | 13 Discontinued   |
| Discharged Committals                      | 1                                  | 1 Discontinued  |
| Judge Ordered Acquittals                   | 3                                  | 1 Discontinued<br>2 Guilty Pleas  |
| Discontinued (MC)                          | 15                                 | 12 Summons Not Served<br>1 Guilty Plea<br>1 Acquittal after trial<br>1 Death of defendant |
| Magistrates court acquittals               | 1                                  | 1 Discontinued  |
| Crown Court Jury acquittals                | 1                                  | 1 CC Conviction   |
| Crown Court Convictions                    | 3                                  | 2 Guilty pleas<br>1 Acquittal after trial   |
| Crown Court Appeals                        | 1                                  | CC Guilty Plea  |
| Total incorrect                            | 38                                 |   |
| Total file sample                          | 214                                |   |

- 6.63 We mentioned at paragraph 5.15 the presentation of specified proceedings by DCWs. These cases are also being recorded in the PIs, contrary to CPS guidance.
- 6.64 The Area's carry forward figures were inflated by the failure to finalise cases going back some years. This could have a significant impact on the funding of the Area, which is based on completed cases.
- 6.65 The Area has identified the failure to finalise cases but there is still a substantial amount of remedial work required. We found that there are still approximately 2000 magistrate's files and 300 Crown Court files not finalised on the system.
- 6.66 The Area identified the need for training and has held PI training courses for some staff. However, there are currently no management systems in place to ensure the accuracy of performance indicator information.
- 6.67 The Inspectorate's report on the Thematic Review of Performance Indicator Compliance and Case Outcomes (Thematic Report 3/2000) should assist the AMT in ensuring the accuracy of its performance data.

**6.68 We recommend that the AMT ensures that:**

- **performance indicators are monitored to ensure accuracy; and**
- **all staff receive training on the importance of accurate recording of performance indicators.**

**Security**

6.69 The Area's clear desk policy is not adhered to and files are not kept securely. Some office furniture is old and now of poor quality, making secure storage difficult, and is due for replacement in readiness for the arrival of the Connect 42 computer system. However, more should be done to ensure that files are properly kept and staff need to be reminded of the clear desk policy.

6.70 Security arrangements for entry into the building (which is shared with another government department) are unsatisfactory. Although access to CPS offices is restricted by a card entry system, staff reported that members of the public had occasionally been able to gain access. Area management should discuss with the landlord the possibility of improving the security of entry arrangements.

6.71 Arrangements should also be made to ensure that all visitors complete the visitors' logbook on arrival and departure.

**Accommodation**

6.72 We recommend that the Area review its accommodation strategy at paragraph 6.7.

6.73 The Area has spacious accommodation at its present site, which is currently under- utilised. With the arrival of further police staff and new furniture, the Area should review the layout of office accommodation on the third and fourth floors to ensure the optimum use of space.

**Victims and witnesses**

6.74 The Witness Service is well established at Teesside Magistrates' Court and the relationship with Area staff is very good. Area prosecutors consult witnesses and keep them informed.

6.75 There is also a very good working relationship between the Witness Service and caseworkers at the Crown Court. Caseworkers are regarded as excellent in their witness care. There is still reluctance on the part of some counsel to play an appropriate part in witness care, although this is improving.

6.76 A witness liaison post has been established within the CJU in order to speed up the warning of witnesses for court and to deal with police witness enquiries.

6.77 Area staff assist in the training of new Witness Service volunteers. The training is well received and we commend it.

**Complaints**

6.78 The CCP responds to the majority of complaints, following the submission of briefing notes by Heads of Unit or the lawyer in the case. The CCP has also extended invitations to complainants to meet face-to-face in an effort to try and overcome their concerns.

- 6.79 The standard of replies was generally good but on we felt occasions that the complainants' feelings were not adequately acknowledged or addressed. There was a risk that the complainant was unlikely to be satisfied by the CPS response.
- 6.80 We examined several cases where complainants had involved their local MP. In two cases substantive responses were sent to the MP, with the complainant simply being told that the MP's office would doubtless forward a copy of the response. There is a danger of reinforcing the complainants' sense of grievance by adopting this approach which could be easily be avoided by sending a copy of the response to the complainant at the same time.
- 6.81 The time taken to respond to complaints has risen. The national CPS target for replies to complaints is within 10 days in 89% of cases. The Area exceeded its own and the national target in 92.9% in the year to 31 March 2000. Performance in the six months to 30 September 2000 slipped to 71.4%.
- 6.82 In light of the recent organisational change, it would be prudent to look again at the Area complaints procedure and consider the extent to which lessons are being learned from complaints that are received.
- 6.83 We suggest that the AMT:
- reviews and re-issues the Area complaints procedure;
  - ensures that all staff are aware of the timescale for response to complaints; and
  - monitors not only the timeliness of response to complaints but also the complaints themselves to establish whether any trends are emerging.

### **External relations**

- 6.84 The Area Criminal Justice Strategy Committee, of which the CCP is a member, has met twice since May 2000. Its remit is to identify broad strategic issues for the Cleveland CJS area. It looks to the inter-agency Trial Issues Group (TIG) to carry strategic initiatives forward.
- 6.85 The TIG, which is chaired by the Clerk to the Justices and of which the CCP is secretary, meets quarterly. Area staff participate in sub-groups, including the recently established PYO subgroup. Protocols on witness care and PYOs were agreed through the TIG.

### *Magistrates' courts and Crown Court*

- 6.86 Under the previous organisational structure, Prosecution Team Leaders attended magistrates' court user groups. Representation was at the right level and action taken to resolve problems raised. Under the new organisational structure, the Head of CJU is a member of all adult and youth court user groups in the Area.
- 6.87 Liaison between the Justices Chief Executive, the Clerk to the Justices and the CCP is regarded as constructive. The Clerk to the Justices also attends the Senior Liaison Meetings referred to in paragraph 6.93 below.
- 6.88 The B2 casework manager from the TU represents the Area at Criminal Court User Committee meetings at Teesside Crown Court.

## *Police*

- 6.89 The relationships with the police are good at both operational and strategic levels. There is a feeling of mutual respect at senior level, although there was some concern that initiatives supported at senior levels had not been communicated fully to Area staff.
- 6.90 The majority of day-to-day communication is handled via the ASUs. Working relationships are good at an operational level, but there has been dissatisfaction in the past at the speed of Area response to problems. Colocation in the Stockton pilot has resulted in early resolution of problems and resulted in an increased understanding amongst staff of each other's workloads.
- 6.91 Cleveland Police have installed electronic links between Stockton police station and the file builders at Crown House in order to reduce delays in file transmission, although there have been early teething problems.
- 6.92 Joint Performance Management (JPM) is the mechanism used by the police and CPS to improve the timeliness and quality of files and to monitor the reasons for failures in the Crown Court.
- 6.93 Senior CPS, police and magistrates' court Liaison Meetings (SLMs) are held quarterly and are attended by the CCP and Heads of Unit. JPM is discussed as part of that meeting.
- 6.94 The police compile timeliness and quality figures from a form TQ1 which are completed by lawyers and returned to the police. The Area TQ1 return rate is high (over 90%) but delays in submitting the forms have made it difficult to identify, at an early stage, meaningful trends in file deficiency, thus delaying the possibility of remedial action.
- 6.95 The Stockton police district was one of weakest in JPM terms but has significantly improved since the establishment of the pilot. We commented on the analysis of adverse cases in the magistrates' court by the Heads of the CJU and ASU at paragraph 3.61.
- 6.96 Adverse cases in the Crown Court are traditionally discussed in SLMs but this has been more spasmodic of late. The Head of the TU will be responsible for monitoring adverse cases for discussion at SLMs in the future.
- 6.97 It is important that the police are given regular feedback as part of the JPM process in order to secure improvements in their performance. We saw some examples of feedback in our file examination but it has tended to be ad hoc and no formal systems are in place to ensure it happens in every case.

## *British Transport Police*

- 6.98 The British Transport Police enjoy good working relationships with staff at caseworker level but have little contact at senior level. They would like to be included in local initiatives but have tended to find themselves out on a limb. The ASU deals with eight CPS Areas and was unable to comment specifically on Cleveland's performance. The BTP no longer submit TQ1s with files because of the poor return rates from all Areas.

### *Community liaison*

- 6.99 The Area is not represented (nor does it attend as observer) on the Crime and Disorder Strategy Partnership Groups. This appears to have been a conscious decision on the part of the Area. A representative from the Middlesbrough Group felt that Area attendance might help in relation to specific initiatives but was generally satisfied with liaison arrangements. The Area is represented on the Community Safety Forum and has contributed to task force groups on domestic violence, drugs and prostitution.
- 6.100 The CCP's efforts to reach out to the local minority ethnic community have been hampered by the lack of dedicated minority ethnic groups in Cleveland. The Area hopes to enlist the help of a group in Darlington (County Durham) in developing its equality and diversity strategy. In the meantime, the CCP has contacted local schools and colleges with a view to lecturing on the work of the CPS and career opportunities. The Area also hopes to offer work placements to minority ethnic students.

### *Probation Service and Defence solicitors*

- 6.101 We have already commented on joint training with the Probation Service at paragraph 4.69. Working relationships at all levels are considered to be sound, positive and co-operative.
- 6.102 The CPS is a member of the steering group set up to improve the effectiveness of the Bail Information Scheme.
- 6.103 The relationship with defence solicitors is good. Local practitioners consider themselves to be generally well served by the Area, in spite of the pressure staff work under. Problems raised with senior lawyers usually generate satisfactory responses.

## **CONCLUSIONS, GOOD PRACTICE, RECOMMENDATIONS AND SUGGESTIONS**

### **Conclusions**

- 7.1 The Area has faced, and continues to face, a time of considerable change. The planning for the implementation of the Glidewell Report required the AMT to think strategically and to work closely with the Cleveland Police. The reorganisation is still at an early stage, however, and the AMT needs to ensure that systems are put in place to enable the Area to monitor and review the effectiveness of organisational change to date.
- 7.2 The current uncertainty over the location of the TU has highlighted the need for the AMT to plan for, and have the flexibility to react quickly to, changes in circumstances. A focussed approach to the management of the Area needs to be adopted and the AMT should be more rigorous in both its planning and the extent to which planned actions are followed through to their conclusion.
- 7.3 Our recommended review of the AMT should enable the Area to continue to think strategically, whilst ensuring that it does not overlook the day-to-day operational needs and performance of the new Units. The Area should take immediate steps to ensure that it reverses the fall-off in performance in areas where it had shown signs of improvement since our 1997 report, such as in the quality of review endorsements.
- 7.4 The Area has started to pay attention to performance-related issues. Considerable progress has been made in the timeliness of service of committals to the defence. However, care must be taken to ensure that further improvements in relation to national CPS performance measures, such as the timeliness of delivery of briefs, are not achieved at the expense of quality.
- 7.5 Although there is some way to go before the Area can fully contribute to the successful delivery of national CPS objectives, Area staff have the ability, experience and commitment to ensure that the necessary improvements in performance are achieved.

### **Commendations**

- 7.6 We commend the Area in relation to a number of matters in the report, in particular:
  - The application of charging standards (paragraph 3.25).
  - The improvements in review endorsements apparent from the file sample since the 1997 report (paragraph 3.66).
  - The Youth team monthly report (paragraph 3.71).
  - Target setting for staff in the Committals Unit and regular feedback on performance (paragraph 4.29).
  - Participation in training for Witness Service volunteers (paragraph 6.77).

### **Recommendations and suggestions**

- 7.7 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to its proposals. Those meriting the highest priority form the basis of recommendations.



7.8 With a view to improving Area performance, we make the following recommendations that:

1. the Heads of Unit should ensure that effective systems are in place to:
  - allocate advices according to skill, ability and experience;
  - monitor the quality of advice given to the police; and
  - monitor the timeliness of advice given to the police (paragraph 2.19);
2. the Heads of Unit should ensure that all informal advice is recorded and confirmed in writing to the police (paragraph 2.23);
3. the AMT should put systems place to ensure:
  - all files are reviewed prior to first appearance in the magistrates' court by the right prosecutor;
  - prosecutors endorse their review decision in every case regardless of whether it is destined for the TU; and
  - the use of agents in Narey courts is kept to a minimum and, where they are used, their files are checked to ensure initial reviews have been carried out (paragraph 3.23);
4. the CCP should ensure that systems are established to enable prosecutors and caseworkers to learn lessons from the Area's adverse cases (paragraph 3.63);
5. the CCP should ensure that:
  - all lawyers and caseworkers are aware of the need to reduce delay in all youth cases and particularly PYO cases, are kept informed about Area PYO initiatives and given regular feedback on Area performance; and
  - counsel in the Crown Court and agents in the magistrates' court are instructed to take proactive steps to reduce delay in all youth cases and particularly PYO cases (paragraph 3.77);
6. the CCP should ensure that lawyers and caseworkers store all notes relating to sensitive material in the secure cabinet kept for that purpose (paragraph 4.17);
7. the CCP should:
  - seek to agree realistic timescales (possibly for a trial period) with the police and the Clerk to the Justices for the receipt of full files and the listing of PTRs to ensure that the Area has sufficient time to properly review files and carry out the necessary actions; and
  - monitor CPS readiness for PTRs (paragraph 4.24);
8. the Head of the TU should ensure that:
  - caseworkers desist from the current practice of using 'fast-track' briefs to counsel;
  - all briefs to counsel are monitored to ensure that appropriate instructions are given; and
  - counsel is provided with further written instructions in advance of court hearings (paragraph 4.43);
9. the CCP should liaise with the Clerk to the Justices to ensure that accurate court lists are available sufficiently far enough in advance of hearings and to reduce the number of avoidable transfers between courts to enable prosecutors to effectively present cases (paragraph 5.12);

10. the CCP should ensure that all DCWs are fully aware of the criteria under which they should operate and that their work is effectively monitored in the office and at court (paragraph 5.18);
11. the CCP should ensure that the performance of CPS lawyers, DCWs and agents in the magistrates' court and counsel in the Crown Court is regularly monitored (paragraph 5.31);
12. the AMT should review its accommodation strategy and develop medium and long term plans to meet its needs. The review of accommodation strategy should be completed within timescales set by the AMT (paragraph 6.7);
13. the AMT should ensure timescales for action and responsibilities are identified when drawing up the Area Business Plan and the plan is regularly monitored (paragraph 6.13);
14. the operation of the AMT be reviewed to ensure that day-to-day operational matters are effectively overseen, with clear terms of reference established (paragraph 6.18);
15. the AMT should ensure that appropriate plans are in place to review the effectiveness of organisational change and in particular:
  - in readiness for the arrival of a second ASU, review working practices and organisational and management arrangements in the wider CJU to ensure that day-to-day operational tasks can be carried out effectively during the period of change and subsequently;
  - ensure that appropriate plans are in place to review the success of the Stockton pilot; and
  - review staffing levels and the deployment of staff across the CJU and TU (paragraph 6.27);
16. the AMT should establish monitoring and quality assurance systems for key processes in order to make informed management decisions and improve performance (paragraph 6.31);
17. the AMT should ensure that appraisals are carried out on time, and that appropriate job objectives, including those relating to equality and diversity are set for the coming year (paragraph 6.41);
18. the AMT should regularly monitor the Equality and Diversity Plan (paragraph 6.49);
19. the AMT should establish a regular cycle of staff meetings within the units (paragraph 6.52);
20. the AMT should ensure that:
  - performance indicators are monitored to ensure accuracy; and
  - all staff receive training on the importance of accurate recording of performance indicators (paragraph 6.68).

7.9 We also suggest that:

1. the AMT should consider ways to monitor its own contribution to the reduction in delay in relation to PYOs to improve its own performance and that of the CJS area (paragraph 3.78);
2. the Head of the TU should monitor the numbers and source of files received from the CJU without a review endorsement (paragraph 4.31);
3. the AMT should carry out a formal assessment of training needs in the light of continuing organisational change (paragraph 6.39);
4. the AMT should:
  - review and re-issue the Area complaints procedure;
  - ensure that all staff are aware of the timescale for response to complaints; and
  - monitor not only the timeliness of response to complaints but also the complaints themselves to establish whether any trends are emerging (paragraph 6.83).

## **KEY STATISTICS**

- 8.1 The charts at Annex 2 set out the key statistics about the Area's casework in the magistrates' courts and in the Crown Court for the year ending 30 September 2000.

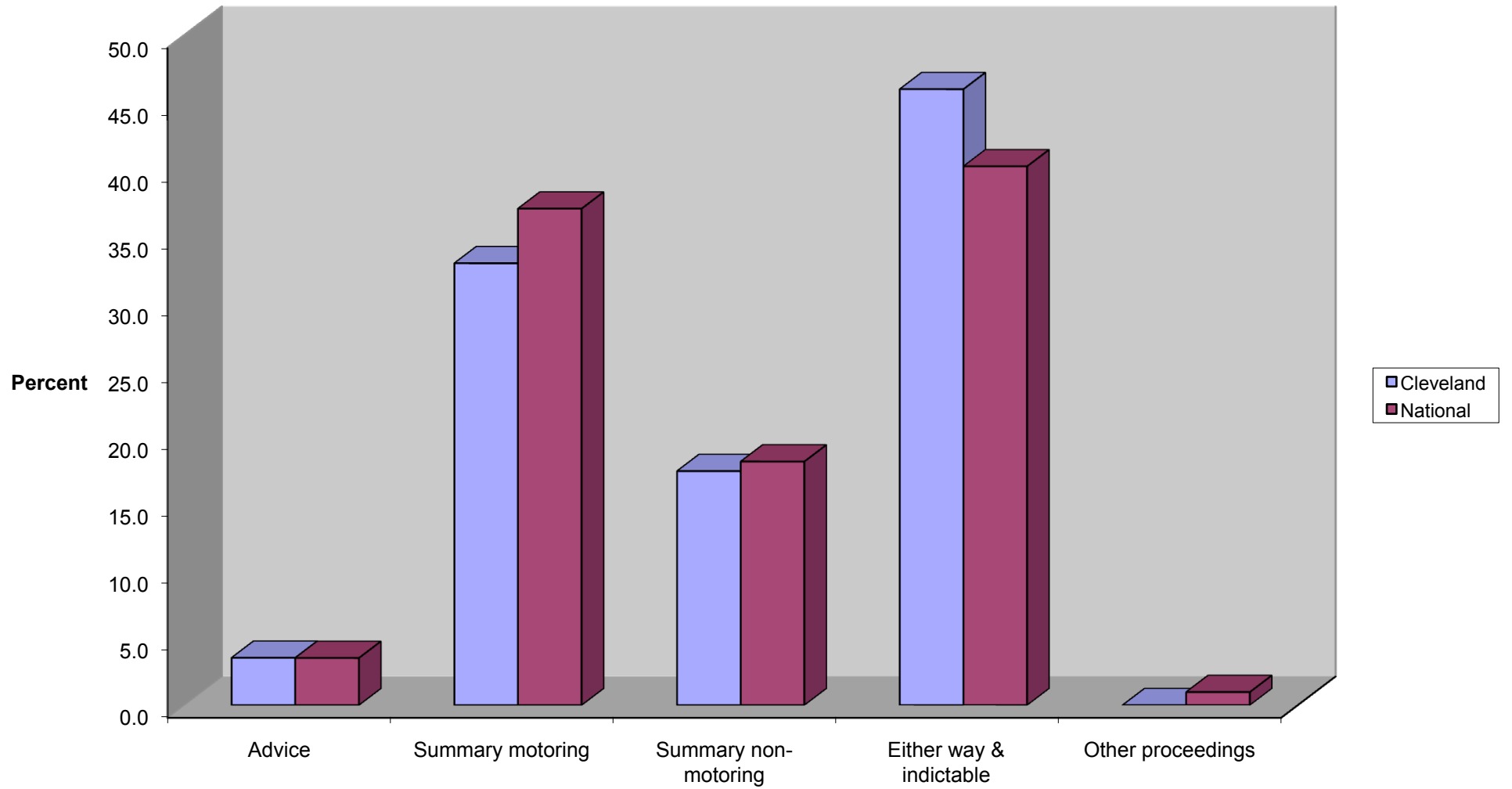
## **EXTERNAL CONSULTATION**

- 9.1 Annex 3 is a list of the local representatives of criminal justice agencies who assisted in our inspection.

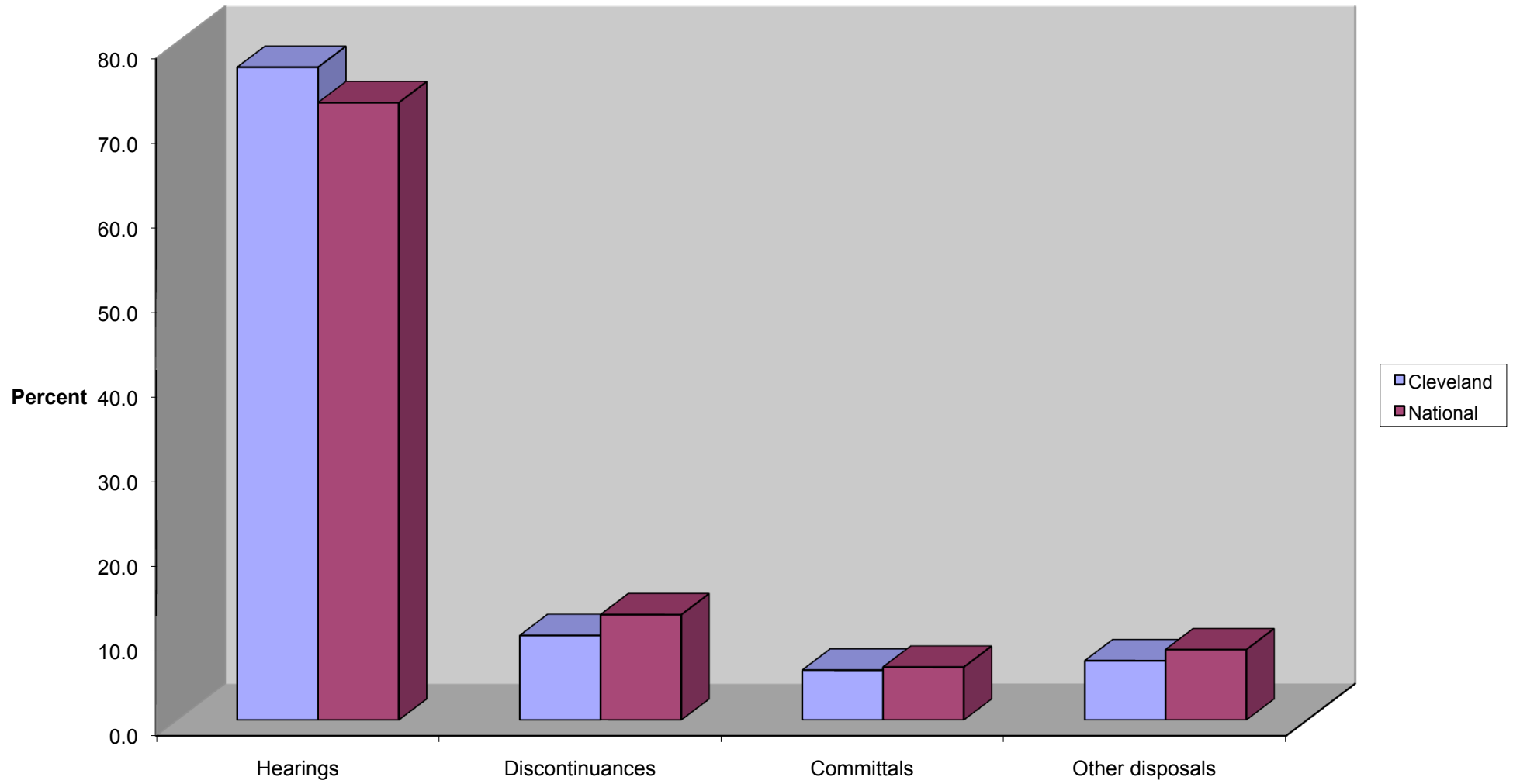
## TOTAL NUMBER OF FILES EXAMINED FOR CPS CLEVELAND

| <b>FILE CATEGORY</b>                                   | <b>No of files examined</b> |
|--|-----------------------------|
| Advice Files   | 10                          |
| <b>Magistrates' courts</b>                             |                             |
| Guilty pleas, convictions and acquittals after trial   | 30                          |
| Traffic offences                                       | 10                          |
| Acquittals where magistrates found no case to answer   | 3                           |
| Discharged committals                                  | 1                           |
| Cases where custody time limits applied                | 5                           |
| Discontinued cases                                     | 90                          |
| <b>Crown Court</b>                                     |                             |
| Guilty pleas, convictions and acquittals after trial   | 28                          |
| Judge ordered acquittals                               | 20                          |
| Judge directed acquittals                              | 2                           |
| Cases committed for sentence (after plea before venue) | 5                           |
| Cases where custody time limits applied                | 5                           |
| Appeals against conviction                             | 5                           |
| <b>TOTAL</b>   | <b>214</b>                  |

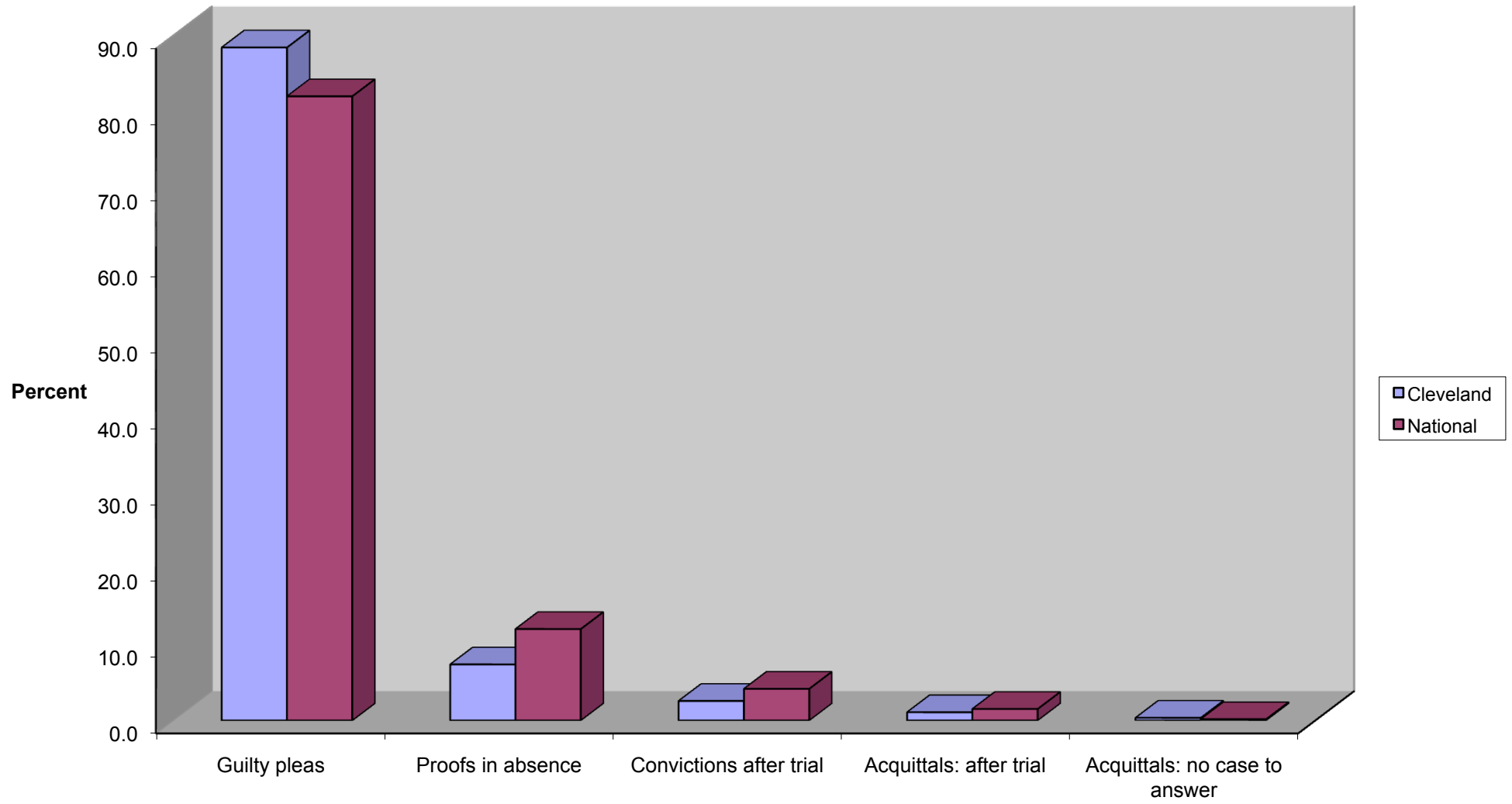
Chart 1: Magistrates' Court - Types of case



**Chart 2: Magistrates' Court - Completed cases**



**Chart 3: Magistrates' Court - Case results**





**Chart 4: Crown Court - Caseload**

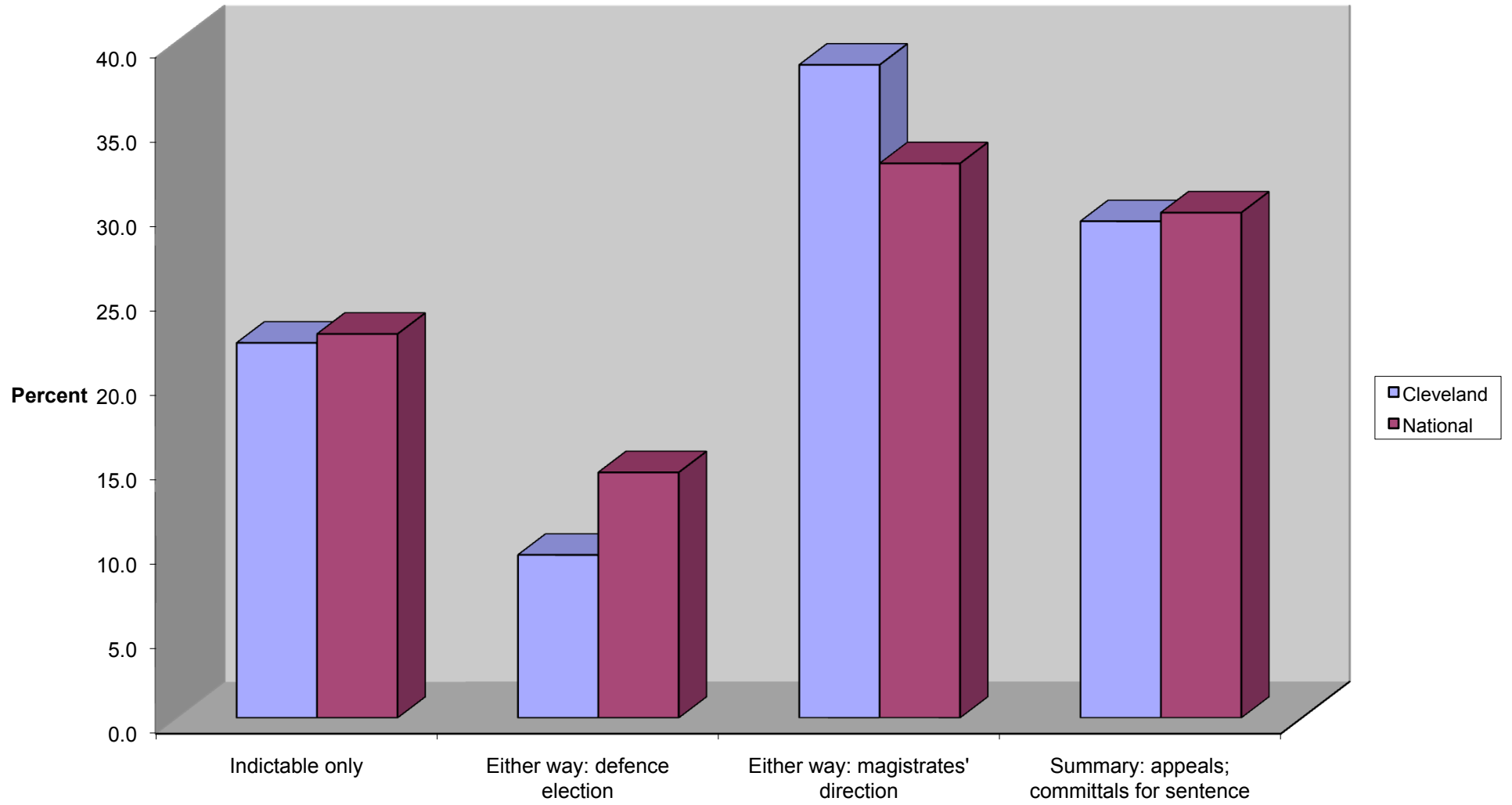
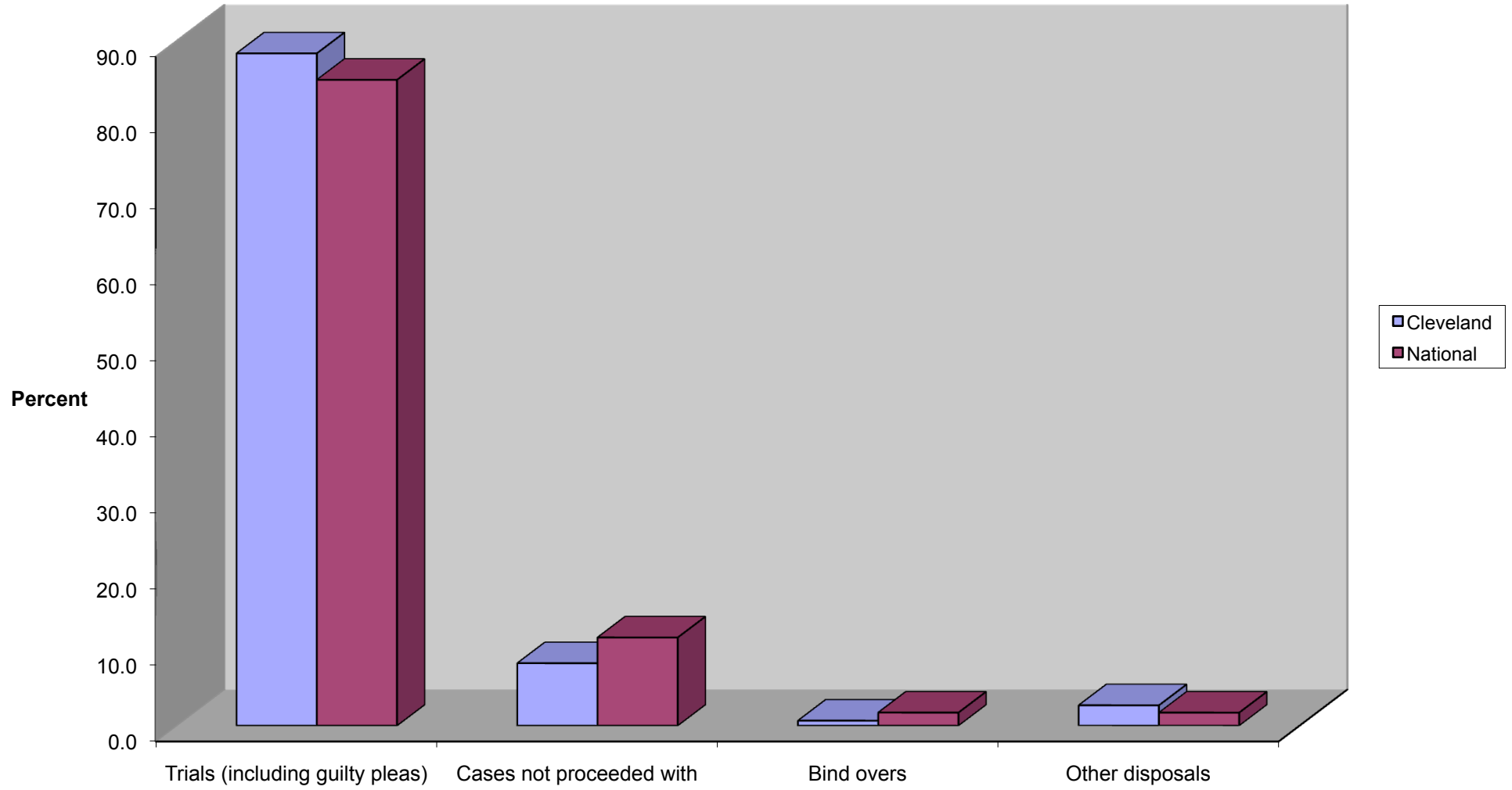
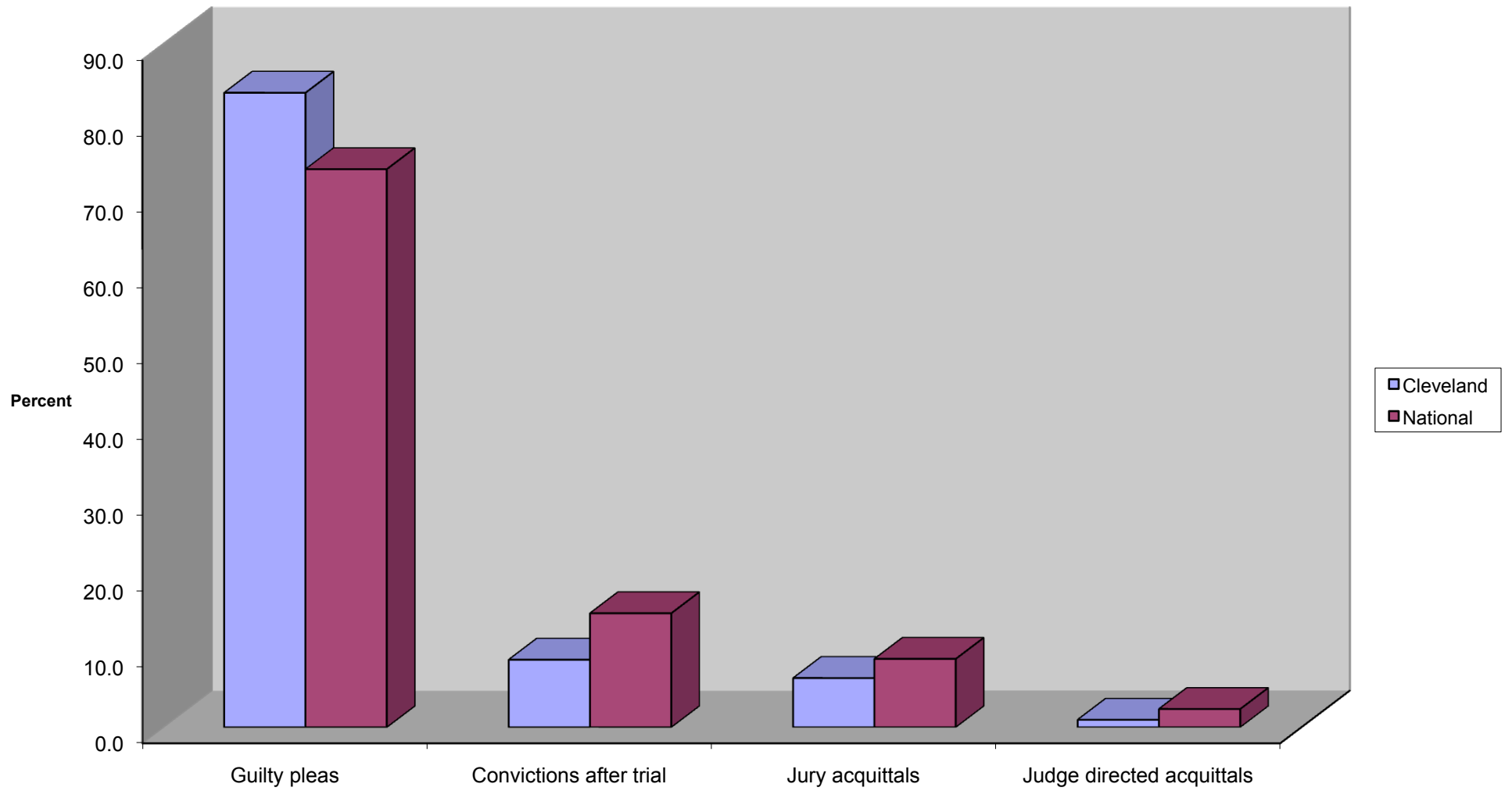


Chart 5: Crown Court - Completed cases



**Chart 6: Crown Court - Case results**



## ANNEX 2

| <b>Table for chart 1</b>   | <b>Cleveland</b> |                   | <b>National</b> |                   |
|----------------------------|------------------|-------------------|-----------------|-------------------|
| <b>MC - Types of cases</b> | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Advice                     | 759              | 3.5               | 50,024          | 3.5               |
| Summary motoring           | 7,065            | 33.0              | 525,392         | 37.1              |
| Summary non-motoring       | 3,743            | 17.5              | 257,828         | 18.2              |
| Either way & indictable    | 9,848            | 46.0              | 570,121         | 40.2              |
| Other proceedings          | 0                | 0.0               | 13,942          | 1.0               |
| Total                      | 21,415           | 100               | 1,417,307       | 100               |

| <b>Table for chart 2</b>    | <b>Cleveland</b> |                   | <b>National</b> |                   |
|-----------------------------|------------------|-------------------|-----------------|-------------------|
| <b>MC - Completed cases</b> | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Hearings                    | 15,933           | 77.1              | 987,230         | 72.9              |
| Discontinuances             | 2,055            | 10.0              | 168,606         | 12.5              |
| Committals                  | 1,219            | 5.9               | 84,755          | 6.3               |
| Other disposals             | 1,449            | 7.0               | 112,750         | 8.3               |
| Total                       | 20,656           | 100               | 1,353,341       | 100               |

| <b>Table for chart 3</b>      | <b>Cleveland</b> |                   | <b>National</b> |                   |
|-------------------------------|------------------|-------------------|-----------------|-------------------|
| <b>MC - Case results</b>      | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Guilty pleas                  | 14,127           | 88.5              | 813,545         | 82.1              |
| Proofs in absence             | 1,178            | 7.4               | 119,291         | 12.0              |
| Convictions after trial       | 412              | 2.6               | 41,378          | 4.2               |
| Acquittals: after trial       | 175              | 1.1               | 15,143          | 1.5               |
| Acquittals: no case to answer | 58               | 0.4               | 1,778           | 0.2               |
| Total                         | 15,950           | 100               | 991,135         | 100               |

| <b>Table for chart 4</b>                  | <b>Cleveland</b> |                   | <b>National</b> |                   |
|---|------------------|-------------------|-----------------|-------------------|
| <b>CC - Types of case</b>                 | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Indictable only                           | 421              | 22.2              | 28,072          | 22.7              |
| Either way: defence election              | 183              | 9.7               | 17,954          | 14.5              |
| Either way: magistrates' direction        | 733              | 38.7              | 40,540          | 32.8              |
| Summary: appeals; committals for sentence | 559              | 29.4              | 36,942          | 29.9              |
| Total                                     | 1,896            | 100               | 123,508         | 100               |

| <b>Table for chart 5</b>        | <b>Cleveland</b> |                   | <b>National</b> |                   |
|---------------------------------|------------------|-------------------|-----------------|-------------------|
| <b>CC - Completed cases</b>     | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Trials (including guilty pleas) | 1,182            | 88.4              | 73,518          | 84.9              |
| Cases not proceeded with        | 110              | 8.2               | 10,050          | 11.6              |
| Bind overs                      | 9                | 0.7               | 1,502           | 1.7               |
| Other disposals                 | 36               | 2.7               | 1,496           | 1.7               |
| Total                           | 1,337            | 100               | 86,566          | 100               |

| <b>Table for chart 6</b>  | <b>Cleveland</b> |                   | <b>National</b> |                   |
|---------------------------|------------------|-------------------|-----------------|-------------------|
| <b>CC - Case results</b>  | <b>Number</b>    | <b>Percentage</b> | <b>Number</b>   | <b>Percentage</b> |
| Guilty pleas              | 1,004            | 83.6              | 55,057          | 73.5              |
| Convictions after trial   | 107              | 8.9               | 11,254          | 15.0              |
| Jury acquittals           | 78               | 6.5               | 6,754           | 9.0               |
| Judge directed acquittals | 12               | 1.0               | 1,811           | 2.4               |
| Total                     | 1,201            | 100               | 74,876          | 100               |

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

**Judges**

His Honour Judge Fox QC, Teesside Crown Court  
Chairman of the Magistrates' Courts Committee  
Mr D Moreton, Teesside Magistrates' Court

**Magistrates**

Mrs E C Tunstall, Chairman of the Hartlepool Bench  
Dr J J Phillipson JP, Deputy Chairman of the Hartlepool Bench  
Mr D Rowbotham, Chairman of the Hartlepool Youth Panel  
Mr T G Watson JP, Chairman of the Guisborough Bench  
Mr G Robinson, Chairman of the Guisborough Youth Panel  
Mrs J P Harrison, Chairman of the Teesside Bench

**Justices' Chief Executive**

Ms J Eeles

**Justices' Clerk**

Mr K A Thompson, Teesside  
Magistrates' Court Staff  
Mr G W Garbutt, Principal Legal Advisor, Teesside

**Police**

Mr B N Bell, Assistant Chief Constable (Operations)  
Superintendent G Cummings, Administration of Justice  
Inspector P Taylor, Administration of Justice  
Mrs A Seemarks, Administration of Justice

**British Transport Police**

Mrs M Dudgeon, Area Justice Unit Office Manager

**Probation Service**

Mr R Statham, Chief Probation Officer  
Crime and Disorder Partnerships  
Chief Superintendent D Lumb  
Community Safety Partnership  
Chief Superintendent J Kelly

**Victim Support**

Mr K McGucken

**Witness Service**

Mrs S Proud

**Counsel**

Mr J R W Goss QC

Mr S Dodds

Mr r Bennett

**Defence Solicitors**

Mr P Wishlade

Mr J Relton

Ms M Mallon

Mr G Brown

**HM 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 improvement in the quality of that casework.
- 3 To report on other aspects of Crown Prosecution Service where they impact on casework.
- 4 To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.
- 5 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 and other aspects of performance touching on these issues.
- 6 To recommend how to improve the quality of casework and related performance in the Crown Prosecution Service.
- 7 To identify and promote good practice.
- 8 To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.
- 9 To promote people's awareness of us throughout the criminal justice system so they can trust our findings.