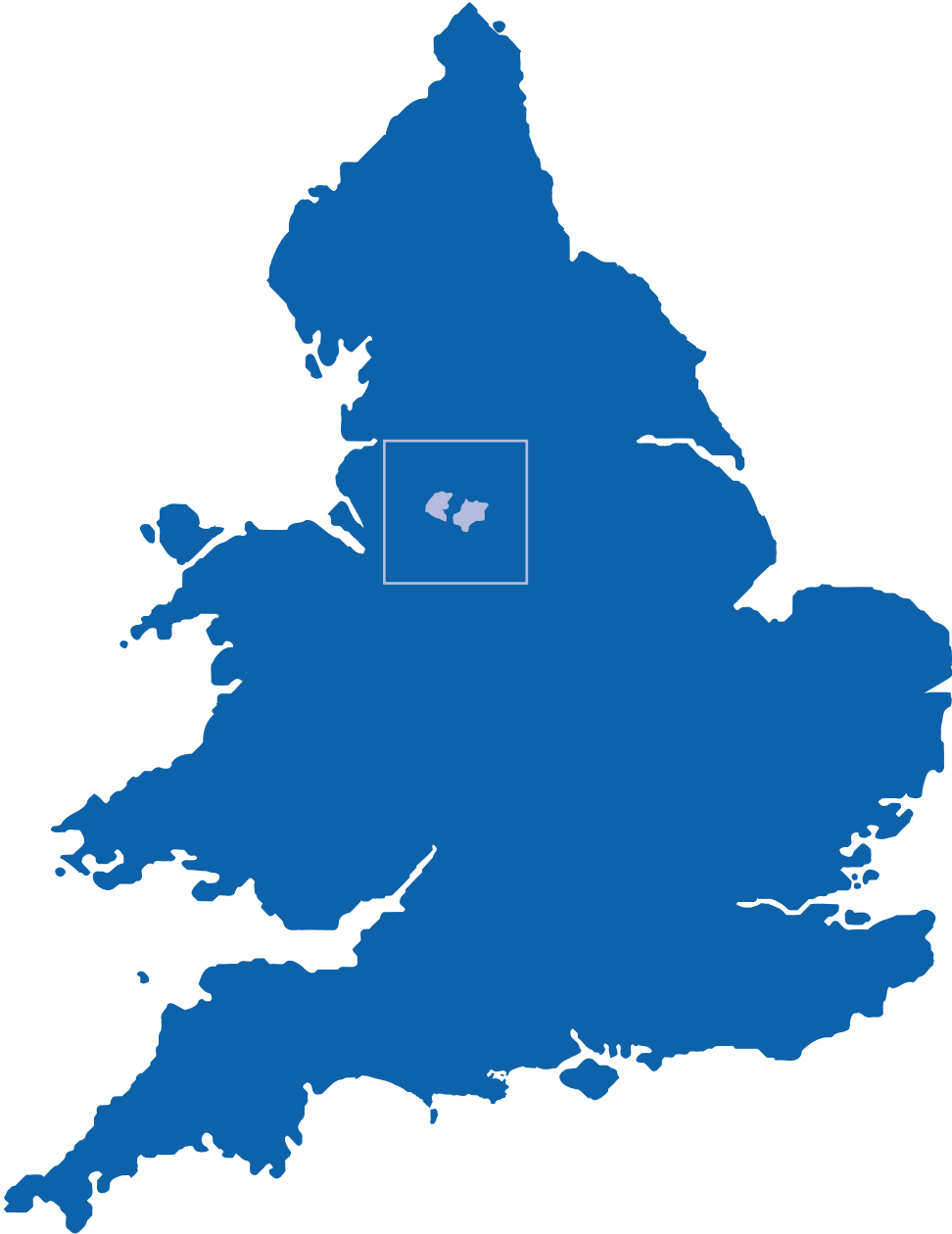


THE INSPECTORATE'S REPORT
on
THE STOCKPORT/SALE BRANCH
of
CPS NORTH WEST

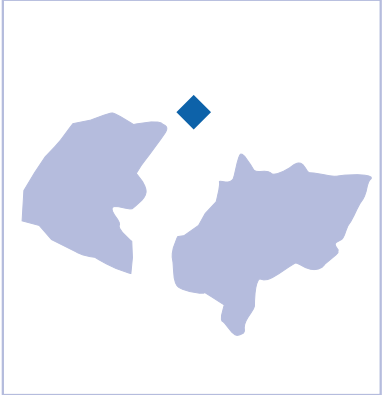
Stockport/Sale Branch



BRANCH OFFICE
◆ Manchester

COURTS COVERED
Magistrates' Courts
Trafford
Stockport

Crown Court
Manchester (at Crown Square)
Manchester (at Minshull Street)



REPORT ON THE INSPECTION OF THE CPS STOCKPORT/SALE BRANCH

C O N T E N T S

	Paragraph		Paragraph
INTRODUCTION	1.1	Preparing cases	
		Advance information	6.1
CONCLUSIONS AND RECOMMENDATIONS	2.1	Unused and sensitive material	6.8
		Requesting further information from the police	6.15
THE INSPECTION	3.1	Summary trial preparation	6.30
		Committal preparation	6.39
Providing advice		Quality of indictments	6.48
Appropriateness of requests for advice	4.1	The CPS in the Crown Court	6.53
Quality of advice	4.9	Custody time limits	6.60
Timeliness of advice	4.15	File endorsements	6.64
Advice from counsel	4.17	Presenting cases in court	7.1
Reviewing cases		The Branch and other agencies	8.1
Quality of review decisions	5.1	KEY STATISTICS	9.1
Timeliness of review	5.6	EXTERNAL CONSULTATION	10.1
Selection of the appropriate charge and charging standards	5.9	ANNEX 1: Charts and tables	
Mode of trial	5.16	ANNEX 2: List of local representatives of criminal justice agencies who assisted in our inspection	
Bail	5.18	ANNEX 3: CPS Inspectorate’s Statement of Purpose and Aims	
Discontinuance	5.19		
Cases lost on a submission of no case to answer in the magistrates’ courts and discharged committals	5.27		
Judge ordered acquittals	5.30		
Judge directed acquittals	5.36		
Review endorsements	5.42		
Learning from experience	5.44		

INTRODUCTION

- 1.1 This is the Crown Prosecution Service Inspectorate's report about the quality of casework in the Stockport/Sale Branch of CPS North West.
- 1.2 A good casework decision is one which results in the right defendant being charged with the right offence in the right tier of court at the right time, thereby enabling the right decision to be taken by the court. The decision must also be taken at the right level within the Crown Prosecution Service (CPS) and be prosecuted by the right prosecutor.
- 1.3 The purpose and aims of the Inspectorate are set out on the inside back cover of this report. The inspection process focuses on the core business of the Service: providing advice; reviewing cases; preparing cases; and presenting cases in court.
- 1.4 The Stockport/Sale Branch is in the CPS North West Area and has its offices in Manchester. On 1 September 1998, it employed 41.9 staff (the Branch Crown Prosecutor (BCP) and 17.8 other prosecutors; two senior caseworkers and 17.6 other caseworkers; and 3.5 administrative staff). The Branch also shares reception facilities with two other Branches and Area headquarters in the same building.
- 1.5 The Branch comprises two teams. The Stockport team (9.4 prosecutors, 10.6 caseworkers and two administrative staff) is responsible for prosecutions in the Stockport Magistrates' Court. The Sale team (8.4 prosecutors, 9 caseworkers and 1.5 administrative staff) is responsible for prosecutions in the Trafford Magistrates' Court. Each team is also responsible for Crown Court cases originating from its magistrates' court.
- 1.6 The team of three inspectors visited the Branch between 1 and 11 September 1998.

During this period, we observed ten CPS advocates prosecuting cases in the magistrates' courts at Stockport and Trafford, and in the youth court at Trafford. We also observed CPS caseworkers and prosecuting counsel in the Crown Court sitting at Manchester at Minshull Street.

CONCLUSIONS AND RECOMMENDATIONS

- 2.1 The Branch has a number of experienced and motivated members of staff. Each team was originally in offices near to its magistrates' court and divisional police station. In April 1997, the teams were re-located into one office, which is situated in Manchester.
- 2.2 The standard of decision-making is good and the great majority of casework decisions are correct. Indeed, we found very few in the sample of 313 cases in which we disagreed with the analysis of either the evidence or the public interest considerations. We commend the standard of decision-making.
- 2.3 There are occasions, nevertheless, when difficulties arise, and appropriate action is not taken as effectively nor as promptly as it might be. The timeliness with which Branch staff deal with some aspects of casework is a cause for concern to other local agencies in the criminal justice system. In some instances, the delay is not attributable to Branch staff, but we consider that there are areas in which the Branch can improve its performance.
- 2.4 We recommend that:
 - i the BCP should ensure that advice files are correctly linked to any ensuing prosecution files, so that the same prosecutor can deal with the case (paragraph 4.14);

- ii the BCP should liaise with the police, with a view to improving witness care, particularly in those cases which are committed to the Crown Court, in an effort to reduce the number of cases which have to be dropped by the prosecution (paragraph 5.35);
- iii the BCP should ensure that adequate systems are in place throughout the Branch to enable learning points from the Branch's cases, both successful and otherwise, to be identified and disseminated to prosecutors and caseworkers (paragraph 5.51);
- iv the BCP should ensure a consistent approach to the provision of advance information in cases where the law does not require it (paragraph 6.7);
- v the BCP, in conjunction with the police, should examine the effectiveness of their lines of communication, with a view to improving the timely receipt of up-graded files, further evidence and other material (paragraph 6.26);
- vi prosecutors should ensure that effective and appropriate action is taken to obtain information or material from the police, to enable every case to progress properly (paragraph 6.29);
- vii the BCP should introduce an action-dating system, to check the progress of summary trial preparation, and to ensure that all appropriate actions have been taken and that all outstanding work is completed (paragraph 6.38);
- viii the Branch Management Team (BMT) should ensure that caseworkers undertake increasing amounts of committal preparation (paragraph 6.42);
- ix prosecutors should ensure that instructions to counsel contain:
 - properly prepared summaries;
 - information about the issues in the case; and
 - instructions on the acceptability of alternative pleas (paragraph 6.46);
- x the BCP should introduce a system for monitoring the quality of indictments, to ensure that the substantive content of each indictment is correct, and to improve the drafting skills of prosecutors and caseworkers (paragraph 6.52);
- xi the BCP should ensure that appropriate and timely steps are taken to ensure compliance with orders made at plea and directions hearings (PDHs) (paragraph 6.59).

THE INSPECTION

- 3.1 In the 12 months to 30 June 1998, the Branch dealt with 12,397 defendants in the magistrates' courts and 1,216 defendants in the Crown Court. In a further 512 cases, advice was given to the police before charge.
- 3.2 The inspection team examined a total of 313 cases, ranging from those where an acquittal was directed by the judge, through those where the prosecution terminated proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Branch and local representatives of the criminal justice agencies that directly affect, or are directly affected by, the quality of casework decisions taken in the Branch. A list of those representatives from whom we received comments is at the end of this report.

PROVIDING ADVICE

Appropriateness of requests for advice

- 4.1 In the 12 months to 30 June 1998, advice cases constituted 4% of the Branch's total caseload, compared with 4.1% nationally.

- 4.2 We examined a sample of ten advice cases, all of which had been appropriately submitted by the police.
- 4.3 In addition to formal requests for advice from the police, Branch prosecutors also deal with telephone requests for advice. These are recorded and included in the Branch's statistics.
- 4.4 We were told that informal requests may constitute nearly half of the recorded advices, and so may be masking a low number of formal requests. In these circumstances, the BCP will want to remind prosecutors that only appropriate, relatively straightforward cases should be dealt with informally: that is, without a file being submitted by the police.
- 4.5 Furthermore, there is no agreement between the Branch and the police about the types of case or the quality of file that should be submitted to the Branch for advice. In other Branches, in order to ensure that only appropriate requests are made, we have often made a recommendation that such an agreement should be sought.
- 4.6 In the Stockport/Sale Branch, however, we did not find any evidence that the police are sending inappropriate files for advice. There is concern that the police should not be deterred from requesting advice, particularly in view of the apparently low rate of formal requests being made at present. The Branch also has the resources to deal with the current level of requests.
- 4.7 In these circumstances, we do not propose to make a recommendation. However, the BCP will wish to ensure that only appropriate requests for advice continue to be dealt with by Branch prosecutors, and to bear in mind the option of an agreement with the police relating to advice files, particularly if the proportion of informal requests for advice rises.
- 4.8 Branch managers do not send prosecutors to local police stations to give advice. At

present, neither the BCP nor the police feel that there is a sufficient need to justify the commitment of the necessary resources.

Quality of advice

- 4.9 Advice files are allocated by the PTLs to prosecutors, subject to their experience and expertise.
- 4.10 We agreed with the advice given in all ten cases that we examined. The advice was well reasoned and properly detailed in each case. Nine advice letters were typed, and the tenth advice was neatly and legibly hand-written.
- 4.11 The quality of advice is monitored by the PTLs, who undertake monthly sample checks of advice files for each prosecutor in their teams.
- 4.12 When advice is sent to the police, the file is retained by the Branch. In the event of a prosecution file being subsequently received, the intention is to link the original advice file to it. The Branch relies upon the police to identify cases where previous advice has been given, and to indicate this on the prosecution file.
- 4.13 In practice, some files are not readily identified as being cases involving earlier advice. This can result in the inappropriate allocation of the prosecution file. This, in turn, can lead to delay when the position is made clear and the file has to be re-allocated to the prosecutor who originally gave the advice.
- 4.14 We recommend that the BCP should ensure that advice files are correctly linked to any ensuing prosecution files, so that the same prosecutor can deal with the case.**

Timeliness of advice

- 4.15 The CPS has set a target of providing advice within 14 days of receipt of the file

from the police. Seven of the ten cases in our sample met this target. Two advices were one day late, and the tenth advice was nine days late. The Branch records that, in May 1998, it dealt with 100% of its advice files timeously. The BCP will wish to maintain this response time.

- 4.16 The timeliness of advice is not a cause for concern to the police, who told us that all advices were received before the next significant date, which was often the date upon which a suspected person had been bailed to return to the police station.

Advice from counsel

- 4.17 In a sample of 30 Crown Court files, we did not see any cases where a request to counsel for advice had been made. We found one case where counsel had given advice, without being requested to do so. The advice was correct, although it related to a matter which did not appear to be an issue in the case.

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

- 4.19 Prosecutors decide whether to seek advice from counsel after committal to the Crown Court, although such requests are also infrequent. We were told, however, that advice is more frequently obtained at conferences with counsel, which are arranged by prosecutors.

- 4.20 We did not find any evidence to suggest that inappropriate requests for advice from counsel are being made, and we approve of conferences which benefit the preparation and presentation of serious or complex cases. We are concerned, however, by the absence of any system to ensure that advice and conferences are necessary for the proper conduct of the case. The BCP will want to consider whether all advice requested from, and conferences with,

counsel after committal should be approved by the PTLs.

REVIEWING CASES

Quality of review decisions

- 5.1 Under the Prosecution of Offences Act 1985, the CPS is required to review every case it deals with in accordance with the Code for Crown Prosecutors (the Code). It must establish whether there is sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to prosecute the matter.

- 5.2 We inspected the quality of the review decision in 80 files, covering cases in the magistrates' courts and the Crown Court. We agreed with the review decision on the evidential test and the public interest test in all cases.

- 5.3 The PTLs monitor the quality of review by sampling files on a monthly basis. Additionally, the BCP and PTLs regularly prosecute in the magistrates' courts, and have the opportunity to see files that have been reviewed and prepared by prosecutors from their teams.

- 5.4 Representatives of local criminal justice agencies supported our view of the high quality of judgment exercised by the Branch's prosecutors and caseworkers. However, there is a perception that, in some cases, more care and attention should be paid to the review and subsequent preparation of files. The lack of such care and attention can lead, for example, to incorrect charges being pursued; to late amendments being made to indictments (paragraph 5.11); and to cases being stopped later than they should be (paragraph 5.31).

- 5.5 The BCP will want to draw the attention of prosecutors and caseworkers to this small number of cases, with a view to ensuring that the quality of their judgment is not overshadowed by avoidable oversights or errors.

Timeliness of review

- 5.6 The Branch aims to review every file before it is taken to court for the first time. In a sample of 20 files, we found that 15 (75%) had been reviewed before the first hearing date, and two (10%) had been reviewed on the first hearing date, before the case appeared in court. In two further cases, the initial review appeared to have taken place after the first hearing date. In the remaining case, we were unable to ascertain when the file had been reviewed.
- 5.7 The Branch monitors the timeliness of its review decisions in accordance with the CPS Corporate Performance Measures. These show that, in May 1998, 80.4% of new cases were reviewed within seven days of receipt of the file from the police.
- 5.8 However, in cases which are listed for summary trial or committal, we do have concerns about the timeliness of the police submission of the necessary papers. This hinders continuing effective review. We deal with this in more detail at paragraph 6.24.

Selection of the appropriate charge and charging standards

- 5.9 Police charges required amendment in 13 of the 80 cases (16.3%) that we examined. Ten were amended at first review.
- 5.10 Of the three cases that were not amended, one should have specified that a charge of assault involved beating.
- 5.11 In the other two cases, the need for amendment was identified by the reviewing prosecutor, but the appropriate action was not taken at that stage. In one case, a single charge of theft should have been separated into two specific offences. In the other, the reviewing prosecutor correctly noted that there was insufficient evidence to prove the necessary intention to cause grievous bodily harm, and that a charge of simple wounding was correct; but the matter was committed

to the Crown Court on the original charge. Later, an application had to be made to amend the indictment to substitute the correct count.

- 5.12 The BCP will want to remind reviewing prosecutors that where a need to amend charges is identified, appropriate action should be taken at the earliest opportunity. This will ensure that the defendant is aware of, and is dealt with for, the appropriate charge or charges as soon as possible.
- 5.13 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging. In seven out of 30 relevant cases (23.3%), the appropriate charging standard had not been correctly applied by the police - in each case, they had charged a more serious offence than was appropriate.
- 5.14 It is important that the police select the appropriate charge at the outset, so that the defendant is fully aware of the charge that he faces at the earliest opportunity. The amendment of charges can give rise to delay. The BCP will wish, therefore, to discuss the charging standards with police, so that defendants are charged with the appropriate offence from the outset.
- 5.15 The appropriate charging standard was correctly applied at initial review by Branch prosecutors in 28 out of 30 appropriate cases (93.3%). We have commented at paragraph 5.11 on one case where the charging standard was not applied. In another case, one of a number of charges should have been common assault, instead of assault occasioning actual bodily harm. In the event, the defendant was acquitted of all charges.

Mode of trial

- 5.16 We agreed with the prosecutor's decision about whether the case should be tried in the Crown Court or the magistrates' courts in all 46 relevant cases in our sample. Our

findings were supported by local representatives of other criminal justice agencies, who added that Branch prosecutors referred, where appropriate, to the Lord Chief Justice's guidelines and judgments of the higher courts.

5.17 The reviewing prosecutor, however, made a written record of the relevant considerations in only 19 of those cases (41.3%). The BCP will want to remind prosecutors that such a record should be made, in order to assist colleagues when dealing with the case in court.

Bail

5.18 We were told that prosecutors opposed bail in appropriate cases. We examined 20 cases where the defendant appeared in custody, and an appropriate decision whether to oppose bail was made in each case. The prosecutor's grounds for opposing bail were endorsed on the file in 17 cases (85%), and the magistrates' reasons for refusing bail were endorsed in 16 (80%). In our experience, these are good figures, but prosecutors will wish to improve them still further.

Discontinuance

5.19 The Branch's discontinuance rate of 14.5% for the 12 months ending 30 June 1998 is higher than the national average (12%). We examined a sample of 157 cases which were recorded as having been stopped by the prosecution in the magistrates' courts.

5.20 We found that 54 cases (34.4%) involved summonses or adjournment notices which could not be served, or warrants which could not be executed. Twenty-four of these cases had not been discontinued or dropped by the prosecution, and were wrongly categorised. If this sample is representative of the Branch's terminated cases, the actual discontinuance rate may be significantly lower than that recorded.

5.21 The other thirty of these 54 cases had been proved in the absence of the defendant, but had been later re-opened by the court of its own volition, because the defendant could not be traced. The BCP will wish to consider whether these cases should be the subject of further legal argument before withdrawal.

5.22 We examined the remaining 103 cases to look at the reason for the termination. Notice of discontinuance was used in 40 cases (38.8%), with 34 (33%) being withdrawn at court. In the remaining 29 cases (28.2%), no evidence was offered by the prosecution.

5.23 Thirty-four cases (33%) were stopped because there was insufficient evidence, and 13 (12.6%) because it was not in the public interest to prosecute. Eight cases (7.8%) were stopped because the defendant produced his driving documents. In 48 cases (46.6%), the prosecution was unable to proceed. In particular, 29 cases (28.1%) could not proceed because prosecution witnesses refused to give evidence or failed to attend court.

5.24 The number of cases which are terminated because of witnesses refusing or failing to attend court is high. We also found that the Branch faces similar problems in the Crown Court. We will deal with that aspect at paragraphs 5.32 - 5.35.

5.25 We examined ten terminated cases, in order to assess whether the Code tests had been correctly applied. We agreed with the decision to stop the proceedings in each case, but two were stopped on the wrong grounds.

5.26 In one case, the decision to terminate should have been taken at a much earlier stage on public interest grounds, rather than being allowed to proceed until unrelated evidential difficulties arose. This involved a youth offender who, having received a custodial sentence in the Crown Court, was remitted back to the youth court to be dealt with for a less serious offence. The other case was

terminated because the evidence was no longer reliable, but the file was wrongly marked to the effect that it was no longer in the public interest to proceed.

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

5.27 In the year to 30 June 1998, nine trials were stopped by the magistrates at the close of the prosecution case. This is 0.1% of the Branch's caseload, which is lower than the national average of 0.3%. We examined one such case. The magistrates made their decision on the basis of the evidence which they heard in court, but we agreed with the decision to proceed with the case.

5.28 Magistrates told us that they rarely stopped cases, and that usually this was as a result of unforeseen developments in the case, rather than as a criticism of the judgment of Branch prosecutors.

5.29 In the same period, 13 defendants were discharged at committal after the magistrates decided that there was insufficient evidence to commit them to the Crown Court for trial. There was only one such case in the first six months of 1998 and there was none within our sample.

Judge ordered acquittals

5.30 In the 12 months to 30 June 1998, 101 cases were not proceeded with in the Crown Court. This represents 10.4% of the Branch's Crown Court caseload, which is above the national average of 8.2%. The great majority were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals).

5.31 We examined 20 cases in this category and agreed with the decision to prosecute in 19. In one case, it appears that a video of the defendant allegedly committing an offence of theft was not viewed until immediately before the Crown Court trial. The defendant

could not be positively identified from the video recording, and the case had to be dropped. It is such a case which supports the perception held by other members of the criminal justice system that Branch prosecutors, on occasion, do not review cases thoroughly (paragraph 5.4).

5.32 Twelve cases (60%) were stopped because circumstances had changed since committal proceedings. Half related to the quality of the evidence and half to the public interest in proceeding with the prosecution. We were unable to ascertain why one case had been stopped. In seven further cases (35%), prosecution witnesses failed to attend or declined to give evidence.

5.33 We have already referred to the number of cases which cannot proceed in the magistrates' courts because of difficulties with prosecution witnesses (paragraph 5.24), and it is clear that there are similar problems in the Crown Court.

5.34 Steps need to be taken to identify the sorts of case which do not proceed at the Crown Court because of the non-attendance or reluctance of witnesses who have made statements to the police. Some witnesses may be only temporarily resident at their address; others may be vulnerable, or the subject of intimidation; and others may be reluctant to give up time to attend court. A variety of measures, some innovative, may be needed to secure their attendance or willingness to give evidence.

5.35 We recommend the BCP should liaise with the police, with a view to improving witness care, particularly in those cases which are committed to the Crown Court, in an effort to reduce the number of cases which have to be dropped by the prosecution.

Judge directed acquittals

5.36 In the 12 months to 30 June 1998, there were 24 cases in which the judge directed

an acquittal after the trial had started. This represents 2.8% of the Branch's caseload, which is higher than the national average of 2%.

- 5.37 We examined five cases, and found that two were wrongly categorised. They were cases which had been dropped by the prosecution before trial because of the failure of prosecution witnesses to attend, and should have been marked as judge ordered acquittals. This may indicate that the actual rate of judge directed acquittals in the Branch is lower than that recorded. It further demonstrates the problem that the Branch has with the non-attendance of witnesses and gives additional weight to recommendation ii.
- 5.38 We agreed with the decision to prosecute in two of the remaining three cases. These were stopped by the judge because of discrepancies in the evidence given by prosecution witnesses, which could not have been foreseen by the reviewing prosecutor.
- 5.39 The third case relied upon the uncorroborated testimony of a co-defendant, who was awaiting sentence for his part in the alleged offences. The reviewing prosecutor on initial review had noted the obvious difficulties, and concluded that there was insufficient evidence, at that stage, to take the matter further. We agreed with the reviewer's initial view of the case, and were concerned to note that the matter proceeded to trial at the Crown Court, without further evidence becoming available.
- 5.40 The matter was stopped by the judge at the conclusion of the prosecution case on the basis that the evidence was unsafe to be relied upon by the jury. This is another instance of a case where, having identified a difficulty, appropriate action was not taken (paragraph 5.11).
- 5.41 The BCP will want to remind reviewing prosecutors that, where a problem is identified, action should be taken without

delay. Failure to do so can mean that opportunities to obtain further evidence are missed and valuable resources are unnecessarily wasted.

Review endorsements

- 5.42 Effective review must be supported by good review endorsements. Such endorsements ensure that other prosecutors and caseworkers who deal with the file are aware of the relevant factors taken into consideration by the reviewing prosecutor.
- 5.43 Review decisions were legibly and correctly recorded in 61 out of 80 cases (76.3%). In our experience, the overall standard of review endorsement is good. Nevertheless, we noted that the standard of review endorsements was either very good, with a full and comprehensive note, or very poor, if not entirely absent. Branch prosecutors demonstrate that they can, and usually do, make proper records of the review decisions, and they should ensure that this standard is applied to all cases.

Learning from experience

- 5.44 We were impressed by the efforts made by the Branch to keep abreast of legal developments, and representatives of the magistrates' courts commented on the fact that Branch prosecutors always appear to be up to date with their legal knowledge.
- 5.45 A Branch prosecutor prepares a monthly bulletin of cases and legal articles, which is distributed to all prosecutors and caseworkers. The same prosecutor also leads a short session, every two months, to explain and discuss issues raised in the bulletins.
- 5.46 These sessions are recognised by the Law Society, which accepts them as a contribution to the national continuing training requirements for solicitors in the Branch. We commend the Branch and the prosecutor for pursuing this initiative.

- 5.47 We were told, however, that, because of other commitments, increasingly fewer prosecutors and caseworkers attend these sessions, and at least one scheduled session has been cancelled. We hope that the BCP will be able to re-arrange work schedules to facilitate a better rate of attendance.
- 5.48 All Crown Court case results are recorded and passed back to the reviewing prosecutor. Prosecutors told us that they find this a helpful and useful practice. When a case fails in the Crown Court, a report is prepared and should be passed to the reviewing lawyer for comment. On one team, however, we looked at 28 reports, and only four of them had been signed by the reviewing prosecutor.
- 5.49 These reports are considered by the BMT. If appropriate, any learning points from such cases are addressed at team meetings, and we were told that these are an important method of sharing information about the team's casework. We examined the minutes of some team meetings, and have seen that, in one team, current legal issues arising from the Branch's local courts are being addressed. There is no formal method for disseminating information about successful cases.
- 5.50 The totality of issues from failed cases is not being drawn together for the Branch as a whole. The impact of the above-average rate of some failed cases is dispersed, and the need to consider remedial action and more varied initiatives to tackle wider problems is obscured.
- 5.51 We recommend that the BCP should ensure that adequate systems are in place throughout the Branch to enable learning points from the Branch's cases, both successful and otherwise, to be identified and disseminated to prosecutors and caseworkers.**

PREPARING CASES

Advance information

- 6.1 National guidelines provide that advance information should be served within seven days of the receipt of the file from the police, and of the identity of the defence solicitor being known. Branch records show that, in May 1998, advance information was served within these guidelines in 95.6% of cases. We found that advance information had been served promptly in 47 out of 50 relevant cases (94%) in our sample.
- 6.2 Branch staff aim to serve the material before the first hearing, if there is a specific request from the defence solicitor, provided that they have received a file from the police, and that there is sufficient time before the hearing date.
- 6.3 On first review, the prosecutor indicates which material should be prepared for advance disclosure. This note also acts as a record of the material that is served. Caseworkers then prepare the relevant material.
- 6.4 In a sample of 16 relevant cases, we found that advance information had been served in four cases before the first date of hearing, and at the hearing in eight. It was served after the first hearing date in the remaining four cases.
- 6.5 The Branch receives requests for advance information in cases where the law does not require the prosecution to provide it. In the majority of these cases, if the offence is punishable by imprisonment, or the defendant has been charged, rather than summoned to appear at court, prosecutors will provide the information requested.
- 6.6 We were told, however, that the response to such requests can vary, and the Branch has no formal policy relating to when such disclosure should be made.

6.7 We recommend that the BCP should ensure a consistent approach to the provision of advance information in cases where the law does not require it.

Unused and sensitive material

- 6.8 All prosecutors and caseworkers have received training on the disclosure provisions of the Criminal Procedure and Investigations Act 1996.
- 6.9 In cases that are committed to the Crown Court for trial, the prosecutor should hand over the material which constitutes primary disclosure immediately after the committal has taken place. On one team, the lawyer endorses the file to this effect. On the other team, a copy of the letter is retained to indicate that service has taken place. The PTLs are aware of this variation in practice, and propose to ensure that a consistent practice of endorsing the file is introduced.
- 6.10 In general, unused material is dealt with properly in the Crown Court. We did find one file, however, where primary disclosure was not served until after the PDH, although this may have been due to late receipt of the material from the police. We comment on the Branch's practice in ensuring that such material is received from the police at paragraphs 6.15 to 6.29.
- 6.11 There is concern in the Branch that the defence request material which is not necessarily required to be produced under the provisions of the Criminal Procedure and Investigations Act 1996. We observed two instances at PDHs, where prosecuting counsel drew the Court's attention to the fact that inappropriate requests were being made.
- 6.12 Unnecessary service of material is a drain on the resources of both the police and the Branch, and prosecutors and caseworkers will want to ensure that prosecuting counsel is always appropriately instructed in relation to this aspect of a case.

6.13 In the magistrates' courts, the appropriate schedules relating to unused material were completed in 26 out of 30 cases (86.7%), and were served in a timely manner in 24 (80%). We were told that the defence receive all appropriate material. In our experience, these are good figures, but prosecutors will no doubt wish to raise the standard even higher.

6.14 The Branch also deals with sensitive unused material appropriately. We saw three cases involving such material, and in each case, the appropriate schedules were properly completed. The BCP is involved with cases which contain particularly sensitive material.

Requesting further information from the police

- 6.15 As a case progresses, Branch staff often have to seek from the police further information or other material, for example, up-graded files for summary trial or committal. Both the police and the Branch are under strict time guidelines within which their work should be completed, and it is essential that they are able to communicate efficiently and effectively with each other.
- 6.16 Written memoranda from Branch staff are sent to police file units, which, in turn, forward them to the officer in charge of the case. This system builds in a measure of delay, and it is even more important, therefore, that staff send out requests expeditiously.
- 6.17 Whenever possible, the Stockport team sends a caseworker to court to assist the prosecutors. This practice is seen as a great benefit by both the prosecutors and the police. Part of the caseworker's duties is to prepare any necessary memoranda for the police. At the end of the court sitting, the caseworker takes the memoranda directly to the police station, which is adjacent to the courthouse. This ensures that the police are aware of the Branch's requirements in the shortest possible time.

6.18 Caseworkers are not sent to the Trafford Magistrates' Court, because the police stations are some considerable distance from the courthouse, and the early delivery referred to above cannot be undertaken.

6.19 Accordingly, memoranda to the police from the Sale team (and a proportion of memoranda from the Stockport team) are prepared in the Branch office. Because of their court commitments, prosecutors are not in the Branch office every day, and this has been identified as a possible cause for delay, where, for example, a memorandum or letter has to be checked and signed by a prosecutor before being sent out.

6.20 Each team operates a scheme whereby a prosecutor is assigned to office duties, in order to help reduce the delay, but this does not cure the entire problem.

6.21 The police are concerned that the delay in some cases is such that their ability to respond to CPS requests in a timely fashion is inhibited. This can be a particular problem when full files have to be prepared and forwarded by the police.

6.22 Both the police and the Branch monitor the quality and timeliness of files received, using a system of joint performance management. The data is recorded and collated by the police.

6.23 The figures for the three months ending June 1998 show that 96.5% of expedited files and files relating to defendants in custody were received within agreed time guidelines, and were either satisfactory or at least sufficient to proceed.

6.24 However, only 64.3% of full files, which included files needed to undertake summary trials or committals, fell within this timely and satisfactory category. Branch prosecutors and caseworkers told us that there are also difficulties in the timeliness of responses to requests for other material or specific information.

6.25 In view of the problems expressed by both Branch staff and the police, we feel that all possible steps should be taken to facilitate quicker and more efficient communication between the Branch and the police.

6.26 We recommend that the BCP, in conjunction with the police, should examine the effectiveness of their lines of communication, with a view to improving the timely receipt of up-graded files, further evidence and other material.

6.27 We found examples in the file sample and in our court observations where requests for material had been apparently left unanswered. We were concerned, equally, that, in some instances, inadequate steps were taken by the Branch to pursue outstanding material.

6.28 In a number of cases, further material or up-graded files had been properly requested, but any effort to pursue outstanding material was either non-existent, or too late to avoid a further adjournment of the court proceedings.

6.29 We recommend that prosecutors should ensure that effective and appropriate action is taken to obtain information or material from the police, to enable every case to progress properly.

Summary trial preparation

6.30 When a defendant enters a not guilty plea in the Trafford Magistrates' Court, the case is adjourned for a pre-trial review (PTR), which is usually about four weeks later. In the Stockport Magistrates' Court, most cases are also adjourned to a PTR, unless the prosecution has details of the witnesses' availability in the file, and there is no specific request for a PTR. In those cases, a trial date is fixed.

6.31 Where a PTR is fixed, the adjournment enables the prosecution to obtain an

appropriate file from the police, and to determine which witnesses will be required to attend to give evidence, and whether any evidence might be agreed. At the PTR, other issues relating to the case can be dealt with, and a trial date is fixed.

- 6.32 When a full file is available, summary trial preparation is done well. Prosecutors complete a trial preparation form, with sufficient information about witness requirements, unused material, further evidence required and any other issues, to enable caseworkers to carry out the necessary work.
- 6.33 We examined 30 summary trials. In each case, the police were told promptly which witnesses to warn, although sometimes by way of a minute, requesting the attendance of all potential witnesses. When the case was thoroughly reviewed later, some witnesses were no longer required to attend. This causes extra work for the police and inconvenience to the witnesses, and the BCP will wish to examine the practice.
- 6.34 Section 9, Criminal Justice Act 1967 enables evidence to be accepted and read, thereby avoiding the unnecessary attendance of witnesses. This procedure was used and dealt with in a timely manner in all 22 cases where it was appropriate to do so.
- 6.35 We were told that prosecutors use the procedure for agreeing admissions of fact under section 10, Criminal Justice Act 1967, although we did not find any files in the sample where its use would have been appropriate.
- 6.36 Prosecutors are also familiar with section 23, Criminal Justice Act 1988, which, subject to certain conditions, enables a witness' statement to be read to the court if he or she is outside the United Kingdom, or is mentally or physically unfit to attend court, or is too frightened to attend court. We did not see any examples where it would have

been appropriate to use these provisions. We saw one case in the Crown Court where an application was to be made later in relation to two witnesses who were too frightened to give evidence.

- 6.37 Branch staff are aware, however, that full files are not always received from the police in a timely manner (paragraphs 6.15 - 6.29). In these circumstances, in order to ensure that all outstanding matters have been dealt with, it is important that the Branch has a system of action-dating, to ensure that summary trial files are examined before the date fixed for trial. This would enable caseworkers and prosecutors to check that all appropriate material and information has been received, and, if not, to take appropriate and timely action.

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

Committal preparation

- 6.39 Branch staff have some difficulties with the timeliness of receipt of appropriate files from which to prepare committal papers. We have commented on these in paragraphs 6.15 - 6.29. Branch managers monitor the timeliness of the service of committal papers, and records show that, during May 1998, 86.3% of committals were served within CPS time guidelines. We found that service was timely in all 30 cases in our sample.
- 6.40 The majority of committals are prepared by prosecutors, with only a small percentage being dealt with by caseworkers. We were told that this is because of a shortage of appropriate caseworkers.
- 6.41 Nevertheless, it is important that caseworkers are given the opportunity to use their appropriate skills and experience, and

that prosecutors are released to spend time on more complex or problematic issues and cases.

6.42 We recommend that the BMT should ensure that caseworkers undertake increasing amounts of committal preparation.

6.43 Committals are prepared using the CPS Crown Court Case Preparation Package. This produces a number of standard paragraphs, with free-text options for instructions to counsel. These enable the caseworker and the prosecutor to prepare a case summary, and to insert information relevant to the case for counsel's information.

6.44 A well prepared summary which addresses the issues in the case will always be a useful aid to counsel, particularly in complex cases. The instructions to counsel contained a summary in 18 out of 29 cases (62.1%). Not all of the summaries addressed the issues in the case.

6.45 Counsel should also be informed about the acceptability of alternative pleas. This information was given in only four out of 15 relevant cases (26.7%). The absence of guidance in this area often causes unnecessary delay in the Crown Court, as the case has to be put back for a prosecutor to be consulted.

6.46 We recommend that prosecutors should ensure that instructions to counsel contain:

- properly prepared summaries;
- information about the issues in the case; and
- instructions on the acceptability of alternative pleas.

6.47 We found that, in 18 out of 30 cases (60%), counsel's instructions were delivered within

the time guidelines that have been agreed between the CPS and the Bar. In the month of June 1998, Branch records show that instructions were delivered timeously in 70% of cases. Some instructions were delivered on a date close to the PDH, giving counsel limited time to consider the case. The BCP will want to ensure that counsel's instructions are delivered within the guidelines agreed by the CPS and the Bar.

Quality of indictments

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

6.49 We found that the indictment needed to be amended in nine of the 30 cases (30%). Six amendments were because of developments since the indictment had been prepared. These included some acceptable pleas of guilty to alternative offences being offered by the defence, which might have been foreseen at the time the indictment was drafted.

6.50 The three remaining indictments required amendment because of poor drafting. One indictment had too many counts relating to controlled drugs offences, and two had counts which were not supported by the evidence.

6.51 There is no formal system for monitoring the quality of indictments, or for recording the instances where indictments have to be amended. Our findings suggest that more attention needs to be paid to the drafting of indictments.

6.52 We recommend that the BCP should introduce a system for monitoring the quality of indictments, to ensure that the substantive content of each indictment is correct, and to improve the drafting skills of prosecutors and caseworkers.

The CPS in the Crown Court

- 6.53 Caseworkers cover the Crown Court sitting at Minshull Street, where the majority of the Branch's Crown Court cases are dealt with, on the basis of one caseworker for two courtrooms, except the PDH courts, which have a dedicated caseworker. Caseworkers cover the Crown Court sitting at Crown Square, which usually deals with the Branch's most serious cases, on the basis of one caseworker for each courtroom. We were impressed by the standard of support to witnesses and prosecuting counsel provided by caseworkers.
- 6.54 A prosecutor attends the Crown Court at Minshull Street on Thursdays, and on Fridays when the Branch's PDHs are listed. The prosecutor deals with any queries relating to cases arising in the Crown Court, whether those cases originate from the Stockport/Sale Branch or from other Branches. In addition, the prosecutor deals with any bail applications before the court on those days, again regardless of which Branch is responsible for the case. Other Branches provide prosecutors to carry out similar duties on the other days of the week.
- 6.55 Prosecutors also attend the Crown Court to cover the key days of their more complex or serious cases.
- 6.56 In general, we found that Branch prosecutors are suitably involved with their Crown Court cases. However, we did see examples where the involvement was reactive to issues raised, rather than as a result of appropriate control and monitoring of the case on the part of the prosecutor. This can result in matters not being addressed properly, or at the appropriate time, and in cases being allowed to drift through the system. We discussed such a case at paragraphs 5.39 - 5.40.
- 6.57 We found that directions made at PDHs were not complied with in two out of 14 relevant cases (14.3%). In one case, the failure was as

a direct result of fault on the part of the CPS. The prosecution had been ordered to notify the defence within 28 days which counts on an indictment would be proceeding to trial, where there were conspiracy and substantive offences. The direction was not complied with until the morning of the trial, some three months later.

- 6.58 It is important that all PDH directions are complied with, and that the Branch takes all appropriate steps to ensure compliance.

6.59 We recommend that the BCP should ensure that appropriate and timely steps are taken to ensure compliance with orders made at PDHs.

Custody time limits

- 6.60 Custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case.
- 6.61 Expiry dates had been correctly calculated in each of the ten files that we examined. They, together with review dates, are recorded on the file and in diaries, which are checked daily by a caseworker and a prosecutor. The diary entries were not always clear, which could lead to confusion. The review date varied between seven, 11, 12 and 14 days before the expiry date. There was no apparent reason for this variation, and the BCP will wish to ensure that a consistent review date is calculated and used in every case.
- 6.62 The appropriate dates were endorsed on the file jackets, on fluorescent orange labels. These clearly identified the files as being subject to custody time limits. However, it was not always clear whether the dates marked were expiry or review dates. This could also lead to confusion.
- 6.63 Failure to monitor the expiry date, and to make any application to extend the time limit, would usually result in the immediate

release of the defendant from custody. We were told that there had not been any failures in the 12 months to 1 September 1998.

File endorsements

6.64 We have already commented on the standard of review endorsements (paragraphs 5.42 - 5.43). In general, the standard of file endorsements in the Branch is high, both in respect of court endorsements and endorsements relating to work completed out of court.

6.65 We found that, in magistrates' court files, court endorsements were satisfactory in 76 out of 80 cases (95%), and out-of-court endorsements in 79 out of 80 cases (98.8%). All 30 Crown Court files were satisfactory in both respects. In our experience, these figures are very good, and we commend the standard of work of prosecutors and caseworkers in this regard.

6.66 In addition, the contents of Crown Court files, in particular, were kept in good order, with different types of material - for example, unused material or witness statements - being kept in distinct folders within the file. This greatly facilitates continuing review of the files and work at court.

PRESENTING CASES IN COURT

7.1 The standard of advocacy is good. We observed nine CPS advocates presenting cases in the magistrates' and youth courts. They were well prepared, and attended court in time to deal effectively with queries about cases in the court list, and to prepare cases that were received that morning. Many Branch prosecutors are very experienced. One prosecutor is undergoing advocacy training; two newer prosecutors are about to commence training.

7.2 Representatives from the magistrates' courts also told us that the standard of CPS advocates is good, with some advocates

being very good. We were told, however, that, in some instances, CPS advocates should adopt a more robust approach, particularly when dealing with applications for adjournments. We did not see any examples of this, but we did consider that the presentation of one trial would have benefited from a more positive and assertive approach by the prosecutor.

7.3 PTLs monitor the advocacy of prosecutors twice a year, and see prosecutors at court on an informal basis.

7.4 We were also told that Branch prosecutors present bail applications before judges in chambers well, and that they are fully prepared. We observed such an application, and agreed with this assessment.

7.5 There are a significant number of cases in which counsel originally instructed are not available, and substitute counsel appear instead. These are known as returned briefs. Our examination of Crown Court cases showed that counsel originally instructed dealt with 20 out of 30 PDHs (66.7%); 12 out of 23 trials (52.2%); and seven out of 17 sentencing hearings (41.2%). This rate of returned briefs is not as high as in many other Branches, but the BCP will want to continue to improve the situation.

7.6 Counsel whom we observed in the Crown Court at Minshull Street appeared competent and experienced, although some concern was expressed to us about the standard of counsel, particularly in straightforward cases. The PTLs are aware of this concern, and counsel's performance is formally monitored by them.

THE BRANCH AND OTHER AGENCIES

8.1 Branch staff enjoy a good working relationship with the local representatives of other criminal justice agencies.

8.2 They have a good relationship with the police, although there are difficulties with

the timeliness of file preparation and the obtaining of further evidence and information, on which we have already commented (paragraphs 6.15 - 6.29). They hold regular quarterly meetings to discuss the results of cases and to identify any trends.

- 8.3 Similarly, the Branch has a good working relationship with the magistrates' courts. There are some areas, such as listing, which can, on occasion, cause difficulties for the Branch advocates, but, overall, all parties describe the relationship as professional and effective.
- 8.4 The Probation Service commented specifically on the provision of documents which are provided by Branch staff to assist with the preparation of pre-sentence reports. There have been difficulties with their timeliness, particularly in relation to magistrates' courts proceedings. This problem was identified and addressed by liaison between Branch managers and the Probation Service. We were told that the situation has now improved, although it continues to be monitored.
- 8.5 The BCP is a member of the local Victim Support management committee, and is an active participant. We were told that Branch staff make themselves available and respond positively to approaches from Victim Support and witnesses.
- 8.6 Overall, we were pleased to find that Branch staff, at all levels, have a constructive and positive attitude towards their role in the criminal justice system.

EXTERNAL CONSULTATION

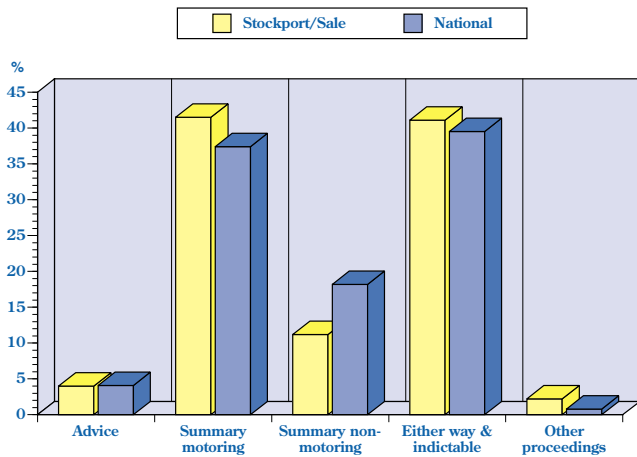
- 10.1 On page 20, there is a list of the local representatives of criminal justice agencies who assisted in our inspection.

KEY STATISTICS

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

MAGISTRATES' COURTS

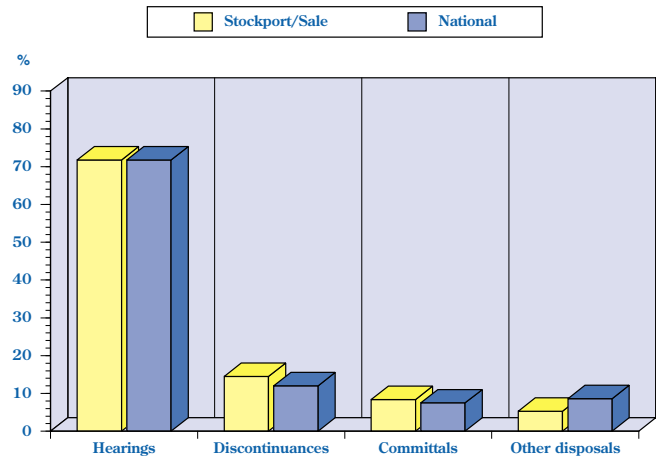
1 - Types of case



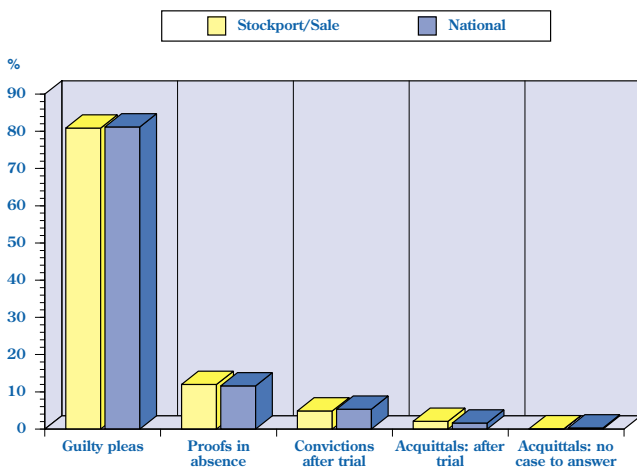
	Stockport/Sale		National	
	No.	%	No.	%
Advice	512	4.0	57,687	4.1
Summary motoring	5,361	41.5	532,242	37.4
Summary non-motoring	1,445	11.2	259,538	18.2
Either way & indictable	5,311	41.1	562,574	39.5
Other proceedings	280	2.2	11,378	0.8
Total	12,909	100	1,423,419	100

2 - Completed cases

	Stockport/Sale		National	
	No.	%	No.	%
Hearings	8,706	71.8	972,907	71.8
Discontinuances	1,751	14.5	163,059	12.0
Committals	1,022	8.4	101,373	7.5
Other disposals	638	5.3	117,033	8.6
Total	12,117	100	1,354,372	100



3 - Case results

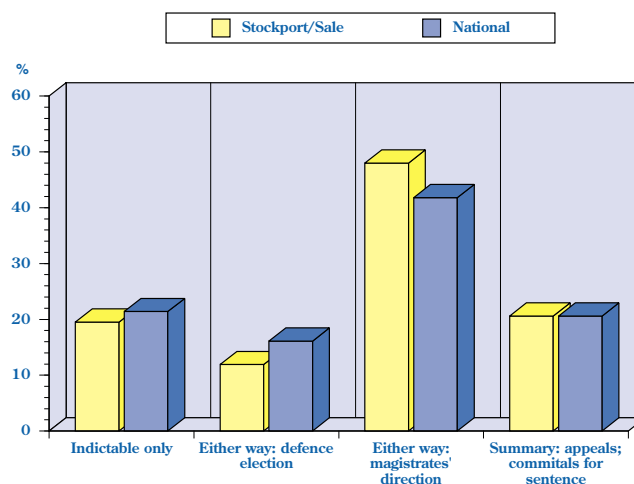


	Stockport/Sale		National	
	No.	%	No.	%
Guilty pleas	7,063	80.9	793,895	81.2
Proofs in absence	1,048	12.0	113,299	11.6
Convictions after trial	426	4.9	52,025	5.3
Acquittals: after trial	184	2.1	15,595	1.6
Acquittals: no case to answer	9	0.1	2,557	0.3
Total	8,730	100	977,371	100

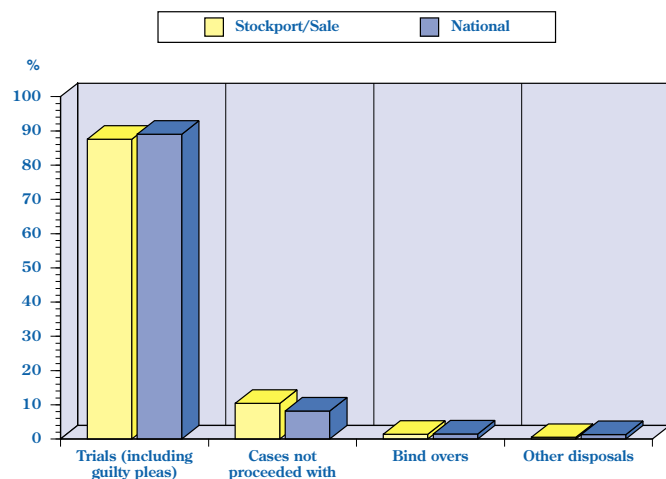
CROWN COURT

4 - Types of case

	Stockport/Sale		National	
	No.	%	No.	%
Indictable only	237	19.5	27,450	21.4
Either way: defence election	145	11.9	20,677	16.1
Either way: magistrates' direction	584	48.0	53,634	41.8
Summary: appeals; committals for sentence	250	20.6	26,437	20.6
Total	1,216	100	128,198	100



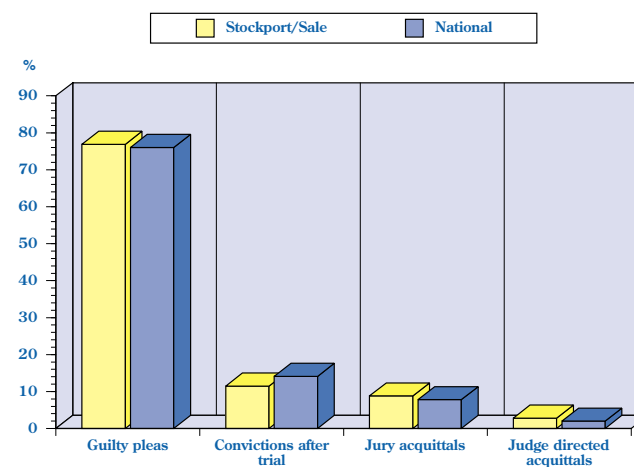
5 - Completed cases



	Stockport/Sale		National	
	No.	%	No.	%
Trials (including guilty pleas)	847	87.6	90,596	89.0
Cases not proceeded with	101	10.4	8,359	8.2
Bind overs	14	1.4	1,519	1.5
Other disposals	5	0.5	1,307	1.3
Total	967	100	101,781	100

6 - Case results

	Stockport/Sale		National	
	No.	%	No.	%
Guilty pleas	663	76.9	70,380	76.0
Convictions after trial	99	11.5	13,094	14.1
Jury acquittals	76	8.8	7,184	7.8
Judge directed acquittals	24	2.8	1,891	2.0
Total	862	100	92,549	100



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

Judges	His Honour Judge Woodward
Magistrates' courts	Dr W Robert, Chair, Trafford Magistrates' Courts Committee and Trafford Bench Mr D Robinson, Chair, Stockport Magistrates' Courts Committee and Stockport Bench Mr P Cuddy, Justices' Chief Executive and Clerk to the Justices, Stockport Mr J Robinson, Justices' Chief Executive and Clerk to the Justices, Trafford
Police	Chief Superintendent W Hughes Inspector J Gill Inspector K Lewis Police Sergeant A Laurie
Defence solicitor	Mr D Jones
Counsel	Mr A Gee, QC
Probation Service	Mr C Burston, Senior Probation Officer Ms J Ross, Senior Probation Officer
Victim Support	Mr G Morgan

CROWN PROSECUTION SERVICE INSPECTORATE

STATEMENT OF PURPOSE

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

AIMS

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



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